

## Avenues for Working Group 2 to explore

The following table presents the range of possible solutions that were set out by participants both at the first Working Group 2 meeting and at the second HLG Plenary which can be developed further in the second WG2 meeting according to three main solution areas:

Solution area	Avenues to explore
Harmonisation/legislative approaches	<ul style="list-style-type: none"> <li>● Developing Union policies and exploring legislation on data retention to:               <ul style="list-style-type: none"> <li>○ reduce the impact of fragmentation of data retention frameworks for lawful access to data by law enforcement authorities by exploring the possibilities compatible with the Charter and the CJEU case-law;</li> <li>○ clarify the interplay of data retention with data protection rules (GDPR/LED), ePrivacy and the e-evidence package;</li> <li>○ address open challenges such as non-unique IP addresses, lack of geolocation or encryption;</li> <li>○ create a level playing field for all electronic communication service providers, including OTTs.</li> </ul> </li> </ul> <p>The exploration should identify ways to set up targeted data retention regimes based on MS experience (e.g. BE), in line with the data protection legislation, CJEU case-law, and the EU Charter of Fundamental Rights. The exploration should comprise efforts to create data categories required for specific investigative needs, as part of a targeted approach.</p>
Capacity building	<ul style="list-style-type: none"> <li>● Establishing standardised formats for data retention and access, based on ETSI standards (notably for categories of data currently not covered by standards).</li> <li>● Establishing standardised and secured channels for exchanges with SPs via the e-evidence exchange system.</li> <li>● Fostering the development of MS capacities to access, exchange and process digital evidence.</li> </ul>

Foster and codify cooperation with communication and technology providers.

- Reflect on mechanisms for a robust cooperation with communication and technology providers e.g. to increase transparency and better address technological shifts.