

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.-1/21/4185 Issuer of the injunction Data Protection Inspectorate lawyer Mehis Lõhmus

Time and place of issuing the injunction January 14, 2022 Tallinn Addressee of the injunction - personal data processor YIELDCRAFT OÜ address: e-mail address: info@xolo.io Responsible official of the personal data processor YIELDCRAFT OÜ board member

RESOLUTION: § 56 (1), (2) point 8, § 58 (1) of the Personal Data Protection Act (IPS) and Article 58 (1) points a and d and (2) points c and d of the General Regulation on Personal Data Protection (IKÜM), also considering the IKÜM with articles 5, 6, 7, 12, 13 and 14, the Data Protection Inspectorate issues a mandatory injunction to YIELDCRAFT OÜ to comply with:

1. Respond to the inquiry sent by the Data Protection Inspectorate on 27.01.2021 no. 2.1-1/21/4185 (the inquiry with proposals is attached to this injunction )
2. Create data protection conditions of YIELDCRAFT OÜ that correspond to articles 12-14 of the General Regulation on Personal Data Protection and publish them on the website of Yieldcraft OÜ. The data protection conditions must, among other things, be easily found (presumably in the footer of the page).
3. Create a proper cookie consent form on the YIELDCRAFT OÜ website www.folkd.com. We set the deadline for the fulfillment of the injunction to be January 21, 2022. Report the fulfillment of the injunction 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 in accordance with the Administrative Procedure Act to the Data Protection Inspectorate or 2 (5)
- an appeal in accordance with 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.

EXERCISE MONEY WARNING: If the injunction has not been complied with by the specified deadline, the Data Protection Inspectorate will issue the addressee of the injunction on the basis of § 60 of the Personal Data Protection Act: Extortion money of 5,000 euros for each unfulfilled injunction point. 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 (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: The Data Protection Inspectorate received a complaint regarding the fact that a person cannot exercise his right to delete data. It is stated in the complaint that regardless of several appeals to YIELDCRAFT OÜ, the personal data of the complainant was not deleted. YIELDCRAFT OÜ has failed to respond to all of the applicant's letters and has therefore violated the obligation arising from the General Regulation on the Protection of Personal Data. The Data Protection Inspectorate started the monitoring procedure and identified other deficiencies in the data processing of YIELDCRAFT OÜ and, in addition to the inquiry made to clarify the above, proposed to eliminate the deficiencies. The Data Protection Inspectorate sent an inquiry and proposals to YIELDCRAFT OÜ on December 27, 2021. The Data Protection Inspectorate asked to respond to the inquiry by January 7, 2022 at the latest, and to fulfill the proposals by January 10, 2022 at the latest. To date, YIELDCRAFT OÜ has not responded to the Data Protection Inspectorate's inquiry or fulfilled the proposals. PERSONAL DATA PROCESSOR'S EXPLANATION: 3 (5) The addressee of the injunction has been given a reasonable deadline to respond to the inquiry and fulfill the proposals. The Data Protection Inspectorate sent an inquiry and proposals to YIELDCRAFT OÜ on December 27, 2021. The inquiry was asked to respond by January 7 at the latest, and the proposals were asked to be completed by January 10 at the latest. Therefore, with regard to the inquiry, 11 days were given to answer and 14 days to fulfill the proposals, which is enough time for the subject of the procedure to testify and exercise his right arising from § 40 subsection 1 of the Administrative Procedure Act - to present his opinion and objections to the Data Protection Inspectorate. Until today, YIELDCRAFT OÜ has not presented its own positions. GROUNDS OF THE DATA PROTECTION INSPECTION: Responding to an inquiry In accordance with § 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. Taking into account the factual circumstances and the fact that it is mandatory to respond to the inquiry made as part of the supervisory procedure of the administrative body, but YIELDCRAFT OÜ has not responded to the inquiry and proposals sent by the inspection on December 27, 2021, the inspection considers that issuing a mandatory injunction in this case is necessary to find out the important circumstances of the supervisory case and the administrative procedure to carry out effectively, including as quickly as possible. If the person has problems responding to the inspection by the specified deadline, the person can explain to the supervisory authority which objective circumstances were the obstacle. However, simply not responding is not acceptable.

Data protection conditions The Yieldcraft OÜ website [www.folkd.com](http://www.folkd.com) does not have data protection conditions in accordance with Articles 12-14 of the General Regulation on the Protection of Personal Data. A "Privacy Policy" is presented, but it does not meet the conditions set forth in the General Regulation on the Protection of Personal Data. In the inquiry sent to YIELDCRAFT OÜ on December 27, 2021, we explained that Article 5(1)(a) of the General Regulation on Personal Data Protection stipulates the principle of transparency. 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 must be drawn up. The content of the data protection conditions is regulated by articles 12 - 14 of the IKÜM. Hereby, we emphasize that all information provided in articles 13 -14 of the IKÜM must be regulated in the data protection conditions. Among other things, we explained that if any of the provisions of the aforementioned articles remain unclear, it is also reasonable to consult the guidelines of Article 29 working group 4 (5) on transparency<sup>1</sup>, where the content of the points stipulated in Articles 13 - 14 of the IKÜM is also explained in more detail on pages 35 - 40. We added that each personal data processor must have data protection conditions that regulate the activities of a specific personal data processor. 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 checkmark, but must be based on the data processing of the data controller, which assumes that the data processing is precisely mapped and understandable to the drafter of the data protection conditions. To the extent that YIELDCRAFT OÜ has not yet added the appropriate data protection conditions to its website, nor responded to the proposals of the Data Protection Inspectorate, nor fulfilled them, an injunction is necessary.

Cookie consent The website of Yieldcraft OÜ [www.folkd.com](http://www.folkd.com) collects various cookies, including Google Analytics cookies, but visitors to the website are not correctly asked for consent to the collection of cookies. Article 6 point a of the General Regulation on the Protection of Personal Data states that the processing of personal data is legal only if the data subject has given consent to process his personal data for one or more specific purposes. Paragraph 30 of the preamble of the General Regulation on the Protection of Personal Data states that natural persons may be associated with network identifiers shared by their devices, applications, tools and protocols, such as IP addresses or cookies, or with other identifiers, such as radio frequency identification chips. This may leave traces that may

be used to profile and identify natural persons, in particular when combined with unique identifiers and other information arriving at the servers. Therefore, the collection of cookies is clearly the processing of personal data, and for this YIELDCRAFT OÜ needs a legal basis arising from the law, which can only be the consent of the data subject in established practice in Europe. We also explained that under 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 on the user's different end devices and the right to refuse them may be provided once during one and the same connection, and 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 waiver 1 Article 29 working group guidelines - Available:

[https://www.aki.ee/sites/default/files/inspektsioon/rahvusvaheline/juhised/suunised\\_maaruse\\_2016679\\_kohase\\_labipaistvuse\\_kohta.pdf](https://www.aki.ee/sites/default/files/inspektsioon/rahvusvaheline/juhised/suunised_maaruse_2016679_kohase_labipaistvuse_kohta.pdf) 5 (5 ) of cookies. If the user does not agree, the performance of the main functions of the application must still be guaranteed. The conditions for giving the data subject's consent are set out, among other things, in Article 7 of the General Regulation on the Protection of Personal Data. We further explained 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 any relevant). 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 or refusal for each type of cookie (except cookies that are essential for the website to function). As an example, you can take LHV Bank's cookie consent request form. To the extent that YIELDCRAFT OÜ still does not ask data subjects for their consent to the use of cookies on its website, nor has it responded to the proposals of the Data Protection Inspectorate, nor has it complied with them, an injunction is necessary. /signed digitally/ Mehis Lõhmus, a lawyer under the authority of the director general