

Comment on Recommendations 2/2025 – Mandatory User Accounts on E-commerce Websites

From a legal and practical perspective, the approach outlined in the draft Recommendations risks oversimplifying the assessment of “necessity” under Articles 6(1)(b) and 25 GDPR, with potentially significant adverse effects on legitimate e-commerce business models.

While the principle that mandatory account creation should not be the default is understood, the practical implication that most e-commerce transactions should be conducted as “guest checkout” operations, without requiring user registration, places online merchants in a structurally disadvantaged position.

In many cases, requiring the creation of a user account is not merely a matter of convenience or marketing preference, but is objectively connected to legitimate and lawful purposes such as:

- fraud prevention and transaction security;
- management of post-contractual obligations (returns, warranties, customer support);
- traceability of transactions for accounting, tax, and consumer law compliance;
- prevention of abuse and repetitive fraudulent activity;
- ensuring continuity and reliability of the contractual relationship.

A strict or overly narrow interpretation of “strict necessity” risks ignoring these operational realities and may lead to legal uncertainty, increased compliance costs, and reduced competitiveness of EU-based e-commerce operators, particularly SMEs.

Moreover, imposing “guest checkout” as a quasi-default standard could paradoxically weaken data protection and security safeguards, by limiting the ability of controllers to implement effective accountability, traceability, and risk-based controls.

A more balanced approach would be desirable, one that:

- recognises that account creation may be justified where it is objectively linked to the nature, scale, or risk profile of the transaction;
- allows for sector-specific and proportional assessments;
- avoids transforming privacy-by-design into a rigid one-size-fits-all obligation detached from economic and technical realities.

In this respect, clearer criteria and concrete examples distinguishing genuinely unnecessary account requirements from legitimately justified ones would significantly improve legal certainty and foster effective GDPR compliance without unduly penalising lawful business models.

Lorenzo Grassano

Founder Studio Legale Grassano