

Privacy regulations for traffic registration systems Directorate-General for Public Works and Water Management

Draft of unofficial English version: February 2004

In case of doubt the Dutch version is decisive

Establishment of policy rules  
incorporating a resolution for the  
processing of personal data  
obtained from the use of traffic  
registration systems at the Ministry  
of Transport, Public Works & Water  
Management

Ministry of Transport, Public Works & Water  
Management

Date: Directorate-General for Public Works and Water  
Management

1 July 2003

No. :

HWK/R 5745

appendices: 1

Concerning:

Privacy regulations for traffic registration systems, Directorate-General for Public Works and Water Management

The Minister for Transport, Public Works & Water Management,

Considering:

that, due to the use of traffic registration systems, personal data is being processed that is subject to the Personal Data Protection Act;

that the Data Protection Act included an obligation to draw up privacy regulations;

that this obligation is no longer included in the Personal Data Protection Act;

that it is nevertheless desirable to establish what policy applies to the processing of personal data obtained from traffic registration systems, so as to ensure that these data can be handled in a uniform way;

that it is consequently worth recommending that policy rules should be drawn up;

that these rules should be laid down in the form of privacy regulations;

that the IVS90 information and tracking system for shipping is one of the traffic registration systems to which the privacy regulations apply;

that the IVS90 is also used in the provinces of Groningen, Friesland and South-Holland and that these provinces have indicated that they will apply privacy regulations with the same content;

that in connection with due care for society, there is an obligation to make it publicly known that traffic registration is taking place by means of camera surveillance;

that, due to the number and locations where cameras are installed, it is neither practical nor possible to indicate at the location itself that there is camera surveillance;

that publication of these regulations will take the place of any such local notification;

RESOLUTION:

**Article 1 Definitions**

The following definitions apply in this resolution:

- a. The person responsible: the Minister for Transport, Public Works & Water Management, the Provincial Executive of a province where IVS90 is used or the Municipal Executive of a municipality, with respect to sections of the IVS90 managed by them;
- b. The manager: the official who is responsible for processing personal data in traffic

registration systems on behalf of the person responsible at a regional directorate for

Public Works and Water Management and a province or municipality with respect to the sections of the IVS90 managed by them;

- c. Traffic registration system: a system suitable for processing data, recordings/images, audio recordings, radar images or other data used for the task of management;
- d. Public Works infrastructures: the infrastructures managed by a regional directorate for Public Works and Water Management as referred to in the Public Works Act or the infrastructures managed by a provincial or municipal authority;
- e. personal data: data processed by traffic registration systems that allow the identity of natural persons;
- f. IVS90: the information and tracking system for shipping as described in the appendix to this resolution, including all systems linked to the IVS90 including SITOS, BRIDGE and BICS and the successors to the aforesaid systems.

### **Article 2 Scope**

This resolution governs the tasks and authority of the person responsible with respect to processing personal data, obtained through the use of traffic registration systems installed on, in or near Public Works infrastructures.

### **Article 3 Purpose**

The purpose of processing personal data obtained from traffic registration systems is the management of Public Works infrastructures, in particular:

- a. Ensuring and promoting efficient, smooth and safe use of Public Works infrastructures, including recovery of damage caused by the users,
- b. Care for the safety of users of Public Works infrastructures, including quick and efficient action in the case of accidents and calamities, and
- c. Conducting necessary studies and investigations and processing personal data for statistical and policy purposes.

### **Article 4 Management and security**

1. The manager is responsible for the management of the personal data and for this purpose will take appropriate technical and organisational measures, necessary to safeguard the personal data from loss or any form of wrongful use.
2. The personal data will be stored in a place designated by the manager and managed by one or more officials appointed by him to perform this task.
3. Only the officials appointed by the manager may have direct access to the personal data.

### **Article 5 Inspection and correction by parties concerned**

1. Only natural or legal persons whose personal data have been collected may request the manager for permission to inspect the stored data concerning them or request these data to be corrected.
2. A request to inspect or correct data will be submitted in writing.  
An official referred to in article 4 can ask a natural or legal person requesting to inspect or correct data to identify himself.
4. When allowing personal data to be inspected, data concerning other persons will be made anonymous as far as possible. Following inspection or correction, the following will be recorded in writing:
  - a. the name of the person concerned,
  - b. the manner of inspection or correction,
  - c. the time and

- d. which data it concerned.

#### **Article 6 Inspection and issue of data to third parties**

1. The manager will refuse to allow third parties to inspect personal data or provide them with personal data, unless it concerns:
  - a. A request or claim from the organisations or persons referred to or named in the second and third paragraphs of this article, or
  - b. the provisions in the appendix concerning the IVS90.
2. The manager will allow inspection of the data or will provide these data to organisations that claim to have supervisory or investigative authority or some other relevant legal authority, provided that the basis and content of the authority are made known and a specific request for information is made.
3. After consideration of the interest involved, the manager may allow inspection of the data or issue these to:
  - a. the police if it claims to be enforcing law and order and giving help to those who need this,
  - b. an insurance company if this can make out a good case that it needs the data in the interests of a person concerned and the person concerned has given permission for this, or
  - c. a lawyer or attorney provided that he can prove that the data are necessary to promote the interests of a person concerned.
4. A request for inspection or issue of data will be submitted in writing.
5. The manager may attach conditions to inspection or issue of data.
6. A person requesting inspection or issue of data may be asked for identification.
7. When allowing inspection or issuing personal data, data concerning other persons will be made anonymous as far as possible.
8. Following inspection or issue of data, the following will be recorded in writing:
  - a. the name of the person concerned,
  - b. the manner of inspection or issue of data,
  - c. the time,
  - d. which data it concerned, and
  - e. name and address of the applicant.

#### **Article 7 Data storage periods**

1. Personal data will be stored for no longer than thirty days after recording. Where the IVS90 is concerned, the regulations described in the appendix apply.
2. In so far as this ensues from the objectives described in article 3 and it is a question of extraordinary circumstances or incidents, the personal data may be stored for longer than the period referred to in the first paragraph. This storage may not, however, last longer than is necessary.

#### **Article 8 Linkage prohibited**

The personal data may not be linked to other personal data except

- a. if it concerns personal data obtained simultaneously within the framework of the traffic registration, or
- b. The provisions contained in the appendix concerning the IVS90.

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**Article 9 Entry into force; official title**

1. This resolution will come into force starting from the second day following the officially recorded date of the Staatscourant in which it is placed.
2. This resolution will be cited as: Privacyreglement verkeersregistratiesystemen Rijkswaterstaat (Privacy regulations for traffic registration systems, Directorate-General for Public Works and Water Management).

THE MINISTER FOR TRAFFIC, PUBLIC WORKS AND WATER MANAGEMENT,

Karla Peijs

## Appendix

### Information and Tracking System for Shipping (IVS90)

The purpose of the IVS90, within the context of management of the main fairways, is to systematically record, store and make available information for the purpose of:

- a. promoting efficient (safe and smooth) shipping traffic;
- b. quick, efficient action in the case of accidents on these fairways;
- c. minimising reporting of shipping data at locks, bridges and traffic stations on these fairways;
- d. acquiring information concerning shipping traffic on these fairways for statistics and policy supporting analyses.

The IVS90 contains information concerning commercial vessels, including non-cargo carrying vessels, service and workboats and large leisure vessels that make use of the (main) fairways in the management area of the IVS90.

The IVS90 contains the following categories of data concerning the aforesaid vessels:

- a. Reference data. In this category, during the journey of each vessel the following information is recorded: the name, capacity, official vessel number (in the case of inland vessels), Lloyd's number (sea-going ships), type of vessel, gross registered tonnage, call sign (maritime shipping), name of owner, voortstuwingscode ("propulsion code"), nationality, length, breadth and maximum draught;
- b. Journey data. In this category, during the journey of each vessel the following information is recorded, the current draught, height, signalling, signalling control and the number aboard, origin and destination of the vessel;
- c. Cargo information. In this category, during the journey of each vessel or each 'hull' forming part of a combination, the following information is recorded: the name, type of vessel, container number, number and size of the containers, weight of the cargo, type of cargo, the VN number corresponding to this cargo, a ADNR classification (in case of dangerous substances), IMO classification (in case of dangerous substances), or HS number (other substances), place of loading and place of unloading the cargo;
- d. Lock data. In this category, during the journey of each vessel the following information is recorded: the expected time of arrival, reporting time, toerbeurtnummer ("turn number") and passage time through a specific lock complex;
- e. Lock chamber data (Kolkgegevens). In this category, during the journey of each vessel the following information is recorded: the schutbriefcode ("lock licence code"), entry time, lock direction, exit time and the code for the (part of the) lock chamber used;
- f. Block data. In this category, during the journey of each vessel the following information is recorded: reporting time when entering and leaving a specific section of a fairway, the sailing direction followed and the general position within this section of the fairway;
- g. Route data. In this category, during the journey of each vessel the following information is recorded: the route in accordance with IVS codes;
- h. Waiting port data. In this category, during the journey of each vessel that has made use of a waiting port, the following information is recorded: the duration of stay in the waiting port and if necessary the jetty name and position along the jetty;
- i. Position data, in so far as the manager deems this necessary.

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The IVS90 system is used by various fairway managers: The Directorate-General for Public Works and Water Management and the provincial executives of Groningen, Friesland and South-Holland and the municipal executives of Rotterdam and Amsterdam. Each of these fairway managers is responsible for its part of the registration. In addition to this territorial separation, there is also a functional separation. There is a separation between the management of the reference data in the IVS90 and the operational management of the IVS90. The reference data consist of a file of hull data, place names, ports and berths, nationalities and a file comprising dangerous substances and other substances. Management lies here in keeping these tables updated. This management takes place centrally, namely at the Zeeland Directorate of Public Works and Water Management; it comes solely under the responsibility of this directorate. Operation management of the IVS90, on the other hand, focuses on recording information generated when vessels make a journey. A 'journey' starts at the moment when a vessel sails into a fairway on which the IVS90 is in use and ends when that vessel leaves the IVS90 area again. This registration takes place at all traffic stations, bridges and locks on the IVS90 fairways. In contrast with the management of the reference data, the operational management of the IVS90 lies with various different fairway managers.

Data is stored in the IVS90 concerning commercial vessels, including the non-cargo carrying vessels, service and workboats and large leisure boats. These data include data that can be considered personal data in the sense of the law. These data come from registered persons, external registrations, fairway managers linked to the IVS90, shipping companies, shippers (companies) and reporting stations passed by a vessel on its journey. Various categories of information, given above, are recorded. Since all this information is of vital importance to the information system, the registered person is responsible for the accuracy of this information. This can lead to problems when information, such as cargo information, does not come from the registered person but from shipping companies or shippers. In this case, the registered person should check the information to be supplied with the party actually doing the supplying. This means that when information is supplied to the IVS90 by another party, the registered person can refuse entry of this information because he considers that incorrect information is being entered. If the registered person has his doubts in advance regarding the accuracy of the information supplied by a third party for entry into the system, he will not give permission for this bearing in mind that he as captain is responsible for the accuracy of the information reported. In such a case, the registered person (the captain) will then report the information.

The reference information remains stored in the IVS90 and is only updated when necessary. The operational information, on the contrary, is only stored for a short time. It is removed from the IVS90 seven days after registration and transferred to an archive file. This archive file is kept for a maximum of two years.

Arising from the purpose of the registration, integral data files from the IVS90 are structurally supplied to:

- The Central Bureau for Statistics
- The Traffic & Transport Advisory Service of the Directorate-General for Public Works and Water Management, Ministry of Transport, Public Works and Water Management
- The Cargo Transport directorate general of the Ministry of Transport, Public Works and Water Management (aggregated data files)

There is a link between the IVS90 and the following data collections:

- The 'Aquabel'-system of the Directorate-General for Public Works and Water Management
- The Zeeland Port Information System of Zeeland Seaports Vlissingen/Terneuzen

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- The German government's 'Melde- und Informationssystem für Die Binnenschifffahrt'
- The 'HMS/Cesar' system of the Amsterdamse Port Authority
- The Port Information System of the Rotterdam Municipal Port Management
- Shortly: Enigma of the Gent port authority
- APCS of the Antwerp port authority
- Data Handling System of the Schelde Radar Chain, and
- NHIS of Groningen Seaports Delfzijl.

This list may be added to by the manager at a later date.

Service companies associated with the IVS90 and the nature of the service they provide:

- Name: F.V. de Groof's In- en Uitklaringsbedrijf B.V. (Comex) (Customs Clearance), Hansweert  
Service provided: facilitation of compliance by registered persons with their (semi-) official formalities
- Name: Verenigde Bootlieden B.V., Terneuzen  
Service provided: assisting with mooring and unmooring in the Terneuzen locks
- Name: Montis Mooring & Boat service B.V., Terneuzen  
Service provided: assisting with mooring and unmooring in the Terneuzen locks

This list may be added to by the manager at a later date.

## **NOTES TO PRIVACY REGULATIONS FOR TRAFFIC REGISTRATION SYSTEMS, MINISTRY OF TRANSPORT, PUBLIC WORKS & WATER MANAGEMENT**

### GENERAL

This resolution contains policy rules with respect to processing personal data obtained through the use of traffic registration systems installed on, in or near Public Works infrastructures. Traffic registration systems are a collective concept. At the present time they include the IVS90 system (traffic management), video registration systems, radar systems and audio recording systems. The processing of personal data obtained from traffic registration systems is governed by the Personal Data Protection Act (DPA, *Staatsblad*(Bulletin of Acts & Decrees). 2000, 302). For the sake of clarity, it should be mentioned that monitoring, i.e. simply following a vessel on the radar screen or with the camera or audio equipment, whereby no recordings are made, does not come under the Personal Data Protection Act and is therefore not subject to this resolution.

### The law

The Personal Data Protection Act provides rules relating to the handling of privacy-sensitive information in order to ensure that the personal privacy of an individual is not encroached on more than necessary and desirable. An important aspect of this Act is the concept of handling personal data. The term handling is used in the widest sense of the word and includes the collection, recording, storage, supply by means of forwarding and distribution, as well as destruction. An example of personal data is a video image if a person is visible or if it contains information that can be traced to a natural person.

Although the Act therefore already lays down rules, it is nevertheless deemed desirable to draw up policy rules in relation to processing personal data obtained through the use of traffic registration systems. The policy rules show how the Ministry of Transport, Public Works & Water Management intends to deal with the different types of personal data. This offers security for the parties involved whose personal data is being handled. The policy rules have been given the form of privacy regulations bearing in mind that this is the most familiar form for the parties concerned and the managers. It goes without saying that the provisions of the Act will be taken into account.

On the grounds of article 27 of the Personal Data Protection Act, the processing of personal data (e.g. recording, distribution), obtained through a traffic registration system, should be reported to the privacy official at the Ministry of Transport, Public Works & Water Management. This official will be responsible for supervising compliance with the law and will be in charge of a public register that can be consulted by anyone. The register shows with what types of traffic registration systems personal data is processed by the Ministry of Transport, Public Works & Water Management. This register will not include an overview of the locations where cameras have been placed. This is not considered to be effective taking account of the fact that that an overview of this kind is difficult to keep updated, due to the increasing number of cameras still being installed. It is assumed that, following announcement of these policy rules, there will be sufficient awareness of the fact that cameras have been installed for traffic registration at numerous places on roads, fairways, bridges and locks.

### IVS90

With respect to the IVS90 system, the resolution concerned replaces the IVS90 Regulations dating from 14 July 1999 (Gov. Gazette. 142 of 28 July 1999). These regulations were based on the now withdrawn Data Protection Act. The IVS90 is used by a number of authorities on sections of fairways managed by them. These are the Directorate-General for Public Works and Water Management, in its capacity as fairway manager of national waterways, the



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Provincial Executives of the provinces of Groningen, Friesland and South-Holland, and the Municipal Executives of Rotterdam and Amsterdam as fairway managers of a number of fairway sections in those places. Taking into account that the IVS90 contains personal data, the processing of these data comes under the Personal Data Protection Act. Where the captains are concerned, it is also of great importance that this data that is partly of a commercial nature is protected from third parties; this is to prevent improper use by potential competitors. All data that could lead to identification of the name or owner of a vessel, a registered person, a specific type of cargo or the origin or destination of the cargo will, with the exception of instances provided for in this resolution, not be made available to third parties. Shore organisations such as shipping companies, charterers etc. have no access to the data in the IVS90. They can only report information to the fairway manager or request the position of an individual vessel provided that prior permission has been obtained from the registered person (the relevant vessel) via the Inland Shipping Information and Communication System.

Management of the fairway sections by the above-mentioned authorities is one of their autonomous tasks that they carry out independently. This means that in addition to the Minister for Transport, Public Works & Water Management, the Provincial and Municipal Executives can also be seen as persons responsible for the processing of personal data in the IVS90. In order to prevent interpretation problems and differences in legal protection, each person responsible will adopt (policy) rules with the same content.

Video cameras

A great deal of use is made nowadays of traffic registration systems, such as video cameras, on infrastructures managed by the Directorate-General for Public Works and Water Management. This concerns, for example, cameras near tunnels, reversible lanes, rush-hour lanes, locks and bridges. The reason for the use of video cameras can be the promotion of traffic safety, but also remote control of state infrastructure such as bridges. These video cameras are usually linked to systems with which images can be recorded. The use of this type of video registration system represents infringement of the privacy of the general public if video pictures clearly show a person or if information is shown that could identify a natural person. A registration number, for instance, is information that could lead to the identification of a natural person.

NOTES TO ARTICLES

### **Article 1 Definitions**

The term 'manager' can refer for example to the head of the traffic management centre, the lock complex or the traffic station.

### **Article 3 Purpose**

The Personal Data Protection Act states that personal data may only be collected for explicitly described, legitimate purposes. Where the Directorate-General for Public Works and Water Management is concerned, the purpose is proper implementation of its tasks in accordance with public law. This is dealt with in more detail in article 3. An important aspect is ensuring and promoting the efficient, safe use of Public Works infrastructures and care for the safety of users of Public Works infrastructures. Unsafe situations and incidents, for instance, can be traced and solved more quickly through video cameras, audio recordings and radar images. In addition, this allows evaluation of incidents for example. The possibility of using the data for research purposes is also explicitly stated. This also includes research for statistical, scientific or policy purposes. In addition, damage caused by users can be claimed with the use of video pictures, without the framework of efficient management of Public Works infrastructures. This is important, for example, in the case of damage to a structure (for example a tunnel, bridge or lock) in cases where it cannot immediately be

established who the perpetrator is.

It should be observed that only data necessary for the purpose should be collected. Persons and objects outside the Public Works infrastructure (for example the road) should be kept out of the picture as far as possible. Measures may need to be taken for this purpose in respect of the cameras, such as limiting the possibility of turning the camera and screening. It should be emphasised that the data should not be used for purposes other than those referred to above. For example, the IVS90 system may not be linked to a police system used for enforcement of regulations governing the transportation of dangerous substances.

#### **Article 4 Management and security**

It is important to handle stored personal data with care. In concrete terms, this means that these data and related administrative documents should be kept in a properly locked area that is only accessible by a few authorised people.

#### **Article 5 Inspection and correction by third parties**

It is only possible for a person concerned to submit a request to inspect or correct data. Issue of a video tape or audio recording is therefore not possible. The request must be submitted in writing, in other words by letter, fax or e-mail. For the sake of clarity, it should be mentioned that, although the possibility exists, a request for permission for correction is not likely to arise. The decision regarding the request from a person concerned (for example refusal of a request for inspection or correction) is a decision within the meaning of the General Administrative Law Act. It is possible to make an objection or appeal against this. Because it concerns a decision within the meaning of the General Administrative Law Act, the provisions relating to the preparations for a decision apply (particularly requirements relating to careful consideration and any obligation to hold a hearing). Bearing this in mind, the legal department should naturally be involved when dealing with a request for inspection or correction.

#### **Article 6 Issue to third parties, inspection and use by third parties**

The basic starting-point of the first paragraph is that *no* inspection or issue will take place of (the personal data included in) data, video images, radar images or audio recordings and that *no* copies will be issued to third parties requesting them.

Cases where inspection or issue of data is in principle permissible are listed in the second and third paragraph or in the appendix concerning the IVS90. With regard to the latter, it concerns structural issue to the Central Bureau for Statistics and the Ministry of Transport, Public Works and Water Management.

For the sake of clarity, the second paragraph includes the obligation to issue data on the grounds of a legal requirement. An example of this is a request for data within the framework of surveillance or investigation. The organisation with authority for surveillance or investigation may only see or claim the data after submission of a written request clearly stating on the grounds of which article of the law its authority is based. Furthermore, it must concern a specific investigation.

The third paragraph names specific cases in which data may be issued. In the first place it concerns actual enforcement of law and order in a situation in which the police has to provide assistance immediately to e.g. victims of a calamity. In such a situation it may be necessary to have the transport data relating to a vessel. Two further situations are named in which information may be issued in the interests of the person concerned.

It should be pointed out that case law concerning the issue of personal data is still in the process of development. On the basis of practical experience, it will then be examined for which special cases a more explicit rule can be made.

The manager is permitted to attach conditions to the inspection or issue of data.

It will need to be established, for example, for what purpose the recipient may use the

personal data (only for the purpose for which these data have been issued) and that the recipient must safeguard the person responsible from damage if he nevertheless uses the data for other purposes.

Finally, it should be observed that application of this article is also subject to the General Administrative Law Act.

#### **Article 7 Data storage periods**

The general rule is that personal data may not be stored for longer than thirty days. In the case of video recordings, the general rule also applies but the data are not usually kept longer than 24 hours. The purpose of recording data (for example evaluation/study or recovery of damages) may mean that data need to be stored for longer than the stated maximum storage time, but then naturally no longer than necessary. When claiming damages, it is important to store data during the civil proceedings for example. In the case of the IVS90, different storage times have been laid down for the different types of data and can be found in the appendix.