

Chapter 18

Notes about Vehicle Monitoring in Brazil and Europe from a Data Protection Perspective

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ABSTRACT

The Brazilian National Traffic Council, in a Resolution adopted in 2006, stated that every vehicle to be sold in the country should have an RFID chip. The nature of the whole project, named SINIAV, is to assemble an infrastructure all over public roads and streets capable of recognizing and identifying vehicles. A surveillance system such as SINIAV, presented as a cutting-edge system capable of bringing security to Brazilian's streets by reducing car's theft, has a crucial (and political) aspect which addresses the level of security that should be developed in the IT system for the use of such database, especially in a country which does not have a specific data protection legislation. The regulation of databases of personal information is an unavoidable step to be done, as the real danger to personal liberties in an automatic surveillance system, such as this one, is not based in personal surveillance, but is related to the use of this personal data. It is not by chance that the European Union is currently discussing a new Action Plan for the Deployment of Intelligent Transport Systems in Europe. Taking into account this scenario, the current chapter analyses the SINIAV regulation from a data protection perspective.

INTRODUCTION

Personal data has been widely used as it became a fundamental tool for the development of various activities in the public and private domain. The automation of information processing has become indispensable due to increasing demands from

a mass society, to the point that today, in many circumstances, it would be unthinkable not to take advantage of this resource¹. The technology applied to information processing, on the other hand, increases the risk of invasion of privacy and control over individuals through the misuse of personal information, what encouraged the emergence of legal institutes capable of counterbalancing this

DOI: 10.4018/978-1-60960-051-8.ch018

trend and of providing citizens with control over their own personal data.

Such institutes have developed to an enormous extent in recent decades. Without going into details about the complex legislative development, it can be said that its features are rooted in principles of personal data protection that started to be elaborated at the beginning of the 1970s. These principles, which are often referred to as Fair Information Principles², have their roots in various laws about data protection and have formed the backbone of the first international documents which deal with the theme from a broader perspective, the Convention 108 from the Council of Europe³ and the OECD (Organization for Economic Co-operation and Development) Guidelines⁴, both at the beginning of the 1980s.

Brazil, unlike other countries (even neighboring countries like Argentina and Uruguay)⁵, does not have a general norm that tackles the protection of personal data⁶, having only constitutional provisions of general character and some norms about data protection restricted to specific sectors (Bessa, 2003). In the lack of a mature legal data protection framework, some projects that include heavy treatment of personal data are being developed in Brazil without the proper measures to ensure the protection of citizens against the misuse of their data. Taking into account this scenario, this chapter will analyze a 'new' regulation from the Brazilian National Traffic Council regarding the monitoring of vehicles in roads and streets all over the country, which poses many threats to individual privacy and data protection.

BACKGROUND: THE SINIAV PROJECT

In 2006 the Brazilian National Traffic Council adopted a regulation (CONTRAN Resolution 212/2006)⁷ requiring that every licensed Brazilian vehicle shall have an RFID chip and that all the major highways and urban areas will be covered

by an extensive array of RFID sensors. In order to make use of these chips, this regulation also creates a nationwide automated system for identifying vehicles (SINIAV), which includes a centralized database of every monitored vehicle's wanderings.

Such a regulation is not unique in the sense that it is part of a group of regulatory initiatives which, in the recent past, made Brazil one of the most willing countries to make use of the technological measures available to control its population and to provide as much as possible data for administrative purposes. The measure, however, does not seem to consider a series of probable pitfalls related to privacy and data protection issues.

Organizing a rather large population in one of the largest countries in the world has always been one of the main challenges of the Brazilian public administration. To make goods and services, either public or private, arrive in Brazil's most inner locations is a rather usual problem and a fact of life for many people living in most remote areas. That has also probably been a cause for the concentration of both population and capital in southeastern Brazil.

So, with the 'arrival' of technologies capable to keep track of the actions and whereabouts of people, the enforcement of those technologies started to be seen by many policy-makers as the next logical step. Thus, several projects in this sense are already being implemented, such as the biometrical authentication of voters by the electronic voting machine in all Brazilian's elections; the unique ID for civil identification that comes with an all-new plastic-made and chip-powered ID card and a central database, according to the RIC project⁸; as well as the SINIAV project.

As pointed out by David Lyon:

Keeping track of where people are has always been important for families, employers, authorities. They want to know that children are safe, workers are busy, and that citizens are living lawfully. In the modern era, with its bureaucratic organizations and high mobility rates, schools, govern-

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