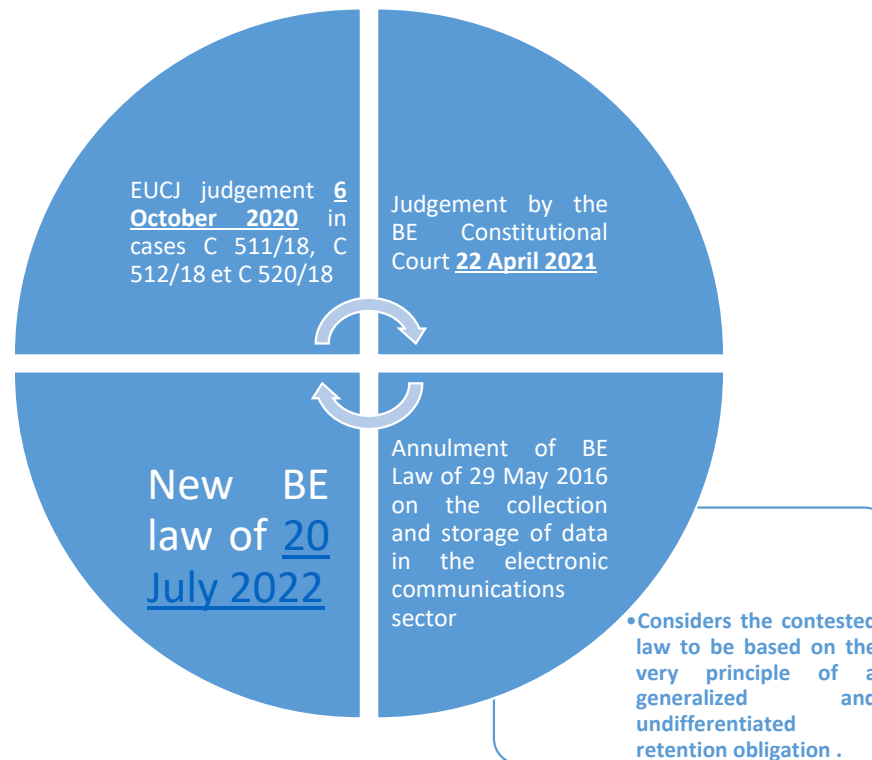


COPEN

30 NOVEMBER 2022

BE presentation on new data retention legislation

1. Key moments in the BE data retention saga



2. Problem definition: 2016 law on communication

According to the constitutional court – this legislation requires for:

Who: operators

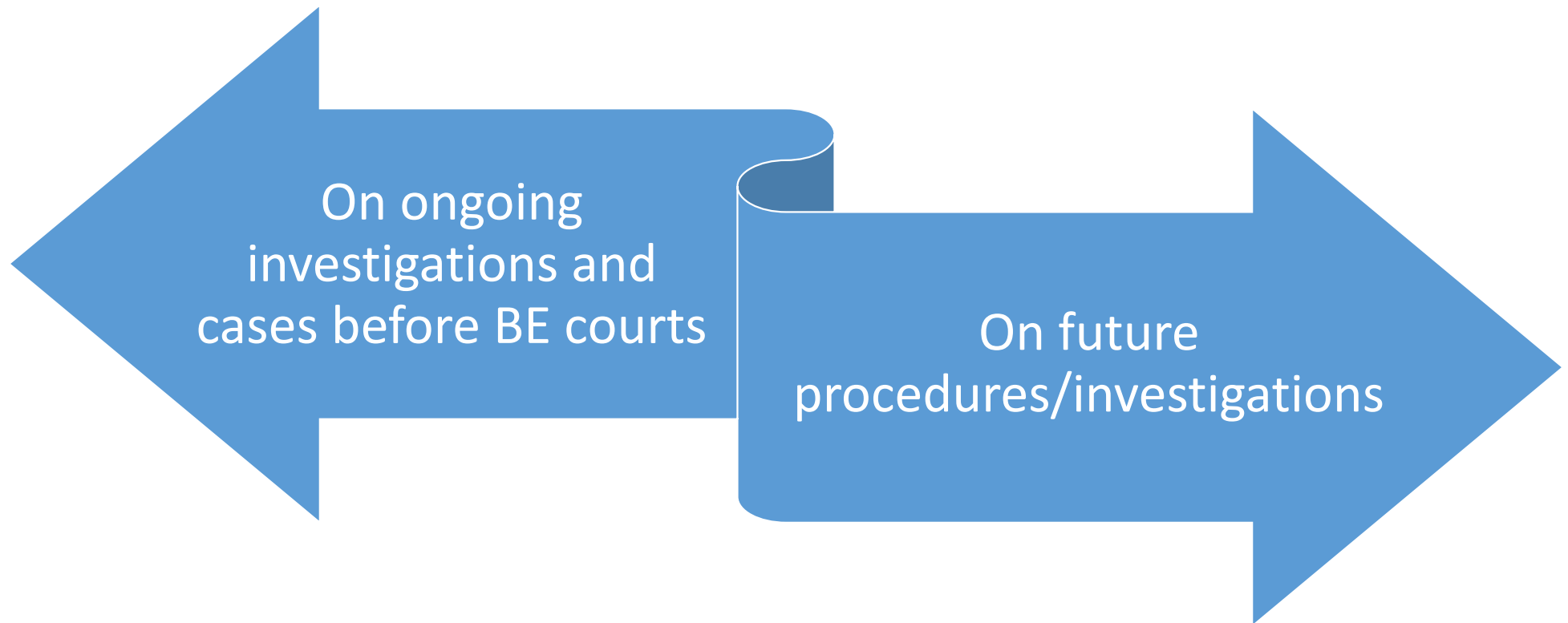
What: to keep/save certain categories of location and traffic data

Timeframe: for a period of 12 months

Purpose: make these data available to law enforcement in the context of criminal investigations

Excluded: content and communication data

3. Consequences of the judgement



4. The basics

Operators store data

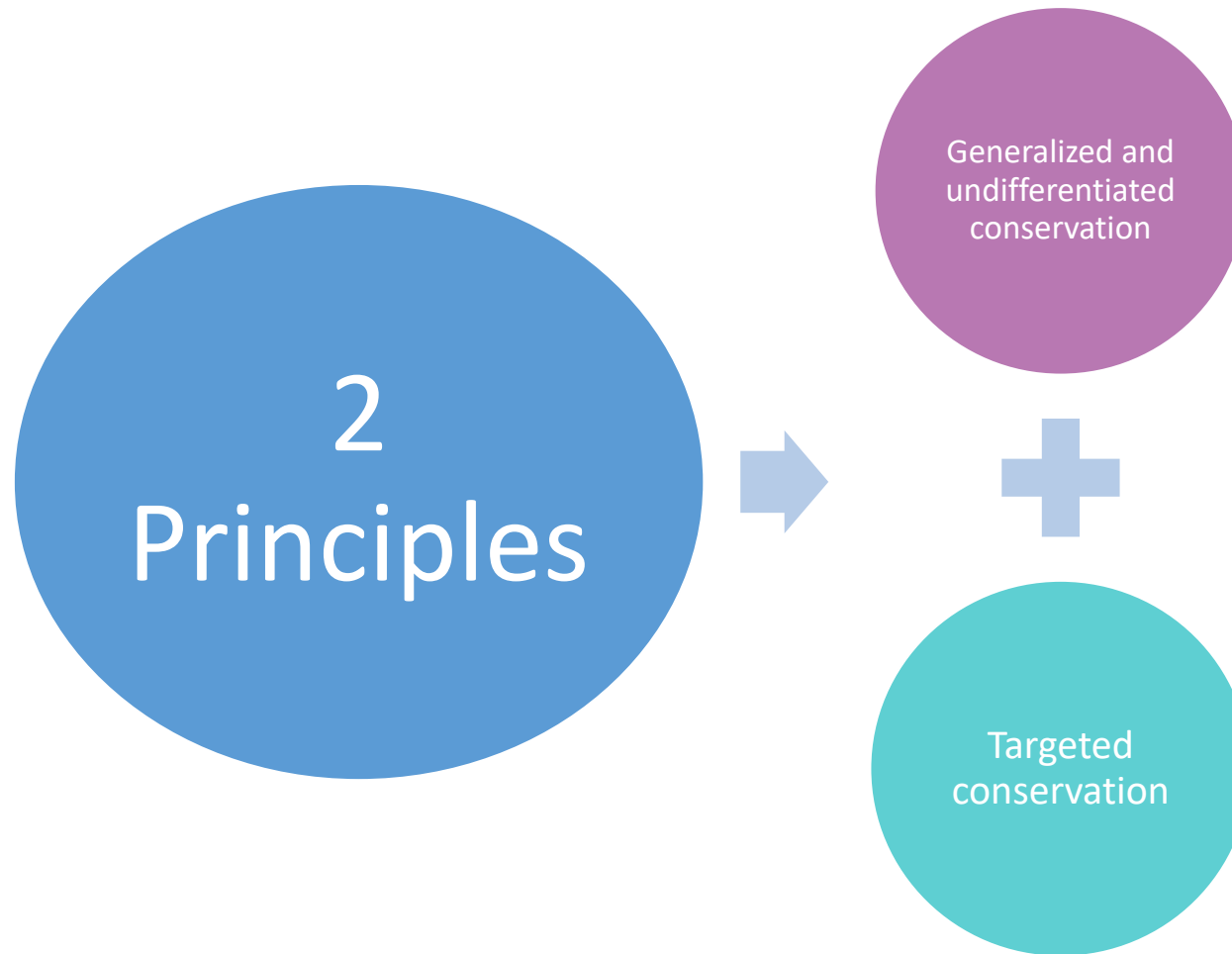
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graph TD; A[Operators store data] --> B[Processing subject to restrictions]; B --> C[Principle = confidentiality]; C --> D[Conclusion: providing authorities with these data is an exception to the principle of confidentiality = enshrined in BE legislation];
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Processing subject to restrictions

Principle = confidentiality

Conclusion: providing authorities with these data is an exception to the principle of confidentiality = enshrined in BE legislation

5. The new bill



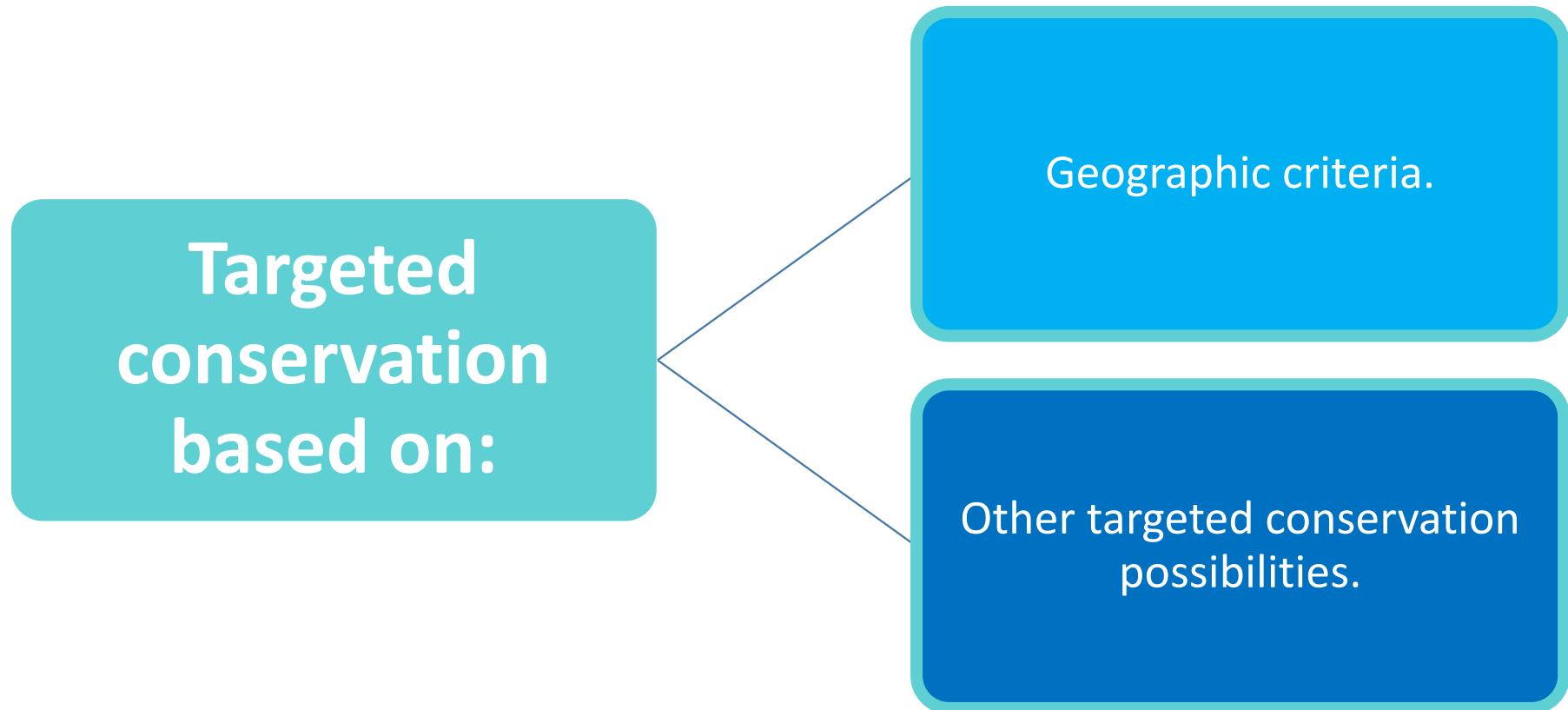
5. The new bill

Generalized and undifferentiated conservation:

Identification data of end-users, terminal equipment and electronic communications services (including the IP address) without referring to communications data identities.

Cases of serious, real and current threat to national security. *

5. The new bill



Geographic criteria

Who: operators

What: traffic and location data

Geographical criteria:

Strategic locations which by their nature are vulnerable to serious crime and / or threats to national security; *

Areas with a high number of serious criminal acts(areas demarcated on the basis of statistics); *

Places for which the level of terrorist or extremist threat assessed by CUTA is high.

Duration: Stats = max. 12 months / Location = 12 months *

Other criteria

Who: intelligence and security services or the Public Prosecutor

What: targeted conservation of traffic and location data for the future

Purpose: to elucidate serious criminal offenses or breaches of national security or for the investigation of offences

Legal basis: conditions as included in the Code of Criminal Proceedings *

Duration: 6 months (can be prolonged)