

## Guidelines for .ee registrars on the processing of personal data

### General

According to the registry agreement, Eesti Interneti SA (english Estonian Internet Foundation, hereinafter as "**EIS**") is the controller of domain-related data and accredited .ee registrars ("**the Registrars**") are authorised by EIS to act as the processor of personal data on behalf of EIS.

The purpose of this document is to clarify the obligations of accredited .ee registrars in the processing of personal data while providing the registration service, and will come into force on 25.05.2018. All clarifications are based on the registry agreement and annexes thereto, which we strongly recommend you review.

### 1. Operations related to the registration of a domain

Until 25 May 2018, registrars were subject to the requirement that the personal data of persons related to the registrant of a domain were processed with the data subject's separate consent, given at the time of signature of the contract for services. From 25 May 2018, a new requirement will take effect, according to which **registrars are required to inform registrants in the contract for services** that:

- 1.1. the applicable domain regulation constitutes standard terms and conditions that regulate the legal relationship between EIS, the registrant and the registrar. Registrars must refer in the contract for services signed with the registrant to the .ee domain regulation as standard terms and conditions.
- 1.2. Registrants have an obligation to comply with the applicable domain regulation and the specifying guidelines published on the EIS website.
- 1.3. EIS may require registrants to perform those obligations in the contract for services and application for the registration of a domain.
- 1.4. Registrars must make available the document "EIS Rules on Use of Personal Data," which explains in detail when, how and for how long the personal data of domain registrants are stored (the document is available at: <https://internet.ee/domeenid/eis-i-isikuandmete-kasutamise-alused>).
- 1.5. Registrars must emphasise these obligations in the contract for services (for example in the application form for the registration of a domain). This is the responsibility of each registrar under the registry agreement.

### 2. Data may be processed only for the performance of the registrar's tasks

EIS reminds registrars that they have been authorised to process the data of registrants only under the registry agreement for the performance of the registrars' tasks, and that the registrars must not process the data for any purposes not authorised by EIS.

This means that where a registrar collects data (name, phone number, email address, documents verifying the right of registration, etc.) on the registrant for the purpose of registering a .ee domain, it is done on the basis of the authorisation given by EIS. On the other hand, where a registrar combines the collection of data with another service provided by the registrar (such as a hosting service), the registrar acts as the controller of those data (as

regards the hosting service) and is required to explain to the registrant separately why the relevant personal data are collected, etc.

EIS also notes that if the registrar chooses to continue to ask the registrant to provide their mailing address during the registration of the domain, it does so outside the registry agreement and its legal relationship with EIS. This means that when asking the registrant to provide their mailing address, the registrar acts as a controller of the registrant's personal data. The registrar must clarify this separately with the registrant, because EIS has not required registrars to collect such data and it is not necessary for the registration of a .ee domain. A mailing address may be required to submit invoices, for example, and therefore there are justifiable grounds for collecting such data.

In summary, registrars will be liable if they collect any data on registrants other than those specified in the registry agreement signed with EIS. Please remember this and check the grounds for the collection of data once again!

### **3. Registrar's liability with regard to the processing of personal data**

EIS points out that registrars are liable for ensuring that the collection and processing of personal data is in compliance with the registry agreement signed with EIS and annexes thereto.

Registrars must have established internal procedural rules that regulate the obligations of the registrar's employees with regard to the processing of personal data, including the obligations to ensure the availability, confidentiality and integrity of personal data, including making back-up copies of personal data, and must monitor compliance with such internal procedural rules. Registrars must also ensure a safe working environment by following security procedures. All IT assets of the registrar must be sufficiently protected against theft, damage or destruction and against unauthorised access, etc.

It is also important to stress that if the registrar wishes to transfer or share the personal data collected on behalf of EIS with any third persons<sup>1</sup>, the registrar must ensure that such third persons comply with all requirements in the domain regulation and the registry agreement signed with EIS. In the event of a breach by the third person of one of the obligations under the registry agreement signed with EIS, the registrar will be liable to EIS for such a breach.

### **4. Registrar's obligation to maintain a register of processing operations**

In more general terms, maintaining a register of processing operations means that all data processing operations performed within the organisation are recorded, which will help the registrar to better understand the nature of personal data protection, map their operations and better plan activities related to personal data protection. The aim is to improve the protection of individuals' fundamental rights and freedoms. Essentially, this means an overview of all operations related to personal data (including keeping a log of the collection, amendment, access to, disclosure, transfer, aggregation and erasure of data in information systems).

The register of processing operations will include, as a minimum, the names and contact details of the processor or processors as well as the controller on behalf of whom the processor acts and, where relevant, the names and contact details of the representative of the controller or the processor and the name and contact details of the data protection officer; the types of processing performed on behalf of the controller; where personal

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<sup>1</sup> Registrars will process the personal data in their own names and under their own responsibility based on Paragraph 11.1 of the registry agreement. A third person means any person outside the organisation with whom the registrar shares personal data collected under the registry agreement and who does not have a legal relationship with EIS under the registry agreement.

data are transferred to a third country or an international organisation, the data on such country or organisation, including the name of the organisation, and where the data are transferred under paragraph 2 of Article 49(1) of the GDPR, the documents concerning the adequate safeguards; if possible, a general description of the technical and organisational security measures set out in Article 32(1) of the GDPR. For details about maintaining a register of processing operations see the website of the Data Protection Inspectorate [here](#).

Furthermore, since maintaining a register of processing operations is not a one-off exercise, the registrar is required to update the register as appropriate. The register must reflect the actual circumstances and changing needs of the processor and must be true at all times.

## **5. The duty to notify data breaches**

In the event of a data breach, the Registrar has an obligation to notify EIS in writing immediately and as soon as possible after becoming aware of the breach. You should also contact EIS in case of suspicion of a data breach.

## **6. Cooperation with EIS**

Registrars are required to cooperate with EIS and ensure that registrants are informed about their rights under GDPR and provided other relevant information, and to respond to registrants' enquiries at the earliest opportunity.

If a registrant submits a more complex enquiry, we recommend contacting EIS for cooperation to respond to the enquiry.

## **7. Data protection impact assessment**

Registrars are required to submit, at the request of EIS, a data protection impact assessment concerning the services provided under the registry agreement.

It is important that registrars take all necessary security measures to protect the Data. As EIS acts as the controller of the Personal Data, it needs to have a clear overview of all processes and systems for processing Personal Data in place in the registrars' organisations and about how registrars can affect the rights of data subjects. Therefore, it is in the interests of EIS as a controller to ensure that they can request registrars to submit an impact assessment.

The Data Protection Inspectorate has clarified the data protection impact assessment [here](#). EIS also recommends that registrars conduct internal assessments, taking into account the nature of their operations (other services provided by the registrar), whether they already have the obligation to prepare a data protection impact assessment (regardless of the interests of EIS).

## **8. Third countries**

Registrars may transfer personal data to third countries outside the EEA only if the third country in question complies with the data protection requirements laid down in the GDPR. For details, see the homepages for the Data Protection Inspectorate and the European Commission [here](#) and [here](#).

Data transfer may be necessary if a group entity is located in a third country. However, if in doubt, contact EIS before transferring the Data.

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**In case of any wording misapprehensions between the English and Estonian version, wording in Estonian is superior and legally binding.**