

in the case of personal data protection no. 2.1.-1/21/2770 Prescription author Data Protection Inspectorate lawyer Kadri Levand Time and place of the prescription 01.02.2022 in Tallinn Injunction addressee - personal data processor Rakvere Vocational School address: Piiri 8, Rakvere, 44316 Lääne-Viru county e-mail address: info@rak.ee RESOLUTION § 56 subsection 1, subsection 2 clause 8 of the Personal Data Protection Act (IKS), Section 58(1) and Article 58(1)(d) and Paragraph 2(f) of the General Personal Data Protection Regulation (GPR), as well as in accordance with Article 6 of the General Personal Data Protection Regulation (GPR), the Data Protection Inspectorate issues a mandatory order for Rakvere Vocational School to comply with: 1.1. Stop using the Impero Education Pro (Impero EdProtect, Impero EdTeach and Impero EdAdmin) programs on school computers or; 1.2. To limit the use of programs until the legality of the use of one or more programs has been proven to the inspection and the inspection has given a corresponding confirmation or; 1.3. Use the programs only with the prior voluntary consent of each computer user. For this purpose, it is necessary to ensure that the person can choose whether to use the school's computer in such a way that the programs process his data or not. I set the deadline for the execution of the order to be 21.02.2022. Please notify the Data Protection Inspectorate at info@aki.ee of the fulfillment of the order by this deadline at the latest. Please indicate in your answer which point (1.1-1.3) you choose to make sure that the prescription is fulfilled. 1.3. part of the point requires a more detailed explanation of how the school will in the future ensure that the requirement of voluntary consent is met. 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. FACTUAL CIRCUMSTANCES On 26.03.2021, the inspectorate received a memo about the activities of the data processor. 2 (5) On 24.09.2021, the inspection made an inquiry of the data processor. On 05.10.2021, the data processor submitted its answers.

JUSTIFICATIONS OF THE DATA PROCESSOR 1. Rakvere Vocational School's use of the services provided by Impero is carried out solely and exclusively for the performance of public tasks - the provision of educational services - on the basis of the Act on Vocational Education Institutions and the legislation issued on the basis thereof. The tasks and responsibilities of

the school in the organization of vocational education are listed in the points of § 3. In addition to the points related to the provision of educational services listed in § 3, we can point out that according to § 3 (2) point 7, it is the school's duty to ensure the mental and physical safety and health protection of learners during their stay at the school. Also, according to point 10, maintenance of the school's infrastructure. In today's information society, dealing with network and information security is an elementary activity of the IT infrastructure.

2. The same serial applicant has previously addressed both the Office of the Chancellor of Justice and you. We are forwarding the answers we previously gave to the Office of the Chancellor of Justice.

Why does the school use the software, or what problem do you want to solve? Educational goal - increasing efficiency, simplifying class work, it is possible to disable other websites when taking tests, doing individual work with students (chat function), conducting tests, organizing questions and answers (quick and easy - e.g. lesson feedback), sending and sharing assignments and documents, assignments compilation, group work function, keeping a distance with the student during the corona - it is possible to keep a distance, i.e. it is possible to give feedback on the students' learning activities on the computer in real time. Administration - remote computer management, maintenance, automation, user support and remote assistance, hardware monitoring (on/off, cpu, ram, network traffic). Software monitoring - log of programs used (e.g. Chrome, Word, PowerPoint), user log - who used the computer and when (allows to identify user problems and whether the user himself has not caused problems). Blocks harmful sites and programs. Does and how does the software fulfill its purpose, i.e. does the software solve the problem? Examples of usefulness - Prevent self-harm and injury of students - example: the keyword suicide was logged, attention was paid accordingly and the student was directed to school support specialists. Network and information security - the student was looking for information about a DDOS attack and how to carry it out at school. This is a malicious paralyzing and overloading of the computer and network system, which would affect the entire IT infrastructure of the school. Use for learning purposes - the teacher can help the student by seeing the live image. E.g.: checking the drawing works of carpentry students in preparation for the professional exam and improving the formality of these works. Use for educational purposes - the teacher can share his screen directly with students, or lock students' screens to prevent extracurricular activities (surfing the net). Impero edadmin - remote support. In case of concerns and problems with computers, e.g. login does not work, problem with the ID card, etc., the administrator can solve the problems remotely. Registered words - to improve learning activities, a log will remain if racist, offensive, obscene, terrorist, weapons, etc. words are used. This is an aid to the group instructor or class leader, which shows the student's extracurricular activity (if it meets the 3 (5) previously

mentioned criteria, i.e. a log/screenshot is not made of all activities) Network abuse - someone has done some mischief from the school's IP address. It is possible to find who was using the school's public computers at that time. Physical damage to computers - it is possible to see who has logged into the computer. Does the use of software violate the student's privacy and privacy? The computers used are public computers in the computer classes of the Rakvere Vocational School. The rules for the computer classes are as follows: General provisions The public computers and computer classes of the Rakvere Vocational School (hereinafter the school) are intended for teaching. Their content, user IDs, passwords, etc. are not logged or saved. In all kinds of services like Gmail, Facebook, etc., the messages are encrypted and cannot be opened and tracked. – Impero software does not allow such things. 3. All users of Rakvere Vocational School's public computers have confirmed that they have read and accepted the rules at the same time. Tracking can be interpreted in many ways. There is no real-time monitoring of students, i.e. meaningful snooping, spying or other similar activities. However, it is possible for the teacher to help and observe students in real-time learning processes, which really includes a real-time view of learning activities on the computer. At this point, it is important to emphasize that the computers used in Rakvere Vocational School are public computers owned by the school and intended for educational activities. If a person uses the computer for other activities, he has violated the rules for using Rakvere Vocational School's public computers, computer classes, and computer network (Section Users are PROHIBITED, point 32 states that it is forbidden to "engage in extracurricular activities during lessons"). This software can only be used during lessons in the computer class. Access is limited only to the class currently in active use by the teacher. All users of Rakvere Vocational School's computer classes and public computers have confirmed when logging in to the computer for the first time that they have familiarized themselves with the rules for using Rakvere Vocational School's public computers, computer classes and the computer network. Clause 14 of the section "Administrators' rights and responsibilities" states "Monitor user activity in the class (including what is happening on the screen, the address of the website visited, etc.). "Accepting a given time confirms the user's consent, for example, by taking over the computer screen or assisting. It is also possible to disagree at the same time. In case of non-agreement, the user can use his own personal device for teaching, in which the given software is not applied. 4. How long is the data received in the Impero program stored and who has access to the data? The data storage information is stipulated in the procedure for the use of Rakvere Vocational School's public computers, computer classrooms and computer network: "Data is stored for 60 calendar days on the storage medium of the management system. " Access is categorized by different levels. Corresponding data is processed by system

administrators and the education department if necessary. A normal software user (teacher) does not have access to logged data.

### FOUNDATIONS OF THE DATA PROTECTION INSPECTION

Pursuant 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 based on such identification as name, personal identification number, location information; but also based on one or more physical, physiological, etc. characteristics of this natural person. Therefore, personal data is information that enables the identification of a person.

4 (5) 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, when using the programs, personal data is processed in the sense of IKÜM. The requirements for personal data processing are primarily established by the IKÜM, Article 5 of which stipulates the principles of personal data processing, including the principle of legality. The processing of personal data is legal only if there is a legal basis specified in Article 6 paragraph 1. Also, one of the main principles is that the data is processed in the minimum amount possible, which is necessary for the set purpose. Also, the data storage time must be as minimal as possible. According to Article 6 of the IKÜM, the processing of personal data is legal if it meets one of the conditions stated in points a to f of paragraph 1 or there must be some other legal basis arising from the law that regulates the processing of personal data. In its response, the data processor has indicated that the legal basis for processing the personal data of computer users derives from the Vocational Education Institution Act. The referred § 3 subsection 1 point 7 brings the school's obligation to ensure the mental and physical safety and health protection of learners during their stay at school, but does not actually regulate the processing of personal data. We believe that such processing of personal data could only take place on some other more precise legal basis arising from the law, IKÜ Article 6(1)(f) or on the basis of legitimate interest (if an assessment of legitimate interest has been carried out in advance based on the instruction on legitimate interest), or on the basis of point a, i.e. consent. In doing so, we clarify that the state institution cannot use the basis of legitimate interest in its core activities (e.g. providing educational services), but only in individual cases in its support activities. In the case of consent, it is important to emphasize that it can only take place with clear free will, which means that not giving consent cannot lead to unequal treatment such as not being able to use a school computer. Therefore, it could only happen if each computer user can choose whether to allow the data processor to use the corresponding program or not. In this case, it is left to the individual to choose to opt out and use their own device if they wish. At the same time, the

school has clearly stated that the computers are only intended for use in teaching, which means that the use of computers is an inevitable part of teaching and is not an alternative to using something else. In addition, in the context of the school, it must be taken into account that the school is in a stronger position in the relationship between the school and the student, and such an option to allow the use of the corresponding tracking program on the computer must be an even more comprehensible voluntary option. We must also take into account the fact that minors also study at the school, whose rights the data processor must protect all the more, since the persons themselves cannot yet exercise decision-making competence and their consent can be given by their legal representative. Data processing on the basis of legitimate interest requires prior consideration of interests, including more detailed explanations of why and how less harmful options have not fulfilled the set goals so far, together with real-life examples. We believe that it is quite likely that the school can use less harmful ways to achieve some of the same goals (e.g. ensuring network and information security) (restricting access to certain pages, allowing certain downloads only with administrator permission, etc.). It should also be explained how the goal of increasing the effectiveness of teaching cannot be achieved if data is collected anonymously. If necessary, the school can carry out the corresponding assessment and submit it to the inspection for review, but the use of the programs should be suspended until then. In this case, it must be taken into account that the purposes of using a certain program must be clearly and separately stated in Impero EdTeach, Impero EdTeach and Impero EdAdmin, since in this case only the composition of these data is referred to. 5

(5) For example, monitoring the search terms used on computers and making conclusions and follow-up actions based on this is by its nature a very large invasion of privacy and would require a very thorough analysis in advance, whether it is at all justified and legitimate. The possibility of taking over the computer screen could only happen if the person gives their permission for it each time. In the current case, it can happen at any moment, which does not give the user a chance to decide what they make visible. In this case, the reasons/purposes of the processing are given: 1) to increase the efficiency of teaching and to ensure network and information security 2) to provide educational services 3) to protect the vital interests of a natural person 4) to ensure network and information security We hereby find that these data, which are essential and unavoidable for the provision of educational services, may indeed be data processed on the basis of the Vocational Education Institutions Act, but this requires a thorough analysis of whether and which data are necessary for this. At the same time, whether the processing of this data with the respective programs is sufficiently secure and the entire data processing has been sufficiently clearly explained to the individuals. A separate assessment should be made as to whether the 60 calendar day retention

period is proportionate and necessary to the set goals. However, the objective of protecting the vital interests of natural persons is, by its very nature, intended to directly protect life and health in situations (such as calling an ambulance), which cannot be applied to computer programs. In accordance with Article 13 of the IKÜM, the personal data processing notice does not explain the transfer of personal data to a foreign country (in this case to a third country), i.e. it needs a more detailed analysis before continuing to use it. In addition, the data processor should review the points given in paragraph 2 of Article 13 of the IKÜM, which are not fully covered in the notification. Summary If there is no legal basis for the processing of personal data arising from legislation, the processing of personal data is prohibited. As long as the data processor has not proven to the inspectorate that he has a legal basis for such personal data processing and the inspectorate has not accepted such a basis, the processing of personal data must be limited (stop the processing until then) on the basis of Article 18(1)(d) of the IKÜM, until it is checked whether the controller's legitimate reasons outweigh the data subject's rights. If the processing of personal data does not comply with the conditions set forth in the law or the controller cannot prove it, the processing of personal data is prohibited. Making an injunction to restrict the use of programs is necessary in this case, so that before continuing to use them or partially use them, the data processor conducts a thorough assessment and also gives the affected persons a more detailed overview of the processing of their personal data. At the same time, the evaluation must review in which part he can reduce data processing by using the corresponding settings, i.e. what is unavoidable when using the programs, and in what part the administrator can choose himself. The data processor must always choose measures that would result in the least possible intrusion into the privacy of individuals. This means that to fulfill the purpose, personal data must be processed minimally (including the choice of which measure is least harmful to individuals) and deleted immediately when the purpose is fulfilled. /signed digitally/ Kadri Levand lawyer under the authority of the director general