



UNIVERSITY OF TARTU



Prof Karin Sein

UNIVERSITY OF TARTU, ESTONIA

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# Some facts about Estonia and Finland

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- Neighbouring countries: just 80 kms across the Baltic sea
- Languages related
- However: different historical background
- Tight economic, personal and cultural relations
- Consumers from one country end up with debts in the other country
  - Recently increasing cases where Estonian debt recovery companies have bought claims from Finnish enterprises against Estonian consumers (eg parking tickets in Helsinki) and are enforcing them in Estonia



# Description of the problem

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- Publishing defaulting consumers in credit information registries
  - Private companies both in Estonia and in Finland
- Why is publishing defaulting consumers a problem?
  - Publishing personal data which may ruin a consumer's credit score and restrict access to credit, accommodation etc
  - On the other side: need to protect potential creditors
- Not specifically regulated in the GDPR; national rules (Art 6(2)), subject to proportionality assessment under Art 6(3) GDPR
  - 2022 Guidelines by the Estonian Data Protection Authority
- Hypothesis: after recent legislative reform Finnish law is considerably more consumer friendly than the Estonian law





# Specific national legislation

- **Estonia:**
  - § 10 of the Estonian Data Protection Act
- **Finland:** reform in 2022
  - Finnish Data Protection Act
  - Luottotietolaki (Credit Information Act)

# How soon can defaults be published?

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- **Finland:**
  - 60 days after default
  - Requirement of a reminder+warning 21 days before sending debtor's data to the credit registry
- **Estonia:**
  - 30 days after default
  - No requirement for a reminder or warning



# When must data be deleted in case of paid debts?

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- In other words, how long can default data be published after the consumer has paid off his debt
- **Finland**
  - 1 month since payment
- **Estonia**
  - 5 years since payment



# When must data be deleted in case of prescribed debts?

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- **Finland:**
  - Immediately after prescription of the debt
- **Estonia:**
  - No explicit rules in law
  - Data Protection Authority: 3+5 year-rule, hence max 5 years after prescription
- Case law: varies
  - Supreme Court: 13 years since default unproportionate in any case
  - Second instance court: publishing data after prescription against good morals, as a rule



## When may my details be published in the payment default register?

Your details may be published in the payment default register and/or Julianus Inkasso's website, if:

- / you have not paid your invoice within 30 days;
- / the unpaid invoice is not more than 15 years old.

Disclosure of data in the payment default register is in accordance with the General Data Protection Regulation, the Personal Data Protection Act, and the current guidelines of the Data Protection Inspectorate.



# Case C-26/22 - UF

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- In Germany, SCHUFA deletes the information on unpaid debts and the resulting insolvency proceedings of a natural person in 3 years after the end of debt release, although the public database does it already after 6 months
- Has a credit information agency a legitimate interest for publishing information from public database under Art 6(1)(f) GDPR?
- AG Pikamäe: In principle no, at least not from the moment when this information is deleted from the public database



# AG Pikamäe on Case C-26/22 - UF

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- When balancing the interests of data controller and data subject (Art 6(1)(f) GDPR), the following aspects must be taken into account:
  - Time of publication of the personal data an important criterion when assessing the impact for data subjects and hence the existence of legitimate interest ground
  - Data on debt recovery are sensitive for the data subject
  - Access to this data to basically everyone

Publication of default data during 3 years by credit information registries against the purpose limitation and data minimisation principles



# Proportionality of national legislation on the publication of default information

- Art 6(3) GDPR
- .... The Union or the Member State law shall meet an objective of public interest and be proportionate to the legitimate aim pursued.
- Any arguments transferrable from this case to the proportionality assessment of the national legislation on the publication of negative credit information under Art 6(3), 23(1) GDPR?



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**THANK YOU!**

KARIN.SEIN@UT.EE