

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

Note made: 06.12.2022 Access restriction applies until the decision made in the procedure comes into force Basis : AvTS § 35

paragraph 1 point 2 PRESCRIPTION-WARNING in personal data protection case no. 2.1.-5/22/2012 Injunction maker Data

Protection Inspectorate lawyer Alissa Hmelnitskaja Time and place of injunction 06.12.2022 in Tallinn Addressee of injunction -

personal data processor M&M Inkasso OÜ (12820582) address: Harju county, Keila town, Pae tn 8-54, 76610 e-mail address:

madislaus@gmail.com Copy Responsible person of the personal data processor Representatives: XXX, XXX XXX Board

member RESOLUTION: § 56 subsection 1, subsection 2 point 8, § 56 subsection 3 points 3 and 4 of the Personal Data

Protection Act (IKS), On the basis of § 58 (1), § 10 and Article 58 (1) point d and (2) points f and g of the General Personal

Data Protection Regulation (GPR), as well as taking into account Article 6 of the GPR, the inspection issues a mandatory order

for compliance: 1. M&M Inkasso OÜ must be terminated disclosure of debtors' personal data on the company's TikTok,

Instagram, and Facebook accounts<sup>1</sup> without the person's voluntary consent. I set the deadline for the fulfillment of the

injunction as 20.12.2022. 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. EXERCISE MONEY WARNING: If the injunction is not fulfilled by the specified deadline, the Data Protection

Inspectorate 1 <https://www.facebook.com/profile.php?id=100054229521619> will determine;

<https://www.tiktok.com/@mminkasso.ee>; <https://www.instagram.com/mminkasso/?igshid=YmMyMTA2M2Y%3D> to the

addressee of the injunction on the basis of § 60 of the Personal Data Protection Act: 1,000 euros fine. 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: The Data Protection Inspectorate (AKI) received a notification that M&M Inkasso OÜ publishes debt data of private individuals on its website and on social media. The inspectorate started the supervision procedure on the basis of IKS § 56, paragraph 3, point 8, within the framework of which proposal No. 2.1.-5/22/22012 was made on 01.11.2022 for better compliance with the requirements for personal data protection. According to the proposal, M&M Inkasso OÜ had to stop disclosing debtors' personal data on the company's website and on the company's TikTok account and send a confirmation of this to the inspection no later than 17.11.2022. We also noted that if M&M Inkasso OÜ does not agree with the proposal, the company should have answered additional questions. The inspection has received the following response from the contractual representative of the company on 10.11.2022: "You have addressed a written request for information on 01.11.21 to M&M Inkasso OÜ with two questions. In response to your questions, I confirm that the basis for publishing personal data published on the website of M&M Inkasso OÜ is the protection of vital interests. I further explain that published personal data helps to prevent malicious exploitation by bona fide persons. Published personal data prevents new contractual violations, as long as the published persons do not act in good faith in fulfilling their contractual obligations. I also explain that all published photo material is taken from public space (social media). When publishing the data, M&M Inkasso OÜ has considered the possible infringement of the rights of the persons depicted in the photos and found that the damage caused to other natural persons by the activities of the published persons and its extent outweighs the principle of privacy of the debtors. M&M Inkasso OÜ has not published personal identification codes of individuals. Only names and low-quality photos posted by the individuals themselves from social media have been published. If the published photos are removed, the effect of the published information will be lost and there is a great risk that the rights of bona fide persons operating in the same legal space will once again be harmed by malicious legal entities." As of 06.12.2022, the personal data of other persons is still published on M&M Inkasso OÜ's social media accounts (TikTok, Facebook and Instagram ). However, the company's website <https://mminkasso.ee/> is no longer available as of this date.

GROUND OF THE DATA PROTECTION INSPECTION: 1. Legal basis for publishing personal data In the response of 10.11.2022, the data processor, or M&M Inkasso OÜ, stated that the basis for publishing personal data published on the website of M&M Inkasso OÜ is the protection of vital interests. At this point, we explain that point 46 of the IKÜM clarifies that the processing of personal data should be considered legal even if it is necessary to protect the vital interests of the data

subject or other natural person. Based on the vital interests of another natural person, personal data could in principle be processed only if the processing cannot obviously be carried out on another legal basis. As a result, debtors' data cannot be disclosed on the basis of Article 6(1)(d) of the IKÜM. In addition to the above, Section 10(1) of the IKS stipulates that the disclosure of personal data related to the breach of a 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 checked that there is a legal basis for the transfer of data; 2. the data processor has checked the correctness of the data; 3. the data transfer is recorded (keeping information about who and what was transferred). However, for the previously mentioned purpose, it is not allowed to collect data and transfer it to a third party if this would excessively harm the rights or freedoms of the data subject and/or less than 30 days have passed since the breach of the contract (ICS § 10 (2) points 3 and 4). In addition, we note that the inspectorate is of the opinion that the right to disclose the debtor's default data does not mean disclosing them to an unlimited number of unidentified persons (on the Internet, in a newspaper, on the bulletin board of an apartment building, on the company's website, etc.). § 10 of the IKS also stipulates the obligation to check the legal basis of the recipient of the data for obtaining the data before disclosing the data. This obligation cannot be fulfilled if disclosure is made to an unlimited circle. Therefore, at least one of the prerequisites for the publication of data on the basis of Section 10 of the IKS has not been fulfilled. In the case of payment defaults, it should be borne in mind that in the event of indebtedness, the creditor must use the legal remedies listed in § 101 of the Law of Obligations Act, one of which is the demand for the 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. The data processor has stated that "M&M Inkasso OÜ has considered the possible infringement of the rights of the persons depicted in the photos when publishing the data and has found that the damage caused to other natural persons by the actions of the published persons and its extent outweighs the principle of privacy of debtors". From this sentence, it can be concluded that M&M Inkasso OÜ relies on IKÜ Article 6(1)(f) or legitimate interest when publishing personal data. However, we explain that even if the disputed data processing could only take place on the basis of Article 6(1)(f) of the IKÜM, the data processor has not submitted a legitimate interest analysis to the inspection. In addition, we point out that 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. However, the fact of the indebtedness of each individual natural person does not fall into the sphere of public interest, the disclosure of which would contribute to the further development of a democratic society. Since one criterion for the application of IKS § 4, i.e. the existence of public interest, is not met, AKI does not analyze the fulfillment of the following criteria, because personal data cannot be made public based on the absence of one of the criteria already on the basis of IKS § 4. Taking into account the above, there are no other legal grounds for disclosing personal debt data besides § 10 of the IKS. Based on the above, the inspection's assessment is that the processing of personal debt data on the Facebook, Instagram, and TikTok accounts managed by M&M Inkasso OÜ is not lawful, as it is not possible to fulfill the requirements of § 10 of IKS by disclosing the data of natural persons to an unlimited circle on the Internet (including that the data processor must check, that there is a legal basis for data transfer). Personal data has been processed without a legal basis, which is why M&M Inkasso OÜ must stop disclosing posts containing personal data on Facebook, Instagram, TikTok pages, accounts, posts and groups managed by it. In accordance with IKS § 58 paragraph 1 and IKÜ Article 58 paragraph 2 points f and g, the inspectorate has the right to issue an order to limit the processing of personal data. Taking into account that in this particular case, the debt data of natural persons is being made public illegally and that M&M Inkasso OÜ did not agree to comply with the proposal of the Data Protection Inspectorate dated 01.11.2022, the inspectorate considers that issuing a mandatory injunction in this case is necessary in order to stop the offense as soon as possible. (digitally signed) Alissa Khmel'nitskaja lawyer under the authority of the Director General