

www.aki.ee Registry code 70004235 PRECAUTIONS WARNING in personal data protection matter no. 2.1.-6/19/5 Preceptor

Sirje Biin, Senior Inspector of the Data Protection Inspectorate Time and place of precept 21.06.2019, Tallinn Recipient of the

precept - processor of personal data Creditreform Eesti OÜ e-mail address: info@creditreform.ee Person in charge of the

personal data processor RESOLUTION : Pursuant to § 28 (1) of the Law Enforcement Act, § 56 (2) (8), § 58 (1) of the

Personal Data Protection Act and Article 58 (2) (d) and (g) of the General Data Protection Regulation, I issue a mandatory

precept: 1. Delete XXX personal data that is not lawfully stored basis (including the penalty for the XXX XXX vehicle). 2. Bring

the processing of personal data in Creditreform Eesti OÜ in accordance with the requirements of the General Data Protection

Regulation and the Personal Data Protection Act, incl. A) disclose the data protection conditions; (b) publish the contact details

of the data protection officer on the business portal of the commercial register. I set the deadline for compliance with the

precept as 08.07.2019. 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 FUND WARNING: If a precept is not complied with by the specified term, the Data Protection Inspectorate shall

impose a penalty payment of 1,200 euros for each point of the uncompleted precept on the addressee of the precept on the

basis of § 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. MISCELLANEOUS

PENALTY WARNING: Failure to comply with a precept pursuant to Article 58 (2) of the General Data Protection Regulation

may result in misdemeanor proceedings under § 69 of the Personal Data Protection Act. A natural person may be fined up to

EUR 20 000 000 for this act and a legal person may be fined up to EUR 20 000 000 or up to 4% of its total annual worldwide

turnover, whichever is greater. The Data Protection Inspectorate conducts extra-judicial proceedings against misdemeanors.

FACTUAL FACTS: 1. XXX filed a complaint with the Data Protection Inspectorate against Creditreform Eesti OÜ in connection

with the violation of the requirements for the processing of personal data. According to the complaint, in 2017 Creditreform

Eesti OÜ contacted him by phone in connection with the contractual penalty for parking the vehicle XXX, learned that he was not the owner or responsible user of the vehicle and promised to delete personal data. In the summer of 2018, notifications were sent regarding the contractual penalty for vehicle XXX, in which the applicant confirmed that he was not the owner or responsible user of the vehicle and asked for the data to be deleted, which he was allowed to do. On 05.12.2018, Creditreform Eesti OÜ contacted again, having collected additional personal data in the meantime. The complainant requested information on the processing of his personal data pursuant to Article 15 of the General Data Protection Regulation (GPA). The applicant received a reply on 27 December 2018, but it did not contain the requested information (pursuant to Article 15 of the CISA). It also turned out that the promise to delete personal data has not been fulfilled, as previous claims have been submitted again.

2. The Data Protection Inspectorate initiated supervision proceedings on the basis of clause 56 (3) 8) of the Personal Data Protection Act by submitting an inquiry to the data processor on 12.02. 3. Creditreform Eesti OÜ replied to the Inspectorate on 26.02.2019. 4. On 8 May 2015, the Supervision Authority made a proposal to Creditreform Eesti OÜ on the following grounds: Pursuant to Article 5 (1) (b) of the CISA, personal data may be collected for specified and lawful purposes and may not be processed later in a way incompatible with those purposes. If the processing of personal data is necessary for the performance of a contract concluded with the participation of the data subject, the processing is lawful pursuant to Article 6 (1) (b) of the CISA. The Supervision Authority is of the opinion that already known personal data (telephone number) collected on a purposeful and lawful basis (for the performance of the contract) may be used repeatedly for the same purpose in the identification process. In the present case, the recipient of the letter of formal notice has informed the claimant that he is neither the owner nor the responsible user of the vehicle in question. A notice from the Road Administration has also been submitted that as of the date of imposition of the fine, XXX is not the owner or responsible user of the vehicle. Thus, there is no evidence of a link with the XXX claim. Creditreform relies solely on the allegation that the applicant confirmed on 05.12.2018 that he was a responsible user of the car. The applicant rejects this allegation in his application for intervention, admitting that he had only used the car. As XXX has provided evidence that he was not responsible (neither the owner nor the responsible user) for complying with the requirement set out in the Leniency Notice, his data should be deleted from this fine. Creditreform has not provided any evidence to the contrary. Where there is no proven link with the vehicle in breach of the parking regime, there are no relevant references to court decisions on the redistribution of the burden of proof. In its reply, Creditreform states that it will not delete the data before the claim has been paid, nor can it delete them on the basis of Article 17 (3) (e) of the

CISA, as they are necessary for the establishment, submission or defense of legal claims. I would like to point out that one of the principles of personal data processing is the accuracy of the data - the data must be correct and up-to-date and incorrect personal data must be deleted or corrected immediately (Article 5 (1) (d) of the CISA). If the data is incorrect, it must be deleted, the deletion cannot be linked to the payment of a debt by a person who is not obliged to do so. Moreover, the payment of a debt does not lead to the deletion of data if the obligation to retain them arises from law (see paragraph 6 of Creditreform's reply). Any processing of personal data must be lawful and fair. The processing of personal data concerning natural persons and the extent to which they are or will be processed must be transparent to them. The principle of transparency presupposes that the information and messages relating to the processing of their personal data are easily accessible, comprehensible and clearly and simply worded. Natural persons should be informed of the risks, standards, safeguards and rights associated with the processing of personal data and how they can exercise their rights in relation to such processing. Creditreform Eesti OÜ has not made information on the processing of personal data easily available. The website does not have any information about this. In a situation where an electronic channel is provided for communication, it is logical to disclose important information in the same way. From point 4 of the answer (These terms and conditions are available at the office of Creditreform Eesti OÜ located at Pirita tee 20, Tallinn or we transmit the information in encrypted form to the heir), it can be concluded that accessing the data protection terms and conditions is as inconvenient, if not impossible. There is also no information available about the data protection specialist. Pursuant to Article 37 (7) of the General Regulation on the Protection of Personal Data, the data controller must publish the contact details of the Data Protection Officer (Data Protection Officer) and communicate them to the Supervisory Authority. Both data controllers can do both at the same time through the enterprise portal of the commercial register - the public and the inspectorate can see the AKS entered therein. There is currently no data on the Data Protection Officer on the website or on the company portal. Based on the above, I propose to Creditreform Eesti OÜ: 1. To delete XXX personal data, for the storage of which there is no legal basis (incl. For the contractual penalty XXX XXX). 2. Bring the processing of personal data in Creditreform Eesti OÜ in accordance with the requirements of the General Data Protection Regulation and the Personal Data Protection Act, incl. A) disclose the data protection conditions; (b) publish the contact details of the data protection officer on the business portal of the commercial register. 3. To submit to the Inspectorate a confirmation of the fulfillment of the proposal in respect of clause 1 not later than 15.05.2019 and in respect of clause 2 not later than 31.05.2019. I would like to draw your attention to the fact that the Data Protection Inspectorate has the

right to issue a precept (together with the imposition of a penalty payment until the violation is eliminated) to terminate the processing of personal data if there is no legal basis for it. Along with the precept, a penalty payment may also be imposed, which may be imposed for each violation of the precept. Pursuant to § 60 of the Personal Data Protection Act, the maximum penalty is up to EUR 20,000,000 or, in the case of an undertaking, up to 4 per cent of its total annual worldwide turnover, whichever is greater]. Pursuant to subsection 40 (1) of the Administrative Procedure Act, you also have the right to submit your opinion and objections to the Data Protection Inspectorate.

EXPLANATION OF THE PROCESSOR OF PERSONAL DATA:

The processor of personal data has not complied with the proposal or submitted any explanations or objections within the deadlines specified in the proposal.

FOUNDATIONS FOR THE DATA PROTECTION INSPECTORATE: Creditreform Eesti OÜ has not complied with the proposal by the deadlines given by the Data Protection Inspectorate. The Supervision Authority has sent the proposal to the e-mail address info@creditreform.ee published in the Commercial Register by Creditreform Eesti OÜ. The Inspectorate has forwarded letters to this address earlier in the course of this and other proceedings and received replies to them. There is therefore no reason to doubt that this is a valid address to which letters are sent to the addressee. Pursuant to clause 27 (2) 3) of the HMS, a document transmitted electronically is deemed to have been served if it has been delivered to the electronic mail address entered in the commercial register of the company. The Data Protection Inspectorate has not received confirmation from the data processor that the applicant's data has been deleted (clause 1 of the proposal). The complainant has informed the Inspectorate on 11.06.2019 that he has also not been notified of the deletion of the data. After checking the data controller's website, it turns out that no information on the data protection conditions or the data protection specialist has been published so far. The Data Protection Inspectorate has not been notified of the contact details of the data protection specialist either by a separate letter or through the enterprise portal (clause 2 of the proposal). Therefore, the obligation under Article 37 (7) of the CISA to publish the data of the data protection officer and to inform the supervisory authority thereof is not fulfilled. The fact that a data protection specialist is answered in the course of a specific procedure cannot be considered as fulfilling the data controller's obligation under the aforementioned article. The data controller has not notified the Inspectorate of the reasons that prevent the execution of the proposal or requested an extension of the term for execution. As Creditreform Eesti OÜ did not comply with the proposal of the Data Protection Inspectorate within the deadline and the Inspectorate does not know any good reason for this, I will issue a precept to the data processor with a penalty payment warning to terminate the violation of personal data protection requirements. / digitally signed / Sirje Biin on behalf of

the Director General