



Comments on the EDPB's draft "Recommendations 2/2025 on the legal basis for requiring the creation of user accounts on e-commerce websites"

We welcome the opportunity to provide feedback on the EDPB draft Recommendations 2/2025 on the legal basis for requiring the creation of user accounts on e-commerce websites ("Recommendations").

We greatly appreciate the EDPB for preparing these Recommendations addressing a very interesting question concerning the protection of personal data.

At the same time, we would like to submit several comments on the document:

- We consider it important to draw attention to the conflation of the statutory concept of "necessary" with the different, stricter statutory concept of "strictly necessary"; see, for example, points 8, 26, and 51 of the Recommendations.
- **Point 26** – It would be welcomed if EDPB could express its view on what would constitute a reasonable retention period for a user account even after the termination of the contractual relationship, on the basis of other legal bases for processing (in particular Article 6(1)(f) GDPR), for example in the context of the renewal of a subscription pursuant to a "retention" campaign offering a discount.
- **Point 33** – We consider it appropriate to emphasise that the possibility remains unaffected to request consent for the retention of such records for the purposes of future purchases.
- **Point 37** – We do not consider that the requirement of lawfulness and processing in accordance with the principle of good faith will necessarily be unmet in every case where the processing would, in some respect, be in breach of contract law or consumer protection law.
- **Section 3.3** – We consider the creation of a user account on the basis of legitimate interests to be rather exceptional, as this legal basis is not particularly suitable for such purposes (from the perspective of contract law, the creation of an account requires the existence of a contract, even where the account is created without any associated purchase of goods or services). We consider this legal basis to be potentially relevant primarily only for situations ancillary to the legitimate creation of an account, such as, for example, the continuation of the account for a certain period after the end of the contractual relationship for the supply of goods and services which was the base for opening an account (see the comment above on point 26).
- We respectfully disagree with the conclusion set out in point 67, namely that: *"Furthermore, it appears that at the time of purchase, while providing personal data for the fulfilment of the contract to be concluded in that moment, the data subjects may not reasonably expect their personal data to be retained longer than what is necessary to fulfil the contract, i.e. to deliver the goods or perform the services that they are buying."* On the contrary, the retention of

such data will often be necessary for further purposes, such as the protection of the controller's rights in connection with fulfilling of the contract (e.g., in the event of complaints/claims, for the purposes of tax audits, and more generally for contract archiving), and would be as such expected by the data subjects.

We are grateful for the opportunity to provide our comments on the draft Guidelines. We would like to thank the EDPB very much for its efforts to clarify various issues related to the processing of personal data. We hope that our comments will help in formulating the final version of the Recommendations.

Prague, 10.2.2026

JUDr. Vladan Rámiš, Ph.D.
Chairman of the Committee
Spolek pro ochranu osobních údajů

Mgr. František Nonnemann
Vice-Chairman of the Committee
Spolek pro ochranu osobních údajů