FOR PRIVACY PROTECTION AND STATE TRANSPARENCY Tatari tn 39 / 10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registration code 70004235 PRELIMINARY WARNING in personal data protection case no. 2.1.-1/23/144-3 Injunction maker Data Protection Inspectorate lawyer Alissa Hmelnitskaja Time and place of injunction 27.03.2023 in Tallinn Addressee of injunction - personal data processor MENALTE OÜ e-mail address: marko@menalte.ee person in charge of personal data processor Board member RESOLUTION : On the basis of § 56 subsection 1, subsection 2 point 8, § 58 subsection 1, § 10 of the Personal Data Protection Act (IPS) and Article 58 subsection 1 point d and subsection 2 points f and g of the General Regulation on the Protection of Personal Data (IKÜM), also taking into account Article 58 of the Personal Data Protection Act 6, the Data Protection Inspectorate makes a mandatory order to comply with: Stop disclosing personal data on the website XXX YY. I set 10.04.2023 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. EXECUTION MONEY WARNING: If the injunction has not been complied with by the specified deadline, the Data Protection Inspectorate will impose an imposition of 2,000 euros on 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: The Data Protection Inspectorate (AKI) has a complaint filed by YY (complainant), according to which MENALTE OÜ1 (data processor or responsible processor) has disclosed the personal data of the complainant on the XXX website: the complainant's full name, date of birth and photo. In addition, information that the applicant is in debt and screenshots of conversations held with him were made public on this website. AKI started a monitoring

procedure on the basis of IKS § 56 (3) point 8, within the framework of which it proposed to the data processor on 17.02.2023 a proposal for better compliance with personal data protection requirements No. 2.1.-1/23/144-2, the content of which was as follows: "stop the disclosure of personal data of the applicant on the website XXX and send a confirmation of this to the inspectorate no later than 03.03.2023." In the proposal, the AKI drew attention to the possibility of issuing an injunction and imposing a fine, as well as the right to submit one's opinion and objections on the matter in accordance with § 40 (1) of the Administrative Procedure Act before issuing an administrative act. As of 27.03.2023, the controller has not fulfilled AKI's proposal (the website is active) or responded to it. GROUNDS OF THE DATA PROTECTION INSPECTION: Personal data is any information about an identified or identifiable natural person (Article 4(1) of the GDPR), regardless of the form or format of this data. A person's first and last name and other information that enables a person to be identified are personal data. Disclosure of personal data on the Internet is processing of personal data (Article 4(2) of the General Data Protection Regulation). As a result, XXX personal data is processed on the website. Article 4 point 7 of IKÜM states that the responsible processor is a natural or legal person, public sector institution, office or other body, which alone or together with others determines the purposes and means of personal data processing. AKI has verified that the owner of website XXX is MENALTE OÜ2, therefore MENALTE OÜ is in control of what is disclosed on the website. Therefore, MENALTE OÜ is also the controller of personal data in the sense of IKÜM. The processing of personal data, including disclosure, must have a legal basis arising from legislation. 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, and in certain cases, the disclosure of some people's data may be justified for journalistic purposes (ICS § 4) and based on IKS § 10. The controller is obliged to prove that the processing of personal data is legal (Article 5(2) of the GDPR). 1. IKÜM article 6 paragraph 1 p a 1 According to the business register, Marko Kraft is a member of the board of MENALTE OÜ. On the computer network: https://ariregister.rik.ee/est/company/11136234/MENALTE-O%C3%9C 2 XXX IKÜM article 6 paragraph 1 point a states that the processing of personal data is legal only if the data subject has given consent to the processing your 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, AKI does not identify whether consent has been taken for the disclosure of data on the part of the complainant and assumes that the person has withdrawn his consent by filing a complaint and wishes to stop the disclosure of his personal data. 2. In order to process personal data on the basis of article 6 paragraph 1 point f of Article 6 paragraph 1 point f of IKÜM, or 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 on the basis of data deletion) 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, and he himself has not submitted a legitimate interest analysis to the inspection to check the basis. 3. 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. But disclosing the personal data of a single, specific person does not contribute to the social debate. Also, the journalistic goal is not fulfilled, but the person uses the disclosure of the data in his personal interest to collect the debt and keep the so-called shame mail. However, the legislator has provided other legal remedies for debt recovery. Since one of the criteria for the application of § 4 of the IKS is unfulfilled, AKI does not analyze the remaining criteria, since personal data cannot be disclosed on the basis of § 4 of the IKS due to one unfulfilled criterion alone. 4. IKS § 10 In addition to the legal bases in the previously mentioned IKÜ Article 6 and IKS § 4, it is possible to rely on IKS § 10 for the disclosure of debtors' data, which stipulates that the disclosure of personal data related to the violation of the debt relationship to a third party and the processing of the transmitted data by a third party is permitted for the purpose of assessing the creditworthiness of the data subject or for other similar purposes, and only if all three conditions are met: 1) the data processor has verified that there is a legal basis for transferring the data; 2) the data processor has checked the correctness of the data; 3) the data transmission is registered (keeping information about who and what was transmitted). In this case,

according to AKI, the assumption that the data controller would have checked the legal basis for transferring personal data has not been fulfilled. However, the data controller has made the debt data publicly visible to the unlimited public, which means that the data controller cannot control who sees the data, and thus cannot control whether each recipient of the data (new potential creditors) has a legitimate interest. In addition, according to IKS § 10 (2) point 3, the processing of a person's debt data is not permitted if it would excessively harm the rights and freedoms of the data subject. Disclosure of data on the Internet increases people's vulnerability, as this environment is sometimes uncontrollable and it is not possible to identify who has received information related to personal data and what they will do with this information, therefore AKI is of the opinion that in the current case there is excessive damage to the rights of the data subject. Such disclosure can lead to a situation where the applicant cannot get a job, becomes marginalized in society, etc. This in turn leads to the fact that the creditor thereby reduces the possibility that the said debt will ever be paid at all. Taking into account the above, in the present case, the requirements for the disclosure of personal data are not met on the basis of § 10 of the IKS. AKI notes that in the case of payment defaults, it must be borne in mind that in the event of indebtedness, the creditor must primarily use the legal remedies listed in § 101 of the Law of Obligations Act, one of which is the demand for performance of the obligation, in order to achieve payment of the debt. It is not permissible to publish personal data on payment defaults only as a pressure measure to achieve debt payment. We understand that being in debt of any kind is completely unacceptable and damages the rights of the creditor. There may be a public interest in covering the topic (e.g. when it is worth borrowing at all, which contract to sign first, how to secure and collect the debt later, etc.), and the current injunction does not deprive the publicist of the opportunity to disclose his personal experience. However, in this case, what has been disclosed is not structured in any way to bring a personal story of experience to the readers, but has only been done for the purpose of so-called revenge and debt collection. Taking into account the above, AKI is of the opinion that in this case none of the legal bases specified in Article 6, subsection 1 of the IKÜM exist for the disclosure of the applicant's personal data, and the data processor has not proved to AKI that the legal basis for data disclosure derives from § 10 of the IKS. The personal data has been processed without legal baseless, therefore the data controller must stop disclosing the applicant's personal data on the website XXX. According to IKS § 58 paragraph 1 and IKÜM art 58 paragraph 2 points f and g, AKI has the right to issue an order to limit the processing of personal data. Taking into account that in a specific case, the personal data of a natural person is disclosed illegally and that the data controller has not complied with AKI's proposal of 17.02.2023, AKI considers that issuing a mandatory injunction in this case is necessary in

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