

Brussels, 17 April 2018

WK 4507/2018 INIT

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(22.02.2019)

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WORKING PAPER

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From:	Europol
To:	DAPIX (Friends of the Presidency - Data Retention)
Subject:	Outcome of the 1st Data Retention Matrix Workshop

Delegations will find in the Annex a power point presentation from EUROPOL comprising the Outcome of the 1st Data Retention Matrix Workshop held on 20 March 2018.



Outcome 1st Data Retention Matrix Workshop 20th March 2018

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Data Protection Function

18 April 2018
Brussels

Quick introduction

Annulment of the Data Retention Directive (DRD) following Digital Rights Ireland and Tele2

'NO indiscriminate retention' -> 1. Restricted data retention
2. Targeted data access

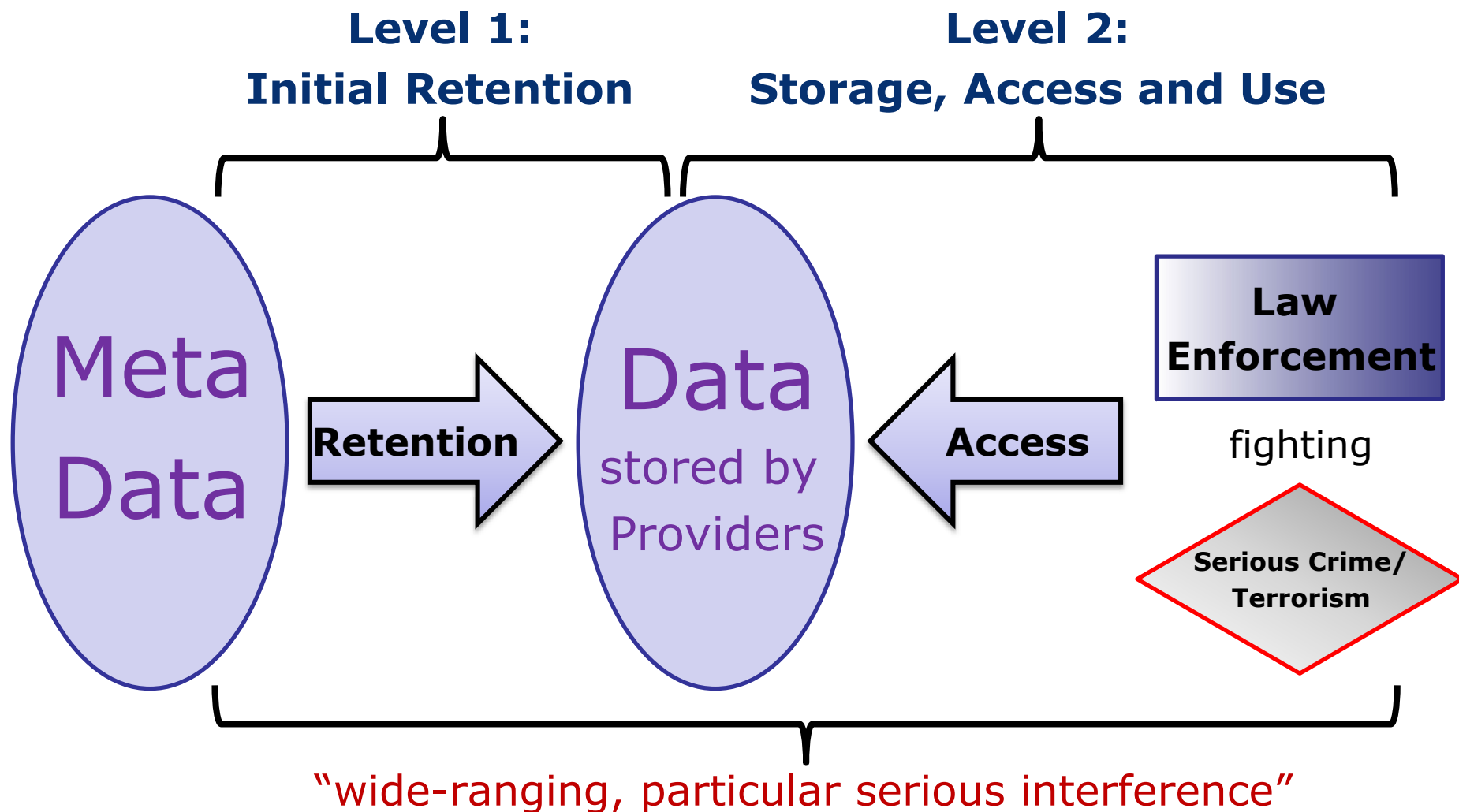
Data Retention Workshop: Europol + Bulgarian Presidency, 20th March 2018

Why a success? - Why a challenge?

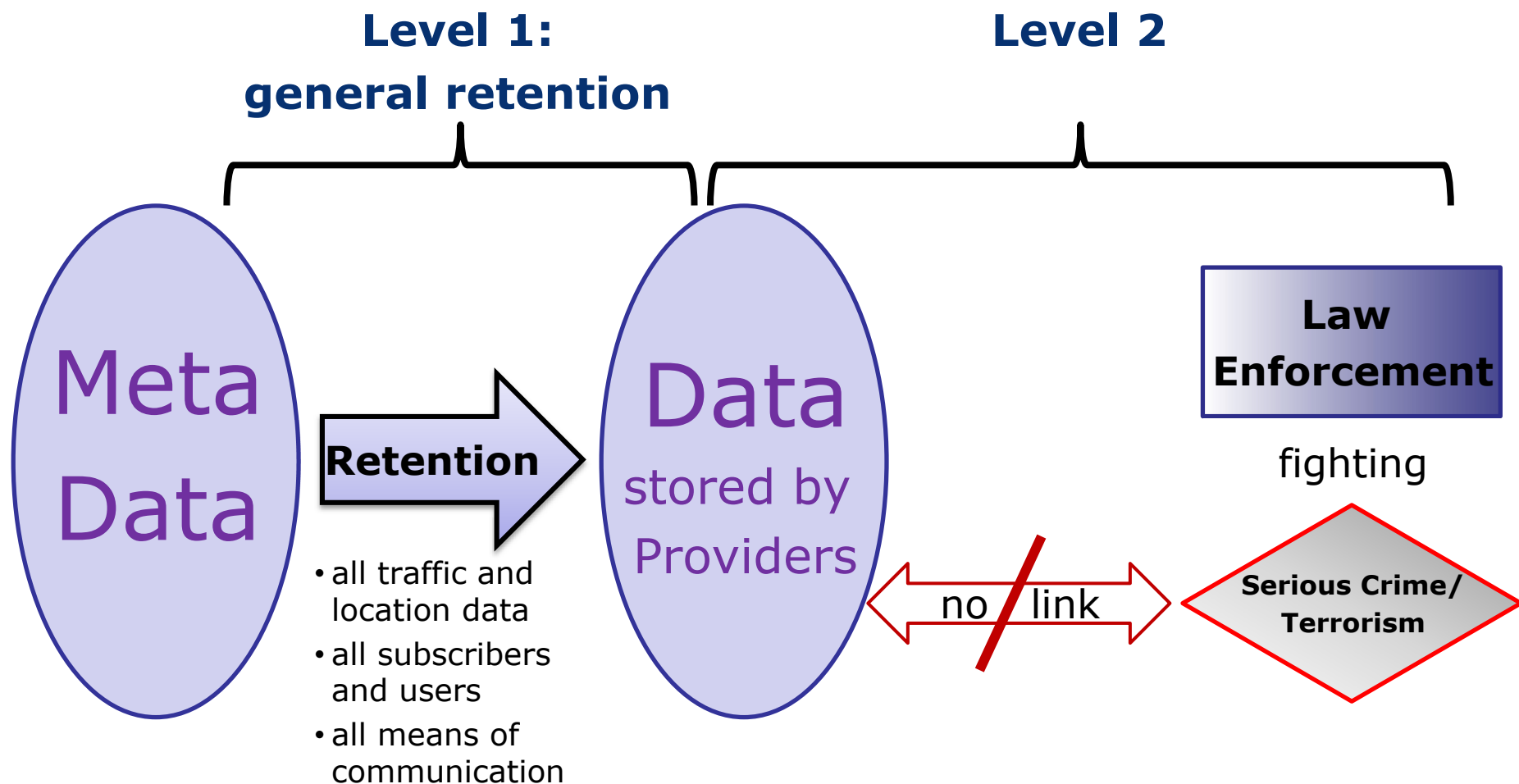
MS early feedback

The way forward

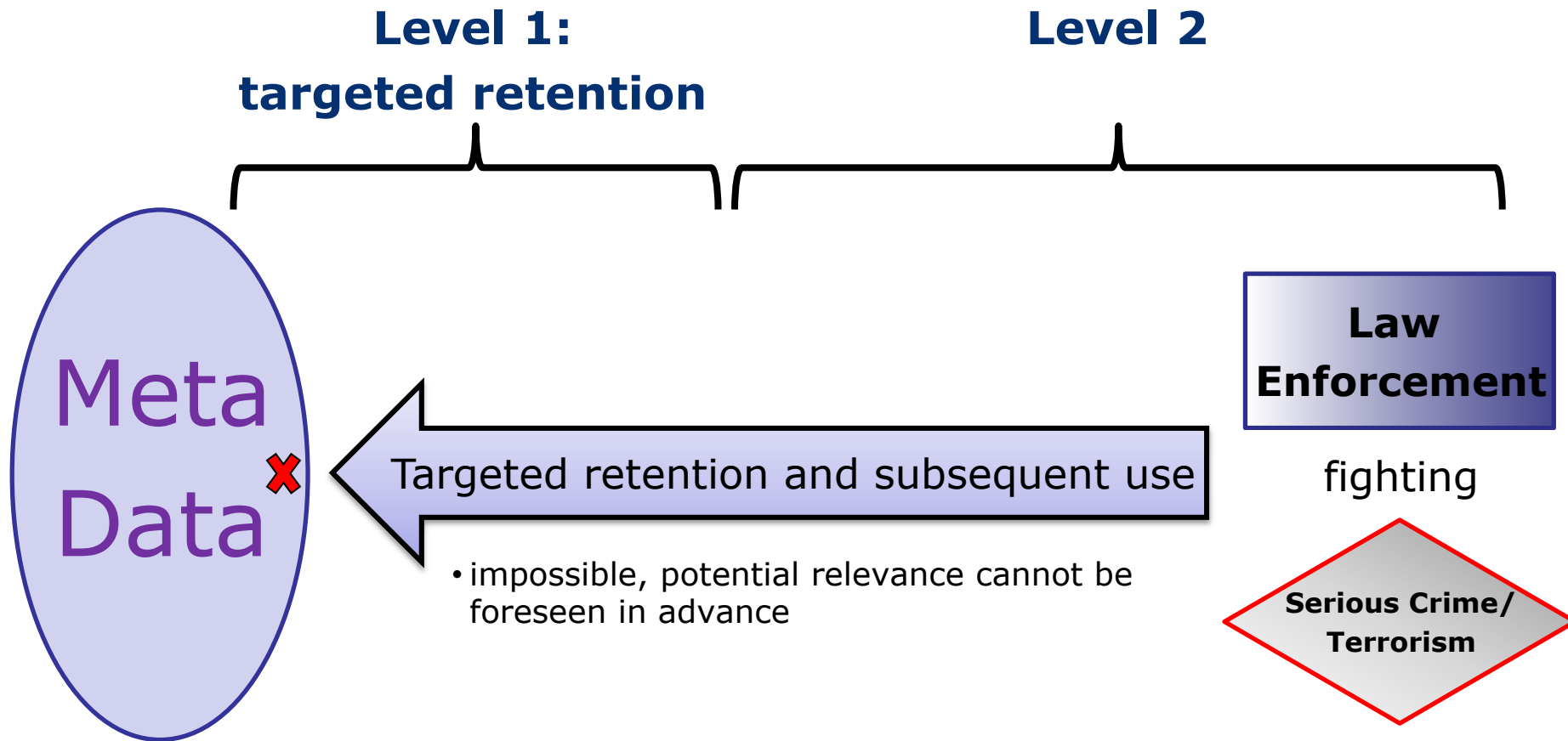
Interference Levels



Clearly non-compliant with Charter



Clearly compliant with Charter – but not fit for LE reality



Restricted data retention and targeted data access

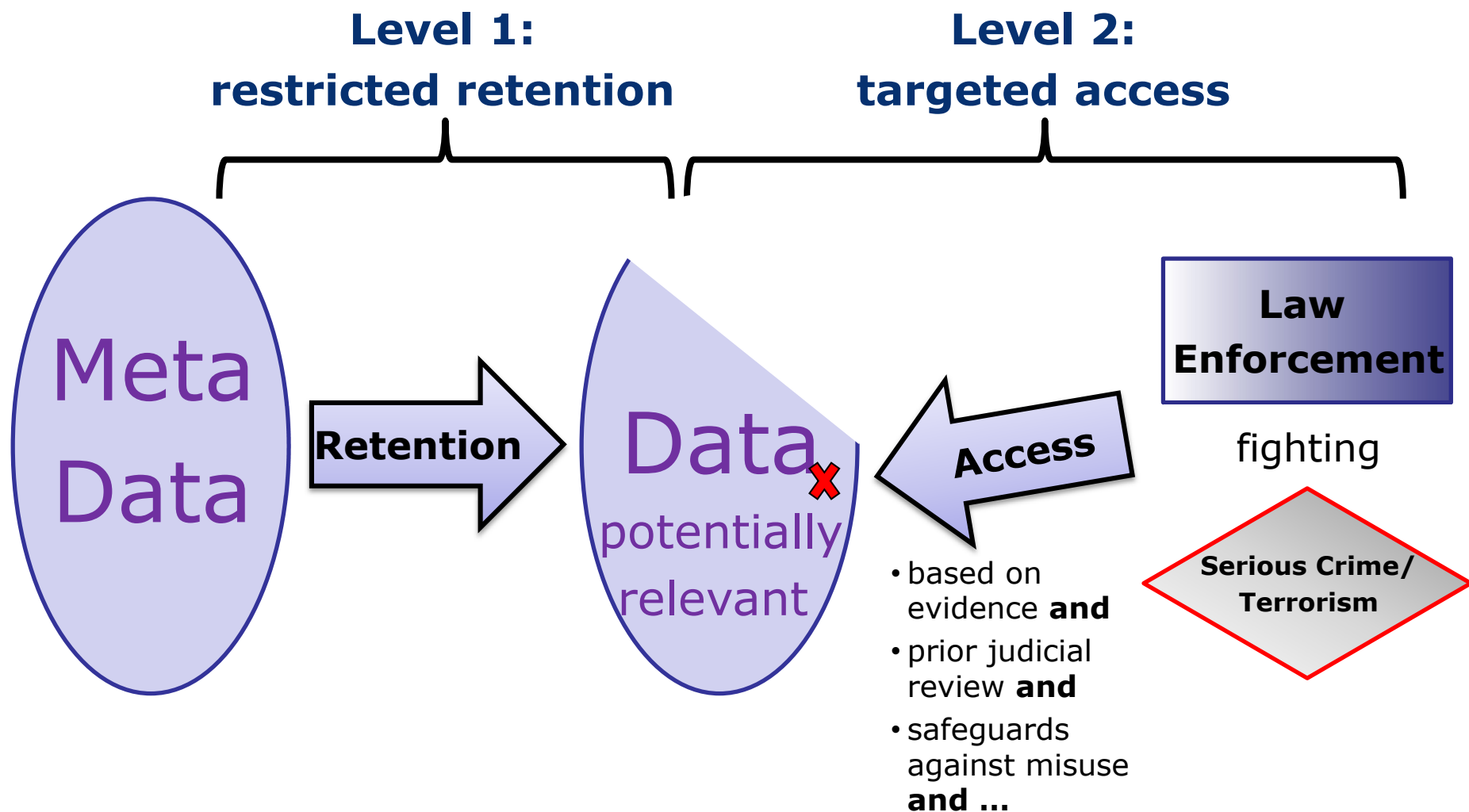
Level 1:

- Not only targeted data retention, but also restricted data retention is compliant with the Charter according to *Digital Rights* and *Tele2*.

Level 2:

- Access to metadata must be targeted according to *Digital Rights* and *Tele2*.

Compliant with Charter – and fit for LE reality!



Role of Europol vs. role of MS

Europol is encouraged to facilitate preparatory works for the related data matrix in close cooperation with experts from the Member States with a view to further examination in DAPIX –FoP

JHA Council 7 December 2017

Sources for creation of matrix so far

- Electronic Evidence Guide
(Data Protection and Cybercrime Division of Council of Europe);
- ETSI Standards
(Handover requirements and a handover specification for retained data);
- Feedback from EC3 and EU IRU.

Data Retention Workshop - introduction to the participants

Start from broadest possible technical standards allowing for complete visibility of which data is technically being retained.

Match the operational business needs against such most comprehensive technical standards of retained data.

Better visibility on fact that LE is, indeed, not advocating the general or indiscriminate retention of any available information but is making best effort to draw the link to what is strictly necessary in order to prevent and combat serious crime and terrorism.

Focus should be on what would **NOT** be absolutely essential for the fights against serious crime and terrorism.

Any item which can reasonably be excluded from the list of data categories that are **absolutely necessary** will be crucial in the difficult discussions to come.

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Data Retention Workshop – Why a challenge?

- Technical + legislative = how?
- The Matrix needs to be highly **flexible** (but solid) and to adapt to changing conditions in **technology** 
- How to address OTT providers questions? -> 
- To broaden or to reduce the data categories?



Data Matrix draft look

Preparatory work for the Data Retention Matrix: types of data records held by providers which are strictly necessary or unnecessary for criminal investigation purposes.

Categories of Data Services and Sources

ETSI Standards V1.20.1 (2017-11)

Council of Europe (COE) 'Electronic Evidence Guide'

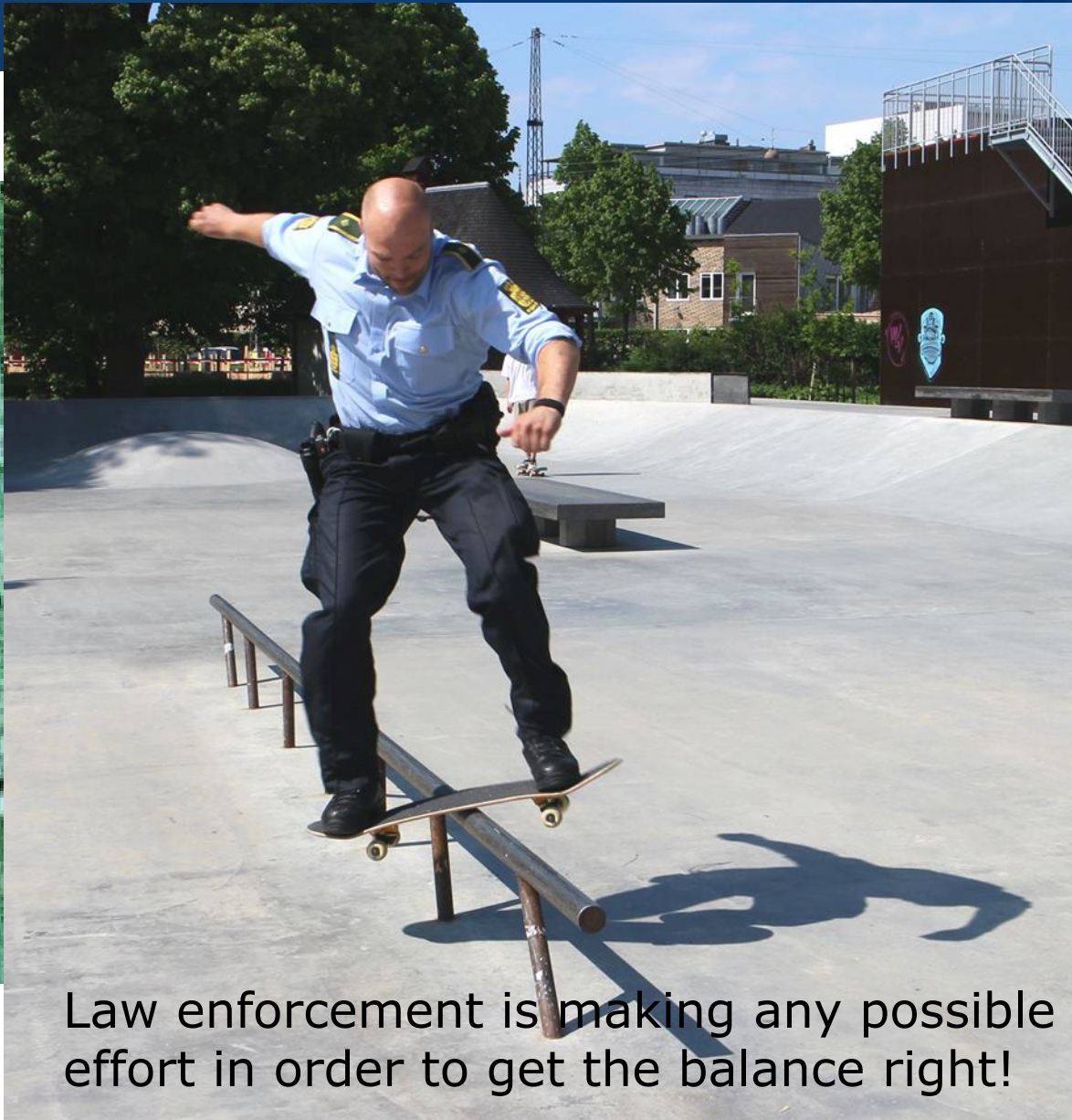
1. Telephony services		pp.3-12	ETSI Standards B.2 Telephony fields	pp. 57-64
1.1.1. TelephonySubscriber		p.3	ETSI B.2.2.0 - Table B.1	p.57
1.1.2. SubscribedTelephonyServices		p.3	ETSI B.2.2.4 - Table B.2	p.58
1.2.1. TelephonyBillingDetails and Records		p.4	ETSI B.2.3.0 - Table B.3; B.2.3.1- Table B.4	p.59
1.3.1. TelephonyServiceUsage		p.5	ETSI B.2.4.1 - Table B.5	p.60
1.3.2. PartyInformation + Sms/Mms Information		p.6	ETSI B.2.4.2 - Table B.6; B.2.4.3 - Table B.7; B.2.4.4 - Table B.2.4.4	pp.60-61
1.4.1. TelephonyDevice		p.8	ETSI B.2.5.1 - Table B.9	p.61
1.5.1. TelephonyNetworkElement		p.9	ETSI B.2.6.1 - Table B.10	p.62
1.5.2. Location parametres		p.9	ETSI B.2.6.2.1 - Table B.11	p.63
1.5.3. GSM and UMTS Location parameters		p.10	ETSI B.2.6.2.2 - Table B.12; B.2.6.2.3 - Table B.13	pp.63-64
1.5.4. Extended location parameters		p.11	ETSI B.2.6.2.4 - Table B.14	p.64
1.5.5. TransmitterDetails parameters		p.11	ETSI B.2.6.3.1 - Table B.15	p.64
2. Asynchronous message services		pp.12-15	ETSI Standards C.2 Message services	pp.80-83
2.1.1. MsgSubscriber		p.12	ETSI C.2.2.0 - Table C.1	p.81
2.1.2. MsgStore		p.12	ETSI C.2.2.2 - Table C.2	p.81
2.2.1. MsgTransmission		p.13	ETSI C.2.3.1 - Table C.3	p.82
2.2.2. MsgStoreOperation		p.14	ETSI C.2.3.2 - Table C.4	p.82
2.3.1. MsgBilling details and records		p.14	ETSI C.2.4.0 - Table C.5; ETSI C.2.4.1 - Table C.6	p.83
3. Synchronous multi-media services		pp.15-22	ETSI Standards D.2 Multimedia fields	pp.88-93
3.1.1. MultimediaSubscriber		p.15	ETSI D.2.2.0 - Table D.1	p.88
3.1.2. SubscribedMultimediaService		p.16	ETSI D.2.2.4.1 - Table D.2	p.89
3.1.3. MultimediaServiceRegistrationInfo		p.17	ETSI D.2.2.5 - Table D.2.A	p.90
3.2.1. Multimedia Billing Details, Address and Records		p.18	ETSI D.2.3.1 - Table D.3; D.2.3.2 - Table D.3A; D.2.3.3 -Table D.4	pp.90-91
3.3.1. MultimediaServiceUsage		p.19	ETSI D.2.4.1 - Table D.5	pp.91-92
3.3.2. PartyInformation		p.21	ETSI D.2.4.2 - Table D.6	p.92
3.3.3. IMSInformation		p.22	ETSI D.2.4.3 - Table D.7	p.93
3.3.4. MediaComponents		p.22	ETSI D.2.4.4 - Table D.8	p.93
4. Network access		pp.23-31	ETSI Standards E.2 Network access	pp.101-106
4.1.1. NASubscriber		p.23	E.2.2 - Table E.1	p.101

1st feedback! -> Draft Matrix=good start

- Tour de table -> data retention periods
- How to address the **proportionality** core issue?
Belgium proposed to:
 1. Focus on service providers which do not store content
 2. Raising awareness at political level
- Link between **data retention** and **humanitarian** purposes (Art. 10 Directive (EU) 2016/680)
- Input from France, Belgium and Latvia: **online platforms** at national level facilitating requests to service providers
- Un-tick also what is technically unfeasible

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Matrix itself cannot not be legislated!



Law enforcement is making any possible effort in order to get the balance right!

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Potential for failure? – Think positive!



The way forward

Next Workshop: 14 May 2018

What do we expect?

1. Consolidated Data Matrix with MS contributions
2. Deepen the debate on Data Retention at EU level:
 - Commission e-evidence proposal
 - > Commission Production Order
 - European Investigation Order (EIO)

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