

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

www.aki.ee Registration code 70004235 PRELIMINARY WARNING in personal data protection case no. 2.1.-1/20/4156 Issuer of the injunction Data Protection Inspectorate lawyer Liisa Ojangu Time and place of issuing the injunction 05.03.2021 in Tallinn Addressee of the injunction - personal data processor XXX

RESOLUTION: Section 28(1) of the Law on Order Protection (KorS), § 56(1) of the Personal Data Protection Act (IKS) 2 point 8, § 58 paragraph 1, Article 58 paragraph 2 point g) of the General Regulation on the Protection of Personal Data (IPPR), Article 5 paragraph 1 point a) of the IPPR and Article 6 paragraph 1 of the IPPR, I make a mandatory injunction to comply with:

1. Stop the YouTube video at: XXX Disclosure of other people's personal information, either by deleting the video from public channels or by making the images and voices of all other people in the video unrecognizable.
2. I set the deadline for the fulfillment of the injunction as 12.03.2021.
3. Notify the Data Protection Inspectorate of compliance with the order by this deadline at the latest.

REFERENCE FOR DISPUTES: This order can be challenged within 30 days by submitting either: - an appeal under the Administrative Procedure Act to the Data Protection Inspectorate or - an appeal under the Administrative Court Procedure Code to the administrative court (in this case, the appeal in the same matter cannot be reviewed). Challenging a precept does not stop the obligation to fulfill it or the implementation of measures necessary for fulfillment.

WARNING: If the injunction has not been complied with by the set deadline, the Data Protection Inspectorate will impose a fine of 500 euros on the addressee of the injunction based on § 60 of the Personal Data Protection Act. A fine may be imposed repeatedly - until the injunction is fulfilled. If the recipient does not pay the penalty, it will be forwarded to the bailiff to start enforcement proceedings. In this case, the bailiff's fee and other enforcement costs are added to the enforcement money.

MISCONDUCT PUNISHMENT WARNING: Failure to comply with the prescription under Article 58(2) of the Personal Data Protection General Regulation may result in a misdemeanor proceeding based on § 69 of the Personal Data Protection Act. For this act, a natural person may be fined up to EUR 20,000,000, and a legal person may be fined up to EUR 20,000,000 or up to 4 percent of its global annual turnover of the previous financial year, whichever is greater. The out-of-court procedure for a misdemeanor is the Data Protection Inspectorate.

FACTUAL CIRCUMSTANCES: The Data Protection Inspectorate (AKI) received a memo from the Lääne-Harju Municipal Government, in which it was announced that XXX disclosed the personal data of municipal government employees and citizens who visited the municipal government in a public video on YouTube. AKI sent an inquiry to XXX on 13.11.2020, in which it explained the requirements for disclosure of personal data and asked to answer the following questions: 1. For what purpose and legal basis

are you publishing the personal data of the officials of the Lääne-Harju Municipal Government and the visitors of the social department in the video referred to above? 2. If you find that there is no legal basis for publishing personal data, please immediately remove personal data (image and voice) from the video. XXX responded to AKI's inquiry on 23.11.2020. On 17.12.2020, AKI proposed to XXX to stop disclosing other people's personal data in the YouTube video either by deleting the video from public channels or by making the images and voices of all other people in the video unrecognizable. AKI warned the person that if the proposal is not fulfilled, AKI may issue an order (injunction) to stop the violation of personal data protection requirements. As of 04.03.2021, the person has not complied with AKI's proposal. PERSONAL DATA

PROCESSOR'S EXPLANATION: 10.10.17 I submitted a request to the Padis Municipality to start an internal investigation regarding social worker XXX, because what was heard from the recording of a conversation with minors is in no way appropriate for a child protection worker. 10.11.2017 My acquaintance with our family file, of which I have a recording and also a witness. XXX threatens me personally: "I will do anything against you"! In addition to the recorder, I have a copy of the entire prepared dossier in the form of photographs, which has a number of shortcomings and which have been tried to be corrected afterwards. Today, Lääne-Harju Municipal Government relies on the reported data in a civil case. In addition to the initial lie that the family file did not exist at all, it was eventually submitted anyway. XXX's statement that I have no right to access our family file was also unfortunately false. 14.06.2018 meeting with Lääne-Harju Vallavanema Jaanus Saat. The registered document in the document management system Amphora on 11.10.2017 reg no. 6-7/451, which had a deadline of 30 days, has not been transferred to the Lääne-Harju Municipal Government system. The reason given by Jaanus Saat is that such old matters should have been resolved by the previous administrative unit and they will not be transferred. Jaanus Saat asked to contact the Social Insurance Board for this supervision, which I did. Ward mayor Jaanus Saat processes this document, and again more than 30 days have passed since then. 10.07.2018 I submitted an intervention request to the Data Protection Inspectorate regarding the sharing of official data. (The answer was negative) I have established that my personal data is shared by XXX with third parties, which became known to him while performing his official duties. Income data monitored by a social worker from the STAR information system was shared. During my visit to the social department of Lääne-Harju on 28.02.19, I was refused a file related to me for perusal, although I submitted a request for relevant information and this repeatedly. It was also offered to have them delivered to me digitally. Child protection worker XXX is said to be on vacation, there was no substitute on site. The relevant notice was not reflected in the official reception hours of the LääneHarju

municipality's website either. XXX, the head of the department, stated that the file of our family is with XXX, the child protection specialist, as the reason why I cannot see the file. The reason was then given that the substitute is in Keila and we should travel to Keila to see the file. After a long search, the key to the cabinet where the file was supposed to be located was not found. XXX wrote an explanatory letter about the incident. I have previously submitted a request for clarification to the Lääne-Harju municipal government on 20.07.2018 regarding the submission of misinformation by the head of department XXX. On my visit to the social department of Lääne-Harju on 05.03.19, the same thing happened again. The official reception time and access to the file was denied. The reason given on this occasion was that the file also contains the data of third parties, who are said to be the identity data of my ex-husband and minor children. To my proposal to involve the municipality secretary Anti Pärtel, who was also present at the file search the first time, the social worker XXX replied: "You can go and look for him yourself!", I refused with the reason that, unfortunately, I do not manage the work of this institution. According to the agreement of our meeting on 05.03.19, I am waiting for a written explanation from XXX, why the child protection specialist XXX did not allow me, our family file, to see the file, as the law prescribes, and what laws does my request for information conflict with, and why was this not allowed? For a reason unknown to me, XXX threatened me to back out of the request for information with § of the Penal Code, which, among other things, deal with abuse. I submitted a similar request for information in writing to the Lääne-Harju municipal government on 28.02.2019. The answer was negative on all points and essentially unanswered. The movement of our family file in Lääne-Harju municipality as a whole is a big question. a) XXX wrote a statement to the court on 20.03.2018 b) XXX wrote in his own hand on 28.02.2019 that the file was handed over to the Paldiski service point in April 2018. c) In the response of the Lääne-Harju municipal government to the request for clarification on 20.07.2018, information was provided that the file was handed over to child protection on 17.07.2018 employee to XXX. d) On 31.05.2018, the Lääne-Harju municipal government submitted a statement to the court, which was again prepared by XXX. e) On 06.07.2018, XXX submitted a description of the events and an extract from the file to the Social Insurance Agency. f) However, from the letter of the Social Insurance Board dated 17.09.2018, it is revealed that he carried out national supervision there from 22.05-30.07.2018, and he also carried out supervision in Padis municipality in 2017. On 09.01.2019, a rather surprising letter arrived in my mailbox from Lääne-Harju municipality's construction specialist XXX, who cannot somehow be related to the file. The extract from the letter is as follows: "Your application to the Paldiski child protection service called into question the credibility of both the children and myself. The youth police were involved in the matter - during the procedure it turned out that

it was in vain. This is also where the answer to your question about finding out about the discharge from the municipality emerges. With your statement, you stuffed me in the file, and although against my will, I am now involved. So don't be surprised if I receive information through it from time to time". The statement referred to was a letter sent to the child protection worker XXX. Due to the activities of the social worker of the Lääne-Harju municipal government and tired of constant police visits, I registered and settled on 09.10. 2018 Rae municipality. The said information cannot in any way be known or become known to XXX (construction advisor of the Lääne-Harju municipal government/x) or to other persons. After XXX gave the information to his acquaintances (verbally): "Moving Ardi to another municipality will not save him, the poor man does not know what awaits him!" He still has to communicate with our child protection". I started to find out where such information was leaked from? My personal data have been viewed from the population register alone between 11.09.2018 and 18.02.2019 24 times. As far as I know, no proceedings related to me took place during that time. According to the initial explanations I received, the user of the data was still XXX, the chief specialist of the social worker. At the meeting on 28.02.2019, XXX presented various reasons why he had done this. Older children are paid welfare benefits, etc. At the round table of the Social Insurance Board, XXX again presented the family register in paper form. On 06.07.2018, it turned out that many documents are missing and the social workers of Lääne-Harju do not respond to e-mails. I sent corresponding follow-up inquiries to XXX and a copy to XXX, the head of the department. In addition to the above, the file contains a letter sent by the child protection worker XXXe to my ex-husband. The content of the letter is as follows: "The father of your children went to see the file today, I refused to show it to him because I do not have your permission". In summary, I can say and ask, what does Lääne-Harju municipality know about the data protection law? Over the years, my data has been viewed 20-50 times a year, and essentially I have not received any reasoned answer from the Lääne-Harju municipality as to why the data was viewed in a particular case. The official processes and that's it. I also know today that the program at the disposal of social workers allows access to the data of the Tax Office, but it is not displayed anywhere. Also, it is not displayed who has viewed the data, as required by the new data protection law (in the case of municipal views, the viewer of the data displayed to the person was previously (on the basis of a tripartite agreement) the Ministry of Social Affairs and today the Social Insurance Board). However, the first response from the Center for Health and Welfare Information Systems stated that these are instead automatic requests, which are prohibited in light of the new Data Protection Act. However, the answer given later was corrected and it was answered that the chief specialist of social work of the Lääne-Harju parish is the person who made the inquiries in connection with the procedure for care and

maintenance issues. At this point, I should ask what the STAR program is as a whole, which essentially allows to engage in illegal freezing activities and thus social officials can also access data about income, and the corresponding information is not reflected in any way. As for the publication of our recordings, it is for a journalistic purpose and also an overriding public interest, and the journalist does not need to be known to everyone for the time being (at least until we have received all the answers). In the form of the Lääne-Harju Municipal Government, it is a public institution and the child protection workers are public servants. Since handling data arbitrarily is already rather common in Lääne-Harju municipality, which was also acknowledged by the former head of the Social Department of Lääne-Harju Municipality XXX, there is essentially no official body today that is capable of bringing municipal governments to order in terms of data processing and submission of false information. This is not done by the Social Insurance Board, the Ministry of Social Affairs, nor the Chancellor of Justice. Not only that the municipality of LääneHarju does not know what information the file should contain, they also submit a series of documents as part of the correspondence requested by me, which are not related to me at all and to which I should not have access. When I asked to start an internal investigation in the municipality of Lääne-Harju regarding the activities of the child protection worker XXXe, I got the answer essentially: "If the active procedure is ongoing, then false information can be submitted". Today I also dare to say that the Social Insurance Board has a similar disorganization in the register of documents. Not having a clear overview of the data and information that I should not know is being issued. In the case of XXXe, it is a former police officer, so we have smoothly reached the application that I sent to the Data Protection Inspectorate for processing on 11.11.2020 (2.1.-1/20/4157) regarding the processing of data of XXXe's former colleague XXX and the Lääne-Harju police station. If the leaker of this data is not XXX and XXX in cooperation, it would be a rare case where data is shared with one's own but no one leaks it. As far as I know, the Data Protection Inspectorate is also familiar with XXX Amentiku and Iskuna.

FOUNDATIONS FOR THE DATA PROTECTION INSPECTION: In accordance with Article 85(2) of the General Data Protection Regulation, in relation to the processing of personal data for journalistic purposes and for academic, artistic or literary self-expression, member states provide for exemptions or exceptions from Chapter II (principles), Chapter III (rights of the data subject), Chapter IV (controller and authorized processor), Chapter V (transfer of personal data to third countries and international organizations), Chapter VI (independent supervisory authorities), Chapter VII (cooperation and continuity) and Chapter IX (special situations of data processing), if they are necessary to reconcile the right to the protection of personal data verbally and with freedom of information. According to § 4 of the IKS, personal data may be processed

without the consent of the data subject for journalistic purposes, in particular disclosed in the media, if this is of public interest and is in accordance with the principles of journalistic ethics. The disclosure of personal data must not excessively harm the rights of the data subject. According to article 4 point 1 of IKÜM, personal data is any information about an identified or identifiable natural person ("data subject"); an identifiable natural person is a person who can be directly or indirectly identified, in particular on the basis of an identification feature such as name, social security code, location information, online identifier or on the basis of one or more physical, physiological, genetic, mental, economic, cultural or social characteristics of that natural person. According to Article 5(1)(a) of the GDPR, data processing must be legal, fair and transparent to the data subject. Pursuant to Article 6(1) of IKÜM, the processing of personal data is legal only if at least one of the conditions stated in Paragraph 1 is met. IKÜM art. 17 paragraph 1 point d) The data subject has the right to demand that the data controller delete personal data concerning him without undue delay, and the data controller is obliged to delete personal data without undue delay if the personal data has been processed illegally. In order to disclose personal data based on § 4 of the IKS, three conditions must be met: – there is a public interest in the disclosure of personal data; – disclosure is in accordance with the rules of journalistic ethics; – the disclosure of personal data must not excessively harm the rights of the data subject. According to AKI, the criterion of public interest is not met in this case. The existence of public interest can be confirmed if the topic raised and personal data disclosed contribute to the debate in a democratic society. It cannot be ruled out that there may be a public interest in the general work organization of local government child protection officers. However, we certainly cannot agree that the disclosure of the data of specific child protection officers and, even more so, of citizens who have been to the social department of the municipality, who have been caught in the publicized video, would contribute to the debate. It is also not possible to confirm the existence of public interest specifically in the dispute between one person and the local government, especially in the matter of access to the file, which is the main issue of the publicized video in question. In addition, the dispute concerns the rights of children, and in order to protect the interests of children, such disputes must not be dissected in front of the public. Since one criterion for the application of IKS § 4, i.e. the existence of public interest, has not been met, AKI does not analyze the fulfillment of the following criteria, because personal data cannot be disclosed based on the absence of one criterion already on the basis of IKS § 4. The Supreme Court has found that part of the inviolability of the private life of officials can be seen as the right not to have their activities recorded or transmitted while performing official duties.¹ Thus, XXXu's position that child protection workers are public servants and therefore their personal data can be disclosed is not in line with,

among other things, the position of the Supreme Court. The processing of personal data (including disclosure on the Internet) is legal only if there is a legal basis for this in Article 6, Paragraph 1 of the General Regulation on the Protection of Personal Data. During the monitoring procedure, it became clear that XXX does not have a legal basis to disclose the personal data of other persons to an unlimited circle of persons. In case of legitimate interest, a legitimate interest analysis must have been carried out, which shows that the purpose of personal data processing clearly outweighs the privacy of the person. Such an analysis has not been submitted by XXX. Therefore, the disclosure of other people's personal data in the video must be stopped. /signed digitally/ Liisa Ojangu lawyer under the authority of the general director For your information: Terje Eipre, representative of the Lääne-Harju Municipal Government 1 RKHKo 3-17-842, p 25.