

PROTECTION OF PRIVACY AND TRANSPARENCY OF THE STATE Tatari tn 39/10134 Tallinn / 627 4135 / info@aki.ee /

www.aki.ee Registry code 70004235 PRECAUTIONS-WARNING in personal data protection matter no. 2.1.-6/20 Issuer

Senior Inspector of the Data Protection Inspectorate Maria Muljarova Time and place of precept 28.07.2020, Tallinn Addressee

of the precept Responsible person of the addressee Eesti Metsakinnistud OÜ (14863578) Tartu county, Tartu city, Tartu city,

Ujula tn 2a-35, 51008 xxxxxxxxx@gmail.com info@eestimetsakinnistud.ee Xxxxxx Xxxx (ik xxxxxxxxxx) Member of the Board

RESOLUTION: Pursuant to § 56 (1), § 2 (8), § 58 (1) and Article 58 (1) (a) of the General Data Protection Regulation (EDPS)

and subject to the same paragraph (e) Mandatory precept for the Inspectorate OÜ to comply with Eesti Metsakinnistud: 1) To

respond after sending the personal data protection matter no. 2.1.-1/20/1689 to the Inspectorate on 22.06.2020 questions

raised in the inquiry. We set the deadline for compliance with the precept as 07.08.2020. The precept must be complied with

by the deadline by the Data Protection Inspectorate's e-mail address info@aki.ee. 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 5,000 euros on the addressee

of the precept 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 at Tatari

tn 39/10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee. WARRANTY PENALTY WARNING: Failure to comply with a

precept pursuant to Article 58 (1) of the General Data Protection Regulation may result in misdemeanor proceedings pursuant

to § 70 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 CIRCUMSTANCES: On

22.06.2020, the Data Protection Inspectorate initiated supervision proceedings against OÜ Eesti Metsakinnistud (registry code

14863578) on the basis of § 56 (3) 8) of the APA Xxxxx Xxxxxx, forwarding an inquiry to the data controller Circumstances

related to the use of Xxxxxxx e-mail, as well as how the processing of personal data (incl. Collection) is regulated in the

company. According to the complainant, he received an e-mail from OÜ Eesti Metsakinnistud to his personal e-mail address on 10 May 2020, expressing interest in his forest property, including a price offer. According to Eesti Metsakinnistud OÜ, the address was received through the forwarding of eesti.ee, although in fact, according to the complainant, the e-mail was sent directly to Gmail's e-mail address. According to the complainant, Eesti Metsakinnistud OÜ changed its version in the following e-mail and explained that the complainant's e-mail address was taken from the information register's website. If the complainant wanted to know why there is no opt-out link at the end of the e-mail, the answer was that the opt-out link is not because the letter sent by Eesti Metsakinnistud OÜ does not belong to mass advertising, but was personally compiled and sent to the person. The Inspectorate asked OÜ Metsakinnistud to answer the following questions no later than 3 July 2020: 1. From what source did Eesti Metsakinnistud OÜ receive the e-mail address Xxxxx Xxxxxxx? 2. What sources do you use to collect human contact information? 3. On what legal basis do you collect and process contact details of natural persons, including previously disclosed contact details? 4. Have the data protection conditions been prepared for OÜ Eesti Metsakinnistud and where are they available to the data subject? If no, please explain why they are missing, if yes, please provide. 5. On what legal basis do you send direct sales offers to private individuals? 6. Please explain why the letter sent by Eesti Metsakinnistud OÜ does not contain information on how the person can refuse to receive such an offer in the future. The inquiry was sent on 22.06.2020 to the e-mail addresses info@eestimetsakinnistud.ee (e-mail address on the website of the addressee of the precept) and xxxxxxxxxx@gmail.com (e-mail address given to the commercial register). As of 27.07.2020, OÜ Eesti Metsakinnistud has not answered the questions submitted by the Data Protection Inspectorate. GROUNDS FOR THE DATA PROTECTION INSPECTORATE: I. Legal basis for the processing of personal data Personal data are any information relating to an identified or identifiable natural person. An identifiable natural person is a person who can be identified directly or indirectly, in particular on the basis of his or her identification number, such as name, personal identification code, etc. (see General Regulation on the Protection of Personal Data at Tatari tn 39/10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee or Article 4 (1) of the CISA1). An email address that contains a person's name is personal information. All data of natural persons related to the company (eg name or personal identification code) are also personal data and thus within the scope of the CISA. Any processing of personal data must have a legal basis, whether the person's consent or another legal basis (see Articles 5 and 6 of the General Regulation on the Protection of Personal Data (EDPS)). In addition, it must be emphasized here that there must be a legal basis for any processing of personal data, including the

processing of personal data previously disclosed in the commercial register. Pursuant to Article 5 (1) (a) of the CISA, OÜ Eesti Metsakinnistud must ensure that the processing of personal data is fair and transparent to data subjects, which presupposes that persons are informed of the performance of the personal data processing operation and its purposes. The controller should provide the data subject with any additional information necessary to ensure fair and transparent processing, taking into account the specific circumstances and context of the processing of personal data (see recital 60 of the IIA). II. Obligation to inform data subjects Article 12 of the IKÜM obliges OÜ Eesti Metsakinnistud to inform customers about the processing of personal data in a concise, clear, comprehensible and easily accessible form, using clear and simple language. This information shall be provided in writing or by other means, including, where appropriate, by electronic means (Article 12 (1) CCIP). In a situation where personal data have been collected from the data subject, the data subject must be granted access to all of the following information in accordance with Article 13 of the ECHR: - the name and contact details of the controller and, where applicable, the controller 's representative; - where applicable, the contact details of the Data Protection Officer; - the purpose and legal basis of the processing of personal data; - where the processing of personal data is based on Article 6 (1) (f), information on the legitimate interests of the controller or of a third party; - where applicable, information on the recipients or categories of recipients of the personal data; - where applicable, information that the controller intends to transfer personal data to a third country or international organization and information on the existence or absence of a Commission decision on adequacy or, in the case of a transfer referred to in Article 46 or 47 or the second subparagraph of Article 49 (1), appropriate or appropriate safeguards and the manner in which they are to be obtained or to the place where they have been made available; - the period for which the personal data will be stored or, if this is not possible, the criteria for determining such a period; - information on the right to request the controller to access, rectify or delete personal data concerning the data subject or to restrict the processing of personal data or to object to the processing of such personal data, as well as information on the right to transfer personal data; - information on the right to lodge a complaint with the supervisory authority. However, if the data controller did not receive personal data from the data subject, attention must be paid to Article 14 of the CISA, ie the source and, where appropriate, whether the data come from publicly available sources. This information must be provided to the data subject within a reasonable time, but not later than one month, taking into account the specific circumstances. 1 In the computer network: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R0679> Tatari tn 39/10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registry code 70004235 It therefore follows from Articles 5, 12, 13 and 14 of the CISA

that the data controller must define the purpose for which he processes any personal data and communicate this information to the data subject in writing (where applicable electronically). As a supervisory authority, the Data Protection Inspectorate has the competence to check whether this has been done. This information has not been published on the website of Eesti Metsakinnistud OÜ (<http://eestimetsakinnistud.ee/>). The Inspectorate does not know whether OÜ Eesti Metsakinnistud has made this information available in other ways, but according to the complainant, he was not informed of the details of the data processing upon receipt of the e-mail. At the same time, personal data is also collected through the website - the website has a feedback form with the data fields "Name" and "E-mail", "Phone", all fields are mandatory, because if they are not filled in, it is not possible to submit your sales request. There is also no information on the website of Eesti Metsakinnistud OÜ whether "cookies" are used. With regard to the data collected through the website, the data processing conditions must also be made available on the website. Failure to provide information to the data subject in accordance with Articles 12-14 of the CISA is a violation of the CISA. Due to the above, in its inquiry (specifically in question 4) the Inspectorate instructed OÜ Eesti Metsakinnistud to submit to the Inspectorate information on the processing of OÜ Eesti Metsakinnistud's customer data in accordance with Articles 12-14 of the CISA (incl. Personal data collected through the website). OÜ must also explain to the Estonian Forest Inspectorate where and in what form this information has been made available to the data subject. III.

Requirements arising from the Electronic Communications Act (ESS) The Supervision Authority considers it necessary to provide explanations to the data processor in connection with the use of electronic contact data for direct marketing. Pursuant to § 1031 of the ESS, the use of electronic contact data of a natural person user or customer for direct marketing is permitted only with his or her prior consent. Paragraph 5 of the same section provides that the burden of proving consent lies with the person in whose name the direct marketing takes place. Pursuant to subsection 5 (1) of the Information Society Services Act (hereinafter InfoTS), a commercial communication is the transmission of any type of information designed to directly or indirectly promote the provision of goods or services on behalf of the service provider or enhance the reputation of the service provider. Wherever the sending of an offer promotes the activities of an undertaking, a political organization or a charitable organization, it is always direct marketing. Pursuant to § 1031 (4) 2) of the ESA, the use of electronic contact information for direct marketing is prohibited if the transmitted information does not contain instructions or information that enables the user, customer or buyer of the communication service to exercise his or her right to refuse. Therefore, the Data Protection Inspectorate is of the opinion that the explanation provided by OÜ Eesti Metsakinnistud to the complainant that it is not a mass

advertisement but a personal offer has been sent to the person is not appropriate in this case, as it does not matter whether the letter is a mass advertisement or personally - The e-mail must always contain information on the right to opt out of direct marketing and the procedure for exercising it. IV. Grounds for issuing an order as a precept § 56 (1) of the IKS stipulates that the Data Protection Inspectorate exercises state and administrative supervision over compliance with the requirements provided for in the IKS, legislation established on the basis thereof and the requirements for processing personal data in other laws. Pursuant to subsection (2) (8) of the same section, in addition to the provisions of Article 57 of the IIA, the Data Protection Inspectorate is competent to apply administrative coercion on the bases, to the extent and pursuant to the procedure prescribed by law. Pursuant to § 58 (1) of IKS Tatari st. Article 58 (1) (a) of the CCIP provides that the Data Protection Inspectorate shall have the power to order the controller or processor or, where applicable, the representative of the controller or processor to provide information necessary for the performance of its tasks; also, pursuant to point (e), the inspectorate shall have the right to obtain from the controller and the processor access to all personal data and to all information necessary for the performance of the inspectorate's tasks. It has been described above (under the facts) to which e-mail addresses related to the addressee of the precept the inquiry No. 2.1.-1/20/1689 was sent on 22.06.2020. One e-mail address (xxxxxxxxxx@gmail.com) is the e-mail address given to the Commercial Register. If the Data Protection Inspectorate sends an electronic document to this e-mail address, it is deemed to have been delivered (see § 27 (2) 3) of the Administrative Procedure Act). In order to carry out supervision procedure No. 2.1.-1/20/1689, explanations are required, which can be given to the addressee of the precept. As the addressee of the precept has not responded to the Inspectorate's inquiry No. 2.1.-1/20/1689 of 22.06.2020 on time (03.07.2020) or as of 27.07.2020, there is a need to issue a precept to OÜ Eesti Metsakinnistud and demand answers to the submitted questions by means of the precept. / digitally signed / Maria Muljarova Senior Inspector on behalf of the Director General