

www.aki.ee Registry code 70004235 PRECAUTIONS WARNING in personal data protection matter no. 2.1.-1/20/1344

Preceptor Data Protection Inspectorate Time and place of precept 07.07.2020 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 re-examine Viru Prison 20.03.2020 answer no. -2 and separately for each Viru Prison log why the data was

viewed, saved, changed or deleted. In case of refusal to provide information, justify the refusal and indicate the legal basis. -

dismiss the remainder of the complaint. I set the deadline for compliance with the precept as of 27.07.2020. 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. 2 (4) FACTUAL FACTS: On 14.04.2020, the Data Protection Inspectorate received a complaint from xxx (the

complainant) that Viru Prison's reply no. 2-3 / 620-2 of 20.03.2020 did not contain all the information he had requested. In

addition, the applicant considered that the prison's reply should have been formally confirmed. EXPLANATION OF THE

PERSONAL DATA PROCESSOR: 04.05.2020 answer: We explain that the applicant has been provided with all the logs

provided in the request. Unfortunately, a numerical error has occurred in the response letter No. 6-10 / 8531-2 of Viru Prison

xxx case xxx. The reply is incorrectly typed xxx. The prisoner has submitted an inquiry regarding case number xxx, which was

also forwarded to him by Viru Prison on 20.03.2020. Response No. 6-10 / 8531-2 has transmitted all case logs xxx, xxx and

xxx to xxx. We have also sent a confirmation to this request to the Data Protection Inspectorate No. 2.1.-1/20/865 on

22.04.2020. Viru Prison has forwarded the reply letter with the digital signature of the head of the medical department to xxx and forwarded the log data in a sealed envelope. For clarification, we add that the medical department always requests the data of the prisoner's logs as an official request from itabi@rik.ee, which in turn makes the request to AS Medisoft, which is the authorized processor of the health information system "Liisa" used in the Prison Register. The officer of the medical department shall forward the received response to the detainee in a sealed envelope with the data of the logs. The medical department cannot give explanations to the prisoner about the activities that the Prison Register logs, which logs show data entry, which changes, which deletions and which cannot be viewed, because the prison medical department does not have the relevant information and competence to provide explanations and they do not belong to the medical field. Explanations of the meanings of the logs can be provided by the chief processor and / or authorized processor of the Prison Register, who is the Ministry of Justice and AS Medisoft. We explain that the health data of prisoners in the information system ("Liisa", which is part of the Prison Register) is viewed and processed by medical staff working in the authorized medical department of the prison according to the needs of the work.

22.06.2020 answer: You submitted an additional inquiry to Viru Prison on 14.05.2020 regarding the complaint of xxx concerning the logs of the health data information system "Liisa" (hereinafter Liisa), which is the interface of the Prison Register. In your inquiry, you are referring to the General Data Protection Regulation. First of all, we consider it necessary to clarify that although Liisa reflects the health care provided to prisoners on the basis of a civil law contract, it is a part of the Prison Register database pursuant to § 51 (1) 1 and § 53 (6) of the Prison Act. Thus, according to the prison, the General Regulation on the Protection of Personal Data does not apply to the Liisa database, but the IKS regulation pursuant to § 1 (1) 2) of the IKS. We also point out here that the chief processor of the Prison Register is the Ministry of Justice pursuant to § 51 (2) of the Prison Act. Liisa is managed by AS Medisoft in accordance with § 4 (3) and (5) of the Articles of Association. Pursuant to § 4 (1) 1) of the Statutes, Viru Prison is the authorized processor of the Prison Register. It follows from the above that Viru Prison is not a person who determines the form in which the logs of the use of Liisa are stored - the prison can only pass them on to the person in the form issued to him by AS Medisoft. At present, the logs of AS Medisoft do not reflect the content of the activity (eg whether the data was viewed, saved, changed or deleted).

3 (4) A prison shall explain that the obligation of a prison is to provide health care services to prisoners pursuant to §§ 49, 52 and 53 of the Prison Act, including the organization of the provision of health care services. The provision of health care inevitably entails the need to process the health data of a prisoner (processing of special types of personal data within the meaning of § 20 (1) 1) of

the IKS). § 53 (1) 6) of the Prison Act also provides for the right to process special types of personal data so that the prison service can determine the various risks of a prisoner. Thus, the data in the Prison Register are used in the course of various activities organizing the execution of imprisonment. We acknowledge that pursuant to § 24 of the APA, the data subject is granted the right to receive various information regarding the processing of his or her personal data. At the same time, it should be pointed out that according to the IKS regulation, the person to whom the data subject can submit a request is the controller. As mentioned above, Viru Prison is the authorized processor of the Prison Register. The prison has so far come to the prisoners, including xxx, and has forwarded Liisa's logs requested from AS Medisoft. We emphasize once again that they have been transmitted by the prison in the form in which they were received. It is not possible for the prison to supplement the logs with the information you have requested. To the question why Viru Prison did not issue information with official confirmation, we explain that according to § 24 (4) of the Administrative Procedure Act, a prison can only confirm a printout if this right has been granted to it by law or regulation. § 5 of Government of the Republic Regulation No. 305 of 24 September 2002 "Designation of administrative bodies entitled to officially certify the authenticity of signatures and transcripts, extracts" does not entitle a prison to certify printouts of the database of the Ministry of Justice. Unfortunately, this was not reflected in the previous answer. However, the prison considers it necessary to note that the data subject's right to receive information about himself or herself from the law enforcement authority, ie the information processed by the prison, is not absolute. Thus, § 27 (3) of the IKS provides that the chief processor may refuse to process the application of the data subject if this would involve excessive costs. By way of remark, we point out that a similar right to refuse to comply with a request for information is provided in § 23 (2) (3) of the PIA. The lawfulness and admissibility of data processing is ensured by the prison as an authorized processor through various measures, both in terms of information technology and organization. Thus, for example, employees have access to Liisa's database in accordance with § 4 (4) 3) of the Statutes. Employees have been thoroughly instructed on the purposes for which the processing of data is permitted, and the prison carries out ongoing checks on the lawfulness of the processing to the extent provided for in § 21 (2) of the Statutes. In the present case, there is no evidence that the processing of xxx data by Viru Prison staff was not justified. In conclusion, we are of the opinion that it is not possible for the prison, as an authorized, not the chief processor, to supplement the logs received from AS Medisoft transmitted on xxx 20.03.2020. If the subject has additional questions regarding the structure of the database, he or she may turn to the Ministry of Justice, the chief processor of the Prison Register. Viru Prison also does not have the competence to officially confirm the

logs of Liisa issued by AS Medisoft. The Ministry of Justice is also the competent respondent to the data subject in this matter.

GROUND FOR THE DATA PROTECTION INSPECTORATE: Failure to issue reasons for personal data processing operations § 36 of the Personal Data Protection Act stipulates that the chief and authorized processor must keep logs of at least the following personal data processing operations in automated systems: collection; modification; reading; disclosure; transmission; connecting; deleting. 4 (4) Pursuant to § 24 of the Personal Data Protection Act, a person has the right to receive confirmation from the chief processor as to whether personal data concerning him or her are processed and, in such case, to inspect the personal data. At the same time, the data processor must be able to substantiate the reason for which the processing of personal data has taken place (incl. Viewing, collecting, modifying, deleting). To do this, the exact circumstances need to be clarified - eg whether the healthcare was provided at all, when, by whom, when the reception was attended or what procedures were performed, when the data were viewed, etc. The Data Protection Inspectorate does not agree with the opinion of Viru Prison that the chief processor in this matter is the Ministry of Justice, to which the data subject can submit a request. We explain that the Ministry of Justice is responsible for the processing, maintenance and continuous operation of the prison register. Each prison remains the data controller in the prison register. At the same time, Viru Prison is not the controller in respect of data processing operations performed by other prisons. Therefore, Viru Prison must re-examine answer no. 6-10 / 8531-2 on 20.03.2020 and state separately for each log of Viru Prison why the data was viewed, saved, changed or deleted. In case of refusal to provide information, justify the refusal and indicate the legal basis. Refusal to issue information with official confirmation § 17 (4) of the PSA provides that the holder of information must release information with official confirmation if the confirmation is necessary for the exercise of the rights and freedoms and fulfillment of the obligations of the person requesting the information. In the present case, the applicant has not substantiated the exercise of his rights and freedoms and the fulfillment of his obligations, which would have been the subject of a formal confirmation. In the light of the above, the transmission of the reply without its formal confirmation does not render the execution of the request unlawful and the complaint will be rejected in this respect. / digitally signed / on behalf of the Director - General