

Registration code 70004235 FOR USE WITHIN THE ORGANIZATION Information holder: Data Protection Inspectorate Note made: 01.02.2023 Access restriction valid until: 01.02.2098; in terms of paragraph 2 until the decision made in the procedure enters into force Basis: AvTS § 35 paragraph 1 paragraph 2, AvTS § 35 paragraph 1 paragraph 12 PRELIMINARY WARNING in personal data protection case no. 2.1.-1/23/2688-3 Issuer of the injunction Alissa Hmelnitskaja, lawyer of the Data Protection Inspectorate Time and place of the injunction 01.02.2023 in Tallinn Recipient of the injunction - personal data processor XXX address: XXX e-mail address: XXX RESOLUTION: § of the Personal Data Protection Act (IKS) 56 paragraph 1, paragraph 2 point 8, § 56 paragraph 3 points 3 and 4, § 58 paragraph 1 and on the basis of Article 58 paragraph 1 point d and paragraph 2 points f and g of the General Regulation on the Protection of Personal Data (IKÜM), as well as taking into account Article 6 of the Personal Data Protection Regulation, the inspectorate issues a mandatory order to comply with: 1. On XXX, stop disclosing the personal data of YYY and other people in the posts of the personal Facebook account. I set 15.02.2023 as the deadline for fulfilling the injunction. Report compliance with the order to the e-mail address of the Data Protection Inspectorate at info@aki.ee 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 Code of Administrative Procedure 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. EXERCISE MONEY WARNING: If the injunction is not complied with by the specified deadline, the Data Protection Inspectorate will impose an extortion fee of 800 euros to the addressee of the injunction on the basis of § 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 FACTS: In the proceedings of the Data Protection Inspectorate (AKI), there is a complaint by YYY (applicant), according to which XXX (data

processor) has published a post on his Facebook account that contains the personal data of the applicant (full name) and a screenshot containing the personal data of other people has also been attached to the post. including data of minors (first names, age of minors, phone numbers). This post was made on 08.11.2022 at 06:01. AKI started the supervision procedure on the basis of § 56 (3) point 8 of IKS, within the framework of which a proposal for better compliance with personal data protection requirements No. 2.1.-1/22/2688-2 was made on 29.12.2022, according to which the inspectorate proposed to the data processor to terminate his personal Facebook account on 08.11. Disclosure of other people's personal data in the post published at 06:01 in 2022 and send a confirmation of this to the inspectorate no later than 13.01.2023. The data processor has not responded to AKI's proposal. GROUNDS OF THE DATA PROTECTION INSPECTION: According to Article 4, point 1 of the GDPR, 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, network identifier or on the basis of one or more physical, physiological, genetic, mental, economic, cultural or social characteristics of that natural person. Thus, personal data includes, among other things, name and other information that enables the identification of a person. According to Article 4, point 2 of the IKÜM, the processing of personal data is an automated or non-automated operation or a set of operations performed with personal data or their collections, including their distribution or disclosure by making them available in another way. As a result of the above, the data processor has disclosed the personal data of the applicant and other people in the sense of points 1 and 2 of Article 4 IKÜM. There must be a legal basis for the disclosure of personal data. According to Article 6 of the IKÜM, the processing of personal data is legal if it meets one of the conditions set out in points a to f of paragraph 1. I. IKÜM Article 6(1)(a) According to IKÜM's Article 6(1)(a), the processing of personal data is legal only if the data subject has given consent to process his/her personal data for one or more specific purposes. The duty to prove the existence of consent in the event of a dispute rests with the controller. In this case, the inspectorate does not establish whether consent has been obtained for the disclosure of data on the part of the complainant, and the inspectorate assumes that the person has withdrawn his consent by filing a complaint and wishes to stop the disclosure of his personal data. II. In order to process personal data on the basis of Article 6(1)(f) of IKÜM, i.e., legitimate interest, the data processor must be convinced that the purpose of personal data processing is more important than the rights and freedoms of the data subject and Articles 21 (right to object) and 17 (right to deletion of data) of IKÜM) the processing of personal data must be stopped if the data processor cannot prove that the processing is for a

compelling legitimate reason that outweighs the interests, rights and freedoms of the data subject. The processing of personal data on the basis of a legitimate interest must be preceded by an analysis by the data processor regarding the legitimate interest and importance of the data processor and third parties, an analysis of the rights and interests of the data subject and their importance, and then a weighing between the interests of the data processor and the data subject. In the current case, it does not appear that the data processor can rely on the legal basis of legitimate interest, since he has not submitted a legitimate interest analysis to the inspection.

III. IKS § 4 In certain cases, the disclosure of some people's data may be justified for journalistic purposes. 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. In order to disclose personal data based on § 4 of the IKS, three conditions must be met: 1. there is a public interest in the disclosure of personal data; 2. the disclosure is in accordance with the rules of journalistic ethics; 3. 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. However, disputes arising in human relationships are in no way related to the public interest, and disclosing the personal information of a single individual does not contribute to the social debate. In addition, in connection with the fact that the names and ages of certain children can still be seen in the screenshot of the disputed post, the inspectorate draws the attention of the data processor to the fact that children's personal data deserve special protection, as children may not be sufficiently aware of the relevant risks, consequences and protective measures, as well as their rights with regard to personal data processing. Taking into account the above, the inspection is of the opinion that in this case none of the legal bases specified in Article 6, subsection 1, for the disclosure of the personal data of the applicant and other people exists, and the data processor has not proven to the inspection that the legal basis for the disclosure of the data derives from § 4 of IKS.

The personal data has been processed without without a legal basis, which is why the data processor must stop disclosing posts containing other people's personal data on social media. In accordance with IKS § 58 (1) and IKÜ Article 58 (2) p and g, the inspectorate has the right to issue an order to limit the processing of personal data. Taking into account that in this particular case, the personal data of natural persons is disclosed illegally and that the data processor has not responded to the proposal of AKI on 29.12.2022, the inspectorate considers that issuing a mandatory injunction in this case is necessary in

order to stop the offense as soon as possible. (digitally signed) Alissa Khmel'nitskaja lawyer under the authority of the Director
General