Republic of Latvia

Cabinet

Regulation No. 488

Adopted 9 August 2022

**Regulations Regarding Licencing of Supervisory Authority of Code of Conduct**

*Issued pursuant to*

*Section 22, Paragraphs two and three of the Personal Data Processing Law*

**I. General Provision**

1. The Regulation prescribes:

1.1. the requirements for the receipt of a licence of the supervisory authority of code of conduct (hereinafter – the supervisory authority);

1.2. the procedures for issuing, suspending, and withdrawing the licence and the relevant cases;

1.3. the procedures by which the supervisory authority shall pay the State fee for the issue of a licence and the amount of the State fee.

**II. Requirements for the Receipt of a Licence of the Supervisory Authority and the Issue of a Licence**

2. In order to obtain a licence, the supervisory authority shall conform to the following requirements:

2.1. it has fulfilled the requirements specified in Article 41(2) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter – the Regulation) and conforms to the criteria approved in accordance with the procedures specified by Article 41(3) of the Regulation;

2.2. it has the status of a legal person in the Republic of Latvia or in another European Union Member State or a country of the European Economic Area;

2.3. the licence issued thereto has not been withdrawn within the last three years, except for the case when the licence has been withdrawn upon request of the supervisory authority itself;

2.4. it has not been punished for a violation in the field of personal data protection during the last year and has not been imposed with a coercive measure for illegal activities involving personal data;

2.5. it has no tax debts (including debts of mandatory State social insurance payments) the sum total of which exceeds EUR 150.

3. In order to receive a licence, the supervisory authority shall submit a submission to the State Data Inspectorate (hereinafter – the Inspectorate) for the receipt of a licence, a draft code of conduct developed in accordance with Article 40(2) and (4) of the Regulation or draft amendments to the code of conduct and other documents necessary for the assessment of conformity requirements. The submission shall include the following information:

3.1. on the supervisory authority:

3.1.1. the name and unified registration number;

3.1.2. the contact details (legal address, telephone number, and the electronic mail address);

3.2. information attesting the conformity of the supervisory authority with the requirements referred to in Sub-paragraphs 2.1, 2.2, and 2.5 of this Regulation if such information does not arise from the documents appended to the submission;

3.3. information that the payment of the State fee for the issue of the licence has been made;

3.4. information whether the supervisory authority wishes to receive the licence in paper form.

4. Upon receiving a submission for the receipt of a licence, the Inspectorate shall examine within 10 working days whether all the information referred to in Paragraph 3 of this Regulation is indicated therein and all the documents are appended, and shall not evaluate the content thereof on the merits.

5. If the submission for the receipt of a licence fails to specify all the information referred to in Paragraph 3 of this Regulation or all the documents are not appended, or the information provided is incomplete or inaccurate, or the documents have not been drawn up in conformity with the requirements specified in laws and regulations, the Inspectorate shall inform the supervisory authority thereof in writing, indicating a reasonable time period by which the necessary information or documents have to be submitted.

6. If, in the examination referred to in Paragraph 4 of this Regulation, the Inspectorate does not detect non-conformity or the supervisory authority has submitted the information or documents necessary for the Inspectorate in conformity with Paragraph 5 of this Regulation, the Inspectorate shall notify the supervisory authority in writing within five working days that the examination of the submission for the receipt of the licence has been commenced on the merits.

7. When evaluating the submission of the supervisory authority for the receipt of a licence on the merits, the Inspectorate shall have the right to:

7.1. visit the supervisory authority at the place of its activities in order to ascertain the conformity thereof with the requirements of the Regulation and this Regulation;

7.2. request the supervisory authority to submit additional information or documents, indicating a reasonable time period for their submission.

8. To take the decision on the issue of a licence, the Inspectorate shall obtain the following information:

8.1. from the Enterprise Register – the information referred to in Sub-paragraph 2.2 of this Regulation;

8.2. from the State information system Punishment Register managed by the Information Centre of the Ministry of the Interior – the information referred to in Sub-paragraph 2.4 of this Regulation;

8.3. from the database of tax (fee) debtors administered by the State Revenue Service – the information referred to in Sub-paragraph 2.5 of this Regulation on the tax debt administered by the State Revenue Service;

8.4. from the Administration System of Immovable Property Tax – the information referred to in Sub-paragraph 2.5 of this Regulation on the debt of the immovable property tax;

8.5. from the institutions referred to in this Paragraph or other institutions – other information which is necessary to evaluate the conformity of the supervisory authority to the requirements of this Regulation.

9. The Inspectorate shall take the decision on the issue of a licence or the refusal to issue a licence within the time period prescribed by the Personal Data Processing Law.

10. The Inspectorate shall take the decision on the refusal to issue a licence if:

10.1. the supervisory authority fails to submit the information or documents requested in accordance with Paragraph 5 or Sub-paragraph 7.2 of this Regulation within the time period specified by the Inspectorate;

10.2. the supervisory authority does not conform to the requirements referred to in Paragraph 2 of this Regulation;

10.3. the State fee for the issue of a licence has not been paid.

11. In order to receive a repeat licence, the supervisory authority shall submit a new submission to the Inspectorate for the receipt of the licence. The Inspectorate shall examine this submission within the same time period and in accordance with the procedures for examining the initial submission for the receipt of the licence.

12. Should any of the documents or information already be in the possession of the Inspectorate with its full and up-to-date content, instead of the relevant documents or information, the supervisory authority may submit a statement that there are no changes to the documents or information that was previously submitted to the Inspectorate.

**III. Suspension and Withdrawal of the Licence**

13. The Inspectorate is entitled to take the decision on suspension of the licence of the supervisory authority for up to six months if:

13.1. the supervisory authority has repeatedly failed to submit the information or documents requested by it to the Inspectorate for the performance of supervision of the supervisory authority or does not co-operate with the Inspectorate;

13.2. the activities of the supervisory authority do not conform to or the supervisory authority violates the requirements of this Regulation or the requirements specified in Article 41(2) of the Regulation or does not conform to the criteria approved in accordance with the procedures specified in Article 41(3) of the Regulation;

13.3. the decision of the Inspectorate binding on the supervisory authority is not complied with within the time period specified by the Inspectorate.

14. If the supervisory authority has prevented the violations determined in the decision of the Inspectorate on the suspension of the licence, the Inspectorate shall take the decision on the renewal of the licence within 15 working days from the day when the supervisory authority has submitted to the Inspectorate all the necessary information attesting to the prevention of the violation. After renewal of the licence, it shall be valid until the end of the term of validity of the initial licence.

15. The Inspectorate shall take the decision on the withdrawal of a licence if:

15.1. the licence has been temporarily suspended and during this period the supervisory authority has not eliminated the violations that were the reason for suspending the licence;

15.2. a significant violation of the laws and regulations governing activities of the supervisory authority or protection of personal data has been established;

15.3. the supervisory authority has submitted a submission with a request to withdraw the licence.

**IV. Amount and Procedures for Payment of the State Fee**

16. For issuing a licence, the supervisory authority shall pay the State fee of EUR 5000.

17. The State fee for the issue of a licence shall be paid by the supervisory authority prior to the submission of the relevant submission to the Inspectorate.

18. The State fee payment shall be made via the intermediation of a payment service provider who has the right to provide payment services within the meaning of the Law on Payment Services and Electronic Money.

19. The State fee shall be transferred into the revenues account of the State basic budget.

**V. Closing Provision**

20. The Regulation shall come into force on 2 January 2023.

Prime Minister A. K. Kariņš

Deputy Prime Minister, Minister for Justice J. Bordāns