

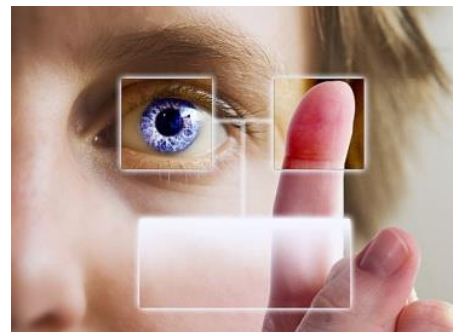
# Biometrics and Privacy Regulations

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# AGENDA

- Introduction
- Privacy concerns of biometrics
- Legal framework and legal issues
- Norwegian legal practice: case study
- Final remarks



# PRIVACY CONCERNS OF BIOMETRICS

- Identity theft
- Unnecessary collection
- Tracking and surveillance
- Unauthorized processing
- Linking
- Decision errors



# LEGAL FRAMEWORK

- European Convention of Human Rights, article 8
- Convention 108 on Data Protection
- EU Data Protection Directive 95/46/EC



# LEGAL FRAMEWORK

”identifiable”

- Consultative committee: ”as soon as biometric data are collected with a view to automatic processing there is the possibility that these data can be related to an identified or identifiable individual” (2005:16)
- DPWP article 29;”it appears that biometric data can always be considered as information relating to a natural person” as it concerns data, which provides, by its very nature, information about a given person. In the context of biometric identification, the person is generally identifiable, since the biometric data are used for identification or authentication at least in the sense that the data subject is distinguished from any other. ”

# LEGAL FRAMEWORK

- Principle of proportionality( art6(1) Data protection Directive)
  - Personal data be processed fairly and lawfully
  - Be collected for specified , explicit and legitimate purposes
  - Be adequate, relevant and not excessive in relation to the purpose for collection
- Balancing test: test of necessity
- Least drastic means test
- Huber case: efficiency



# LEGAL FRAMEWORK OF NORWAY

- Personal Data Act
- Personal Data Regulations
- Section 12 :
- National identity numbers and other clear means of *identification* may only be used in the processing when there is an objective need for certain *identification* and the method is *necessary* to achieve such *identification*.

# CASE STUDY

- Cases in 2006

Reversed cases:

- Tysvær Municipality
- Esso Norge

Upheld cases

- Rema 1000
- Oxigeno Fitness





# OPINIONS FROM DATA INSPECTORATE

- All the biometric applications concerned should fulfill the requirement of necessity pursuant to Sec 12 of PDA
- The processing of biometric data should also fulfill other requirements in PDA, especially article 8,9, 11.
- Not meaningful to distinguish raw biometric image and template
- Encryption is a security measure not decisive factor.

# NEW CASES AND DEVELOPMENT

Case in 2011

- Vistma Retail
- 24-hour training system



Two issues:

1. Is S.12 of Personal Data Act relevant?  
Identification vs. authentication
1. Is the Personal Data Act relevant at all?

# CASE STUDY

- Raw biometric data----biometric template
- System used of identification or authentication?
- Final remarks