

www.aki.ee Registry code 70004235 PRECAUTIONS WARNING in personal data protection matter no. 2.1.-6/19/7 Preceptor

Inspector of the Data Protection Inspectorate Signe Kerge Time and place of precept 16.08.2019 in Tallinn Recipient of the

precept - processor of personal data Kvatro Kinnisvarahalduse OÜ Address: Kadaka tee 4, 10621 Tallinn e-mail address:

kvatro@kvatro.ee Responsible official of the personal data processor Member of the Management Board RESOLUTION:

Pursuant to § 28 (1) of the Law Enforcement Act (CA), § 56 (2) 8), § 58 (1) of the Personal Data Protection Act and Article 58

(2) (d) of the General Data Protection Regulation, I issue a mandatory precept: 1. to stop disclosing the contact details of

Pärna 3 apartment owners to other apartment owners in the future; 2. to terminate the publication of personal identification

codes in the minutes of the meetings of the apartment association. I set the deadline for compliance with the precept on

23.08.2019. Notify the Data Protection Inspectorate of the fulfillment of the precept by that deadline at the latest. CONTEST

REFERENCE: This precept can be challenged within 30 days by submitting either: - a challenge under the Administrative

Procedure Act to the Data Protection Inspectorate, or - an appeal under the Code of Administrative Court Procedure to the

Tallinn Administrative Court (in which case the challenge can no longer 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. PENALTY OF

WARRANTY: If the obligation specified in the precept is not fulfilled by the specified term, the Data Protection Inspectorate

shall impose a separate fine of 1,200 euros on the addressee of the precept in case of violation of each obligation pursuant to

§ 60 of the Personal Data Protection Act. The penalty payment may be imposed repeatedly - until the precept is complied with.

If the addressee does not pay the penalty payment, it is forwarded to the bailiff to start enforcement proceedings. In this case,

the bailiff's fee and other enforcement costs are added to the penalty payment. FACTUAL CIRCUMSTANCES: The

complainant informed the Data Protection Inspectorate (AKI) on 28.06.2019 that Kvatro Kinnisvarahalduse OÜ had added their

personal identification codes to the minutes of the general meeting of the apartment association in addition to the names and

signatures of the apartment owners. In addition, the complainant pointed out that the contact details of others are visible to all

apartment owners on the Kvatro OÜ portal. On 5 July 2015, the Data Protection Inspectorate made an inquiry to Kvatro

Kinnisvarahalduse OÜ, in which it wanted to know on what legal basis the personal data of the apartment owners of the

apartment association Pärna 3 have been disclosed to all others. In its reply dated 11.07.2019, the company explained that

showing the names and personal identification codes of apartment owners on the registration form of the meeting is in

accordance with § 12 (2) of the Criminal Code, according to which apartment owners The latter legitimate interest also includes the right of the apartment owner to know with whom he shares the rights and obligations related to the ownership of the apartment. The contact details of the apartment owners were shown by Kvatro Kinnisvarahalduse OÜ in order to enable the apartment owners to check the fulfillment of their obligations arising from § 46 (1) of the Criminal Code. The above-mentioned legal norm obliges the apartment owner to inform the apartment association of the data of his / her existing means of communication, in particular the telephone number or e-mail address. The company maintained that the data had been collected legally and that the rights of the apartment owners had not been violated. On 12.07.2019, the Data Protection Inspectorate forwarded to Kvatro Kinnisvarahaldus OÜ a proposal for better compliance with the Personal Data Protection Act, in which it requested to stop disclosing the contact details of apartment owners to other persons and to terminate the publication of apartment owners' personal identification codes. On 25.07.2019, Kvatro Kinnisvarahalduse OÜ refused to comply with the proposal and added its reasons. On 31.07.2019, AKI submitted an inquiry to Kvatro Kinnisvarahalduse OÜ, which was answered on 15.08.2019. EXPLANATION OF THE PERSONAL DATA PROCESSOR: The personal data processor stated the following in its justification: Hello, I would like to inform you that Kvatro Kinnisvarahalduse OÜ cannot comply with the attached AKI proposal, as 3 (4) Kvatro has not disclosed personal identification codes and contact details of In the case of KÜ Pärna 3 Paide, I note that if AKI is of the opinion that the apartment owner may not know the data of another apartment owner, then a corresponding proposal must be made to the apartment owners themselves through the apartment association. I would also like to draw your attention to the fact that from the KrtS, which entered into force in 2018, the apartment association is not a third party in relation to the apartment owner's alter ego in matters concerning the common property of the apartment owner. With regard to the identification of a person, I am of the opinion that in a situation where the minutes of the general meeting of apartment owners are a document creating a right, its formal side must be paid special attention, as violation of the procedure for convening and conducting a meeting is invalid. I agree with you in principle that it is not always necessary to write the personal identification code of the apartment owner on the registration form, but the assessment of its expediency and necessity must be left to the discretion of the apartment owners. In the case of KÜ, in connection with which you put a question to Kvatro, we consider it justified in any case, because the apartment owners include a person who is looking for a conflict with other apartment owners at every step. If you consider it necessary to continue the proceedings in case of KÜ Pärna 3 Paide, I propose to meet. In response to the inquiry, the data controller explained the following: Dear Signe Kerge. I

will forward the answers to your questions to the apartment association Paide linn, Pärna 3.

1. Question: What is the relationship between the apartment association and Kvatro Kinnisvarahalduse OÜ? Answer: Kvatro Kinnisvarahalduse OÜ is the manager of the apartment association Paide linn, Pärna 3. The corresponding information is visible on the B-card of the apartment association.

2. Question: For what purpose have the contact details and personal identification codes of the members of the cooperative's protocol been collected? Answer: The apartment association collected contact information at the general meeting of apartment owners with a request to update them. The personal identification codes are visible in the minutes of the general meeting of apartment owners in connection with the need to identify the apartment owners.

3. Question: On what legal basis is the personal data of the members of an apartment association disclosed to other members of the apartment association. Answer: since 2018, when the KrtS came into force, the housing association has no members. The data of apartment owners who manage their joint ownership through an apartment association are visible to the apartment owners and the administrator of the apartment association. The above data have been collected for the purpose of joint ownership management. The corresponding restriction has been entered in Section I of the land registers of all apartment properties located at 3 Pärna Street.

4. Question: Have the members of the apartment association contacted the apartment association regarding the disclosure of personal data? If so, what has been answered? Answer: In 2019, the apartment association has been contacted once for data on apartment owners. On June 5, 2019, Margit Pent, the owner of apartment 13, asked the apartment owners for information (incl. An extract from the land register). The respective information was issued to the apartment owner on June 12, 2019.

Sincerely, Xxx Xxx Paide linn, Pärna tn 3 apartment association manager Kvatro Kinnisvarahalduse OÜ board member Tel. xxx, e-mail xxx

4 (4) GROUNDS FOR THE DATA PROTECTION INSPECTORATE:

Sharing of contact information The Data Protection Inspectorate does not agree with the sharing of contact information of the members of the apartment association with other members of the apartment association. It follows from § 46 (1) of the Criminal Code that the apartment owner is required to notify the apartment association of the data of his or her existing means of communication, in particular the telephone number or e-mail address. This information must be provided to the apartment association and not to other apartment owners. The Supervision Authority points out that the proposal for better compliance with the Personal Data Protection Act provided for the disclosure of data to other persons. Pursuant to Article 4 of the General Data Protection Regulation<sup>1</sup> (EDPS), a third party is a natural or legal person, public authority, agency or body other than the data subject, the controller, the processor and persons who may process personal data under the direct authority of the

controller or processor. other apartment owners are also meant. In his reply, the data controller states that the contact details were collected and shared for the purpose of managing joint ownership. The Supervision Authority explains that the purpose of joint management does not cover the processing of personal data and is not the basis for the publication of such data. If the apartment owner needs to contact another apartment owner, this must be done through the board or a body replacing the board.

**Disclosure of personal identification codes** In connection with the publication of personal identification codes in the list of the general meeting, the Supervision Authority points out that in this case the principles of purposefulness and minimality are not followed. The Apartment Associations Act does not oblige the management board to record the personal identification codes of all persons in the minutes. In other words, personal data must also be disclosed and collected in the protocols in accordance with the principles of minimum and purpose. Only the name of a member of the apartment association is sufficient to check whether the person who participates in the meeting of the apartment owners is also entitled to do so. Based on the above, the Data Protection Inspectorate issues a precept to Kvatro Kinnisvarahalduse OÜ. Yours faithfully, / Signed digitally /

Signe Light inspector on behalf of the Director-General 1

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