

www.aki.ee Registry code 70004235 PRECAUTIONS WARNING in personal data protection matter no. 2.1.-1/20/865

Preceptor Data Protection Inspectorate Time and place of precept 11.06.2020 in Tallinn Recipient of the precept - processor of personal data Viru Prison address: Ülesõidu 1, 41536 Jõhvi e-mail address: viruv.info@just.ee RESOLUTION: Pursuant to § 751 (3) of the Government Act, § 56 (1), § 56 (2) 8) and § 24 (1) of the Personal Data Protection Act (IKS), I issue a mandatory precept to: and approvers and placement approval dates. b) in case of refusal to issue data, justify the refusal and refer to the legal basis I set a deadline of 22.06.2020 for compliance with the precept. CONTEST REFERENCE: A state agency may contest this precept pursuant to the procedure specified in § 101 of the Government of the Republic Act. A data subject complainant whose rights are affected by this precept may contest this precept within 30 days by submitting either: - a challenge to the Data Protection Inspectorate under the Administrative Procedure Act, or - an appeal to an administrative court under the Code of Administrative Procedure (in which case the challenge cannot be heard). Contestation of a precept does not suspend the obligation to comply with the precept or the application of the measures necessary for compliance. WARNING If a processor of personal data fails to comply with a precept of the Data Protection Inspectorate, the Data Protection Inspectorate may apply to a higher authority, person or the whole of the personal data processor for official supervision or disciplinary proceedings against an official pursuant to subsection 59 (1) of the Personal Data Protection Act. If a processor of personal data from a state agency does not comply with a precept of the Data Protection Inspectorate, the Inspectorate shall file a protest with an administrative court on the basis of § 59 (3) of the Personal Data Protection Act. FACTUAL FACTS: 2 (4) A complaint was registered with the Data Protection Inspectorate on 06.03.2020 xxx (the complainant), according to which no personal data concerning him have been issued to him. The Inspectorate prepared an inquiry to Viru Prison to clarify the circumstances stated in the complaint. The reply from Viru Prison shows that the prison has answered xxx, but has not indicated the makers and approvers of the placement and the dates when the placements were approved. EXPLANATION OF THE PERSONAL DATA PROCESSOR: Answer submitted on 22.04.2020: An inquiry was registered in Viru Prison on 13.04.2020 by the Data Protection Inspectorate in connection with xxx complaint, according to which the Ministry of Justice has not issued personal data about the applicant. You note that the documents submitted show that the Ministry of Justice has by letter No 11-7 / 415-31 of 20.02.2020, by letter No 11-7 / 415-11 of 05.02.2020, by letter No 11-7 / 415-9 of 04.02.2020 and .2020 by letter No. 11-7 / 415-32 to the Viru Prison for settlement. The prison shall forward to the prisoner the reply letters No.

6-10 / 8531-2 prepared as annexes to this reply (the reply to the appeal forwarded by the Ministry of Justice by letter No. 11-7 / 415-32 of 20.02.2020); □ 6-10 / 2505-2 (reply to the request forwarded by the Ministry of Justice by letter no. 11-7 / 415-9 of 04.02.2020, answered in item 6); □ 6-13 / 4335-2 (Response to the request sent by the Ministry of Justice on 05.02.2020 by letter no. 11-7 / 415-11). Answer submitted on 22.05.2020: You submitted an additional inquiry to Viru Prison, in which you ask for the reasons for the large volume of answers to the detainee regarding the identification of the person who made the placement and the approver. The prison will explain to you that the prisoner under the xxx prison movement has had 40 entries since 2017. The prison has explained to the prisoner that the placement of the prisoner is decided and carried out by the unit. As a general rule, the position is approved by the head of the unit, but even in this case, it should be ascertained for each entry whether the approval was given by the head of the unit or by a deputy head of the unit. Given the fact that the entries are from 2017, it may happen that the heads of the unit have also changed. The prison further explains that the actual person who carried out the placement and the person who entered the data in the database as to when the placement took place may not be the same person. Placements are generally performed by guards, but information about the placement is entered into the database by senior guards. In order to find out who performed a particular placement on a particular day, it is necessary to process a very large amount of different graphs and video recordings, if necessary also presentations, etc. Based on the above, the prison is of the opinion that this is a large amount of information processing.

**GROUPS FOR THE DATA PROTECTION INSPECTORATE:** Failure to disclose the approvers of the placement and the dates of the approval of the placement entry may jeopardize the execution of imprisonment, pre-trial detention, detention or probation, as well as on other grounds provided by law.<sup>1</sup> 1 See § 52 (6) of the Imprisonment Act. 3 (4) if the data subject's request is unfounded or excessive. The explanatory memorandum to the draft IKS (679 SE) explains that "For each application, the controller is required to assess whether the application is manifestly unfounded or excessive. In particular, the data subject's requests shall be unfounded or excessive in the case of a confirmatory application. In that case, the controller may refuse to take the measures requested by the data subject. " When a person requests information about him or her for the first time, this cannot generally be considered excessive or unjustified. Otherwise, the person would not be able to find out at all if and what information the authority has about him or her. I would also like to draw your attention to the fact that the data protection conditions of Viru Prison state that "The right to access our data and to receive information about the persons to whom we have transferred your personal data may be restricted if the release of the data or information may: infringe the rights and

freedoms of another person; obstruct or prejudice the prevention, detection, prosecution or execution of a criminal offense; In this case, Viru Prison has found that the retrieval of the indicated data would be unreasonably large due to the fact that there are 40 entries in the prison movement from 2017 and for each entry it should be ascertained whether the confirmation was given by the head of unit or deputy head of unit. The Data Protection Inspectorate does not agree with the above position. According to the Inspectorate, the volume of extracts from entries is not large. Due to the above, Viru Prison must re-examine the application in the part in which the complainant requested information about the confirmation, and if there are no grounds for refusing to release the data, the data must be released. In case of refusal, justify the refusal by reference to the legal basis.

Failure to disclose the makers of the placement If a person requests data concerning him or her on the basis of an APA, the chief processor may refuse to take the requested measures if the request of the data subject is unfounded or excessive. As explained above, this cannot generally be considered excessive or unjustified when a person first requests information about him or her. It is clear from the prison's reply that in order to find out who carried out a particular placement on a particular day, it is necessary to process a very large volume of different graphs and video recordings, if necessary also presentations, and so on. However, it is not clear from the prison's reply or from any of the documents transmitted how many different documents need to be reviewed (either only the charts or other documents) and how many video recordings need to be reviewed.

Referring only to a large volume does not make it possible to check / understand what is meant by a large volume. Therefore, the refusal to release the data due to the large volume cannot be considered appropriate, as it is not clear what the large volume consists of. Due to the above, the application of Viru Prison must be re-examined in the part in which the complainant wanted to know who made the placement, and if there are no grounds for refusing to release the data, the data must be released. In case of refusal, justify the refusal by reference to the legal basis. / Digitally signed / Senior Inspector 4 (4)

Authorized by the Director General