

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.-4/22/918 Issuer of the injunction: Data Protection Inspectorate lawyer Ivo Eelme Time and place of issuance of the injunction: 25.07.2022 in Tallinn Addressee of the injunction/ personal data processor: Sviby OÜ registry code 14497487 address: Fortuuna tn 35-31 50603 Tartu e-mail address: info@piletikeskus.ee Person responsible for processing personal data: Board member

RESOLUTION: On the basis of § 56 subsection 1, subsection 2 point 8, § 58 subsection 1 of the Personal Data Protection Act (ICS) and Article 58 subsection 2 points d and f of the General Regulation on the Protection of Personal Data (IKÜM) taking into account articles 5, 6 and 12-14 of the IKÜM, I issue a mandatory prescription for compliance: 1. prepare the company's data protection conditions in accordance with articles 12-14 of the IKÜM; 2. add the data protection conditions required in point 1 of the injunction to the company's website www.piletikeskus.ee; 3. remove third-party cookies from the website www.piletikeskus.ee or obtain voluntary consent from people to use such cookies; 4. send a confirmation to the inspectorate about the removal of cookies or prove voluntary consent to the use of cookies from individuals. I set the deadline for the fulfillment of the injunction to be August 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.

FINANCIAL MONEY WARNING: If the injunction has not been complied with by the specified deadline, the Data Protection Inspectorate will impose a monetary fine of 5,000 euros on each item of the injunction not fulfilled to the addressee of the injunction based on § 60 of the IKS. 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 FACTS: 1.

In the course of the self-initiated supervision procedure, the Data Protection Inspectorate checked how Sviby OÜ (hereinafter also the data processor) has fulfilled the IKÜM and it became clear that Sviby OÜ has not fulfilled the requirements arising from the IKÜM, because the website www.piletikeskus.ee the data protection conditions can be found. The terms of use¹ were disclosed on the website, which in point 3.2. it is stated that "PILETESKUS website has the right to use the Customer's personal data in accordance with the PILETESKUS privacy conditions", but separate privacy conditions were not disclosed. 2. On 29.03.2022, the Data Protection Inspectorate (AKI) made a proposal to Sviby OÜ² to add to the website managed by Sviby OÜ <https://piletikeskus.ee/> data protection conditions that meet the requirements set forth in articles 12-14 of the IKÜM and a form for consent to the use of cookies or a refusal to use them. AKI asked to complete the proposal no later than 16.05.2022 and send the corresponding confirmation to the Data Protection Inspectorate. 3. Jaan Naaber, member of the board of Sviby OÜ, replied to AKI on 16.05.2022 that all the requested proposals will be implemented no later than 31.05.2022. 4. However, the inspection did not receive a response to the proposal by the said date. Also, by the said date, the data protection conditions and the consent/refusal form for the use of cookies had not been added to the website, as a result of which the inspection 02.06.2022¹ <https://piletikeskus.ee/et/kasustustimudsem> 2 The e-mail was sent by Toomas Naaber, a person who was a member of the board at that time -to the email address toomas@piletikeskus.ee Sviby OÜ³ to bring the data protection conditions of the relaunch into line with the IKÜM. AKI set 11.07.2022 as the deadline for completing the proposal. 5. By the deadline set by AKI, the inspectorate has not received a response from Sviby OÜ, and the data protection conditions and cookie consent/refusal form are still missing from the website piletekskus.ee.

GROUND FOR THE DATA PROTECTION INSPECTION: 1. Data protection conditions There must be a legal basis for any processing of personal data. The legal basis can be derived from Article 6 of the Personal Data Protection Act). However, processing personal data without a legal basis is prohibited. In addition, the processing of personal data must be based on the principles of personal data processing (see Article 5 of IKÜM). The processing of personal data must be legal, fair and transparent. The principle of transparency requires that all information related to personal data processing (including data collection) is easily accessible, understandable and clearly formulated. According to Article 12(1) of the IKÜM, the controller must take appropriate measures to provide the data subject with the information referred to in Articles 13 and 14 and to inform him of the processing of personal data in accordance with Articles 15-22 and 34 in a concise, clear, comprehensible and easily accessible form, using clear and simple language. This information shall be provided in writing or by other means, including electronically where appropriate.

Since the data protection conditions cannot be found on the website www.piletikeskus.ee, Sviby OÜ has not fulfilled the requirements arising from the IKÜM. Here, the inspectorate takes into account the fact that if other data processors have had deficiencies with individual provisions of the data protection conditions, then in this case they are completely absent. 2.

Cookies on the website The Data Protection Inspectorate drew the data processor's attention to the fact that Sviby OÜ uses cookies on the consumer's end device on its website www.piletikeskus.ee without asking the person for their consent. I explain that in a situation where Sviby OÜ installs third-party cookies on its website, Sviby OÜ is the responsible processor in this regard, and there must be a specific legal basis for installing cookies. Article 5(3) of Directive 2002/58 on privacy and electronic communications states the following: Member States shall ensure that the storage of information in a subscriber's or user's terminal equipment and access to information already stored therein is permitted only on the condition that the subscriber or user concerned has given their consent. , and has been provided with clear and understandable information in accordance with Directive 95/46/EC, including the purpose of data processing. This does not prevent the technical storage or access of data, the sole purpose of which is to transmit communication in an electronic communication network or which is essential for the service provider to provide such an information society service that the subscriber or user has explicitly requested. 3

The e-mail sent to Jaan Naaber, a member of the board, to the e-mail address jaan@sviby.ee, from which he sent a reply to the inspection on 16.05.2022. Considering that there are no more precise rules regarding the use of cookies in Estonia, the requirements of the said directive must be followed. At the same time, the directive explicitly stipulates that the prior consent of the person must be obtained for the use of cookies, except in cases where the sole purpose of the technical storage and access of data is to transmit communication in an electronic communication network or which is essential for the service provider to provide an information society service. The obligation to consent has also been confirmed by the European Court on 01.10.2019 in case number C-673/171. In the decision, the European Court has also emphasized that consent to the use of third-party cookies must be obtained regardless of whether it is personal data or not. In this case, data is collected about the user without asking the consent of the data subject, which means that the data subject cannot decide on the use of cookies. 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 website www.piletikeskus.ee is illegal in this case. This type of processing is permitted if the person's consent in accordance with Article 7 of the IKÜM is obtained for the use of cookies. Also, 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. 3. 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 , including a ban on processing. Taking into account the factual circumstances, including the fact that Sviby OÜ has not proven to the inspection the fulfillment of the requirements of the IKÜM (Articles 5, 6, 12-14) and the website www.piletikeskus.ee has several important shortcomings, the inspection considers that issuing a mandatory injunction is necessary in this case , to end the offense as soon as possible. (digitally signed) Ivo Eevel lawyer under the authority of the Director General