

PD CEN/TR 16742:2014



BSI Standards Publication

Intelligent transport systems — Privacy aspects in ITS standards and systems in Europe

bsi.

...making excellence a habit.™

National foreword

This Published Document is the UK implementation of CEN/TR 16742:2014. It supersedes PD ISO/TR 12859:2009 which is withdrawn.

The UK participation in its preparation was entrusted to Technical Committee EPL/278, Intelligent transport systems.

A list of organizations represented on this committee can be obtained on request to its secretary.

This publication does not purport to include all the necessary provisions of a contract. Users are responsible for its correct application.

© The British Standards Institution 2014. Published by BSI Standards Limited 2014

ISBN 978 0 580 79082 9

ICS 35.240.60

Compliance with a British Standard cannot confer immunity from legal obligations.

This Published Document was published under the authority of the Standards Policy and Strategy Committee on 31 October 2014.

Amendments issued since publication

Date	Text affected
------	---------------

ICS 35.240.60

English Version

Intelligent transport systems - Privacy aspects in ITS standards and systems in Europe

Systèmes de transport intelligents - Aspects de la vie privée
dans les normes et les systèmes en Europe

Intelligente Transportsysteme - Datenschutz Aspekte in ITS
Normen und Systemen in Europa

This Technical Report was approved by CEN on 23 September 2014. It has been drawn up by the Technical Committee CEN/TC 278.

CEN members are the national standards bodies of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Former Yugoslav Republic of Macedonia, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey and United Kingdom.



EUROPEAN COMMITTEE FOR STANDARDIZATION
COMITÉ EUROPÉEN DE NORMALISATION
EUROPÄISCHES KOMITEE FÜR NORMUNG

CEN-CENELEC Management Centre: Avenue Marnix 17, B-1000 Brussels

Contents

Page

Foreword.....	3
Introduction	4
1 Scope	5
2 Terms and definitions	5
3 Symbols and abbreviated terms	7
4 Background information	8
4.1 Historical background.....	8
4.2 Legal background.....	9
4.3 Fundamental Rights of Data Protection and Privacy.....	10
5 Basic elements of data protection and privacy	12
5.1 Personal information (PI) and its avoidance.....	12
5.1.1 General.....	12
5.1.2 GPS-Data or GPS-Trajectories	15
5.2 Sensitive data.....	16
5.3 Individual or data subject	16
5.4 Controller.....	17
5.4.1 General.....	17
5.4.2 ITS environment.....	17
5.5 Processor	18
5.6 Third Party	19
5.7 File or filing system (manually or automatically processed)	19
5.8 Consent.....	19
5.9 Withdrawal of consent	21
5.10 Fairness and legitimacy	21
5.11 Determination of purpose	21
5.12 Minimization of PI	22
5.13 Topicality and correctness of PI	22
5.14 Time limits to PI	23
5.15 Security requirements to PI	23
5.16 Obligation to keep PI secret	24
5.17 Obligation to inform the data subject (Individual or legal entity)	24
5.18 Right (access) to PI.....	25
5.19 Right to rectification and erasure of PI	26
5.20 Right to objection	27
5.21 Video surveillance (VS)	28
5.22 Shift in the burden of proof	28
Annex A (informative) Examples of the principle of “cumulative interpretation”	30
Annex B (informative) Data privacy Framework, Directives and Guidelines	33
Annex C (informative) Security related International Standards	34

Foreword

This document (CEN/TR 16742:2014) has been prepared by Technical Committee CEN/TC 278 “Intelligent transport systems”, the secretariat of which is held by NEN.

Attention is drawn to the possibility that some of the elements of this document may be the subject of patent rights. CEN [and/or CENELEC] shall not be held responsible for identifying any or all such patent rights.

Introduction

This Technical Report is a guide for the developers of both ITS itself and its standards when many types of data are exchanged during the performance of its tasks, which includes in some cases personal data and information. Such Personal Data or Personal Information (PI) underlies for their applications special rules defined in European Union (EU) mandatory directives or a possible EU Regulation concerning the revision of the EU Directives at Data Protection or at the national level national data protection law. In order to avoid an incorrect use of PI in any standard or Technical Report, which would cause the application of this standard or Technical Specification to be banned by legal courts, this Technical Report gives guidelines for the CEN/TC 278 Working Groups how to deal with PI in compliance with the legal rules.

Even though specific data privacy protection legislation is generally achieved through national legislation and this varies from country to country there exists a basic set of rules which are common in all European countries. These common rules are defined in the European Directives 95/46/EC and 2002/58/EC in their current versions. Countries not members of the European Union (Switzerland, Norway, Island etc.) have issued national data protection laws, which are very closely aligned to the European Directives. It should also be noted that the European Directives on the protection of individuals (95/46/EC and 2002/58/EC) are regarded as the strongest legal rules around the world.

This Technical Report builds on the content of ISO/TR 12859:2009 but extends the rules and recommendations in order to be as compliant as is reasonable with the European Directives and some of the national data protection laws. This means it is more specific and includes some recent developments and it tries to include some intentions of what the European Commission is preparing to include in a revised and enforced version of the Directive 95/46/EC (the proposed EU proposal of a Regulation of data protection COM(2012)11 final, 2012/0011 (COD)).

1 Scope

This Technical Report gives general guidelines to developers of intelligent transport systems (ITS) and its standards on data privacy aspects and associated legislative requirements. It is based on the EU-Directives valid at the end of 2013. It is expected that planned future enhancements of the Directives and the proposed "General Data Protection Regulation" including the Report of the EU-Parliament of 2013-11-22 (P7_A(2013)0402) will not change the guide significantly.

2 Terms and definitions

For the purposes of this document, the following terms and definitions apply.

2.1

accountability

principle that individuals, organizations or the community are liable and responsible for their actions and may be required to explain them to the data subject and others and their actions shall comply with measures and making compliance evident, and the associated required disclosures

[SOURCE: ISO/IEC 24775:2011 Edition:2]

2.2

anonymity

characteristic of information, which prevents the possibility to determine directly or indirectly the identity of the data subject

[SOURCE: ISO/IEC 29100:2011]

2.3

anonymisation

process by which personal information (PI) is irreversibly altered in such a way that an Individual or a legal entity can no longer be identified directly or indirectly either by the controller alone or in collaboration with any other party

[SOURCE: ISO/IEC 29100:2011]

2.4

anonymised PI

PI that has been subject to a process of anonymisation and that by any means can no longer be used to identify an Individual or legal entity

[SOURCE: ISO/IEC 29100:2011]

2.5

committing of PI

transfer of PI from the controller to a processor in the context of a commissioned work

2.6

consent

individual's or legal entity's (data subject) explicitly or implicitly freely given agreement to the processing of its PI in the course of which the data subject has been in advance completely informed about the purpose, the legal basis and the third parties, receiving data subject's PI, and all these in a comprehensible form