

To: Urmas Pai,
Rahapesu andmebüroo
Tallinn, Estonia
urmas.pai@politsei.ee

2016-04-15, Arnhem, Netherlands

Dear Mr Pai,

This is the answer to your precept, No. 1-9/1011, dated 24.03.2014.

It's important to note that my cooperation is not voluntary, and that I am being coerced into answering your questions against my will.

In your e-mails dated Feb 13th, 2014 you stated:

"The main goal of supervision is to [determine] if the Estonian AML law is followed while doing business."

"Also, doing business without being previously registered (§ 52) may cause a criminal investigation according to Estonian Penal Code"

Which indicates that I am actually a suspect in your eyes. You then sought information from me that by my estimation had the purpose to determine if you could start a criminal investigation against me.

In an e-mail on March 14th, 2014, you also indicated that there was no threshold for when you would consider an activity to be a business:

"There is no threshold of turnover or profit currently stated in Estonian legislation as the criteria for defining the business activity [...]"

In other words, a criminal investigation could be launched against me for trading any amount of Bitcoin, however small.

This fear was confirmed by the fact that, around the same time, RAB (the Police) had charged another person for exchanging only 2,000 Euros worth of Bitcoin.

I took note of § 22 of the Estonian constitution which states the following:

"No one shall be compelled to testify against himself or herself, or against those closest to him or her."

I note that the constitution does not mention any exceptions to this principle, not even for precepts from RAB. In addition, the same principle follows from article 6 of the European Convention on Human Rights guaranteeing the right to a fair trial.

Nor does it mention that this right needs to be explicitly invoked, I also find it hard to believe that a constitutional right can be forfeited at all. However, as the Estonian Supreme Court appears to imply that I do need to invoke my constitutional rights to make use of them, I will now explicitly invoke my rights.

I also note that when receiving the precept I was not informed by the Police of my constitutional right to remain silent, nor of the need to invoke that right if one wished to make use of it. Instead I was told by you that I could challenge your precept in court if I did not wish to answer it. Which I duly did.

Here are the answers to your questions:

1. Kas olete Bitcoine eraisikuna kokku ostnud ning neid müünud? Kas olete sellist teenust pakkunud kasutades teenusepakujana mõnda juriidilist isikut.

I have reason to believe that answering this question could provide the police with information that could be used against me in a court of law, therefore I respectfully decline to answer this question so as to avoid the risk of incriminating myself.

2. Kui Te ei ole eraisikuna Bitcoine kokku ostnud, siis kes on teenusepakkuja, kes veebilehelt www.btc.ee teenust pakub.

I have reason to believe that answering this question could provide the police with information that could be used against me in a court of law, therefore I respectfully decline to answer this question so as to avoid the risk of incriminating myself.

3. Nimetage arvelduskontode numbrid ning omanikud, millistele olete palunud kanda Bitcoinide müügitehingutest laekuva raha, samuti nimetage arvelduskontode numbrid ning omanikud, millistelt olete kandnud raha Bitcoinide ostmiseks.

I have reason to believe that answering this question could provide the police with information that could be used against me in a court of law, therefore I respectfully decline to answer this question so as to avoid the risk of incriminating myself.

4. Palume väljastada Bitcoinide ostmisel ning müümisel nende klientide andmed ning isikusamasuse tuvastamisel koostatud dokumendid, nende tehingupoolte osas, kelle tehingute maht kalendrikuus ületab 1000 EUR.

I have reason to believe that answering this question could provide the police with information that could be used against me in a court of law, therefore I respectfully decline to answer this question so as to avoid the risk of incriminating myself.

5. Palume väljastada kirjalikus vormis kinnitatud RahaPTS sätestatud hoolsusmeetmete kohaldamise, sealhulgas rahapesu ja terrorismi rahastamise riski hindamise ja juhtimise, andmete kogumise ja säilitamise ning teatamiskohustuse täitmise ja vajadusel juhtkonna informeerimise protseduurireeglid ning nende täitmise kontrollimise sisekontrollieeskiri tulenevalt RahaPTS § 29 lg 1 tulenevast nõudest?

Samuti palume väljastada informatsioon selle kohta, kellele ning millal on kõnealuseid sisemisi protseduurireegleid tutvustatud.

I have reason to believe that answering this question could provide the police with information that could be used against me in a court of law, therefore I respectfully decline to answer this question so as to avoid the risk of incriminating myself.

6. Palume väljastada andmed või dokumendid selle kohta, kuidas on www.btc.ee lehel alternatiivse maksevahendusteenuse pakkumisel täidetud RahaPTS § 53 lg 1 p 5 sätestatud registreerimiskohustus."

I have reason to believe that answering this question could provide the police with information that could be used against me in a court of law, therefore I respectfully decline to answer this question so as to avoid the risk of incriminating myself.

I assume that I have hereby fulfilled my obligations in answering your precept, please let me know if that is not the case.

Please also confirm receipt of this e-mail.

Regards,
Otto de Voogd