

Tatari tn 39 / 10134 Tallinn / 627 4135 / info@aki.ee / www.aki.ee Registry code 70004235 PRELIMINARY WARNING in personal data protection case no. 2.1.-1/21/700 Issuer of the injunction Data Protection Inspectorate lawyer Ingrid Lauringson

Time and place of the injunction Tallinn Addressee of the injunction - personal data processor Raasiku Municipal Government Aruküla alevik, Raasiku vald 75201 Tallinna mnt 24 raasiku.vald@raasiku.ee Personal data processor responsible official municipality head

RESOLUTION : § 56 (1), (2) point 8, § 58 (1) of the Personal Data Protection Act, § 58 (1), Article 5 (1) point a, Article 6 (1), Article 12 (1) and (2), Article 15 of the General Personal Data Protection Regulation (GDPR) 1, on the basis of Article 58, paragraph 2, point c, I issue a mandatory prescription for compliance: 1. Respond to data subject XXX on 14.01.2021. a to the application submitted to the Raasik Municipal Government exhaustively and in accordance with the requirements stipulated in the personal data protection regulation. 2. I set the deadline for the fulfillment of the injunction as 12.04.2021. a. 3. 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 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 injunction is not complied with by the specified deadline, the Data Protection Inspectorate will impose a fine of 2000 euros on the addressee of the injunction based on § 60 of the Personal Data Protection Act. 2 (4) 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 on 25.02.2021. a XXX complaint, according to which the Raasiku Municipal Government has requested information about the person from third parties (the former employer, the National Defense Investment Center) and used this information in the decision to employ the person. XXX submitted on 14.01.2021. a The following request to the Raasiku Municipal

Government: Based on your letter and our telephone conversation on 13.01.2021, I would like to receive information from the Raasiku Municipal Government, from whom specifically (name of official) from the State Defense Investment Center You received information about me and what this information contained. If you were presented with documentary evidence about me, a copy of it as well. In accordance with Article 15 of the General Regulation on the Protection of Personal Data of the EU, please provide me with the information collected about me and the legal basis for collecting this information without my consent. I would also like to receive a reason why during data collection I was not given the opportunity to object to the negative information I received, as in my opinion it is defamation. Upon the applicant's inquiry, XXX, the head of the administration and development department of the Raasik Municipal Government, explained that I called the National Defense Investment Center on the general number and asked who I should talk to if I wanted background information about a person applying for the Raasik Municipal Government. I was given the mobile number of the HR person (whose name I did not ask) from whom I heard a verbal assessment over the phone. I can't add more, I think I explained the topic during our evening phone conversation as well. It was not specified to the applicant what information the National Defense Investment Center gave to the Raasik Municipality, and the data subject's request was largely left unanswered. The Data Protection Inspectorate started a monitoring procedure on the basis of § 56 subsection 3 point 8 of the Personal Data Protection Act. AKI sent on 16.03.2021. a an inquiry to the Raasiku Municipal Government, in which he explained the requirements for personal data processing and asked to answer the following questions: 1. From whom did the Raasiku Municipal Government receive information about XXX? Identify the person(s) by name. 2. What information did Raasik Municipality receive from the mentioned person(s)? If possible, identify each specific person and the information he/she provided. 3. On what legal basis did Raasiku Municipal Government use the feedback received from third parties (former employer) when deciding on employment? 4. Why was XXX not informed about who and what feedback was received about him? Raasik Municipal Government responded to AKI's inquiry on 24.03.2021. a and based on the answer received, AKI made 26.03.2021. a An additional inquiry to the Raasiku Municipal Government, which further explained the requirements for processing personal data, including the requirements for processing the data of a person applying for a job, and asked the Raasiku Municipal Government to forward to AKI the information received from the National Defense Investment Center on 3 (4) XXX. Raasik Municipal Government official XXX sent on 31.03.2021. a The following message to AKI: Unfortunately, I have nothing to add.. I do not know the name of the human resources worker of the institution (whose number was given to me from the public

phone) and I do not have his phone number. EXPLANATION OF PERSONAL DATA PROCESSOR: AKI 16.03.2021. The Raasiku Municipal Government responded to the inquiry as follows: The Raasiku Municipal Government was looking for a supervisory specialist in the autumn of 2020 through a public competition. However, the recruited official had to leave his position at the beginning of 2021 for personal reasons, and thus XXX, who participated in the autumn competition, was contacted. A conversation took place in the municipal hall, after which, as the head of the responsible department, I wanted to ask his previous employer for comments. I called the general number of the Defense Investment Center, and they gave me the mobile number of the HR employee (unfortunately, I don't know the name, I didn't save the number either). I did not research personal data, but I wanted information about how the cooperation in the collective went at the previous workplace.

Unfortunately, this assessment (not recommended) was such that the further process was left unfinished. I informed XXX about this both by e-mail and by phone. I sincerely apologize if I violated any legal requirements by doing so. The desire was only to hear the experience of his former employer. AKI 26.03.2021. to the additional inquiry, Raasiku Municipal Government responded as follows: Unfortunately, I have nothing to add.. I do not know the name of the human resources employee of the institution (whose number was given to me from the public phone) and I do not have his phone number. GROUNDS FOR THE

DATA PROTECTION INSPECTION: According to Article 4 point 1 of the GDPR, personal data is any information about an identified or identifiable natural person ("data subject"); an identifiable natural person is a person who can be directly or indirectly identified, in particular on the basis of an identification feature such as name, social security code, location information, online identifier or on the basis of one or more physical, physiological, genetic, mental, economic, cultural or social characteristics of that natural person. Therefore, personal data is processed even in a situation where a potential employer asks the employer for information about the person. It is the responsibility of the responsible processor, Raasik Municipality, to ensure that data processing complies with the General Regulation on Personal Data Protection. According to Article 5(1)(a) of the GDPR, data processing must be legal, fair and transparent to the data subject. Pursuant to Article 6(1) of IKÜM, the processing of personal data is legal only if at least one of the conditions stated in Paragraph 1 is met. The inspectorate has clarified that the former employer can be asked for information about the candidate (including the description, the reason for the termination of the employment relationship) if the candidate gives his consent. The candidate's consent is not required if the law stipulates that the employer must ask for specific data. During the procedure, it has become clear that the data subject was not informed and consent was not asked. There is also no special law that would oblige the Raasik Municipality to check

the background of persons applying for work through their former employers. Articles 12-14 of the IKÜM regulate more precisely the notification of the data subject. Among other things, a person has the right to receive information about what information was obtained about him, on what legal basis and purpose, and from which sources. In this case, the Raasiku Municipal Government has largely not responded to the data subject's request. Among them, the Raasiku Municipal Government has not cooperated with AKI and has not exhaustively answered the questions posed by AKI's inquiries. 4 (4) The Data Protection Inspectorate asked the Raasik Municipality to submit the exact information received from the National Defense Investment Center regarding XXX. The Raasiku Municipal Government only explained that the assessment was negative (not recommended) and the Raasiku Municipal Government has nothing to add. As a result of the above, the processing of XXX's personal data has not been lawful when asking for an assessment from the former employer. In that case, the requirements governing the notification of the data subject have not been met, nor has the right of the data subject to consult the data about him/her been guaranteed. Taking into account what has been explained above and the fact that responding to an application made within the supervisory procedure of an administrative body is mandatory, but the personal data processor has not responded exhaustively to the proposal of the inspection, the inspection considers that issuing a mandatory injunction in this matter is necessary to ensure the rights of the data subject and to carry out the procedure effectively. /signed digitally/ Ingrid Lauringson lawyer under the authority of the director general