

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.-1/21/4135

Injunction maker Data Protection Inspectorate lawyer Signe Kerge Time and place of injunction 28.10.2022, Tallinn Addressee of injunction - personal data processor KU board Tallinn, Madala tn 20 apartment association, Harju county, Tallinn, North Tallinn district, Madala street 20 Registration code 80153216 raamat@abchaldus.ee; madala20ku@gmail.com Responsible person of the personal data processor Board members of the apartment association RESOLUTION: Section 56 subsection 1, subsection 2 point 8 of the Personal Data Protection Act (IKS), § 58 subsection 1, article 5 subsection 1 p a and subsection 2 of the General Regulation on Personal Data Protection (IKÜM) and on the basis of article 58 paragraph 1 point a and taking into account point e of the same paragraph, the inspection makes a mandatory prescription for compliance: 1. Bring the use of cameras in the territory of Madala tn 20 apartment association in line with the requirements of IKÜM: a. install security camera use notification signs on the property in an area outside the camera's field of view, which includes the legal basis for data processing, the data processor's contacts and the purpose of the camera's use; b. prepare the data protection conditions corresponding to Article 13 of the IKÜM and make them available to the members of the cooperative; c. direct the apartment association's camera in such a way that the outside area of the apartment building's property or the door of any apartment is not in its line of sight. 2. Stop the processing of personal data using the camera until the inspection's order is fulfilled. The inspection sets the deadline for compliance with the injunction on 24.11.2022. 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. WARNING: If the injunction is not fulfilled by the specified deadline, the Data Protection Inspectorate will impose a fine of 2,000 euros on the addressee 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 non-judicial processor of misdemeanor proceedings is the Data Protection Inspectorate.

FACTUAL CIRCUMSTANCES: On 06.07.2022, the Data Protection Inspectorate received X's complaint regarding the use of a camera in the Madala tn 20 apartment association. The complainant writes that the notification about the installation of the surveillance camera has not been made legally, including the obligation to notify with a correct notification label has not been fulfilled, and there are no data protection conditions. The camera also films an area that no longer belongs to the territory of the housing association. The apartment association has forwarded a picture of the camera's notification label to the Data Protection Inspectorate, as well as an excerpt of the camera image. There is also a decision of the apartment association meeting on the introduction of cameras, and it is stated in general terms how long the recordings will be kept and who has access to the videos and under what conditions. Based on the above, the inspection started the supervision procedure on the basis of § 56 (3) point 8 of the Personal Data Protection Act. The Data Protection Inspectorate has sent two inquiries and a proposal to the apartment association, but the requirements have not been fully met. For the time being, the situation is still such that the cameras are used without data protection conditions, they monitor an area that does not belong to the territory of the housing association, and there are still no correct information signs. The proposal to which the inspection was waiting for an answer, but did not receive, and therefore now demands with an injunction, is the following: 1. The apartment cooperative must create a sign informing about the surveillance camera in accordance with IKÜ (with the legal basis, purpose and contacts of the KU) and install it in a visible place in the KU area, communicating it to the inspection confirmation with a picture to info@aki.ee. The video surveillance label can be generated here <https://melon.rik.ee/videoalvesildi-genererija>. 2. Prepare data test conditions/procedure for using cameras, a sample of which we have included with this letter. We ask you to change it according to your rules and also to send it to the inspection and present it to the members of the apartment association for perusal (for example, at a meeting).

EXPLANATION OF THE PERSONAL DATA PROCESSOR: The inspection asked the board of the Madala tn 20 apartment association to respond to the inquiries and the proposal, to which no full response has been received. Also, the members of the apartment association did not want to communicate with the Data Protection Inspectorate by phone when we wanted to explain what and for what reason the association needs to do. With this, the inspectorate has fulfilled its obligation in § 40 (1) of the Administrative Procedure Act to give the party to the procedure the

opportunity to present their opinion and objections on the matter before issuing the administrative act. GROUNDS FOR THE

DATA PROTECTION INSPECTION: If a person is in the field of view of the video camera, personal data is being processed. Any operation performed with personal data, including monitoring and recording of a person with cameras, is personal data processing (Article 4 point 2 of the General Regulation on the Protection of Personal Data). As a rule, personal data may be processed with the use of cameras on the basis of the law (for example, on the basis of legitimate interest or if the obligation to use cameras comes from a special law, see Article 6 points c, f of the general regulation). According to Article 5 of the General Regulation on Personal Data Protection, data processing must be lawful. The processing of personal data is legal only if there is one of the legal bases listed in Article 6 of the IKÜM. The only possible legal basis for the use of a surveillance camera monitoring a public area is IKÜM art. 6 paragraph 1 p f (legitimate interest). However, this assumes that the data processor has carried out and documented the assessment of legitimate interests. The result of this must give an answer to the question why it is absolutely necessary to monitor a public area with a surveillance camera and why it does not excessively harm people moving in a public area. According to article 5 paragraph 2 of the GDPR, the data processor must prove the legality of data processing. This means that the Madala tn 20 apartment association, represented by the board, must prove to the inspectorate that they use surveillance cameras in accordance with IKÜM. In order to find this out, the inspection has started a monitoring procedure, but the inquiry has not been fully answered, and the inspection's proposal has also not been implemented. In accordance with § 58 (1) of the Personal Data Protection Act and Article 58 (1) point a of the General Regulation on Personal Data Protection and taking into account point (e) of the same paragraph, the inspectorate has the right to demand explanations and other information, including the submission of documents necessary for conducting the supervision procedure. On the basis of Article 58(2) of the Personal Data Protection Act, issue an injunction to the personal data processor if the personal data processor has violated the requirements for personal data processing. In case of failure to comply with the injunction, a penalty may be demanded for each violation of the injunction, the amount of which is up to 20,000,000 euros in accordance with § 60 of the IKS or, in the case of an entrepreneur, up to 4 percent of its global annual turnover of the previous financial year, whichever is greater. Pursuant to § 25(1) of the Administrative Procedures Act (HMS), an administrative act, invitation, notice or other document is delivered to the party to the procedure by post, by the administrative body that issued the document, or electronically. Taking into account that it is mandatory to respond to the inquiry made as part of the supervisory procedure of the administrative body, but the apartment association Madala tn 20 has not fully responded to the inspection's

inquiry or proposal, the inspection considers that issuing a mandatory injunction is necessary in the supervision procedure in order to force the apartment association Madala tn 20 to use security camera(s) in accordance with applicable law. To do this, the apartment association at Madala tn 20 must: – install security camera use notification signs on the property, out of the camera's field of view, containing the legal basis for data processing, the data processor's contacts and the purpose of the camera's use. A person must receive information about the use of the camera before entering the camera surveillance area. – direct the apartment association's camera in such a way that the outside area of the apartment building's property or the door of any apartment remains in its line of sight. – prepare the data protection conditions corresponding to Article 13 of the IKÜM and make it available to the members of the cooperative. The data protection conditions must contain the information listed in paragraphs 1-3 of Article 13 of the General Data Protection Regulation. Until the apartment association has brought the processing of personal data into compliance with the requirements of IKÜM, the processing of personal data using the camera must be stopped. Sincerely, (digitally signed) Signe Kerge Legal Officer under the authority of the Director General