Disclosure of payment defaults Data Protection Inspectorate's guide "Disclosure of payment defaults" Approved 03.10.2022

The guide is aimed at both those disclosing payment default data, requesters-recipients of payment default data and people whose data is published. The Financial Supervision Authority, Consumer Protection and Technical Supervisory Authority, Eesti Pangaliit, MTÜ FinanceEstonia, AS were involved in the preparation of the guide. Creditinfo Eesti, Julianus Inkasso OÜ and OÜ Krediidiregister. We thank the interested parties for their time and thorough feedback! Table of contents Purpose and scope of the guide..... .... Principles of publication of payment default data Data transfer to the default register based on legitimate interest Disclosure of data based on § 10 of IKS Disclosure of data to assess a person's creditworthiness or for other similar purposes Checking the legal basis of data transfer Checking the accuracy of data Time of data disclosure Prohibition of excessive damage to the data subject Notifying the data subject of the disclosure of debt data Additional protective measures Rights of the data subject and obligations of the data processor during the disclosure of payment default 1.2.2.1.3322.5.62. 9.12132.2.42 .6.73.2.3.42.7.92.4.52.8.11 Purpose and scope of regulation For the sake of the reliability of transactions, the Personal Data Protection Act allows the disclosure of default or debt data to other persons without the consent of the person himself. The protection of other persons from doing bad deals is considered more important than the protection of the private life of the debtor. However, the law also seeks to prevent undue harm to debtors. This guide explains the rights and obligations related to the publication of payment default data, which result from the General Regulation on the Protection of Personal Data (IKÜM) and the Act on the Protection of Personal Data (IKS). Information on who has an overdue debt against whom, how much it is (including ancillary claims), when it occurred and what type of transaction is considered to be payment default data. The name and date of birth/identity code of a private debtor are also considered to be default data, if these data are provided by the person reporting the default. Regarding the personal data related to the violation of the debt relationship, it should be specified that although the title of § 10 of the IKS speaks of the debt relationship and the concept of debt relationship derives from §2 subsection 1 of the Law of Obligations Act, the IKS- Based on the explanatory letter i, in the sense of §10 of the IKS, the definition of a debt relationship must be viewed more narrowly, i.e. a breach of a

debt relationship means only contractual violations. The need to regulate the said provision comes from the desire to ensure the possibility to assess the financial trustworthiness, or creditworthiness, of persons - there is a practical need to be able to assess the reliability of the contracting party in the performance of contractual relations. to people whose data is published (debtors or data subjects); as well as to requesters-recipients of payment default data. The instructions do not concern the publication of payment default data of legal entities. Legal entities do not have a private life and therefore their data is not protected by IKÜM or IKS. 1. 1! 2 2. Principles of publication of payment default data 2.1. Principles of publication of payment default data The creditor can organize the publication of debt data in three ways: 1) by publishing payment default data of its debtors itself (being the responsible processor), 2) using an authorized processor for transmission, who acts on behalf of the responsible processor, on the basis of his instructions and under his responsibility, providing primarily technical service to the responsible processor, 3) by transferring the data to another company, whose field of activity is the sale of payment default information in its own name and under its own responsibility, and which is itself the responsible processor.[1]Article 6 paragraph 1 p-s f of IKÜM stipulates three conditions, all of which must be met, in order to transfer debt data to the default register would be allowed: 1) the controller or the third party receiving the data has a legitimate interest; 2) the processing of personal data is necessary for the exercise of a legitimate interest; 3) the interests of the controller or the third party receiving the data are not outweighed by the fundamental rights and freedoms of the protected data subject, i.e. the debtor. In situations, where the creditor does not disclose the debt data himself (options 2 and 3), two different stages must be distinguished when transmitting the data: (I) the creditor's transmission of the data to the payment default register and (II) the payment default register's disclosure of the data to the requester. The first stage takes place on the basis of article 6 paragraph 1 p f of IKÜM, i.e. legitimate interest, and the subsequent disclosure of data to requesters takes place on the basis of IKS §10. Its assessment is carried out according to a three-stage scheme: Stage I – the interests of the personal data processor or third parties and their importance; Level II – the rights and interests of the data subject and importance; Level III - weighing of conflicting interests - their initial assessment and, if necessary, additional protective measures, final assessment. It is the responsibility of the responsible processor to make sure whether it is permissible to transmit debt data based on a legitimate interest. The controller determines the purposes and means of data processing (including disclosure). The authorized processor processes the data on behalf of the responsible processor. See Article 4 of the General Regulation on the Protection of Personal Data.[1]3 The data controller should transparently weigh the conflicting interests of the personal data processor and the data subject and

be able to justify its decision. In case of a possible extensive and intensive interference resulting from data processing, it may be necessary to prepare a written data protection impact assessment (IKÜM art. 35). You can read more about the assessment of legitimate interest in the Data Protection Inspectorate's guide to legitimate interest. 2.2. Disclosure of data on the basis of IKS § 10 Disclosure of data to assess a person's creditworthiness or for other similar purposes 2.3. The right to disclose the debtor's default data does not mean disclosing them to an unlimited number of unidentified persons (on the Internet, in a newspaper, on the bulletin board of an apartment building, on the company's website, etc.). Thus, § 10 paragraph 1 of the IKS states that the disclosure of personal data related to the breach of a debt relationship to a third party and the processing of the transmitted data by a third party is permitted for the purpose of assessing the creditworthiness of the data subject or for other similar purposes and only if all three conditions are met: 1) the data processor has verified that there is a legal basis for the transfer of data; 2) the data processor has verified the correctness of the data; 3) the data transfer is registered (keeping information on who and what was transferred). Regardless of the above, it is not allowed to process the data if: 1) it is a special type of personal data; 2) it is data about the commission of a crime or becoming a victim of it before a public court hearing or a decision in the case of an offense or the termination of the case proceedings; 3) it would excessively harm the rights of the data subject or liberties; In the case of payment disturbances, it should be borne in mind that in the event of indebtedness, the creditor must primarily use the legal remedies listed in § 101 of the Law of Obligations Act (VÕS), one of which is the demand for the fulfillment of the obligation, in order to achieve payment of the debt. The publication of payment default data of individuals solely as a pressure measure to achieve debt payment is not permissible. 4) less than 30 days have passed since the breach of the contract; 5) more than five years have passed since the end of the breach of obligation. Article 6(1)(f) or legitimate interest, but in essence it requires at least equivalent measures to be taken as the processing of debt data based on IKS § 10. In addition, it must be taken into account that based on a legitimate interest, data processing may more likely prove to be excessively harmful to the data subject and therefore impermissible. Unlike IKS § 10, Article 6(1)(f) of the IKÜM does not provide for explicit restrictions on the publication of data (ie data may not be transmitted earlier than 30 days after the breach of the obligation or more than five years after the end of the breach). Deviation from these conditions increases the probability that, when weighing conflicting interests, the interests of the data processor or the recipient of the data will not outweigh the seriousness of the encroachment on the debtor's privacy, for example, if debt data is published days after the debt was incurred. in a situation where it is emphasized to the data subject that after full payment of the debt, all

default data will be immediately deleted from the register. In this case, it is doubtful whether the data was published at all for creditworthiness assessment, because third parties 4 2.4. Checking the legal basis for data transfer The data processor is obliged to check whether the specific inheritor of the data has a legal basis for doing so before transferring the debt data. Considering that IKS § 10 allows data to be processed for the purpose of assessing a person's creditworthiness (or other similar), the data processor should first of all establish that the inheritor of the data has a real intention to enter into a contractual relationship with the person. To verify the legal basis, it is not enough to refer to the hypothetical possibility of concluding a contract in the future. It is not a substantive check of the legal basis even if the inheritor of the data is asked to check the appropriate box to confirm the legal basis, and then the data is issued. To make sure of the legal basis of data transmission, the data processor can rely on freely chosen evidence that is available considering the circumstances of the case. It is important that the data processor is able to prove that he checked the legal basis of the data transfer in essence even before he issued the data (or decided not to issue them). The non-payment register decides for itself whether it will keep the evidence or enter into other agreements with the creditor and the inheritor of the data, for example, that the evidence must be provided within one day upon request by the non-payment register. However, both before publishing and before transmitting the data, the default register must check the evidence and make notes on the evidence, for example the number and date of the loan application, so that it can be checked afterwards whether the default register actually checked the evidence. Proof of the legal basis and correctness of the data is required by IKÜM art 5 and this is the responsibility of the payment default register as the responsible processor. In addition, it is important that the payment default register checks the fulfillment of the requirements of § 10 of the IKS before each individual request. This means that it cannot be considered a sufficient control measure if the non-payment register asks the inheritor of the data to explain the purpose of making the inquiries even before making inquiries (e.g. when creating a user account). In this case, it is not an individual case check. If the payment default register is unable to check and verify the correctness of each payment default data and each individual data request, the payment default register is liable as a misdemeanor according to IKÜM and IKS. When determining the amount of the fine, the circumstances of whether the non-payment register has taken measures to prevent violations are important. Individuals cannot receive information about the negative payment behavior of the individual, regardless of the debt that has just ended. The inspection emphasizes that the data processor must be ready to justify how the publication of the data has ended even after the publication of the data. fulfilled the purpose of assessing a person's creditworthiness or other similar

purposes. Creditworthiness means the ability to meet one's financial obligations. Another similar purpose can be the assessment of payment behavior in contractual relationships. Employers cannot check the payment defaults of all job applicants; employees in positions with financial responsibility may come into question. Any inquiries based on curiosity and personal interest are not allowed. 5 2.5. Checking the correctness of the data Pursuant to § 10 of the IKS, the publisher of the debt data must also make sure that the published data is correct. In contrast to the verification of the justification for making the request discussed in the previous subsection, here we are dealing with the verification of the debt data itself. If, as a rule, it can be assumed that these data are correct with regard to the valid data taken from the state registers (e.g. tax debt to the Tax and Customs Board), then in the case of debt data received from private persons, these data must be be sure to check the correctness before passing it on to third parties. In this respect, the Supreme Court has specified that the keeper of the payment default register must check the creditor's notification of payment defaults with sufficient thoroughness, if he had such an obligation (which derives from IKS § 10) and also the opportunity. In that case, it is not enough to only ask the original sender about the existence of the debt, but the responsible processor must have more precise data that would confirm the existence of the debt. It is important to keep in mind that issuing an invoice alone, as a general rule, does not prove the existence of a debt relationship or indebtedness, and vice versa - not receiving an invoice is not a justification for not paying for the service used.[3] If the alleged indebtedness has arisen from the provision of the service, the registrar should demand for example, a subscription agreement proving the provision of the service; if the debt has arisen from the sales contract, if possible, the transfer deed, warranty papers, etc. The correspondence between the parties during pre-contractual negotiations can also be of decisive importance, which reveals when and which obligations the debtor is obliged to fulfill and whether he has violated them. In practice, there are common cases where the alleged indebtedness has arisen from the violation of a contract concluded with a consumer using a means of communication. In such a case, the inspection assumes that the non-payment register is based on § 542 of the Tax Code, i.e. the non-payment can be disclosed if the creditor has proven the consumer's will confirmed on a permanent data carrier to be bound by the obligations taken over the phone. However, if there are no such documents proving the violation, the data processor will not be able to prove the correctness of the data, and in that case either the transfer of data should be abandoned or additional protective measures should be implemented (see chapter 3). In practice, the complainants of payment disorders have pointed out that the correctness of the debt data has not been verified, as special regulations prohibit the creditor from transmitting the underlying documents of the debt (e.g. § 88

paragraph 3 of the Credit Institutions Act (KAS) considers the debt file a bank secret, the transmission of which to third parties is prohibited). In such a situation, however, the instructions of the Supreme Court referred to above should be followed, from which it follows that in a situation where the data processor has an obligation to check the correctness of debt data (ICS § 10), it can be omitted only if the fulfillment of the obligation is not possible, or a conflict of obligations arises . If there are no legal obstacles to verifying the right to the debt data, the obligation must be fulfilled, i.e. the correctness of the debt data must be essentially verified. For more details, see the positions of the Supreme Court's Civil Board decision No. 2-17-1026 of 13.03.2019 (paragraph 24). Decision of the civil panel of the Supreme Court of 14.03.2008 in civil case No. 3-2-1-5-08, p. 14.[23]6 2.6. Date of publication of data Since the violation of an obligation is not a fact that permanently negatively characterizes a person, personal data related to it may not be processed (including collection, storage and transmission) indefinitely. A short delay in the fulfillment of debt obligations can be due to valid reasons, and in a situation where the violation is immediately rectified, recording a person as an unreliable contractual partner during the next five years would probably be unreasonably damaging. Therefore, the deadline for processing debt data is stipulated in the IKS, i.e. it is prohibited to process data if less than 30 days or more than five years have passed since the end of the breach of obligation. Disclosure of debt data, if the debt is unpaid and the claim has not expired The longer the processing of personal data takes place, including transmission, the more intensively it infringes the fundamental rights of the data subject, in particular the privacy, and the more compelling must be the need to transmit data to third parties (see RKHKo, 21.12.2011, No. 3-3-1-70-11, p-d 21-22). In the form of debt data processing, it is not only an economic matter, but also weighty circumstances from the point of view of the privacy of the data subject. It is not excluded here that even before the maximum deadline for debt data is reached, the transfer of data may be excessively damaging to the legitimate interests of the data subject. The five-year deadline specified in Section 10(2)(5) of the IKS is thus the maximum possible, and not automatic, time for publishing debt data after termination of the breach of obligation (i.e. payment of the debt). The specific time period during which debt data is published must be determined on the basis of the circumstances of each case. From the point of view of paying the debt, the strict "debt is a debt" principle applies and all debts must be paid, but when choosing the length of the disclosure of debt data, the seriousness of the violation and the encroachment on the privacy of a specific data subject associated with the disclosure of the data must be taken into account. -ne payment behavior, i.e. the number of his remaining payment interruptions, the debtor's communication with the creditor during the collection of the claim (effort to make installments, reach a compromise or, on the contrary, avoiding payment of the

debt), as well as the creditor's efforts to collect the debt (see subsection 2.7 for more details). Therefore, the time of publication of each payment default must be determined on the basis of the specific violation and the generally descriptive characteristics of the data subject, while the data processor must be ready to justify the length of data publication. Disclosure of debt data for a maximum period of five years is permitted only in the case of the most serious violations of debt obligations. Disclosure of debt data if the debt was not paid, but the claim expired within 3 years. § 10 subsection 2 paragraph 5 states that it is not allowed to collect debt data and transmit it to a third party , if more than five years have passed since the end of the breach of obligation. According to the inspection, such a five-year term also applies to the publication of expired claims, as otherwise claims that were not paid within the limitation period could remain published indefinitely. The Supreme Court has also confirmed that it would not be proportional (see RKHKo, 21.12.2011, no. 3-3-1-70-11). Since in the context of IKS § 10, contractual requirements are subject to publication, their statute of limitations is usually three years (§ 146(1) of the General Civil Code Act (TsÜS)). Of course, a number of special provisions may apply to the expiration of claims, which are mainly regulated by the law on the general part of the Civil Code, but considering that this guide is aimed at processing personal data, the guide covers the standard guidelines for AKI supervision procedures, the expiration dates of which are 3 or 10 years.7 Therefore, in a situation where the debt was not paid, but the claim expired within three years, according to IKS § 10, the debt data is justified to be disclosed within the expiration period, to which a maximum of five years can be added according to IKS § 10 subsection 2 p. 5 (the so-called 3 + 5 rule) . However, in the case of expired claims, additional requirements for the disclosure of debt data apply. In addition to the fact that in order to determine the time period for the disclosure of data added to the expiration date, the data processor must take into account the same criteria as for unexpired claims (amount of debt, payment behavior of the person, etc.; see above), the condition applies to expired claims that debt data may be disclosed to the maximum extent (five years after expiration) to be published only if the creditor took active steps to collect the debt during the expiration period. In the opposite case, the publication of the data would once again become a pressure measure for debt collection, without the creditor having attempted to use the legal remedies provided by the Law of Obligations Act during the statute of limitations. It has also been confirmed in case law that in the case of such an unfulfilled contractual obligation, which the creditor has for some reason not wanted or been able to during the general transactional statute of limitations to recover from the debtor, the continued publication of the debtor's personal data in the default register only after the claim has expired is not justified to the maximum extent possible. 4 Disclosure of debt data if the debt was not paid, but the claim expired within 10

years If the data processor wants to publish debt data based on an expired claim for longer than the 3 + 5 rule , he must prove the prerequisites of the special statutes of limitation. According to § 146 (4) of the TsÜS, the limitation period for the claim is 10 years, if the obligations were violated intentionally. Intentional breach of obligation in the sense of § 146, subsection 4 of the Civil Code is the case if the contracting party (I) wants an unlawful consequence (II) upon the creation, performance or termination of the debt relationship (in accordance with § 104, subsection 5 of the Civil Code). Therefore, in order for the 10-year statute of limitations to apply, it must be proven that, in addition to breaching the contract, the data subject had an intention to cause unlawful damage to the creditor. It has been repeatedly confirmed in court practice that the mere failure to fulfill an obligation is not sufficient for the application of § 146, subsection 4 of the TsÜS (see Supreme Court decisions in civil cases No. 3-2-1-79-09, p. 11; 2-16-14644, p. 20; 2-14-53081, p. 21). It is also not enough to assume a person's intention (desire to cause an illegal consequence) that the debtor was aware of the contract and the debt, nor that reminder letters were sent to the debtor to pay the debt. The opposite interpretation would lead to a situation where subsection 146 of TsÜS would become void of content (see Tallinn District Court's decision in civil case no. 2-21-6219, p. 29). Thus, Section 146(4) of the TsÜS does not stipulate the presumption of intent, therefore neither the data processor nor the Data Protection Inspectorate can assume a willful breach of obligations by the debtor. In order to publish debt data within 10 years after the claim becomes due, to which a maximum of 5 years can be added (the so-called 10 + 5 rule), the data processor must rely on specific facts that would confirm the intentional violation of the debt relationship. Harju Regional Court decision 2-20-10157, p 33.48 2.7 . Prohibition of excessive harm to the data subject Regardless of the deadlines specified in § 10 of the IKS, the provision obliges to make an additional assessment, and the transfer of data does not excessively harm the rights or freedoms of the data subject. Although this obligation is emphasized separately in IKS § 10 (2) point 3, this principle can also be derived from IKÜ Articles 5 and 6. When assessing the damage to the interests of the data subject in the context of the publication of debt data, the circumstances must be defined much more broadly than only from the point of view of assessing creditworthiness and applying the principle of responsible lending. These are not only economic, but also weighty circumstances from the point of view of privacy of the data subject (see Tallinn District Court's decision in civil case no. 2-16-17964 point 14). In practice, the information related to the violation of the debt relationship is used in addition to the assessment of the creditworthiness of the person in other similar cases, and the debt data is accessible to all persons who can justify their legitimate interest to the publisher of the data (e.g. a potential employer or a contractual partner other than a lender). At the same time, the excessive

damage to the fundamental rights of the data subject may also lie in the content of the transmitted data. For example, you may not transmit data that are apparently unimportant or irrelevant from the point of view of the breach of the contract (image, subjective evaluations). At the same time, the transmission of incorrect data also damages the data subject. Therefore, neglecting the obligation to check the correctness of debt data can also lead to excessive damage to the interests of the data subject, for which the data processor is responsible. The way, duration and content of the payment default are published can be circumstances that make the disclosure more difficult, making the entire publication excessively harmful to the person. For example, if you do not produce arrears by different creditors or if you do not distinguish the main debt from the secondary claims. According to the inspection, the default must be disclosed in any case in such a way that the amount of each principal debt is clearly distinguished and stated. In addition to the above, the assessment of excessive damage to the data subject must take into account the circumstances characterizing the debt, the debtor and the creditor. In addition, according to § 157 subsection 1 of the TsÜS, the 10-year statute of limitations applies to a claim recognized by an effective court decision or a claim arising from another enforcement document. Even in such a case, the data processor must prove the application of the 10-year limitation period either by means of an enforced court decision or another enforcement document. 5Therefore, in the case of expired (but unpaid) claims, the assumption applies that they expired within 3 years after becoming receivable, and after the expiration, debt data may continue to be published for a maximum of 5 years (3 + 5 rule). The claim becomes collectable on the day following the payment due date indicated on the invoice, the expiration begins on the first January following the calendar year of the invoice in accordance with § 147 (3) of the TsÜS. In certain cases, the claim may be published up to 5 years after the 10-year statute of limitations (10 + 5 rule), but in this case the requirements of the special provisions of the TsÜS, i.e. the 10-year statute of limitations, must be proven. In the case of bankruptcy of a natural person, the statute of limitations applies with the exceptions provided for in the Bankruptcy Act. You can read about the statute of limitations for claims recognized by a court decision: https://kpkoda.ee/nouete-aegumine-kaitumisjuhis-volast-vabanemiseks/ 59 2.7.2 Circumstances characterizing the debtor: 2.7.3 Characterizing the creditor Circumstances: Circumstances characterizing the debtor include the time of debt payment and the debtor's behavior. Debt payment time - the person paid off the debt immediately after the payment default was disclosed, because he found out about the debt only when the payment default was disclosed or when applying for a new loan, where it turned out that he had a payment default. The debtor's behavior - has he cooperated with the creditor and offered options for debt payment - collection - what efforts has the creditor

made before disclosing the default? Disclosure of a payment failure cannot be a mechanism to force the payment of a debt. For example, whether the creditor has tried to collect the debt, i.e. whether he has submitted an application for an urgent procedure for a payment order, but has given up filing a lawsuit upon receiving an objection. Including in the case of an expired claim - the National Court has considered the disclosure of the expired debt, including attempts to pay the debt in installments and whether the debtor has provided his correct contact details. However, the mere fact that a person has paid off the debt does not mean that the disclosure of default stop immediately. Excessive damage must be assessed in the context of the life circumstances related to the person himself. considered legitimate if the creditor has made efforts to collect the debt. It is also important whether the creditor has made a mistake with the debtor's data so that the debtor has not received the creditor's notifications for reasons arising from the creditor (e.g. incorrect contact details). 2.7.1 Circumstances characterizing the debt: In the opinion of the Inspectorate, similar to the tax-debt regulation (MKS § 14, subsection 5), debts with a principal debt of EUR 100 should not enter the default register. only one debt per person, it is likely that being in debt is not a behavior that permanently characterizes that person, and showing a payment default or showing it for years is excessively damaging to the person in such a case. Also, the time when the debt was incurred at least three years ago and the absence of new debts indicate, that the person has probably changed his payment behavior. In addition, the amount of indebtedness must be taken into account when considering - obviously, situations where the debtor has unpaid bills for a few months for some utility services and non-payment of consumer or other loans amounting to thousands of euros are obviously not comparable. In summary - if it is a small debt from years ago and it is the debtor's only debt, then the infringement on the debtor's right is greater and excessive damage is very likely. 10 2.8. Informing the data subject about the disclosure of debt data Informing the data subject about the processing of personal data is regulated by Articles 12-14 of the IKÜM. Articles 13 and 14 of the IKÜM outline what the information given to a person must contain as a minimum. However, when publishing debt data, it is primarily necessary to proceed from Article 14, since as a rule, debt data is not collected from the person himself. We remind you that the creditor can publish debt data himself, use the platform of an authorized processor or transfer the data to another company that keeps the default register. ALL information provided for in paragraphs 1 and 2 of Article 14 must be forwarded to the data subject. within a reasonable time, but no later than one month after receiving the personal data, or if the personal data is to be disclosed to another recipient, then no later than during the first disclosure of the data (see Article 14 paragraph 3 of IKÜM). The differences that allow to bypass the active notification of the debtor result from Article 14, paragraph 5 of the IKÜM. In the

context of debt data, the following points may be relevant: a) the data subject already has this information; b) providing this information turns out to be impossible or would require disproportionate efforts. On the basis of point a, the person disclosing the data can not notify the debtor, for example, if the creditor and the person disclosing the data do not match and the creditor has already informed the person to which default register the data will be forwarded for publication. The data protection conditions of the relevant non-payment register must also be added to the notification, otherwise the requirements for the content of the notification arising from Article 14 of the IKÜM are not met. However, the notification of the creditor and the publication of the data must also be temporally related in such a case. It is not allowed a situation where the original loan agreement refers to the possibility that the data may be transferred to the default register for publication in the event of a debt, but for example years later, when the debt actually arises and the data is published , the person will no longer be notified of this. In such a case, the data processing would not be predictable or transparent for the person. For example, the debtor may not know that he owes money at all (the invoice has been forwarded to the wrong address, the debtor has failed to pay you with the amount of the invoice). In a situation where the debtor does not even know that he is in debt, publishing such debt in the default register is not permitted. In any case, the creditor must inform the debtor before transferring the specific debt to the default register. If the creditor himself does not notify the debtor, the obligation to notify falls on the non-payment register upon receipt of the debt data. Even if the debt is assigned and a new creditor is created, the new creditor, as a new responsible processor, who also has its own processing purpose and conditions, must inform the debtor about the new creditor and its data protection conditions. Point b could be the basis for failure to notify, first of all, in a situation where the data processor does not have the contact details of a specific natural person. At the same time, in the opinion of the inspectorate, data publishers should not collect additional personal data only in order to fulfill the obligation of active notification. This is 111 2.9. Additional protective measures In a situation where the data inheritor's legitimate interest in making a request and the impact on the data subject's rights and freedoms are fairly equal (borderline), it may be necessary to implement additional protective measures to mitigate the encroachment on the data subject's rights. If the pre-check to identify the legal basis for obtaining debt data has been weak, it must be balanced with other measures in the collection. For example, even greater transparency, the general and unconditional right of a person to stop processing and measures to increase the power of data subjects can be considered as additional protective measures. 7 Protective measures must be reflected, among other things, in the analysis of the legitimate interest, pointing out which infringement of the fundamental right the protective measure mitigates. For the data

subject, the publisher of the debt data must clearly and comprehensibly explain the reasons why he considers that his (or the client's) legitimate interests are more important than the interests or fundamental rights and freedoms of the data subject. This information must also be made easily available to the data subject. It cannot be considered as an additional protection measure that a person has the opportunity to ask for and receive information about his/her data by writing to a specific e-mail address. Complying with this requirement is a standard obligation arising from the IKÜM. of course, only relevant if the publisher of the debt data does not coincide with the person of the creditor, who at least at some point has had contact with the debtor. However, if the publisher of the data has the contact details of a natural person, the person must be informed about the data processing and it is not an impossible or disproportionate effort. Due to the duty of the default register to verify the accuracy of the payment default data provided to it on the basis of documentary evidence, there is a high probability that these documents also contain the contact details of the debtor. The non-payment register may set a condition that the creditor submits the debtor's contacts for notification along with the non-payment data, or require the creditor to provide proof that the creditor has informed the debtor of this immediately before the transfer to the non-payment register (IKÜM art. 14 paragraph 5 point a). It has also been confirmed in the practice of the Supreme Court that if the creditor has not informed the debtor of the publication of payment default, the keeper of the payment default register must do so. 6 Decision of the civil panel of the Supreme Court of 13.03.2019 in civil case No. 2-17-1026, p. 30. Opinion of the A29 working group 06/2014, page 42 (reference 2)6712 Even in the case of disclosure of payment default as processing of personal data, the IKÜM provides for the right of the person to submit various requests. 8 The data processor must inform the person of this right at the latest when the person is informed about the processing of personal data for the first time. For this reason alone, it cannot be considered sufficient to inform the data subject if the original loan agreement merely indicates that the data may be forwarded to the registrar for publication in the event of indebtedness. The notification to the data subject must be exhaustive and contain all references to the procedure for exercising the rights of the data subject. On the basis of Art. 21(4) of the IKÜM, the right to object must be clearly stated separately and it must be explained in which cases and how the object can be objected. In addition to the fact that the data processor must inform the person about the processing of his data and provide the most important information related to the processing (the more detailed content of the notification is regulated in articles 13-14 of the IKÜM), the person has the right to: Ask the data processor for confirmation whether his data is being processed and find out about him current data and information related to processing (more detailed content of the information in Article 15 paragraph

1 of the IKÜM) and receive a copy of the data. Demand the correction of incorrect data about him (IKYM art. 16). In practice, it is probably easy to correct inaccuracies in obvious data such as a person's name, but more complicated in terms of details concerning payment defaults, such as the amount of debt, etc., as they may be disputed and the final truth may only be revealed during court proceedings. That is why, during the complaint procedure carried out by the inspectorate, it is precisely the basic documents of the claim that prove the correctness of the payment default that are important. If the data changes during the publication of the payment default (e.g. the debtor has reduced the debt), the data processor must update the data within 30 days from the data change. If necessary, the keeper of the default register must stipulate in the contract the obligation to notify the creditor of changes in the debtor's data, including changes in the amount of the debt. Demand the restriction of the processing of your personal data (IKÜM art. 18) - for example, until the data processor corrects incorrect personal data or reviews the objection. Upon receiving a request to restrict processing, the data processor must clearly state this in the non-payment register and apply the necessary technical means (temporarily remove data from the web site, make the data non-processable, etc.; IKÜM pp 67). Therefore, when new inquiries are made to the data subject who submitted the request for limitation, it should appear that his debt is contested and access to more detailed data on the debt should be prevented. Demand the deletion of your personal data (ICYM art. 17). Deletion may be requested in the cases provided for in Article 17 paragraph 1. Deletion can be requested in particular if the disclosure has been illegal, i.e. if a requirement of § 10 of the IKS has not been met (art. 17(1)(d)). For example, if the defaulter has not verified the correctness of the data. If a person relies on point c of art. 17 (1), that is, if he finds that publicizing a payment default is generally unfair, then such a request must be treated as an objection within the meaning of art. 21. Submit objections regarding the processing of your own data (IKÜM art. 21). The purpose of the objection is to give the person the opportunity to justify why the rights of the Data Subject of the debt data and the obligations of the data processor3. § 10 of the IKS does not provide for exceptions to the data subject's rights arising from the IKÜM. Excessive processing of 813 harms him even if the payment default itself has been published in accordance with the requirements of § 10 of the IKS. That is why IKÜM Article 21(1) stipulates that the objection must be based on the specific situation of the data subject, and it should contain vital circumstances and reasons related to this particular data subject. The submission of an objection is therefore justified in a situation where disclosing the same payment default to someone else could be legitimate, but in the case of a specific data subject, it would result in excessive damage to his rights and freedoms. Upon receiving an objection, the data processor must assess and prove, in accordance with Article 21

of the GDPR, whether the data processor has legitimate reasons for further processing of personal data, taking into account the person's specific situation. If there are no such reasons, data processing must be stopped and personal data already processed must be deleted.9 In addition, a person has the right to demand, together with the submission of an objection, that the processing of his data be suspended for the period when his submitted objection is evaluated (Article 18, paragraph 1, point d of IKÜM). When receiving a person's request, the data processor must base it on its content, not on its title. For example, if a person requests deletion, but in fact the content is an objection, then the objection cannot be left unassessed. When receiving all such requests, the data processor must check the identity of the addressee and, if necessary, also the right (authorization) of the representative to submit the request on behalf of the data subject, because said requests can be submitted only to protect your subjective rights. If the data processor cannot verify the identity or authorization of the addressee, the request must be refused and justified, and not left unanswered. The data processor must respond to all requests within one month at the latest (IKÜM art. 12 paragraph 3). Any claim regarding data processing, including an objection, must first be submitted to the defaulter. Only if the request is refused or not responded to, should one contact either the Data Protection Inspectorate or the court. When applying to the inspection, we recommend using the intervention request form, and you should definitely attach all correspondence between the debtor and the person reporting the default and other relevant materials. Also, the appeal must be (digitally) signed to establish identity. If the Data Protection Inspectorate takes the complaint into proceedings, it can issue orders to the data processor, impose a fine, implement substitutive performance at the processor's expense, and start misdemeanor proceedings. The inspection can only apply these measures to data processors located in Estonia. In relation to data processors located in other European Union member states, the procedure is carried out under the direction of the data protection authority of the respective member state. In the case of violations by data processors located outside the European Union, the possibilities of the Data Protection Inspectorate are limited because there are no coercive mechanisms. You can read more about the evaluation of the objection in the legitimate interest guide. 914AKI Disclosure of payment irregularities raises questions? The Data Protection Inspectorate knows the answers! See more: Call the helpline! Find us on social media: The Data Protection Inspectorate's instruction materials, answers to frequently asked questions, and recommendations and advice on both data protection and public information topics can be found on our website at www.aki.ee. The Data Protection Inspectorate's helpline 56202341 will help you reach the right answers. until Thursday from 13:00 to 15:00. You can get answers to general questions from the advice line. The duty officer will also help

you find the information you are looking for in the manuals or legislation. For questions that require a more thorough explanation, please send them in writing to the e-mail address info@aki.ee. Data Protection Inspectorate Data Protection Inspectorate | Estonian Data Protection Inspectorate