

info@aki.ee / www.aki.ee Registry code 70004235 PRECAUTIONS WARNING in personal data protection matter no.

2.1.-6/18/10 Preceptor Data Protection Inspector of the Data Protection Inspectorate Ain Kivistik Time and place of precept

12.12.2018, Tallinn Addressee of the precept - processor of personal data Mustamäe Spa OÜ (registry code 14490634) e-mail

address info@elamusspa.ee e-mail address kadikroot.niilikse@elamusspa.ee Person in charge of personal data processor

Andres Tiik, Member of the Management Board, Member of the Management Board Kadi-Krõõt Niilikse RESOLUTION: § 28

(1), § 32 (1), § 40 (1) and § 32 of the Personal Data Protection Act Pursuant to clause 33 (2) 4), I issue a mandatory precept to

comply with: 1. To stop the use of cameras in the locker rooms of Mustamäe Elamus Spa. I set the deadline for compliance

with the precept on 27.12.2018. Notify the Data Protection Inspectorate of the fulfillment of the precept by that deadline at the

latest. CONTEST REFERENCE: This precept can be challenged within 30 days by submitting either: - a challenge under the

Administrative Procedure Act to the Data Protection Inspectorate, or - an appeal under the Code of Administrative Court

Procedure to the Tallinn Administrative Court (in which case the challenge can no longer be heard). Contestation of a precept

does not suspend the obligation to comply with the precept or the application of the measures necessary for compliance.

PENALTY FINANCE WARNING: If a precept is not complied with by the specified term, the Data Protection Inspectorate shall

impose a penalty payment of 1,500 euros on the addressee of the precept on the basis of subsection 40 (2) of the Personal

Data Protection Act. The penalty payment may be imposed repeatedly - until the precept is complied with. If the addressee

does not pay the penalty payment, it is forwarded to the bailiff to start enforcement proceedings. In this case, the bailiff's fee

and other enforcement costs are added to the penalty payment. FACTUAL CIRCUMSTANCES: On 12.10.2018, a citizen's

memo was registered with the Data Protection Inspectorate, where attention was drawn to the use of cameras in the changing

rooms of Mustamäe SPA OÜ at Akadeemia tee 30, Tallinn. There are no separate booths where you can change your clothes

privately. The use of cameras in men's locker rooms has also been confirmed by the company through the media. On 16

October 2018, the Data Protection Inspectorate sent a proposal to info@elamusspa.ee for better compliance with the Personal

Data Protection Act. The proposal was to end the use of cameras in changing rooms. The deadline for replying was set on

30.10.2018. On 31.10.2018, the Inspectorate received a reply from Mustamäe SPA OÜ, in which you promised to send

explanations no later than 09.11.2018. The reply was forwarded on 15.11.2018. The Inspectorate did not consider the

explanations and objections provided to be sufficient. On November 26, 2018, the Inspectorate sent a repeated proposal for

better compliance with the Personal Data Act, where the Inspectorate once again clarified the right to privacy related to the use of cameras. We wanted an answer no later than 07.12.2018. The Inspectorate has not received a response to the sent proposal. The Inspectorate has no information that Mustamäe Spa OÜ has taken into account the Inspectorate's proposal. In the letter sent on 26.11.2018, the Inspectorate set out the questions and reasons given in the proposal sent on 16.10.2018, why the Inspectorate does not consider your objections submitted on 15.11.2018 to be sufficient. 1. For what purpose and why and on what legal basis are cameras installed in changing rooms? You answered: 1.1.1. In order to ensure the best possible privacy of customers, while also taking care of the property placed in responsible custody by customers with reasonable care, SPA has installed security cameras in the men's locker rooms to ensure the preservation of customers' property and to fulfill its legal obligation to provide custody services. 1.1.12. Thus, the purpose of processing personal data is to ensure the security and preservation of customers' assets. It is not clear from your answer what is the reason for your different approach to ensuring the security of men's and women's locker rooms and the preservation of customers' property. It is assumed that security measures in the women's locker room have been solved in another way that is less intrusive. We are proposing to use the same measures in men's changing rooms. 3. How are customers informed? You answered: 3.1. The SPA informs the customers about the use of security cameras with the appropriate stickers at the main entrance, where the opening hours of the center are. The administrator, who issues the locker key required for the provision of the storage service to the customer, answers all the customer's questions concerning the operating principles, location, etc. of the security cameras. Stickers on the use of security cameras at the main entrance to the SPA do not give the visitor any reason to believe that he is also being monitored in the changing rooms. The visitor expects that there will be no surveillance in the changing rooms, toilets or showers. 5. How long are the recordings kept? You answered: 5.1 Technically, a digital recorder that will overwrite after full capacity. Approximately three weeks. Even if there were a legal basis, it would be incomprehensible for such a long time to preserve the recordings, if the visitor has lost something, the claim will be filed faster. 6. If an analysis has been carried out justifying the need to use cameras, provide a copy of this analysis. You answered: 6.1 There is no analysis, but we have the contact details of happy visitors who have returned their property thanks to the cameras. Our technical solution has been approved by police officers in the event of a theft challenge. As the service has been introduced after 25 May 2018, it is a large-scale processing of personal data, which probably also includes health data, and it is advisable to carry out a data protection impact assessment. You have not compiled it. REASONS FOR DATA PROTECTION INSPECTION: When using

cameras in locker rooms, you process personal data. According to the Personal Data Protection Act, personal data is any data about an identified or identifiable natural person, regardless of the form or form in which the data are. The protection of personal data extends to data in any form or by any means. This means that personal data includes, but is not limited to, audio and image data, whether digital, paper, or the like. If the persons recorded on the videotape are identifiable (incl. Visually or by sound), it is personal data within the meaning of the Personal Data Protection Act, and the provisions of the Personal Data Protection Act must be applied when processing the data. The use, storage and analysis of such data is the processing of personal data in accordance with § 5 of the IKS. The processing of personal data is permitted only with the consent of the data subject, unless otherwise provided by law. The right to use surveillance equipment that stores personal data for the protection of persons or property arises from § 14 (3) of the APA. Pursuant to § 14 (3) solely for the purpose for which they were collected. The consent of the person is replaced by a notification, it is important to ensure that the persons present in the territory / building understand the fact of the use of the surveillance equipment. In particular, it presupposes that everyone can understand that devices on the ceiling or wall are surveillance devices. The information on the use of monitoring equipment must also be clear and unambiguous. The notification shall include the name and contact details of the data controller (including the authorized processor) and shall not be unreasonably distant from the monitoring area. However, the use of surveillance equipment without consent shall not be permitted if it would unduly prejudice the rights of the data subject. Excessive infringement of rights occurs if the desired goal can also be achieved by measures that are less infringing on the rights of the person. The right violated in this case by the use of surveillance devices is the right to privacy provided for in § 26 of the Constitution, one of the integral parts of which is the right to the protection of one's personal data and general human dignity. The right to privacy includes the physical and mental integrity of the person, his or her identity, personal data and the right to his or her image. In addition to the name, thoughts, feelings and convictions, a person's identity also includes his or her appearance. Due to the nature of the protection of personal data, each person is entitled to decide for himself or herself when and to what extent he or she makes himself or herself "public" or observable. According to the Constitution, rights and freedoms may be restricted only in accordance with the Constitution, and the restrictions must be necessary and must not distort the nature of the restricted rights and freedoms. Each processing operation must have a specific purpose and the amount of data used must be limited to what is necessary to achieve that purpose. The concept of private life is therefore not limited to what happens between the walls of a person's home. Upon entering the shared space, the person does not lose his

or her right to privacy. People clearly have a heightened expectation of privacy in rehearsal rooms, changing rooms, toilets and showers. Therefore, the use of surveillance equipment in these premises constitutes a significantly higher violation of fundamental rights than in other premises. In addition, such monitoring is degrading. A person assumes that he or she has a degree of discretion, but in fact his or her hygienic operations and his or her whole body are monitored by someone unknown and invisible to man, for unknown reasons, and may be stored somewhere and for an unknown time. The use of surveillance devices is certainly not the only means of preventing and detecting thefts. The Data Protection Inspectorate is of the opinion that other measures that are less intrusive on a person's privacy can and must be used to prevent and detect thefts in these premises. / digitally signed / Ain Kivistik Data Security Inspector on behalf of the Director General