

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.-1/22/2333 Issuer of the injunction Data Protection Inspectorate lawyer Geili Keppi Time and place of the injunction 30.11.2022 in Tallinn

Addressee of the injunction - personal data processor Yellow Hashtag OÜ registry code 16148756 address: Harju maakond, Tallinn, Tornimäe tn 5, 10145 e-mail address : fg@mbx.hu Responsible official of the personal data processor Member of the board

RESOLUTION: § 56 subsection 1, subsection 2 point 8, § 58 subsection 1 of the Personal Data Protection Act (ICS) and article 58 subsection of the General Regulation on Personal Data Protection (EU 2016/679; hereinafter IKÜM) On the basis of points d and f of 2, I issue a mandatory injunction for compliance: 1. to bring the data protection conditions into line with the conditions stipulated in paragraphs 1-2 of Article 13 of the IKÜM (including taking into account the explanations of the inspection); 2. stop the use of cookies on the mailbox.hu website (collection of personal data) until the website <https://mailbox.hu> has created a cookie consent form that meets the conditions of art 4 p. 11 and art 7; 3. Obtain consent from individuals for the use of cookies and stop using cookies if the website user has not given consent. I set the deadline for the fulfillment of the injunction to be December 15, 2022. Report the fulfillment of the injunction to the Data Protection Inspectorate 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. 2 (6)

EXERCISE MONEY WARNING: If the injunction is not complied with by the set deadline, the Data Protection Inspectorate will impose an extortion fee 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 injunction in accordance with Article 58(2) of the Personal Data Protection Act 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: 1. The Data Protection

Inspectorate received a complaint from the Hungarian data protection authority about the website mailbox.hu via the cross-border processing system IMI. According to the complaint, the complainant cannot get information from the mailbox.hu website about how his personal and credit card data are processed. The Hungarian data protection authority established that Yellow Hashtag OÜ is the responsible processor of the complainant's personal data. Based on this, we started the supervision procedure on the basis of § 56, subsection 3, point 8 of the IKS. 2. The Data Protection Inspectorate checked how Yellow Hashtag OÜ (hereinafter also the data processor) has complied with the IKÜM and it became clear that Yellow Hashtag OÜ has not fulfilled the requirements arising from the IKÜM, because the data protection conditions found on the website mailbox.hu did not comply with Article 13. 3 of the IKÜM. On 19.10.2022, the Data Protection Inspectorate proposed to Yellow Hashtag OÜ to align the data protection conditions found on the website mailbox.hu with the conditions set out in paragraphs 12-14 of the IKÜM (including taking into account the inspector's explanations) and asked to complete the proposal no later than 09.11.2022 and send the corresponding confirmation to the Data Protection Inspectorate. 4. The inspection did not receive a response to the proposal by the specified date. Also, by the said date, the data protection conditions found on the website had not been brought into line, as a result of which the inspection made a repeat proposal to Yellow Hashtag OÜ on 11.11.2022 to bring the data protection conditions into line with the General Regulation on Personal Data Protection. AKI set 21.11.2022 as the deadline for fulfilling the proposal. 5. By the deadline set by AKI, the inspection has not received a response from Yellow Hashtag OÜ, nor have the data protection conditions on the mailbox.hu website been brought into line with IKÜM art. 13. GROUND FOR THE DATA PROTECTION INSPECTION: Inadequacies identified in the data protection conditions: 1. Name and contact details of the controller (IKÜM Article 13(1)(a)) 3 (6) There is no reference to Yellow Hashtag OÜ as the controller and its contact details in the privacy conditions. Therefore, the Terms and Conditions are contrary to IKÜM art. 13 paragraph 1. 2. Purpose and legal basis of personal data processing (IKÜM article 13 paragraph 1 point c) There must be a legal basis and purpose for any kind of personal data processing (including collection and transfer to third parties). The purpose and legal basis(s) of personal data processing are missing from the terms and conditions. The legal basis can be derived from Article 6 of the IKÜM. Thus, the conditions do not meet the requirements set forth in the IKÜM. In doing so, the conditions must state all the legal bases used by the data processor. No legal basis is currently cited. 3. If the legal basis for processing is a legitimate interest (Article 6(1)(f) of the GDPR), then information about the legitimate interests of the data controller or a third party (Article 13(1)(d) of the GDPR) As mentioned, the legal grounds for processing are not specified in the

conditions at all. grounds, but if data processing should take place in any part, it is done on the basis of legitimate interest, and in such a case, the analysis of legitimate interest must be included in the data protection conditions or information on how it is possible to read the analysis (e.g. to read the analysis of legitimate interest, send an email to YellowHashtag@.. ..) 4.

Information about the recipients or categories of recipients of personal data (Article 13(1)(e) of the GDPR) The term "recipient" is defined in paragraph 9 of Article 4 of the GDPR as "a natural or legal person, public sector institution, agency or other body to whom personal data is disclosed, regardless of whether it is a third party or not". Thus, the recipient does not have to be a third party. Therefore, the term "recipient" includes other controllers, co-processors and authorized processors to whom data is transferred or disclosed, and information about such recipients should be provided in addition to information about third-party recipients. The actual (named) recipients of personal data or categories of recipients must be provided. In accordance with the principle of fairness, controllers must provide information about recipients that is most relevant to data subjects. In practice, these are usually named recipients so that data subjects know exactly who has their personal data. If the controllers decide to present categories of recipients, the information should be as specific as possible, showing the type of recipient (i.e. indicating their fields of activity), industry, sector or sub-sector and the location of the recipients. 1 According to the conditions,

YellowHashtag OÜ may transfer the processed data to third parties based on official requests in accordance with the law.

Since it is not clear from here who the named third parties are, the Terms do not meet the requirements set forth in IKÜM. 5.

Data retention period or criteria for determining the period (IKÜM Article 13(2)(a)) There is no data retention period or criteria for determining the corresponding period in the Terms and Conditions. The corresponding requirement is related to the requirement to collect as little data as possible in Article 5(1)(c) of the IKÜM and the requirement to limit storage in Article 5(1)(e). The retention period (or the criteria for determining it) may be determined by different laws, but it should be formulated in such a way that the data subject can assess, based on his situation, what the retention period is for specific data/purposes.

Where appropriate, different retention periods should be provided for different types of personal data and/or different purposes of processing, including the period of archiving where appropriate. 6. Information on the right to request from the controller access to personal data concerning the data subject and their correction or deletion or 1 Article 29 working group guidelines on transparency according to Regulation 2016/679 4 (6) restriction of processing of personal data or to object to the processing of such personal data, as well as information on the right to transfer personal data (Article 13, paragraph 2, point b of IKYM). The terms and conditions completely lack the information provided in Article 13(2)(b) of IKÜM. Namely, IKÜM art. 13 paragraph 2

provides what information the controller must provide to the data subject when receiving personal data, and according to IKÜM art. 13 paragraph 2 point b, this is information about the right to request from the controller access to personal data concerning the data subject and their correction or deletion or restriction of personal data processing, or to object to the processing of such personal data, as well as information on the right to transfer personal data. The guidelines of the Article 29 Working Party on transparency under Regulation 2016/6792 emphasize In particular, the data subject's right to object to the processing of personal data should be explicitly drawn to the data subject's attention at the latest at the time of the first notification, and it must be presented clearly and separately from any other information. IKÜM Article 18 sets out the grounds on which a person has the right to demand from the data controller to limit the processing of personal data, i.e. to mark stored personal data with the aim of restricting their further processing, and according to IKÜM Article 21, a person has the right, based on his specific situation, to object at any time to the processing of personal data concerning him, which takes place on the basis of Article 6(1)(e) or (f), including profiling based on these provisions. Therefore, the Terms and Conditions are in conflict with the requirements set forth in the IKÜM. 7. If the processing of personal data is based on Article 6(1)(a) of the GDPR, or consent, information about the right to withdraw consent at any time without affecting the legality of the processing based on consent prior to the withdrawal (Article 13(2)(c) of the GDPR). The terms and conditions completely lack the information given in point c of article 13, paragraph 2 of the IKÜM. The conditions are therefore contrary to the requirements stipulated in IKÜM. 8. Information on the right to file a complaint with the supervisory authority (IKÜM Article 13(2)(d)) The conditions do not indicate that the data subject has the right to file a complaint against the data processor with the supervisory authority, or in this case the Data Protection Inspectorate. Therefore, the Terms and Conditions are in conflict with the requirements set forth in the IKÜM. 9. The obligation of the data subject to provide personal data and the consequences of not complying with it (Article 13(2)(e) of ICÜM) According to Article 13(2)(e) of ICÜM, at the time of receiving personal data, the person must be informed of whether the provision of personal data is an obligation arising from legislation or a contract or a contract the requirement necessary for the conclusion, as well as whether the data subject is obliged to provide the personal data in question, and the possible consequences of not providing such data. There is no such information in the Terms. I emphasize that all the information stipulated in Articles 13 and 14, paragraphs 1 and 2 of the General Data Protection Regulation must be visible in the data protection conditions. The data protection conditions must be concise, clear and understandable and meet the conditions set out in the General Regulation on Personal Data Protection. Here, it must be taken into account that the

controller must present the information in such a way that a person can clearly understand it and that it is distinguished from information that is not related to the controller's personal data processing. It is crucial to understand that data protection conditions are not created simply to get a ticked letter, but they must be based on the data processing of the responsible processor, which assumes that the data processing is precisely mapped and understandable to the drafter of the data protection conditions.

2https://www.aki.ee/sites/default/files/inspektsioon/rahvusvaheline/juhised/suunised_maaruse_2016679_kohase_labipaistvuse_kohta.pdf 5 (6) In addition, the inspectorate drew attention to the following regarding the use of cookies: The Data Protection

Inspectorate drew the data processor's attention to the fact that Yellow Hashtag OÜ uses cookies on the consumer's end device on its website without asking the person for consent. The terms state that the website Mailbox.hu uses Google Inc. analytical and advertising server services, i.e. cookies. The website does not ask for consent to the use of cookies. I would like to point out that any website that wants to use cookies must obtain the person's consent before saving the cookie on the person's computer or mobile device. According to the Privacy and Electronic Communications Directive, users should be able to prevent the storage of cookies or other such means on their end device. Information about the means stored in different end devices of the user and the right to refuse them may be provided once during one and the same connection, and it may also include the future use of said means during subsequent connections. Providing information, offering the option to refuse or asking for consent should be made as user-friendly as possible. Access to certain content of the application may depend on the informed acceptance of a cookie or other such device, if it is used for a legitimate purpose. It is important to obtain the user's voluntary, specific, informed and unequivocal consent or opt-out of cookies. If the user does not agree, the performance of the main functions of the application must still be guaranteed. We further clarify that a compliant notification of the use of cookies includes an explanation for what purpose you use cookies, for how long and who are the various parties with whom you plan to share them (if applicable). The notification should include a reference to the data protection conditions, where the conditions for the use of cookies are also explained. The data subject must understand which cookies the website collects and must be able to give separate consent for each type of cookie (except for cookies that are essential for the website to function). Therefore, the use of third-party cookies on the mailbox.hu website is currently illegal. This type of processing is permitted if the consent of the person in accordance with Article 7 of IKÜM is obtained for the use of cookies. Also, according to Article 4 paragraph 11, the consent must be voluntary, i.e. the person must be able to decide for himself the use of third-party (and not

essential) cookies. Therefore, a person must be able to give his consent for the cookies (for example, by actively ticking the boxes) that he allows to be used. If consent is not given, the use of third-party cookies is prohibited. SUMMARY: According to IKS § 58 paragraph 1 and IKÜM article 58 paragraph 2 points d and f), the inspectorate has the right to order that the data processor bring personal data processing operations into compliance with the provisions of IKÜM in a certain way and within a certain period of time, the right to establish a temporary or permanent limitation of personal data processing, incl. processing ban. The inspection sent the proposals on 19.10.2022 and 11.11.2022 to the e-mail address recorded in the business register of Yellow Hashtag OÜ and gave Yellow Hashtag OÜ a reasonable time to respond (more than 5 weeks in total), i.e. the data processor has been able to write to the inspection in a timely manner and justify the implementation of the proposal the deadline is too short and a longer response time would be needed. With this, the inspectorate has fulfilled the obligation arising from paragraph 1 of § 40 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. At the end of the proposals, the AKI drew attention to the fact that the AKI has the right, in accordance with IKS § 56 (2) point 8, § 58 (1) and on the basis of Article 58 (2) of the General Regulation on the Protection of Personal Data, to issue an injunction to the personal data processor if the personal data processor has violated personal data 6 (6) protection processing requirements Taking into account the factual circumstances, including the fact that Yellow Hashtag OÜ has not proven to the inspection that IKÜ requirements (Articles 5, 6, 12 and 13) have been met and that the website <https://mailbox.hu/> has several important deficiencies, the inspection finds, that issuing a mandatory injunction in this case is necessary to end the offense as soon as possible. (digitally signed) Geili Kepp's lawyer under the authority of the Director General