

Tatari 39, Tallinn 10134 / 627 4135 / info@aki.ee / www.aki.ee / Registration code 70004235 PRESCRIPTION-WARNING in the case of personal data protection No. 2.1.-1/22/9 Issuer of the prescription Data Protection Inspectorate Time and place of the prescription 26.04.2022 , in Tallinn Addressee of the injunction personal data processor Baltest Mööbel OÜ e-mail address: baltest@baltest.ee responsible person of the personal data processor board member Copy to the applicant: XXX

RESOLUTION § 56 (1), (2) point 8, § 58 (1) of the Personal Data Protection Act and Personal Data Protection Article 58(1)(a) of the General Regulation (IKÜM) and taking into account point (e) of the same paragraph, the Data Protection Inspectorate issues a mandatory order for the data processor to comply with: 1. Respond to the claim submitted by the complainant based on Article 15 of the IKÜM (copy of personal data and explanations about data processing) by sending a copy of the response to info@aki.ee no later than 16.05.2022. If the data processor has already responded properly to the complainant in the meantime, as an alternative, we ask for a copy of this response. 2. Publish the data protection conditions on the website www.baltest.ee no later than 02.06.2022 and provide the inspection with an exact online link on the publication of the data protection conditions. 3. Submit a legitimate interest analysis that allows the recording of telephone calls or confirm that the corresponding activity has been terminated and all recordings deleted until a proper legitimate interest analysis has been carried out no later than 16.05.2022. If the data processor chooses to stop recording phone calls, the request of the complainant regarding the release of the recording concerning him must be fulfilled before all call recordings are deleted. The fulfillment of the claim submitted by the applicant based on Article 15 of the IKÜM stipulates: 1. To provide the applicant with a copy of all personal data processed about him. 2. Pursuant to Article 15 paragraph 1 of IKÜM, the person has also asked for additional information, in respect of which we ask you to answer precisely the points prescribed by law: a) the purpose of the processing (the purposes of the processing must be related to the legal basis of each processing and we ask you to present them as clearly as possible) b) the types of personal data concerned (if the processor does not categorize personal data by type and has submitted a copy of all personal data, it is not necessary to categorize personal data for the purposes of the requirements of IKÜM 15 only) c) recipients or categories of recipients to whom personal data has been disclosed or will be disclosed, in particular recipients in third countries or international organizations; d) if possible, the planned period of storage of personal data or, if this is not possible, the criteria for determining such a period; e) information on the right to request from the controller the correction, deletion or restriction of processing of personal data concerning the data subject or to object to such processing of personal data; f) information on the right to file a complaint with the supervisory authority; g) if the personal data

is not collected from the data subject, the existing information about their source; REFERENCE FOR DISPUTES This order can be contested 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 Tallinn 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. FINE WARNING If the injunction has not been complied with by the specified deadline, the Data Protection Inspectorate will impose a fine of 2,000 euros for each point in the injunction not fulfilled on the basis of § 60 (2) 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 under Article 58 (1) of the Personal Data Protection General Regulation may result in a misdemeanor proceeding based on § 70 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 On 03.01.2022, Jekaterina Širokova submitted a complaint to the inspectorate, according to which she has not received a response from the data processor to her request based on Article 15 of the IKÜM. On 04.01.2022, the inspection forwarded the applicant's request to the addresses erkki@baltestfurniture.ee and andreas@aunman.ee. On 18.04.2022, the applicant submitted a new complaint to the inspectorate, where he informed that he has not received a response from the data processor even after that. The inspection sent the previous request to the e-mail address erkki@baltestfurniture.ee. The business register shows that the contact address of Baltest Mööbel OÜ is baltest@baltest.ee, which is linked through eesti.ee to egne@baltestfurniture.ee, erkki@baltestfurniture.ee. Therefore, the appeal has been sent to the address disclosed in the business register. Regarding the inquiry sent by e-mail, we note that in accordance with § 27 (2) point 3 of the Administrative Procedure Act, a document made available or transmitted electronically is considered delivered if the document or message has been transmitted to the e-mail address entered in the company's business register. As far as the inspection is aware, the representative of Baltest Mööbel OÜ has not responded to the complainant despite the inspection's proposal. If the company has problems responding by the set deadline, the company can explain to the supervisory authority which objective circumstances were the obstacle. However, simply not responding is not

acceptable. Based on the above, the inspectorate has no choice but to issue a mandatory injunction to the data processor to respond to the complainant. However, the topic is directly related to the assessment of the general admissibility of recording telephone calls (presupposes a legitimate interest analysis) and the disclosure of data protection conditions to the public, which is why these two points have also been added to the injunction. Since the data processor has not previously been able to exercise his right to object on these topics, we announce that we will suspend the deadlines for fulfilling the injunction in these two points in case of objections, and we will provide additional explanations with a new deadline if necessary.

EXPLANATION OF THE PERSONAL DATA PROCESSOR According to the complaint, the data processor has not submitted an answer or objections. **FOUNDATIONS OF DATA PROTECTION INSPECTION** Pursuant to § 58 (1) of the Personal Data Protection Act and Article 58 (1) point a of the General Regulation on Personal Data Protection and taking into account point (e) of the same paragraph, the inspectorate has the right to request explanations and other information, including the submission of documents necessary for conducting the supervision procedure. The data subject's right to consult his/her own data The data subject has the right pursuant to Article 15 of the IKÜM to consult the personal data collected about him/her and to receive explanations about the circumstances of the processing. This provision gives the applicant the right to request a copy of their personal data. This does not mean an automatic right to receive a copy of a particular document or, in this case, a telephone recording. On the basis of article 15 paragraph 4 of the IKÜM, the right to receive a copy is denied in the part that harms the rights and freedoms of other persons. Thus, the data processor may or may not issue the part that does not concern the complainant. Therefore, it is the data processor's own choice whether to provide the person with a copy of the original document (in this case also the audio file), covering the part that harms other persons if necessary, or to make an extract from the file only about the complainant's personal data and provide a copy of it to the person. We explain that the processor has the obligation to respond to the request of the person IKÜM Article 15 within one month, and by not responding to it, the data processor has violated the obligation to respond. Also, the processor did not comply with the additional proposal of the inspection and has not responded to the complainant within the deadline given there. The data subject has the right pursuant to Article 15 of the IKÜM to familiarize himself with the personal data collected about him and also to receive explanations about the circumstances of the processing. The applicant has stated that, in addition to a copy, he also wants to receive explanations about the processing of his data, which is why providing explanations is an integral part of fulfilling the claim.

Recording of telephone calls Recording of telephone calls can only take place either with the voluntary consent of the person

taken in a form that enables playback or on the basis of article 1 paragraph 1 point f of IKÜM, i.e. legitimate interest. We consider recording on the basis of consent to be extremely unlikely, i.e. there may be doubts as to whether the consent given on this basis was given freely. Therefore, we assume that the legal basis can only be a legitimate interest. In order for the data processor to be able to use the basis of legitimate interest at all, he must first perform an analysis to assess the legitimate interest based on the instructions of the inspectorate¹. Weighing the legitimate interest means that the data processor has clearly stated in the analysis how his legitimate interest outweighs the right to privacy of the persons recorded. It is also important that it becomes clear why the recording of calls is really necessary, and which other measures that are less harmful to individuals have been tried before and have not brought the corresponding result. It is important to point out in what cases the recordings are used and what is the purpose of listening to them. Please note that such recordings may not be used, for example, to check the work duties of employees. Unfortunately, we could not find the data protection conditions on the website of the data processor, which would have provided a more precise explanation regarding the recording of calls (e.g. to assess whether the retention time is proportionate). In the same way, a legitimate interest analysis should also be prepared in advance when using cameras (we assume that the data processor also uses cameras). Camera notification labels must contain 4 mandatory data fields <https://melon.rik.ee/videoalve-sildi-genererija>. One of them must be a reference to longer terms that can be part of the general data protection terms. In doing so, the data processor must ensure that he can identify who has viewed the recordings (logs, a document/book kept about the views) in order to identify that no unjustified viewings have taken place. If you use a security company, it must be stated exactly who the authorized processor is, etc. Data protection conditions The processing of personal data must fully comply with the principles set out in paragraph 1 of Article 5 of the IKÜM, including point a. The principle of transparency requires that all information and messages related to the processing of personal data are easily accessible, understandable and clearly worded. In other words, data protection conditions (privacy policy) must be drawn up. The content of the data protection conditions is regulated by Articles 12 - 14 of IKÜM. We checked the website of the data processor, but did not clearly identify the data protection conditions. The online store <https://www.sisustuspood.ee/kuidas-osta/> does have a published chapter on Privacy and data protection, but it is clearly incomplete. We also identified a reference to the consumer's consent on the online link <https://www.sisustuspood.ee/muugitimedus/> in paragraph 1 of point 9, in which we explain that this is misleading information, as the ordering itself is indeed done at the customer's own request and consent, but in fact in this case the personal data the

legal basis for processing is no longer consent (Article 1 paragraph 1 point a) of IKÜM, but Article 1 paragraph 1 point b2 of IKÜM. Therefore, it is misleading to ask the customer for confirmation/consent, but simply provide information about the processing of personal data, i.e. a reference to the data protection conditions. However, there are no data structures and retention periods of any kind. In addition, the situation regarding the storage of personal data for the purpose of defending or presenting possible legal claims is also unregulated. In addition, we explain that the limitation period for a claim arising from a transaction is three years (General Civil Code Act § 146 paragraph 1) and only in individual cases the limitation period for a claim may be up to ten years (General Civil Code Act § 146 paragraph 4). Therefore, in a situation where the data processor wants to keep data generally longer than the standard expiration date of the claim (three years), then this need must be very clearly justified. You can find out more precisely what it should contain at the online link

[https://www.aki.ee/et/eraelu-kaitse/andmetootleja-vastutus-ja-kahsumsed/andmekaitsesutsundu-vajalikkest](https://www.aki.ee/et/eraelu-kaitse/andmetootleja-vastutus-ja-kahsumsed/andmekaitstesutsundu-vajalikkest). Also from the general manual for the processing of personal data, page 44, chapter 10.

https://www.aki.ee/sites/default/files/dokumendid/isikuandemte_tootleja_uldjuhend.pdf. 1

https://www.aki.ee/sites/default/files/dokumendid/oigustudu_huvi_juhend_15052020.pdf. 2 IKÜM article 6 paragraph 1 point b - processing of personal data is necessary for the performance of a contract concluded with the participation of the data subject or for taking measures prior to the conclusion of the contract in accordance with the data subject's request. The data protection conditions could be located at the foot of the page and be drafted as briefly and in simple wording as possible, avoiding copying of laws. We also ask you to avoid artificially created sentences that do not actually provide any additional information (E.g. Customers' personal data and data on orders placed by them are strictly confidential and cannot be passed on to a third party). It should be clear from them which personal data (exact list of data composition), for which purpose and legal basis (references to legal basis) you process, including how long they are stored and to whom they are transmitted in what scope and purpose (including names of authorized processors), etc. We explain that the period of storage of personal data must be formulated in such a way that a person can assess, based on his own situation, what the storage period is for specific data/purposes. We ask you to start with the first injunctive claim and respond to the appellant. In such cases, the need for an injunction is caused by the data processor's own passivity in resolving matters with the complainant, which leads to the involvement of extrajudicial proceedings. In other points, we are happy to answer any questions and share additional explanations. /signed digitally/ Kadri Levand lawyer under the authority of the director general