

www.aki.ee Registry code 70004235 PRECAUTIONS WARNING in the case of electronic contact data no. 2.1.-6/20/10

Preceptor Senior Inspector of the Data Protection Inspectorate Sirgo Saar Time and place of issue of precept 19.03.2020,

Tallinn Addressee of precept X Responsible person of addressee X RESOLUTION: § 28 (1) of the Public Order Act, § 133 (4) ,

pursuant to § 56 (2) (8), § 58 (1) and Article 58 (2) (c) (d) of the General Data Protection Regulation, I issue a mandatory

precept to comply with the following: with the requirements of law: 1.1. The recipient of the letter must be able to prohibit the

sending of the letters free of charge and in a simple manner. 1.2. It must be possible to exercise the right to refuse via an

electronic communications network. 1.3. Include a opt-out link or instructions on how to stop emails. 2. Inform the Inspectorate

when the requirements of the law have been met. I set 31.03.2020 as the deadline for compliance with the precept. Notify the

Data Protection Inspectorate of the compliance with the precept by the same deadline at the 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 to an administrative court under the Code of

Administrative Court Procedure (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 2,000 euros on the addressee of the precept on the basis of § 60 of the Personal Data Protection Act. A

penalty payment of 500 euros is made for each violation of each precept clause. Please note that the penalty is applied each

time you send a direct sales offer to a person and cannot prove that there was a legal basis for this (previous customer

relationship, unless the person has refused to make offers or the person's consent). 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.

WARNING OF MISCELLANEOUS PENALTY: The application of administrative coercion in the form of a precept and a penalty

payment does not preclude the offender from being fined up to 200 fine units for an act specified in § 187 ESS, or up to 2,000

euros in the case of a legal person. The Data Protection Inspectorate conducts extra-judicial proceedings against

misdemeanors. Misdemeanor proceedings may be instituted for non-compliance with a precept pursuant to Article 58 (2) of the

General Regulation on the Protection of Personal Data pursuant to § 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 is the extra-judicial body conducting misdemeanor proceedings. PROHIBITION OF PROHIBITION OF ECONOMIC ACTIVITIES: Pursuant to § 7 (4) and § 36 (1) of the General Part of the Code of Economic Activities Act, an economic administration authority may prohibit an economic activity from an undertaking or a person related to an undertaking due to a material violation. FACTUAL FACTS: On 28 January 2020, X sent an e-mail to Skycop OÜ (the applicant) offering a service as a natural person to liquidate the company. The content of the letter was the provision of a service, including accounting, debts, disputes, disputes between owners and other disputes (attached to the letter). According to the guidelines of the Electronic Communications Act¹, if the sending of an offer promotes the activities of an undertaking, a political organization or a charitable organization, it is always direct marketing. The provision of the liquidation service sent by X promotes its personal interests through economic gain. The email identifies X as a natural person, along with a phone number and email address. There is also no opt-out link in the email or the ability to simply opt-out of subsequent emails, including instructions for opting out. On 27.02.2020, the Data Protection Inspectorate sent X an inquiry, to which the addressee was obliged to respond on 09.03.2020. X did not reply on time. As part of the inquiry, the Inspectorate drew attention to the imposition of a precept and a penalty payment if the Inspectorate's inquiry is not answered in time. The Inspectorate proposed to bring the content of the e-mails in line with the requirements of the ESS. The data subject must be able to simply prohibit such use of his or her contact details. The person must be able to exercise his or her right to refuse via the electronic communications network. ¹https://www.aki.ee/sites/default/files/dokumendid/elektroonillinen_kontaktandmete_kasutamine_otseturustuseks-uuendus20.02.2015.pdf

The Supervision Authority proposed to create a waiver link or instructions for terminating e-mails. X was to inform the Inspectorate when the requirements of the law had been met and to inform the Inspectorate when a waiver link or instructions for terminating letters had been prepared. X hasn't done that. The Inspectorate sent inquiries to the e-mail addresses provided in the Commercial Register at likvidaator.estonia@gmail.com; likvidaator@yahoo.com; info@likviidne.com and explained that pursuant to § 25 (1) of the Administrative Procedure Act (HMS), an administrative act, summons, notice or other document is served on a participant in the proceedings by post, by the administrative authority which issued the document or electronically. A document made available or transmitted electronically pursuant to § 27 (2) of the HMS shall be deemed to have been served in the following cases: 3) the document or notice of making the document available has been forwarded to the company's

e-mail address entered in the commercial register. The e-mail address info@likviidne.com was also in the footer of the e-mail sent to the applicant. As a result, X has used the above email addresses to send direct marketing communications and his own name is clearly indicated in the letters. Therefore, X operates with these e-mail addresses, so there is no reason to believe that he has not received the inspection inquiry. To date, X has not replied to the Inspectorate's inquiry and has not contacted the administrative authority to reply to the inquiry.

EXPLANATION OF THE PERSONAL DATA PROCESSOR: In its proposals, the Inspectorate requested X to stop processing the electronic contact data and to send a confirmation to the Inspectorate. Also forward your views, explanations and justifications that the processor considers necessary to add to the case. The Inspectorate has thereby fulfilled its obligation under § 40 (1) of the Administrative Procedure Act to give the participant in the proceedings an opportunity to submit an opinion and objections on the matter before issuing the administrative act. X has not submitted his explanations so far, ie on 19.03.2020.

FOUNDATIONS FOR THE DATA PROTECTION INSPECTORATE: On the basis of the e-mails sent by the complainant, it was established that the commercial communication had been sent by X. Pursuant to § 1031 (2) of the Electronic Communications Act, the use of electronic contact information of a user or customer of a legal person for direct marketing is permitted if: 1) a clear and comprehensible opportunity to prohibit such use of his or her contact information is provided; 2) the person is enabled to exercise his or her right to refuse through the electronic communications network. The use of electronic contact details for direct marketing is prohibited if the user, customer or buyer of the communication service has prohibited the use of his or her electronic contact details for direct marketing. Pursuant to § 25 (1) of the Administrative Procedure Act (HMS), an administrative act, summons, notice or other document is served on a participant in the proceedings by post, by the administrative authority which issued the document or electronically. The accuracy of data entered in the population register pursuant to § 6 (1) of the Population Register Act (RRS) is presumed. Pursuant to subsection (2) of the same section, the performance of a public task is based on the basic data entered in the population register. The Inspectorate has sent the precept to the e-mail addresses entered in the population register, the accuracy of which the Inspectorate presupposes, which is why the addressee of the precept has received the precept. Pursuant to § 58 (1) of the Personal Data Protection Act and Article 58 (1) (a) of the General Regulation on the Protection of Personal Data, and subject to point (e) of the same paragraph, the Supervision Authority has the right to request explanations and other information, including documents necessary for supervision. Given the factual circumstances that it is mandatory to respond to an inquiry made by an administrative body in the course of supervisory proceedings, but X has not responded to

the Inspectorate's inquiries and the violation is still occurring, a precept is required to comply with the Electronic Communications Act. Yours sincerely, / digitally signed / Sirgo Saar Senior Inspector Authorized by the Director General