

Registration code 70004235 FOR INTERNAL USE OF THE INSTITUTION Information holder: Data Protection Inspectorate

Note made: 19.07.2022 Access restriction applies until the decision comes into force, but for personal data until: 19.07.2097

Basis: AvTS § 35 (1) p. 12, AvTS § 35 (1) p. 2 PRESCRIPTION-WARNING in the case of personal data protection No.

2.1.-1/22/1471 Prescription author Data Protection Inspectorate lawyer Terje Enula Time and place of the prescription 19.07

.2022 in Tallinn Addressee of the order - personal data processor Räpina Ühisgymnaasium address: Kooli 5, Räpina 64504,

Põlva county e-mail address: kool@rapina.ee RESOLUTION: § 751 subsection 4 of the Government of the Republic Act, § 56

subsection 1 of the Personal Data Protection Act (IKS) , subsection 2 point 8, § 58 subsection 1 and Article 58 subsection 1

point d and subsection 2 point d of the General Regulation on Personal Data Protection (IKÜM) and taking into account Article

6 of the General Regulation on Personal Data Protection (IKÜM), the Data Protection Inspectorate ion Räpina

Ühisgymnaasium to fulfill the mandatory prescription: 1. Blur the following list in points 1.1.-1.11. the images of the XXX child in

the pictures opened from the given links and published on the Facebook page of Räpina Ühisgymnaasium in such a way that

the child is no longer recognizable or to remove these pictures from the Facebook page: 1.1. XXX 1.2. XXX 1.3. XXX 1.4. XXX

1.5. XXX 1.6. XXX 1.7. XXX 1.8. XXX 1.9. XXX 1.10. XXX 1.11. XXX. 2. Blur the image of the XXX child in the images stored

in the Google Drive environment, which can be accessed through the link on the Räpina Joint High School website (links in

points 2.1 and 2.2), so that the child is no longer recognizable or remove the images from the Google Drive environment: 2.1.

XXX 2.2. XXX We set the deadline for the execution of the injunction to be 05.08.2022. Report compliance with the order to 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 Administrative Court Procedure Code to the administrative court (in this case, the appeal

in the same matter cannot be reviewed). Challenging a precept does not stop the obligation to fulfill it or the implementation of

measures necessary for fulfillment. WARNING: If the processor of personal data fails to comply with the order of the Data

Protection Inspectorate, the Data Protection Inspectorate may turn to the higher-ranking authority, person or whole party of the

processor of personal data 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. FACTUAL CIRCUMSTANCES: 1. On 09.06.2022, the Data Protection Inspectorate XXX received a request for intervention, according to which pictures of her child are displayed on Rāpina Ühisgymnaasium's website (from which pictures are linked to Google Drive) and on the school's Facebook page without the consent of the child's legal representative. 2. On 22.06.2022, the Data Protection Inspectorate made an inquiry to the data processor, in which it wanted to know for what reasons and purpose the pictures of the class excursion were disclosed to the public and who has access to disclose data on the school's website and Facebook page. 3. On 27.06.2022, the data processor submitted its response. 4. On 04.07.2022, the Data Protection Inspectorate turned to XXX, asking for information about which of the children in the published pictures is the applicant's child, so that it would be possible to assess whether and to what extent the school has violated the rules of personal data processing by disclosing the pictures, including verifying the statements made by the school. 5. On 06.07.2022, XXX provided the Data Protection Inspectorate with links to pictures in which her child is clearly recognizable. DATA PROCESSOR'S JUSTIFICATIONS In the reply letter No. 1.1-7/2022/200-2 sent to Rāpina Ühisgymnaasium (Rāpina ÜG) on 27.06.2022, the data processor notes the following: To reflect school life, class teachers and subject teachers transmit information about field trips and events. Photos will also be added to the information if you choose. In order to publish data on the school website and the school Facebook page, the authors of the articles forward the material to the school secretary, who has consent forms for the processing of personal data from the parents of the entire school's students. The secretary checks the data and forwards the information for posting to the IT support for posting on the school website and school Facebook page. Child XXX is shown in two photos from the side, not in direct profile. The secretary assessed the child with the side shown in the pictures as unrecognizable. The list of children who participated in the class excursion is attached to the answer. Only applicant XXX has not provided consent. GROUNDS FOR THE DATA PROTECTION INSPECTION: According to article 4 point 1 of the IKYM, personal data is any information about an identified or identifiable natural person. An identifiable natural person is a person who can be directly or indirectly identified, primarily on the basis of an identification feature such as name, personal identification number, location information, but also on the basis of one or more physical, physiological, etc. features of this natural person, i.e. personal data is such information that allows the identification of the person. Therefore, personal data also includes pictures and videos taken of a person from which the person can be uniquely identified. 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. Therefore, personal data is processed when the images are disclosed. The requirements for personal data processing are primarily established by IKÜM, Article 5 of which stipulates the principles of personal data processing that every data processor must follow when processing personal data. According to these principles, the processing of personal data must, among other things, always be lawful, purposeful and minimal. Based on the principle of appropriateness and minimality, the data may be processed in the minimum possible amount, which is necessary for the purpose set, and the data storage time must also be as minimal as possible. The processing of personal data is legal only if there is a legal basis specified in Article 6, paragraph 1 of the General Data Protection Regulation. The publication of pictures and videos on which a person is clearly recognizable can generally be based on the consent of the person, and in the case of minors, the consent of their guardian. If it is a public event (e.g. a school ceremony or other event open to everyone), the legal basis is § 11 of the Personal Data Protection Act. Therefore, the disclosure of pictures taken at school events, which are not public events in which everyone can freely participate, can take place only with the consent of the child's legal representative. According to article 17 paragraph 1 of the IKÜM, the person whose data is processed has the right to request the deletion of his data. In the case of a minor, his legal representative has the right to file a claim. Based on the intervention request sent by XXX on 05.11.2021, it appears from the materials collected during the supervision procedure initiated by the Data Protection Inspectorate that on 28.03.2022 XXX has applied to Rápina ÜG with a demand, in which he wants to remove his minor child's personal data, i.e. pictures and video material from the school's website, the school's Facebook page, the school's YouTube channel and any other sites used by the school to publish personal data. Rápina ÜG responded to XXX's request on 01.04.2022. In its reply letter No. 2.1-2/2022/88-2, the school has stated, among other things, that the school's IT service deleted the name and photos of the XXX child from the school's website, the Facebook Rápina ÜG social media page, and the video posted by Rápina ÜG from the YouTube web portal, which contained her child. made video clip. In addition, the school states in its response letter that the articles, photos and videos containing the data of the XXX child and which were posted or uploaded by Rápina ÜG since 01.09.2018 have been deleted. Today it has become clear that Rápina ÜG has not deleted all the pictures of XXX children from the school's website or from the school's Facebook page. The school has responded to the inquiry sent by the Data Protection Inspectorate on 22.06.2022, that since the pictures published on 07.06.2022 show the XXX child from the side, not in direct profile, the secretary assessed the child with the side shown in the pictures as unrecognizable. The Data Protection Inspectorate cannot agree with the statement that the child depicted with his side in the picture is

unidentifiable. In the pictures sent to the Data Protection Inspectorate on 27.06.2022, the XXX child is clearly recognizable and identifiable. The Data Protection Inspectorate is of the opinion that children's interests must be prioritized in all activities related to children, therefore the data processor must pay more attention to the duty of care when publishing images of children and consider whether publishing a clearly recognizable image of a child is in the best interests of the child. Both the Google Drive environment account, which can be linked from the Rāpina ÛG website, as well as the school's Facebook account, are public accounts that everyone can access without logging in, and thus it is extremely easy to access the images published there and to download, share, etc. The school's desire to reflect school life and daily events is understandable. At the same time, despite the fact that it is allowed to take pictures at school and in certain cases to publish pictures without consent (public events), schools must still ensure that no one, including the school itself, abuses the child's personal data, i.e. the child's image. When publishing the data of minors when reporting on school life, the school must always follow the principles of minimality, purposefulness and appropriateness. This means that the school must assess whether the disclosure is necessary and whether the purpose is consistent with the scope of the disclosure. The inspectorate's general recommendation is that when depicting school life, such pictures of children should be chosen where the persons cannot be identified (e.g. pictures taken from behind). However, if the school wishes to publish pictures in which children are recognizable, then before publishing such pictures, it must always be checked whether there is a legal basis for publication, i.e. the consent of the legal representative of the minor, or whether it is a public event, the publication of which the pictures were taken is done on the basis of § 11 of the IKS. In this case, the school has published pictures in which the person is clearly recognizable to cover the day's events, but the school does not have the relevant consent to publish these pictures. The school has partially failed to comply with the request submitted by XXX on 05.11.2021 to stop disclosing pictures of his minor child and has disclosed new pictures of the child on 07.06.2022 in which the child is clearly recognizable, but without the consent of the child's legal representative. Considering the above, the Data Protection Inspectorate considers that the publication of images without the consent of the child's legal representative on the Rāpina ÛG website and Facebook page is not in accordance with the principles of personal data processing, and that a mandatory injunction to remove these images is necessary in this case. (digitally signed) Terje Enula lawyer under the authority of the director general