

info@aki.ee / www.aki.ee Registry code 70004235 PRECAUTIONS-WARNING in personal data protection matter no.

2.1.-6/18/8 Preceptor Data Protection Inspectorate time and place of issue 13.11.2018, Tallinn Addressee of the precept -

personal data processor Address of the Estonian Independence Party: Tatari tn 8-21, 10116 Tallinn e-mail address:

iseseisvuspartei@iseseisvuspartei.ee Person in charge of the personal data processor Member of the Management Board

RESOLUTION: Pursuant to subsection 32 (1), clauses 33 (2) 4) and 40 (1) of the Personal Data Protection Act (IKS), the

Supervision Authority issues a mandatory precept for compliance: to terminate the processing of XXX (applicant's) personal data, including disclosure in the commercial register. I set the deadline for compliance with the precept as 30.11.2018. 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 FINANCE WARNING: If a

precept is not complied with by the specified term, the Data Protection Inspectorate shall impose a penalty payment of 1,500

euros on the addressee of the precept on the basis of subsection 40 (2) 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: 16.07.2018. The applicant submitted a request to the Inspectorate that

the Estonian Independence Party stop processing his personal data in the commercial register: My name will be published in

the list of party members without grounds. I do not want to be associated with a political party. This connection is incorrect, and

therefore detrimental to me. I want to remove the incorrect entries from all possible registers. 7/30/2018 The Inspectorate sent

a proposal to the processor of the legal person's commercial register at the e-mail address

iseseisvuspartei@iseseisvuspartei.ee: to terminate the publication of the applicant's data in the commercial register and to

respond to the proposal no later than 06.08.2018. On 17.08.2018, the Inspectorate sent a repeated inquiry with the same

content to the processor and requested that it be answered no later than 29.08.2018. On 29 August 2018 the processor replied

to the repeated proposal as follows: The applicant became a member of the Republican Party at the beginning of 2001. His

application to join is in the registry department of Tartu County Court. After the Republican Party joined the Estonian Independence Party, he became a member of the latter. 8/31/2018 The Inspectorate provided the applicant with a clarification in which he asked to answer the following questions: 1. Have you ever become a member of the Republican Party, which later became the Estonian Independence Party upon joining? 2. Have you submitted an application for removal from the list of the Estonian Independence Party as described in the above answer? 09/06/2018 The applicant replied to the inspectorate as follows: I have not become a member of any political party and I have never participated in the activities of any political party. In addition to joining, I have not expressed my wish to resign from any party, either orally or in writing. 9/12/2018 The Inspectorate proposed a clarification to the processor: To submit to the Inspectorate copies of the applicant's applications to join and leave the party. If it is not possible to submit them, please delete all entries in the commercial register about the person no later than 26.09.2018. and send a confirmation to the Inspectorate. 9/25/2018 a the processor requested an extension to reply: We are asking for an extension of time to comply with the specification of the Proposal, as communication with the Registrar is in progress. On 04.10.2018, the processor sent a notification to the Inspectorate: At the moment, the board is trying to explain to the notary what and where he should look for us. As the registrar's service point is closed and the subject seems unfamiliar to the notary, time cannot be allowed. EXPLANATION OF THE PROCESSOR OF PERSONAL DATA: On 29.08.2018 the processor replied to the repeated proposal as follows: The applicant became a member of the Republican Party at the beginning of 2001. His application to join is in the registry department of Tartu County Court. After the Republican Party joined the Estonian Independence Party, he became a member of the latter. On 04.10.2018, the processor sent a notification to the Inspectorate: At the moment, the board is trying to explain to the notary what and where he should look for us. As the registrar's service point is closed and the subject seems unfamiliar to the notary, time cannot be allowed. As of 14.11.2018, the processor has not submitted a copy of the person's application to join the party and a copy of the application for leaving the Inspectorate, which is why the Inspectorate is forced to issue a precept to terminate the disclosure of the applicant's personal data. GROUNDS FOR THE DATA PROTECTION INSPECTORATE: § 4 (1) of the IKS provides that personal data are any data relating to an identified or identifiable natural person, regardless of the form or form in which those data are presented. Pursuant to § 5 of the IKS, every act performed with personal data, including use, collection, storage, execution of inquiries and extraction, is the processing of personal data. The management board of a political party is responsible for maintaining the list of members of a political party, including making amendments thereto, submitting it to the

register and for the accuracy of the list (§ 8 (2), § 81 of the PPA). § 81 (1) of the PPA provides that the list of members of a political party shall be maintained by the management board of the political party at the registry department. Pursuant to paragraph 2, changes in the list of members of a political party shall be made by the board of the political party or a person authorized for that purpose by the board. In the present case, the applicant's full name and date of birth and the fact that the person has been a member of the Estonian Independence Party (including the Republican Party, whose direct successor is the Estonian Independence Party) have been disclosed. Pursuant to § 10 (1) of the IKS, the processing of personal data is permitted only with the consent of the person or if the basis arises from law. When joining a political party, a person gives his or her voluntary consent to join. Pursuant to § 12 (2) of the IKS, the consent must, as a rule, be in a form that can be reproduced in writing. The burden of proving consent lies with the processor. Pursuant to § 12 (7) of the IKS, a person may withdraw his or her consent at any time. In this situation, a person would resign from the party. After several inquiries from the Inspectorate, the processor has not submitted the relevant evidence (neither an application for joining nor an application for leaving) showing the person's consent to the publication of his or her name in the list of members of the political party. Accordingly, the disclosure of the applicant's personal data in the commercial register must be considered unlawful and the disclosure must be terminated accordingly. Article 17 (1) of the General Data Protection Regulation gives the data subject the right to request that the controller delete personal data concerning him or her without undue delay and that the controller is obliged to delete personal data without undue delay if the data have been processed unlawfully. Processing is considered illegal if there is no legal basis for it. Kadri Levand, Senior Inspector, authorized by the Director General