



Institut
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The EU Concept of Personal Data

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A Fundamental Right

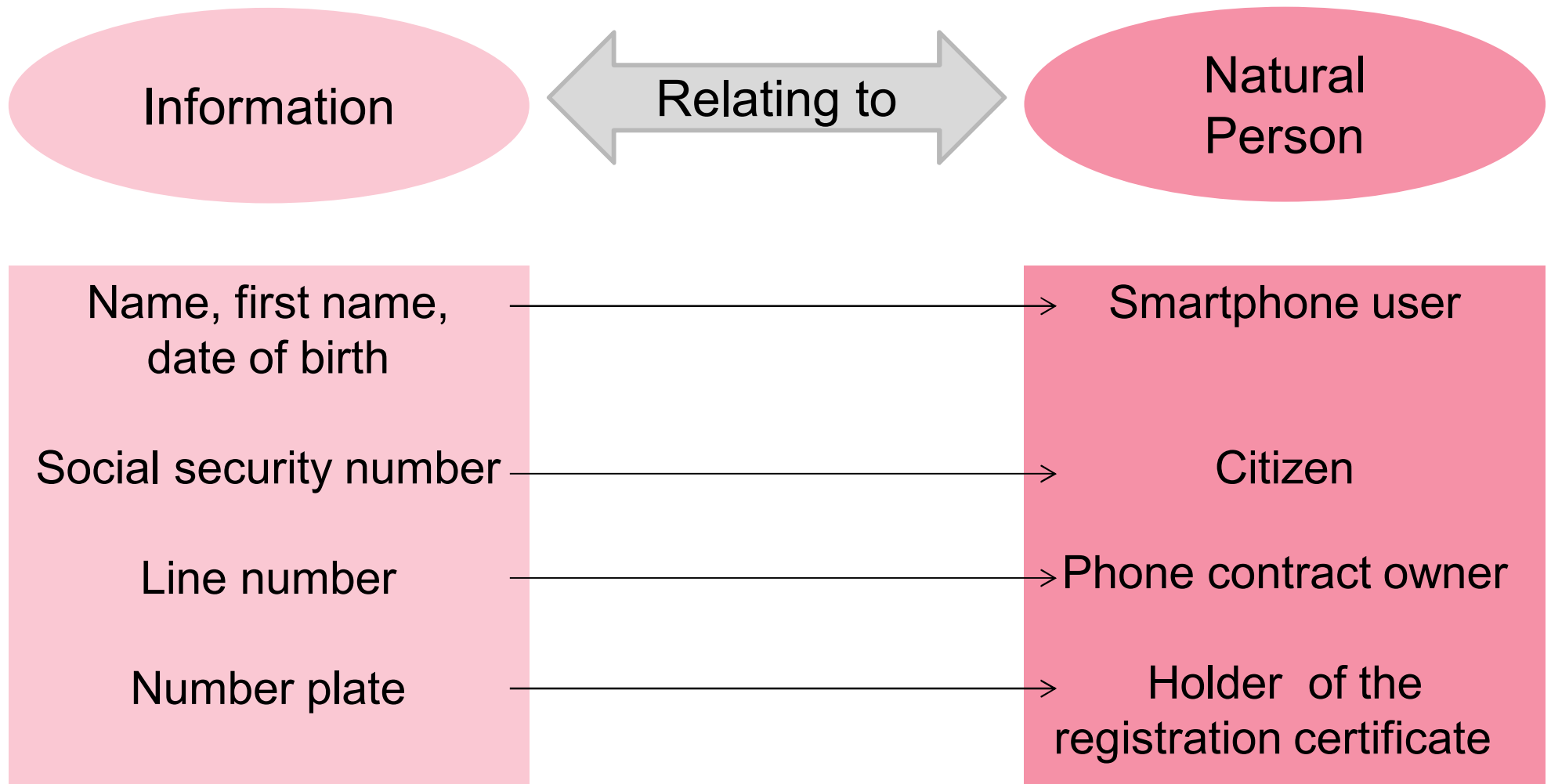


- ***“Everyone has the right to the protection of personal data concerning them”***
 - **Treaty of the EU (Art. 39) and Treaty on the Functioning of the EU: (Art. 16-1)**
 - **Charter of Fundamental Rights of the EU (art. 8)**
- **As soon as a company collects or creates personal data, all the principles of protection apply**
 - **Directive 95/46/EC on the protection of individuals with regard to the processing of personal data**
 - **French Data Protection Act: Loi Informatique et Libertés**
 - **Protects the rights of everyone, irrespective of nationality or place of residence**

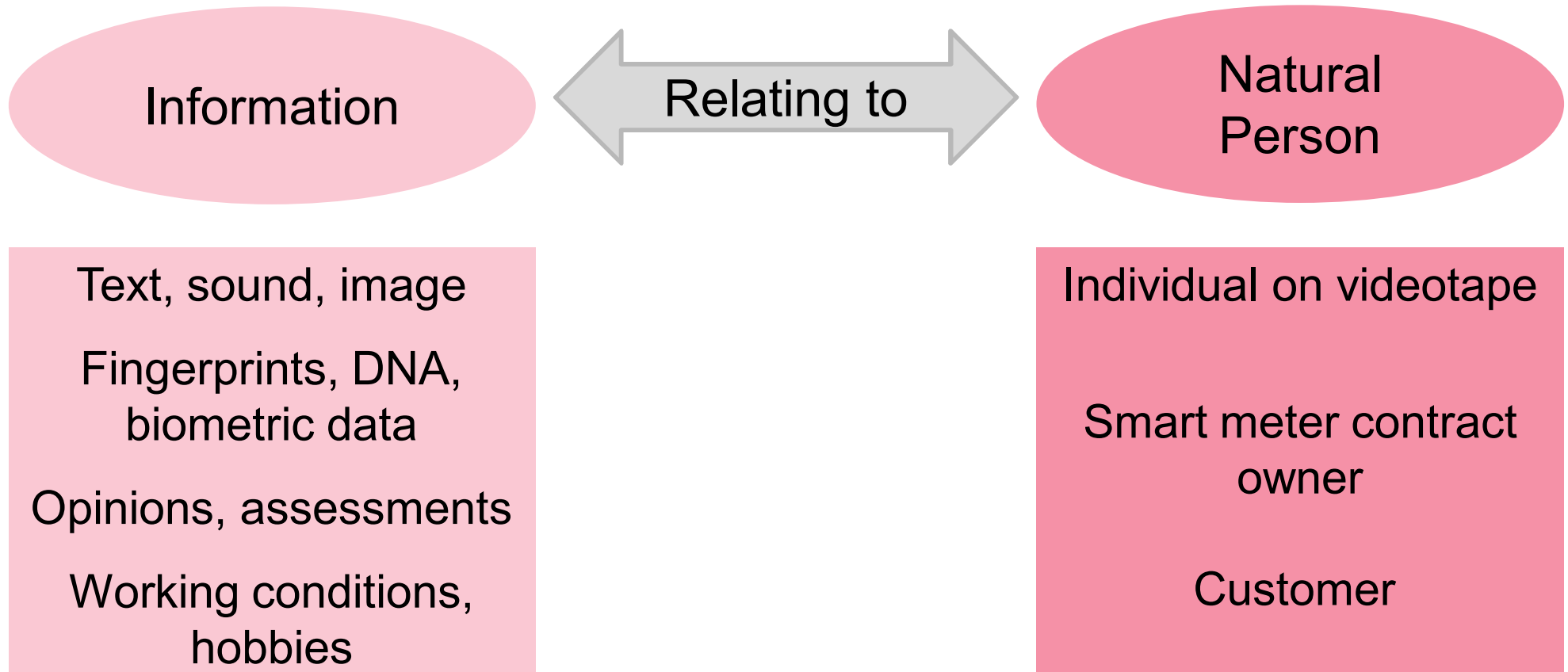
Definition of Personal Data

- ***“Any information relating to an identified or identifiable natural person”***
 - Natural person
 - Identified or an identifiable person
- **Identifiable person**
 - *“One who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity”*
 - *“Account should be taken of all the means likely reasonably to be used either by the controller or by any other person to identify the said person”*

Personal Data in Practice



Personal Data in Practice



Personal data can be information that **DOES NOT NECESSARILY INCLUDE** the name of a person

IP Address is Personal Data



- **ECJ: case Scarlet v. S.A.B.A.M in 2012**
 - **Users' IP addresses are protected personal data “because they allow those users to be precisely identified”**
- **The processing of IP addresses is carried out with the purpose of identifying the users of the computer**
- **Under certain circumstances, IP addresses do not allow identification of the users**
 - Address attributed to a computer in an internet café, where no identification of the customer is requested
 - ISP are not in a position to distinguish with absolute certainty that the data correspond to anonymous users
 - 29 WP: treat all IP addresses as personal data

Objectives of the Law Maker

- **Wide protection of the fundamental rights and freedoms**
 - Do not consider personal data under the economic angle as a consumer matter
- **Article 1 of the French Data Protection Act**
 - *“Information technology should be at the service of every citizen. Its development shall take place in the context of international co-operation. It shall not violate human identity, human rights, privacy, or individual or public liberties”*
- **2 different but complementary human rights**
 - Right to privacy
 - Right to the protection of personal data

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- **2 different but complementary human rights**
 - **Right to privacy**
 - 1948 Universal Declaration of Human Rights
 - 1966 International Covenant on Civil and Political Rights of the United Nations
 - 1950 Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe
 - **2000 Charter of Fundamental Rights of the EU (Art. 7)**
 - **Right to the protection of personal data**
 - **2000 Charter of Fundamental Rights of the EU (Art. 8)**

Core protection principles

Purpose
specification

Sensitive data

Data quality

Security &
Confidentiality

Legitimate criteria

Transfer outside EU

Core protection principles

Purpose
specification

Sensitive data

Right of information

Data quality

Security &
Confidentiality

Right of access

Legitimate criteria

Transfer outside EU

Right to object

All the life cycle of personal data

Anonymous Data

■ Opinion of Art. 29 Data protection WP on April 2014

- Three criteria
 - **Singling out**: is it still possible to isolate some or all records which identify an individual in the dataset?
 - **Linkability**: is it possible to link, at least, two records concerning the same data subject or a group of data subjects?
 - **Inference**: is it possible to deduce, with significant probability, the value of an attribute from the values of a set of other attributes?

Anonymous Data

■ Opinion of Art. 29 Data protection WP on April 2014

- Each technique has strengths and weaknesses

	Is Singling out still a risk?	Is Linkability still a risk?	Is Inference still a risk?
Pseudonymisation	Yes	Yes	Yes
Noise addition	Yes	May not	May not
Substitution	Yes	Yes	May not
Aggregation or K-anonymity	No	Yes	Yes
L-diversity	No	Yes	May not
Differential privacy	May not	May not	May not
Hashing/Tokenization	Yes	Yes	May not

- Choose on a case-by-case basis how to design an adequate irreversible anonymisation process
- Regularly reassessed the risk

Proposed Data Protection Regulation

Same definition of personal data
“Any information relating to an identified or identifiable natural person”

Same principles

New rules

Inter alias

Right of erasure

Right to data portability

Privacy by design / by default

Accountability

One continent
One law

Extra-territorial application

Hefty fines
5% of the worldwide turnover or €100 millions

Proposed Data Protection Regulation

Directive 95/46/EC	1st reading vote of the European Parliament (march 2014)
<p>'personal data' shall mean any information relating to an identified or identifiable natural person ('data subject');</p> <p>an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an <u>identification number</u> or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity</p>	<p>'personal data' means any information relating to an identified or identifiable natural person (' data subject') ;</p> <p>an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, unique identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social or gender identity of that person</p>