

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.-4/19/3097 Issuer of the injunction Data Protection Inspectorate lawyer Ivo Eelvelde and place of the injunction 19.11.2021, Tallinn Addressee of the injunction - personal data processor OÜ VIP Shop registry code 11452320 Harju county, Tallinn, Mustamäe district, E. Vilde tee 80-57, 12912 e-mail address: viktor@dodopizza.ee Responsible official of the personal data processor Board member RESOLUTION: § 56 (1), (2) point 8, § 58 (1) of the Personal Data Protection Act and Article 58 (2) point d of the General Regulation on Personal Data Protection (IKÜM) on the basis of, taking into account articles 5, 6 and 12-14 of the IKÜM, I issue a mandatory injunction for compliance: 1. Stop the use of cameras in the work rooms of all restaurants of VIP Shop OÜ until points 2-6 of this injunction have been fulfilled and the Data Protection Inspectorate has approved the legitimate interest assessment analysis; 2. prepare an assessment of legitimate interest in the use of cameras in accordance with the instructions prepared by the Inspectorate; 3. update the data protection conditions after evaluating the legitimate interest; 4. explain whether and how data protection conditions are made available to customers and employees; 5. submit to the inspection, by restaurant, extracts from the field of view of each camera; 6. create and install proper information signs about the use of video surveillance. I set the deadline for the execution of the injunction as 20.12.2021. Report compliance with the order to the Data Protection Inspectorate by this deadline at the latest. REFERENCE FOR DISPUTES: You can contest this order within 30 days by submitting either: - an appeal in accordance with the Administrative Procedure Act to the Data Protection Inspectorate or - 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. PENSION MONEY WARNING: If the injunction has not been fulfilled by the specified deadline, the Data Protection Inspectorate will impose a monetary penalty on the addressee of the injunction on the basis of § 40 subsection 2 of the Personal Data Protection Act: 2 (6) in the amount of 1,000 euros for failure to fulfill each obligation in points 1-5 of 1; 2. in case of non-fulfilment of the obligation stipulated in point 6 in the amount of 1000 euros in each restaurant owned by the company. 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. FACTUAL CIRCUMSTANCES: 1. On 23.08.2019, the AKI initiated a self-initiated monitoring procedure, the purpose of which was to find out on what legal basis and for what purpose the legal entity OÜ VIP Shop, with the registry

code 11452320, publicly reports in real time on the website <https://dodopizza.ee/tallinn> employees in the performance of their duties; 2. OÜ VIP Shop explained in a letter dated 02.09.2019 that the use of video cameras in the premises (including transmission to the public) results from the employment contract, and the installation of the video camera and the transmission of the recorded video via the Internet have been introduced to the employees, and they have agreed to this by signing the employment contract; 3. On 03.09.2019, AKI made a proposal to VIP Shop OÜ in the matter of personal data protection, including explaining that, as far as we understand, you based your answer on Article 6 paragraph 1 point b of the General Regulation on the Protection of Personal Data (hereafter IKÜM), according to which the processing of personal data (the use of video cameras in workplaces and live transmission to the public) necessary to fulfill the contract concluded with the participation of the data subject. The Data Protection Inspectorate proposed to VIP Shop OÜ to remove it from the website <https://dodopizza.ee/tallinn> no later than 06.09.2019 for the duration of the procedure; 4. VIP Shop OÜ fulfilled the proposal made by AKI on 03.09.2019 on 06.09.2019 by sending an e-mail in Russian with a request to meet with AKI, to which we replied on 12.09.2019; 5. On 19.09.2019, AKI forwarded an inquiry regarding the protection of personal data, thoroughly explaining the principles of data processing and the obligations of the data controller. We asked for an answer to the question posed in the inquiry by September 30, whether the specific data protection conditions created on the basis of Articles 12-13 of the IKÜM regarding the use of monitoring devices have been communicated to the employees, and in case of a positive answer, to provide the AKI with the information that was communicated to the employees (including all documents) and to explain when and how this information was communicated to employees. At the same time, clearly and clearly explain which point of the document meets the requirements set out in paragraphs 1 and 2 of article 13 of the IKÜM (example: article 13 paragraph 1 point b of the personal data processing procedure regulated in point 5.2.8.). In a situation where the data protection conditions have not been communicated to the employees, we asked for a reason why this has not been done; 6. On 03.10.2019, VIP Shop OÜ received a response to the proposal of 03.09.2019 in the matter of personal data protection, in which VIP Shop OÜ explained the content of the employment contract as the legal basis for processing, which is related to obtaining consent from employees to use cameras. It was also stated that the employee can withdraw his consent at any time and he is offered opportunities to work in rooms where there are no cameras. The requested data protection conditions, which are mandatory due to articles 12-13 of the IKÜM, were not forwarded; 7. On 23.10.2019, AKI once again explained why consent given in employment relationships is not considered voluntary consent and once again asked to answer the question

whether specific data protection conditions created on the basis of Articles 12-13 of the IKÜM regarding the use of tracking devices have been forwarded to employees, and in the case of an affirmative answer, to forward them to AKI information that was communicated to employees (including all documents) and explain when and how this information was communicated to employees. At the same time, clearly and clearly explain which point of the document meets the requirements set out in paragraphs 1 and 2 of Article 13 of the IKÜM. In a situation where the data protection conditions have not been communicated to the employees, we asked for a reason why this has not been done. We also asked for an answer to the question of whether there are cameras in the institution where customers can be seen, and if the answer is yes, the Inspectorate asked to explain how the conditions of these cameras are also regulated by 3 (6) (including a request to send the relevant documents). In case the cameras are not used in the room intended for the customers, we asked to send a photo of the room to confirm this. AKI set 04.11.2019 as the deadline for responding, warning that AKI has the right to oblige the data processor to respond to the inquiry by imposing an injunction and a fine; 8. Since the data processor did not respond to the inquiry, AKI forwarded a repeated inquiry to VIP Shop OÜ, setting the deadline for the response to 16.12.2019 and warning that AKI has the right to oblige the data processor to respond to the inquiry by imposing an injunction and a penalty; 9. On 07.06.2020, the contractual representative of VIP Shop OÜ responded to XXX AKI's request on 23.10.2019 explaining why, in VIP Shop OÜ's opinion, the employment contract is the legal basis for processing, which is related to obtaining consent from employees to use cameras, and forwarded VIP Shop OÜ's personal data processing procedure, employees' consents, employee data protection conditions. VIP Shop OÜ explained that not agreeing to the use of a camera in the workplace will not have any adverse consequences for the employees, and they also have the right to withdraw their consent at any time without any adverse consequences; 10. On 26.08.2020, the Data Protection Inspectorate conducted an on-site inspection at the Dodo Pizza restaurant located at Sõprus pst 211A in Tallinn. The purpose of the inspection was to find out whether and in what way the personal data of employees continues to be processed with video surveillance devices. Also, how have employees been made aware of the circumstances related to the use of video surveillance devices, including identifying whether the obligation to inform customers/employees about video devices has been fulfilled, whether employees are aware of the circumstances of personal data processing provided for in the General Regulation on Personal Data Protection, and whether the consent given by employees has indeed been voluntary and with the option of choosing whether the employee has it is possible to withdraw the consent and work without being in the field of view of the camera, as VIP Shop OÜ has stated to AKI in the course of the

procedure. The inspection established that for those employees who do not want to work in the field of view of the camera, another work space that meets the necessary working conditions is not guaranteed. There were cameras in all work rooms. Therefore, the employees' consent cannot be considered voluntary, and there must be another legal basis for the use of cameras in the workplace. In addition, several employees who were on site had not familiarized themselves with the data protection conditions and did not know anything about their existence. Some employees did not know anything about the cameras and were also not aware that they had the option not to give consent regarding the camera and had not seen the consent formalized as an appendix to the contract. It was also identified that one of the cameras in the work rooms is located in the staff locker room where the staff change their clothes. It also turned out that the signs informing about the cameras do not meet the requirements. There was one sign of a camera image without text on the wall by the counter, but the sign did not indicate the purpose of the video surveillance, the legal basis and the controller. There was also no indication of where and how the customer can find the data protection conditions, and they were missing both on the company's website and on site, and there were no conditions for the use of cameras in the employees' workplaces; 11. On 16.04.2021, in view of the circumstances identified in the inspection carried out by AKI, VIP Shop OÜ made a proposal to better meet the requirements for personal data protection: 1. to remove cameras from the dressing rooms of all employees in Dodo Pizza Estonia restaurants; 2. prepare an assessment of the legitimate interest in the use of cameras in accordance with the above-mentioned instructions prepared by the Inspectorate; 3. update the data protection conditions after evaluating the legitimate interest; 4. explain whether and how data protection conditions are made available to customers and employees; 5. Create proper notification signs about the use of video surveillance. AKI asked for feedback on the implementation of the proposal (including the documents mentioned in points 2 and 3, answers to points 1 and 4 and photos of the new camera signs) no later than 19.05.2021; 12. In the 19.05.2021 response to AKI, the company found that since the installation of the camera in the locker room was the wish of the employees and it was done on their initiative, the employer has not violated anything and the theft of things in the locker room can only be prevented with the help of a security camera. In addition 4 (6), the company informed AKI that additional time until October 30, 2021 is needed to implement and implement all circumstances; 13. On 27.10.2021, AKI submitted a new inquiry to the company regarding the implementation of the proposal, noting, among other things, that as of 26.10.2021, the notification signs about the use of video surveillance in the Dodo Pizza restaurant located at Sõprus pst 211A were still not in order and pointed out that it is waiting for the company's response (with the requested documents, with photos

and information) AKI 16.04.2021 to the proposal 30.10.2021. 14. On 02.11.2021, the contractual representative of the company, XXX, requested an extension of the deadline until 10.11.2021. PERSONAL DATA PROCESSOR'S EXPLANATION: On 10.11.2021, the contractual representative of the company, XXX, submitted a response to AKI's appeal on 27.10.2021, in which he confirmed that VIP Shop OÜ removed the cameras from the dressing room. However, in other respects he stated the following: "2., 3. As regards the analysis of the legitimate interest assessment, it has become clear that the said analysis will take longer than expected and that VIP Shop OÜ is working to ensure that its activities are in full compliance with the law and the corresponding analysis and the resulting updated data protection conditions would have been made. The relevant documents are currently being prepared. 4.,5. VIP Shop OÜ has ordered relevant notification signs and they have already been partially installed. When completing the order, VIP Shop OÜ installs appropriate notification signs. GROUNDS OF THE DATA PROTECTION INSPECTION: Personal data is any information about an identified or identifiable natural person (General Regulation on Personal Data Protection (IKÜM1) Article 4 Point 1). Personal data processing is any operation performed with personal data, including data collection, storage and use. The inspectorate has repeatedly explained that the processing of personal data (including with a camera) must fully comply with the principles set out in Article 5, paragraph 1 of the IKÜM, including points a, b and c, that is: - the processing is legal, fair and transparent to the person; - purpose limitation – personal data is collected precisely and clearly for specified and legitimate purposes; - collection of as little data as possible – personal data are relevant, important and limited to what is necessary for the purpose of their processing. 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. According to article 13 paragraph 1d, if the processing of personal data is based on article 6 paragraph 1 point f, the data subject must be given information about the legitimate interests of the data controller or a third party during data processing. Since during the procedure it has become clear that the data processing of VIP Shop OÜ is not based on voluntary consent, but on legitimate interest, it is important that a legitimate interest assessment has been carried out, which shows that the interest of the data processor outweighs the interests or fundamental rights and freedoms of the data subject. In a situation where this is not the case, the use of cameras is also not allowed. According to article 5 paragraph 2 of the GDPR, the data processor must prove the legality of data processing. We have explained how to assess legitimate interest in guide2. 1 On the computer network:

<https://eur-lex.europa.eu/legal-content/ET/TXT/?uri=CELEX%3A32016R0679> 2

https://www.aki.ee/sites/default/files/dokumendid/oigustudu_huvi_juhend_aki_26.05.2020.pdf 5 (6) The assessment of legitimate interest is not just for filling out forms. Its purpose is to explain why it is necessary to use so many cameras and in such locations in a way that everyone can understand. What purpose do cameras serve and why no other measure is sufficient. The objectives must be stated precisely, e.g. an abstract reference to "monitoring processes" or "ensuring security" is not appropriate. If the camera is used to protect property, it must be described exactly what the threat to the property is and why this threat is realistic (references to previous incidents). Cameras cannot be used due to a hypothetical threat. All the purposes for which the cameras are actually used must be written down. Based on the on-site inspection, the inspection has the understanding that the data processor controls the work of employees through cameras. This section must describe exactly how this is done, whether in real time, who is watching, what circumstances are being checked. Then it is necessary to specifically justify why the cameras are installed in such places and which cameras are used (e.g. whether and for what reason the cameras have a 360-degree field of view). To reduce the interference caused by camera tracking, they need to be directed only at a specific problem area. Unnecessary parts of the camera's field of view must be blurred or covered (there are technological possibilities for this, including the data processor has also blurred the faces of employees in the case of the video transmitted on the website, for example). Once the above is done, it is necessary to explain what effect the cameras have on the employees. How long the recordings are kept and who has access to them also affects the extent of the encroachment on employees' rights. Among other things, the stress caused by being under constant surveillance must also be taken into account. At the same time, I explain that employees cannot be in the field of view of cameras during their entire working hours. However, during the on-site inspection, we found that the cameras are in all the working rooms. It is said that the cameras have been removed from the dressing room by now, but the cameras were, for example, also in the room where the employees themselves eat. In addition to toilets and changing rooms, cameras are also not allowed to be used in rooms used by employees for work breaks and rest. As far as the inspection is concerned, the data processor has not seriously looked for or used alternatives to the use of cameras. This is exemplified by the previous use of cameras in changing rooms where, according to employees, they have to change all their clothes except underwear when they come to and from work every day. According to the data processor, the cameras in the dressing room were necessary because of thefts. During the on-site inspection, we found that lockable lockers had been installed for employees, but there were not enough of them for each

employee. Even then, AKI could not understand why the employer did not take alternative measures, i.e. did not install additional cabinets or, if the cabinets could be opened despite the lock, did not replace them with cabinets that cannot be opened without a key, or in the event that things did not fit in the cabinet, did not install larger cabinets. According to Article 58(2d) of the General Regulation on the Protection of Personal Data, the supervisory authority has the right to order that the responsible processor or authorized processor, in appropriate cases, bring personal data processing operations into compliance with the provisions of this Regulation in a certain way and within a certain period of time. At the request of the data processor, the inspectorate has given it additional time to install the proper notification signs about the use of video surveillance, to prepare a legitimate interest assessment regarding the use of cameras, and to update the data protection conditions. According to the inspection, the data processor has in no way demonstrated readiness to prepare the required documents. 5 months is a long enough time to carry out the corresponding actions. Also, ordering and installing camera tags cannot take 5 months or more. This is also confirmed by the fact that the data processor, having requested an extension until October 30, did not bother to request an additional extension before the deadline. From this, the Inspectorate concludes that the data processor intentionally fails to comply with the Inspectorate's proposals. 6 (6) Taking into account the factual circumstances and the fact that the legitimate interest in the use of cameras must be determined before they are put into use (and this cannot be done without an assessment of the legitimate interest being prepared) and this has not been done so far despite the long-lasting procedure, the inspection considers, that making a mandatory injunction in this matter is necessary for VIP Shop OÜ to bring its data processing operations into line with the General Regulation on Personal Data Protection. As long as the data processor has brought the data processing carried out through cameras into compliance with IKÜM, the inspectorate will issue an order to stop the processing of employees' personal data through cameras only in the workplaces accessible to employees. In doing so, AKI takes into account the fact that when implementing the said obligation, if there is usually a problem with data processors in some points of the data protection conditions, in this case they are completely absent. We assume that VIP Shop OÜ uses cameras in the service hall of restaurants (i.e. the area where customers stay) to protect the company's property. Customers, unlike employees, are usually in the camera's field of view for a short time and randomly (while eating in a restaurant). In the service hall, the violation of the rights of employees is also less because the employees are not constantly in the field of view of the cameras there. On the other hand, employees are constantly present in the working rooms (so-called back rooms). The continuation of camera monitoring in such premises without meeting the

prerequisites for the use of cameras is unacceptable. In turn, this is complicated by the fact that the inspection carried out as part of the supervision revealed that, although according to the data processor, the employees of VIP Shop OÜ have given written and signed explicit consent to the processing of their data for video recording and live broadcasting as an appendix to the employment contract, not all employees had seen the formalized consent as an appendix to the contract. and didn't know anything about cameras and weren't aware that they had the option of opting out of a webcam. Therefore, when implementing a temporary ban on processing, the inspection is limited to the employees' working premises (ie all those premises to which customers cannot enter). VIP Shop OÜ's cameras may be put back into use in the employees' workplaces only if all the following conditions are met: 1) VIP Shop OÜ has prepared and submitted a legitimate interest assessment to the inspection, 2) the inspection has approved the legitimate interest assessment, 3) VIP Shop OÜ has prepared data protection conditions for employees and introduced them to employees. Up-to-date data protection conditions and evaluation of legitimate interest must be available to employees at any time. The data processor must be able to prove that they have been introduced to employees. /digitally signed/ Ive Eevel lawyer under the authority of the director general