

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	• Developing Union policies and exploring legislation on data retention to: ○ 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; ○ clarify the interplay of data retention with data protection rules (GDPR/LED), ePrivacy and the e-evidence package; ○ address open challenges such as non-unique IP addresses, lack of geolocation or encryption; ○ create a level playing field for all electronic communication service providers, including OTTs. 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.
Capacity building	• Establishing standardised formats for data retention and access, based on ETSI standards (notably for categories of data currently not covered by standards). • Establishing standardised and secured channels for exchanges with SPs via the e-evidence exchange system. • Fostering the development of MS capacities to access, exchange and process digital evidence.

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.
---	---