

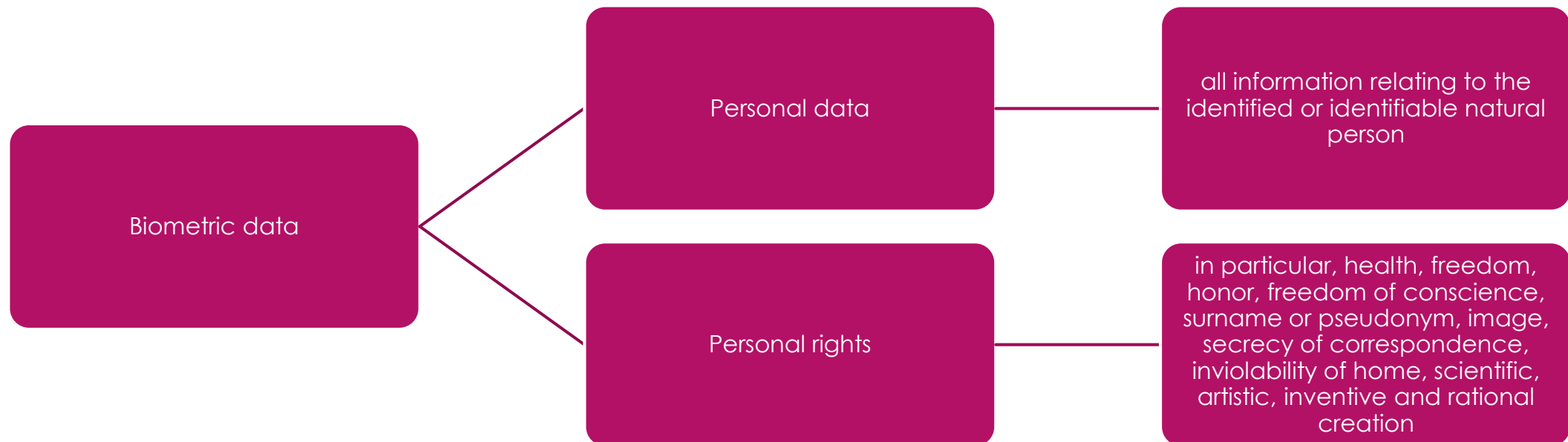


Civil liability of software using biometrics on the grounds of Polish jurisdiction

BIOMETRIC SECURITY FEATURES

How it works?	Types:
<ol style="list-style-type: none">1) registering characteristic physical or behavioral features;2) storing the processed data mostly in the form of a code;3) comparison of the stored pattern with the newly introduced pattern;	<ul style="list-style-type: none">- fingerprints,- iris scanning,- hand geometry,- analysis of the voice sample,- vein geometry.

The essence of biometric data



THE HAZARDOUS PRODUCT

- ▶ **Polish Civil Code(art. 449¹-449¹¹)**
- ▶ Only movable goods
- ▶ Does not ensure safety during normal use by the user
- ▶ The main characteristic that makes a thing a hazardous product is a defect



THE DEFECT

- ▶ An instructional defect – occurs when the production manager does not have the required knowledge of the good being manufactured,
- ▶ A production defect – is generated at the stage of production, it is a derivate of errors that occurred at this state, e.g. employee's mistakes, inadequate selection of materials,
- ▶ A constructional defect – is created at the design stage, namely in the construction;



ISSUES RELATED TO THE CLASSIFICATION OF SOFTWARE PRODUCTS

Users can purchase a computer software which is available in the market in three forms:

- ▶ fixed on data media,
- ▶ installed on the device,
- ▶ as an integral part of the device.



WHO IS RESPONSIBLE FOR THE HAZARDOUS PRODUCT?

- ▶ As a general rule - the manufacturer bears the liability,
- ▶ Manufacturer of a material, raw material or a component,
- ▶ The entity that assumes to be manufacturer,
- ▶ Importer,
- ▶ The final seller of a product (where the manufacturer or importer cannot be identified).

EXCLUSION OF A MANUFACTURER'S RESPONSIBILITY

- ▶ If he has not placed the product on the market, or placing on the market has fallen outside his sphere of business,
- ▶ If the hazardous features of the product have arisen after placing the product on the market (unless they are the result of a defect in the product),
- ▶ When (taking into account the current state of science and technology) or when the characteristics of a given product are determined by the application of legal provisions – the manufacturer could not have predicted that the manufactured product could be dangerous at the time of placing it on the market.



THE INJURED PERSON

A claim for compensation for damage resulting from the use of a product which turned out to be hazardous is not granted only to its owner, i.e. the person who purchased it.

It is assumed that a hazardous product can cause two types of damage: personal injury and property damage (dichotomous division of damages).



DAMAGES

Personal injury

- the product causes harm to health, the body or life of the injured person,
- liability for personal injury cannot be excluded or limited.

Property damage

- includes the liability of the manufacturer for the damage to the victim's property, such as the destruction of goods,
- the manufacturer is not obliged to pay to the injured person the compensation for the destroyed hazardous product,
- the manufacturer is not obliged to pay compensation if the damage to property does not exceed the equivalent of 500 euros.

THE MOST COMMON TYPE OF DAMAGE

- ▶ Unauthorized use of data by the third party due to the fault of entity which was responsible for the data;
- ▶ The risk of downloading and copying the user's biometric data;
- ▶ When in the course of collecting biometric data the user will be harmed.

CASE STUDY

- ▶ HSBC Bank in the UK was a victim of a hacker attack
- ▶ The bank's computer system serving Internet clients and collecting their personal data (including biometric data) was attacked
- ▶ Customers have lost the opportunity to access their accounts for a certain period of time
- ▶ The Bank has ensured that no personal data or financial resources have been violated
- ▶ It can be expected that the attack might have been an attempt to cover up another operation.



THANK YOU FOR YOUR ATTENTION

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