

## Legal Alert

# More firms and institutions rely on biometrics

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**Businesses are increasingly using biometric technologies. Poland's National Tax Information System has developed a voice identification system for use by tax offices and taxpayers, but it has not been launched yet because the data protection regulator has legal doubts about the system.**

Any information concerning an identified or identifiable natural person can be regarded as personal data. Biometric data—such as a fingerprint, the arrangement of blood vessels in the finger, voice, an image of the iris or retina of the eye, the way a person walks or sits, the geometry or thermogram of a person's hand, the shape of a person's face or an image of a person's heart rhythm—are regarded as a special category of personal data.

### Broad use of biometrics

Businesses are more and more often applying biometric solutions in their day-to-day operations—for the sake of convenience and security. Biometrics are used in banking, controlling access to premises (offices, factories and so on), high tech (access to devices), public administration, and more. Biometric data are used for such purposes as controlling access to critical areas, such as safes and data centres, monitoring the working time of bank employees, and authenticating ATM transactions and payments at point-of-sale terminals. New solutions provide for example for logging onto computers using a face recognition mechanism (Intel TrueKey) or securing computer systems using a person's heartwave (Nymi).

### Biometric data = personal data

Unfortunately, businesses often do not realize that even though biometric data are not in verbal form, they nonetheless constitute personal data and as such are subject to the rigours imposed by the Personal Data Protection Act. For example, they may fail to register databases as filing systems for data protection purposes. Company databases of fingerprints or facial shapes are sometimes not notified to the Inspector General for Personal Data Protection (GIODO), even though they should be because such images—particularly when combined with other information—clearly identify a specific individual, and may even constitute sensitive data. While there are solutions available enabling businesses to avoid the obligation of registering such filing systems with GIODO, they require professional preparation and greater effort on the part of the business.

### Biometric technologies for identifying taxpayers

The hottest topic in Poland related to biometrics is the concept of the Ministry of Finance to use biometrics to identify taxpayers. The Telephonic Information System was introduced at the beginning of August 2015 as part of the National Tax Information System. It uses a technology for identifying taxpayers employing voice biometrics. Before the system can be used, the taxpayer must first provide a voice sample. And use of this technology by taxpayers will be voluntary. Taxpayers can always insist on using traditional forms of identification. It has not yet been determined how corporate taxpayers will be treated. Will a voice sample be taken from a company's representatives? Or will this system be available at all to companies?

### New solutions examined by GIODO

Poland's data protection regulator has doubts about the new concept of the Ministry of Finance, among other reasons because there is no legal foundation for the proposed solution. From the perspective of the Polish Constitution, it may

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infringe on the rights and freedoms of citizens. From a data protection perspective, recording of telephone calls and biometric voice analysis may excessively intrude on the right to privacy. GIODO also points to the hazards connected with the system which the tax authorities are implementing and possible shortcomings in the system's security features. For example, the use of voice biometrics presents a potential danger of interception of voice samples.

The fate of the voice identification system as part of Poland's National Tax Information System has not been resolved yet. According to press reports, the Ministry of Finance is currently developing a response to the concerns raised by GIODO.