PRIVACY PROTECTION AND STATE TRANSPARENCY Tatari tn 39 / 10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registration code 70004235 PRESCRIPTION-WARNING in personal data protection case no. 2.1.-1/23/131-404 Prescription issued by Data Protection Inspectorate lawyer Jekaterina Aader Time and place of issuing the injunction 12.04.2023 in Tallinn Recipient of the injunction - personal data processor Krediidiregister OÜ, registry code 12400621 address: Harju maakond, Tallinn, Kesklinna district, A. Weizenbergi tn 20, 10150 e-mail address: art@krediidiregister.ee Personal data responsible person of the processor Board members RESOLUTION: § 56 subsection 1, subsection 2 point 8 of the Personal Data Protection Act (ICS), § 58 subsection 1, § 10 subsection 1, subsection 2 point 3 and Article 58 subsection 2 points a of the General Regulation on the Protection of Personal Data (IKÜM) , b and f, on the basis of article 6 paragraph 1 point f, article 14 paragraphs 1 and 2, I issue a mandatory injunction for compliance: Stop the publication of the payment default in the amount of 30 euros submitted by Julianus Inkasso OÜ on 23.12.2019 (as of 03.03.2023) for XX (identity code XXXXX) in the payment default register and delete XX payment default data. I set the deadline for the execution of the injunction as 25.04.2023. Report compliance with the order to the Data Protection Inspectorate 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. EXECUTION MONEY WARNING: If the injunction has not been complied with by the set deadline, the Data Protection Inspectorate will impose an extortion fee of 25,000 euros on the recipient 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: On 15.02.2023, the Data Protection Inspectorate XX (complainant) received a complaint regarding the processing and disclosure of his personal data to third parties in the default register

maintained by Krediidiregister OÜ (www.taust.ee). According to the complaint, information about the claim of the alleged Julianus Inkasso OÜ (creditor Elektrum Eesti OÜ before the assignment of the claim) in the amount of 30 euros was published in the default register kept by Krediidiregister OÜ (www.taust.ee). According to the applicant, such a claim has expired due to the expiry of the three-year period. According to the complaint, OÜ Krediidiregister has not responded substantively to the objections of the complainant, including proving that personal data is processed for a compelling legitimate reason, which outweighs the interests, rights and freedoms of the data subject (taking into account the previous case law of the Supreme Court). The applicant also disputes that Julianus Inkasso OÜ does not have the right to collect the applicant's claim, because based on the power of attorney submitted to the applicant, Julianus Inkasso OÜ has the right to represent Elektrum Eesti OÜ only in the collection of debt claims from the latter's debtors both out of court and through civil court and enforcement proceedings. According to the applicant, he has fulfilled all the requirements to Elektrum Eesti OÜ by January 27, 2020, and Elektrum Eesti OÜ has not submitted to the applicant either at the time of publication of the data or later the requirement disclosed on the website taust.ee. Therefore, in other respects, Julianus Inkasso OÜ does not have the authority to present the claims of Elektrum Eesti OÜ (it is not related to debt claims presented to the debtor). In addition, according to the applicant, the registry has not explained how the expiration of the claim and its amount have been taken into account when considering damage to the legitimate interests of the data subject. The applicant is of the opinion that such an intensive violation of fundamental rights cannot be considered acceptable in a situation where the alleged violation opposing it is of little intensity (alleged claim in the amount of 30 euros). The applicant requested the data processor to remove the non-payment related to him from the register, but the non-payment register continued to publish the debt data. According to the applicant, there is no legal basis for publishing the payment default. On 22.02.2023, the inspectorate sent an inquiry to Krediidiregister OÜ, in which it explained the requirements for disclosure of personal data and asked additional questions (see appendix). Together with the inquiry of 22.02.2023, the inspection proposed to the data processor to stop publishing the applicant's payment default, if the data processor considers that the processing of the applicant's payment default is not in accordance with IKÜM and asked to inform the inspection and the applicant about this. On 03.03.2023, the data processor responded to the inquiry, but did not stop publishing the applicant's payment default in the payment default register. PERSONAL DATA PROCESSOR EXPLANATION: Krediidiregister OÜ (data processor) did not agree with the objections of the complainant. According to the data processor, it processes the applicant's payment default data in accordance with IKS § 10 and for the legitimate purposes

arising from IKS § 10 and IKÜ Article 6(1)(f). From the point of view of the data processor, he has sufficiently checked the correctness of the payment default data, properly informed the applicant about the publication of the payment default and the circumstances of paragraphs 1-2 of Art. 14 of the IKÜM, and sufficiently checked the excessive damage to the applicant. When assessing the excessive damage to the applicant, the data processor took into account the truthfulness of the payment default data, the number, size and age of the debts, the credit rating of the applicant, as well as the fact that the debt is unpaid, due to which the debtor violated the obligation intentionally, in addition to the fact that the debtor has been in communication with the creditor and there is no information for the applicant about causing damage. The data processor found that due to the circumstances taken as a basis for checking the applicant's excessive damages, it is justified to publish data on defaults until 2034 (see appendix). GROUNDS FOR THE DATA PROTECTION INSPECTION: Legal basis 1. Pursuant to § 10 (1) of the IKS, the disclosure of personal data related to the violation of a debt relationship to a third party and the processing of the transmitted data by a third party for the purpose of assessing the creditworthiness of the data subject or for other similar purposes is permitted, and only if the data processor has checked the correctness and legal validity of the transmitted data. basis for the transfer of personal data and has registered the data transfer. 2. Regardless of the above, in accordance with IKS § 10, paragraph 2, it is not permitted to process personal data related to the breach of a debt relationship for the purpose of assessing the creditworthiness of the data subject or for other similar purposes, if: − it is a special type of personal data; − it is data about the commission of an offense 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; − it would excessively harm the rights or freedoms of the data subject; − less than 30 days have passed since the breach of the contract; − more than five years have passed since the end of the breach of obligation 3. When disclosing data to the requesters, the disclosing party may also rely on Article 6(1)(f) of the IKÜM, i.e. legitimate interest, but essentially this requires at least equivalent measures to be taken as the processing of debt data based on Section 10 of the IKS. 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 person and therefore impermissible, to the extent that there are no additional criteria for the disclosure of personal data prescribed by § 10 of the IKS (e.g. regarding the time of publication). By their nature, the weighing of the rights of the affected person against their own business interests on the basis of legitimate interest, as well as the assessment of excessive damage to the rights of the person based on § 10 of the IKS, are similar. 4. The data processor has stated in its explanation that it processes and publishes the debtor's personal data on the basis of § 10

of the IKS with the aim of making them available to companies making credit decisions, and on the basis of the legitimate interest of Article 6 (1) of the IKÜM for the following purposes: - disclosure of information to contractual customers for the purpose of credit assessment (both payment failures and data from public sources); - providing a credit score when the customer orders a service in this regard; - publication of connections between a company and a person and between persons related to the company on the company's profile and publication of connections on the profile of a natural person; - the right to monitor customers of a selected circle. Excessive damage to the data subject 5. Based on the above, both IKS § 10 and IKÜ Article 6 (1) point f) when publishing a person's debt data in the default register and transmitting it to third parties, the damage to the debtor's rights and freedoms must be assessed. The degree of damage to a person's legitimate interests must be assessed, i.e. each time, based on the circumstances of a specific case, it must be considered whether the need to transfer personal data to third parties without the person's consent outweighs the infringement of the person's rights and interests1. This is also supported by the data processor's obligation to prove the legality of data processing arising from Article 21, paragraph 1 of the IKÜM in a situation where the debtor has submitted an objection to the data processor. After submitting an objection, it is the duty of the data processor to reassess the current state of damage to legitimate interests. 6. According to the data processor, in the case of the specific complainant, the accuracy of the payment default information, the number of debts, the amount of the debt, the age of the debt, the fact that the debt obligation is still unfulfilled, the fact that the debtor has been in communication with the creditor, etc. The data processor further notes that the expiration does not terminate the right of claim and does not mean that payment default should not be disclosed. There is also a reference to the evaluation model and the principles of its implementation. A mere list of the circumstances that are checked when publishing debt data and a reference to the assessment model do not provide clarity in this case, why the applicant has come to such a conclusion that his debt data will be disclosed further. 7. Therefore, in the opinion of the Data Protection Inspectorate, the data processor has not sufficiently explained and presented evidence on which, based on the specific characteristics of the breach of the debt relationship (including the creation of the debt relationship) and the general descriptive characteristics of the debtor, and based on which criteria for the necessity of disclosure of debt data, he has come to the conclusion that his justified the interest outweighs the rights of the individual. 8. Violation of the obligation cannot be assumed, and in order to publish debt data within the maximum period (10+5 years), the data processor must rely on specific facts that would confirm the intentional violation of the debt relationship. Willful violation must be proved by the creditor. The mere failure to fulfill the obligation (also intentionally)

is not a sufficient argument considering the goals of the statute of limitations.2 9. In the opinion of the Inspectorate, the following circumstances excessively harm the rights of the applicant, which cause the legitimate interest of the data processor not to outweigh the harm to the rights of the applicant. It is: 1) a small debt (less than 100 euros); 2) with a secondary claim and the main claim has been paid more than 3 years ago; 3) the debt claim arose more than 3 years ago; 4) with a single debt that does not show a consistent pattern of behavior on the part of the applicant; 5) the planned time of disclosure of debt data (maximum time of 5 years) is not in proportion to the circumstances characterizing the debt and the debtor's behavior. 10. The inspection is of the opinion that the purpose of disclosing the data of the applicant's payment default is not so weighty as to outweigh the long-term infringement of the applicant's rights and freedoms, which is accompanied by the disclosure of an expired debt claim (collateral claim) of less than 100 euros - over 10 years, the applicant's credibility in future into question regarding transactions. For all kinds of potential transaction partners, the inclusion of a person's data in the payment default register is a signal not to do transactions with the person or to do them under less favorable conditions compared to people without payment defaults. If the person actually does not have payment difficulties or constantly arising 1 Supreme Court 12.12.2011. a decision in administrative case No. 3-3-1-70-11, p. 21; Decision of the Supreme Court of 14.03.2008 in civil case No. 3-2-1-5-08, p-d 25-26. 2 Decision of the Civil Board of the Supreme Court No. 3-2-1-79-09 p. 11. debts, keeping him in the default register and treating him differently by transaction partners is unjustified and excessively damaging. 11. The data processor has failed to take into account the statute of limitations when considering excessive damage to the debtor's legitimate interests. The longer the period after which personal data is processed, including transmission, the more intensively it infringes on the basic rights of the data subject, in particular the privacy, and the more compelling must be the need to transmit data to third parties. The data processor has not pointed out any such exceptional circumstances that would confirm the necessity of transferring the applicant's data to third parties for such a long period of time for creditworthiness assessment or for other similar purposes. 12. Expiration also gives the obligated person a lasting objection to refuse performance. As a result of a correct assessment of the circumstances, the data processor should have been able to foresee that the debtor would object to the publication of his data, based on, among other things, the expiration date. By publishing an obviously expired debt claim in the default register and thereby trying to pressure the debtor to pay a secondary claim, in respect of which the creditor has failed to fulfill its obligation to collect the debt on time, the continued publication of the debt has become a kind of coercive mechanism. Taking into account the arguments presented above, in this context, pressuring the debtor to

fulfill an expired claim can be considered as behavior contrary to good manners on the part of the data processor.3 13. The failure to assess the circumstances characterizing the creditor in the context of the need to publish debt data is also unclear. The data processor has not assessed the creditor's actions before the payment default was disclosed, namely whether the creditor has used all possible legal remedies to collect the debt and whether the debtor was aware of the debt and received notifications from the creditor before the debt claim expired, etc. Disclosing a payment failure cannot be a coercive mechanism for debt payment, but is for the protection of both the person himself and future lenders in order to assess the solvency of the persons. The Supreme Court has considered the disclosure of expired debt to be unlawful if the creditor has not made other efforts to collect the debt himself.4 14. A mere abstract listing of the prerequisites for publishing default and the analysis of the general legitimate interest of the data processor does not provide an assessment in a specific case of how the need to publish debt data outweighs the rights of the individual and conflicts of interest. Thus, the mere mention that the debtor has violated the obligation intentionally (including without providing any physical evidence or explanation in this regard), failed to pay the debt, was in communication with the creditor, as well as the fact that the information about the payment default is true in the opinion of the data processor, does not constitute consideration. The prerequisites for the publication of payment default must be evaluated in essence, based on the circumstances of the specific case. Objection of the data subject 15. The Data Protection Inspectorate does not agree with the data processor's position that one of the prerequisites for the disclosure of payment default can be the debtor's failure to notify how the disclosure of debt data excessively damages his rights and freedoms. The fact that the debtor has not provided information about excessive damage, and the person disclosing the payment default does not have information about the damage caused by disclosing the payment default, does not release the data processor from the obligation to assess excessive damage to the legitimate interests of the data subject arising from IKS § 10 (2) point 3 and IKÜ Article 6 (1) point f). The obligation to consider arises on the non-payment register itself every time before it intends to publish or even collect (ICS § 10 (2)) a person's debt data. In this case, the data processor claims that the complainant has not himself forwarded information about excessive damage to the data processor, and this information does not come from the inquiry of the Data Protection Inspectorate either. 3 Decision of the civil collegium of the Tallinn District Court No. 2-22-3662 d 8.1. 4 2-22-3662 https://www.riigiteataja.ee/kohtulahendit/fail.html?fid=330825669 The evidence provided by the data processor and the applicant shows that the applicant himself has informed that the publication of the data excessively violates his fundamental rights. The applicant explained that the publication of an outdated and almost

non-existent claim significantly limits his opportunities to enter into agreements, because, according to the applicant, his credibility is put into serious doubt due to the publication of the said claim, which is why agreements with him are not concluded or abandoned, therefore it directly affects him §- of the Constitution dec 19, 26, 31 and 32 granted rights. The data processor has ignored the complainant's objection regarding possible damage to him and has not assessed the excessive damage. 16. Pursuant to Article 21(1) of the IKÜM, the data subject has the right, based on his specific situation, to submit objections to the processing of personal data concerning him at any time, and upon receipt of an objection, the controller does not have the right to further process the personal data, unless the controller proves that the processing is effective and lawful for a reason that outweighs the interests, rights and freedoms of the data subject. The data subject also has the right to demand the deletion of his personal data in accordance with IKÜM Article 17(1)(c) and (d). 17. The data subject has the right to contact any controller with a request for data deletion, i.e. both the creditor and the default register. This helps to facilitate the use of the rights granted by Article 17 of the IKÜM and to ensure the individual's right to effective data protection. In the opposite case, the data subject should contact each responsible processor separately, which would make the exercise of rights (deletion of personal data) particularly difficult, which in turn contradicts the idea of IKÜM.5 18. Since 2020 (last time 14.02.2023), the debtor has requested his deletion of data from the payment default register and objected to the publication of the payment default, referring to the expiration of the debt claim, the inaccuracies of the debt data and the circumstances of the debt claim (alleged ancillary claims) and stating that he was not aware of the claim that had arisen, and has demanded evidence of willful non-fulfilment of the obligation. 19. Despite receiving an objection, the data processor continued to publish the debtor's debt data, failing to submit supporting documents confirming the legality of the disclosure of default and the analysis of the debtor's legitimate interest, and failing to assess the extent of damage to the debtor's legitimate interests. In the opinion of the Data Protection Inspectorate, the data processor has thus violated the obligation to provide evidence pursuant to Article 21, paragraph 1 of the IKÜM. According to Article 21(1) of the IKÜM, verification is a prerequisite for further data processing and disclosure. Informing the data subject 20. The information provided in paragraphs 1 and 2 of Article 14 of the GDPR must be provided 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 intended to be disclosed to another recipient, then at the latest during the first publication of the data (Article 14 paragraph 3 of the GDPR). 21. Pursuant to IKÜ Article 14(5)(a) and (b), the data processor may fail to fulfill the duty of active notification to the debtor if the data subject already has this information or providing this information turns out to

be impossible or would require disproportionate efforts. Namely, the person disclosing a payment default can fail to inform the debtor about the publication of debt claims if the creditor has already informed the person and provided information about the payment default register and the data protection conditions of this register (IKÜM § 14). If the creditor himself does not 5 European Court of Justice decision C□129/21 Proximus NV v Gegevensbeschermingsautoriteit, p 72 et seq. to inform, the notification obligation is upon receipt of debt data in the default register.6 Even if the debt is assigned and a new creditor is created, the new creditor, as the 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. 22. Failure to notify on the grounds that it requires disproportionate efforts on the part of the data processor can be especially in a situation where the data processor does not have the contact details of a specific natural person. For example, if the data processor should collect additional personal data only in order to fulfill the obligation of active notification. 23. The debt notification submitted by the data processor shows that the creditor had the debtor's contact information. The debt notification also shows that the creditor has informed the debtor of the already published payment default. Therefore, notifying the debtor of the disclosure of debt information would not entail a disproportionate effort for the non-payment discloser. 24. According to the explanations of the non-payment discloser, he has verified the debtor's notification of non-payment on the basis of the documents made available by the person entering the non-payment information system, including notifications sent by the creditor through the information system. The data processor submitted a notification in which a specific debtor is informed of the publication of a payment default. The data processor further explained that it informs the debtors about the circumstances of paragraphs 1-2 of Article 14 of the IKÜM through the data processing conditions on the website taust.ee. 25. In the opinion of the Data Protection Inspectorate, the data processor has not fulfilled the notification obligation arising from paragraphs 1 and 2 of Article 14 of the IKÜM. In the submitted debt notice, the creditor informs the debtor of the already published default in payment, and the debt notice does not contain information about the circumstances of paragraphs 1-2 of Article 14 of the IKÜM. The data processor has not provided evidence that the original creditor, default entry or keeper of the default register has informed the debtor about the transfer of debt data to the default register before publishing them in the register. From the debt notice and other evidence presented, it is not clear that the debtor was also informed about the circumstances of paragraphs 1-2 of Article 14 of the IKÜM. Publishing the said information on your website is not enough to fulfill the notification obligation, the corresponding information must be made available to the debtor together with the notification of the publication of default. The notification must be made to the

debtor before the payment default is published. Otherwise, the data processing would not be predictable or transparent for the person (IKÜM art. 12). Summary Taking into account the above, the inspection is of the opinion that in this case the data processor has not fulfilled the requirements arising from IKS § 10 (1) and (2) point 3 and IKÜ Article 6 (1) point f, Article 21 for publishing the debtor's payment default in the payment default register kept by him on the website taust.ee. In addition, the data processor has erred against the basic principles set forth in Article 5(1)(a) of IKÜM - the processing of the applicant's personal data has not been legal, fair or transparent. The data processor has failed to fulfill the obligation to notify the data subject arising from paragraphs 1-2 of Article 14 of the IKÜM. Due to the above, the publication of the applicant's payment default must be stopped and the debt data must be deleted from the payment default register. (digitally signed) Jekaterina Aader lawyer on the authority of the director general 6 Decision of the civil panel of the Supreme Court of 13.03.2019 in civil case No. 2-17-1026, p. 30.