

Tatari tn 39 / 10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registry code 70004235 PRELIMINARY WARNING in personal data protection case no. 2.1.-1/21/1528 Issuer of the injunction Data Protection Inspectorate lawyer Signe Kerge

Time and place of the injunction 25.10.2021 in Tallinn Addressee of the injunction (processor of personal data) Copy Lääne-Harju Municipality address: Harju county, Lääne-Harju parish, Paldiski city, Rae tn 38, 76806 e-mail address: info@laaneharju.ee XXX XXX RESOLUTION: Section 751 (3) of the Government of the Republic Act, Section 56 (1), Section 56 (2) Point 8 of the Personal Data Protection Act (IKS) and Articles 12, 15 of the General Regulation on Personal Data Protection on the basis of paragraph 3 and point d of Article 58, paragraph 2, I issue a mandatory injunction for compliance: 1. To issue XXX a copy of the personal data recorded about him by STAR from 13.03.2020, provided that it does not harm the interests of other persons, especially children. 2. In the event that XXX has custody of the children (in respect of which the inspectorate does not have up-to-date information), issue a copy of the personal data recorded on XXX and XXX in STAR from 13.03.2020, provided that it does not harm the interests of other persons, especially children. 3. In order to check whether the above obligations have been fulfilled, submit to the Data Protection Inspectorate a complete list of the documents and data sets entered by STAR and indicate with each document/data set: 3.1.) whether it contains personal data of XXX, 3.2.) whether it contains personal data of XXX and XXX, 3.3. ) whether and on what date the personal data contained in each document/database has been issued to XXX. We set 5.11.2021 as the deadline for fulfilling the prescription. REFERENCE FOR DISPUTES: A data subject complainant whose rights are affected by this injunction can challenge this 2 (6) injunction within 30 days by submitting either: - an appeal in accordance with the Administrative Procedure Act to the Data Protection Inspectorate or - an appeal in accordance with the Code of Administrative Court Procedure to the Administrative Court (in this case, the same matter cannot be appealed again to watch). Challenging a precept does not stop the obligation to fulfill it or the implementation of measures necessary for fulfillment. WARNING If the processor of personal data fails to comply with the instructions of the Data Protection Inspectorate, the Data Protection Inspectorate may contact the higher-ranking institution, person or whole party of the personal data processor to organize official supervision or initiate disciplinary proceedings against the official on the basis of § 59 (1) of the Personal Data Protection Act. If a personal data processor from a state institution does not comply with the instructions of the Data Protection Inspectorate, the inspectorate will appeal to the administrative court with a protest on the basis of § 59 (3) of the Personal Data Protection Act. I Complaint and its proceedings so far On 19.04.2021, XXX submitted a request to the Data Protection Inspectorate: to oblige the Lääne-Harju Municipal Government to

issue the family case file or a printout of it to the complainant, if the file is considered a complete document in the database with an official confirmation of its authenticity and integrity. On 13.08.2021, the Data Protection Inspectorate proposed to Lääne-Harju Municipal Government to issue a person with all available information about him and those he represents digitally and with official confirmation to the extent permitted by law. In addition, we asked to cover the part in the documents that could harm third parties, if any. In response to this, the Lääne-Harju Municipal Government explained on 13.09.2021 that according to § 142 (2) of the Family Act, as a result of the suspension of the right of custody, the children's right of representation has also been suspended. In connection with this, the Lääne-Harju Municipal Government has the right to submit the electronic records of Mr. XXX and his minor children XXX and XXX in the Social Services and Support Data Register STAR before the ruling of the Harju County Court enters into force in civil case 2-19-12769. The Lääne-Harju Municipal Government will not submit to Mr. XXX the materials of the civil case 2-19-12769, as they are very voluminous and can be found in the e-file <https://etomik.rik.ee/>, as well as his electronic correspondence with the Lääne-Harju Municipal Government. The Data Protection Inspectorate explained to the Lääne-Harju municipality that IKÜ does not envisage the possibility of not releasing the data due to expediency and asked the municipality government to review the proposal again. On 29.09.2021, the Lääne-Harju Municipal Government asked to extend the deadline for issuing the personal data/file about him and his children in digital form to the applicant until October 6, 2021, on the grounds that the file to be sent is large. On 18.10.2021, the Lääne-Harju Municipal Government further explained that it does not consider file 3 (6) about families as such. If the family comes within sight of the municipality's social department, the municipality's social worker starts the procedure, and these data are entered directly into the STAR database of the Social Insurance Board. If one parent has submitted an application to the court to start a case and it concerns minor children, the order of communication with their parents, suspension, withdrawal of custody rights of one parent, etc., the LHVV forwards the relevant documents related to the family case with an opinion to the Harju county court, where these materials are accessible to the parties involved in the e-File. In the previous complaint made by the person on 16.04.2021 to the Data Protection Inspectorate, the person claimed that he was not issued a family case file. However, an 80-page printout of the family matter case was made from the STAR system (and also from an earlier paper file, before the creation of the joint municipality, from the days of the Padis municipality since 2017), which was issued by the LHVV on 12.03.2020. The handing over of the file could also be seen in the video secretly filmed by XXX in the social department of the LHVV and later illegally published on the internet, for which the LHVV submitted a request for removal from the internet on

23.03.2020 no. 7-6/7-39. Given that the person has access to all data about him: - in the e-File, as all documents related to the right of custody case are forwarded by LHVV to Harju County Court, where they are available to the person; - The Lääne-Harju Municipal Government has submitted a printout of the materials of the person's family case in STAR until 12.03.2020, and in the letter of 26.05.2021 No. 7-6/7-61, they will add references to third parties by removing the material added during the year; - Correspondence between the Municipal Government and the person is registered in the document register, and the person himself also has copies of the letters written by him and the answers sent by Lääne-Harju. Considering also that LHVV cannot give access to the document register, the STAR system, or the e-File, the Lääne-Harju Municipal Government should first print out the information on paper from all those sources from which the person has already received the information in paper form or the person has access to it. When printed out in paper form, there are approximately 500 pages of material. After printing, the Lääne-Harju municipal government must manually remove all references to third parties in this material and then scan 500 pages into digital form. Since the volume of 500 scanned pages is large, a folder would be created for the person on the LHVV virtual server, hosted by Telia. II On the right to receive children's personal data XXX's right to receive a copy of children's personal data depends, firstly, on whether he has custody of the children. IKÜM art 15 gives a person the right to request a copy of his personal data. Legal representatives exercise rights for minor children. The legal representative is the custodial parent. On 10.08.2021, we made a request to the population register to check whether XXX has custody of XXX and XXX. According to the result of the population register inquiry, it was 10.08.2021. as of a, XXX has full custody of both children, but partial personal custody, the content of which was entered in the population register on 10.09.2018 as follows: "Content of custody: Terminate joint custody of XXX and XXX in part for their minor children XXX and XXX and assign the children's place of stay (including residence) regarding the right of custody of their 4 (6) mother XXX within the Republic of Estonia." Before making a request to the population register, we repeatedly asked XXX himself whether he has the right of custody of the children, but XXX refused to provide proof of this and only referred to the provision of the Family Law, according to which the decision-making right of the parents should be assumed. Then we made a request to the population register. Lääne- Harju Vald wrote to the inspectorate in a reply letter (13.09.2021): According to the ruling of the Harju County Court of 27.11.2019 in civil case No. 2-19-12769 (entered into force on 14.04.2020), Mr. XXX's right of custody of the children has been suspended while the case is being processed. There is no regulation given by the inspection, as a result of which the inspection has no possibility to check whether XXX has the right of representation of XXX and XXX or not. Therefore, the inspectorate cannot

say whether Lääne-Harju municipality has to release the personal data of XXX and XXX to XXX or not. If the Lääne-Harju municipality has clear, proven data regarding the right of custody, the Lääne-Harju municipality can base itself on it when processing the XXX claim.

III Prioritizing the interests of children Both the release of XXX's own personal data and the release of his children's personal data (in case XXX has custody of the children) must be further evaluated to ensure that the release of the data does not harm the children's interests. According to article 15 paragraph 4 of the IKÜM, the right to receive a copy of the data may not harm the rights and freedoms of other persons.

IV Copy of data, not documents IKÜM art 15 gives the right to demand a copy of data about oneself, not a copy of documents. It is true that the municipality of Lääne-Harju can also fulfill the requirement by covering up the rest in the documents and issuing copies of the documents, but this cannot be demanded. A copy of the data can also be issued in such a way that all existing personal data about XXX are copied into one file. Since IKÜM does not provide for the issuance of copies of documents, the inspection cannot prescribe to Lääne-Harju municipality how exactly the data must be issued. According to the IKÜM, one should only follow the method requested in the issuance requirements - either on paper or electronically.

V Content of the request I draw the attention of the Lääne-Harju municipality that XXX has requested the data contained in the "family case file". Lääne-Harju municipality has replied that the family case file does not exist separately, that all documents are uploaded to STAR. Therefore, the documents in the e-file are not involved. One party to the proceedings cannot issue a copy of the e-file to another party to the proceedings, this is only within the jurisdiction of the court. As for the correspondence with XXX, which is in the document register of Lääne-Harju municipality, that is also not relevant. The claim is aimed at the family case file (which, according to the inspection, should be understood as documents collected and created by the municipality in the matter of child custody, which constitute a file in the sense of the Administrative Procedure Act).

5 (6) VI Excessiveness of the claim Neither art 12 nor 15 of the IKÜM provides for the right to refuse to issue a copy of the data due to the large volume of the data. However, Article 12 of the IKÜM provides for the possibility to refuse to comply with the requirement if it is clearly excessive: Providing information in accordance with Articles 13 and 14 and reporting and taking measures in accordance with Articles 15-22 and 34 are free of charge. If the data subject's requests are clearly unfounded or excessive, in particular due to their repetitive nature, the data controller may either: a) ask for a reasonable fee, taking into account the administrative costs associated with providing or informing the information or taking the requested measures, or b) refuse to take the requested measures. The responsible processor has the responsibility to prove that the request is clearly unfounded or excessive. A data subject's request for a copy of the data is excessive if it is

made repeatedly within a short period of time. The data subject's wish to receive data about himself from the data set cannot be considered excessive. The requirement according to Art. 15 of IKÜM is given to a person so that he can check what personal data has been collected about him. As mentioned above, the municipality of Lääne-Harju explained that all the materials of the family case are located in STAR. According to Lääne-Harju Municipality, Lääne-Harju Municipality has submitted a printout (80 pages) of the materials of the person's family file in STAR until 12.03.2020. VI Official property XXX has requested a copy with official confirmation. The municipality of Lääne-Harju can do this, but since IKÜM does not stipulate such an obligation, the Data Protection Inspectorate cannot oblige the municipality of Lääne-Harju to do so either. VII The position of the inspectorate Based on the above explanations and factual circumstances, the positions and orders of the inspectorate are as follows: 8.1. XXX's request to obtain personal information about himself from the family case file located in STAR. Insofar as the materials entered by STAR until 12.03.2020 have been issued, XXX must be issued a copy of the personal data entered by STAR about him from 13.03.2020, provided that it does not harm the interests of other persons, especially children. 8.2. XXX's request for the personal information of children XXX and XXX from the family case file located in STAR. In the event that XXX has custody of the children (in respect of which the inspectorate does not have up-to-date information), issue a copy of the personal data recorded on XXX and XXX in STAR from 13.03.2020, provided that it does not harm the interests of other persons, especially children. 8.3. In order to check whether the above obligations have been fulfilled, the Lääne-Harju Municipality must submit to the Data Protection Inspectorate a complete list of documents and data sets 6 (6) entered by STAR and indicate with each document/data set whether it contains a) personal data of XXX, b) personal data of XXX and XXX c ) and whether and on what date the personal data contained in each document/database has been issued to XXX. We set 5 November 2021 as the deadline for fulfilling the order, because the Lääne-Harju municipality has once asked the inspectorate to extend the deadline on the grounds that issuing the data will take more time. From this, the inspection concludes that the Lääne-Harju municipality has had enough time to deal with the preparation of the data release.

/signed digitally/ Signe Kerge lawyer under the authority of the Director General