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Workshop on cybercrime and cybersecurity policies and legislation

Data Protection Convention 108

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Why data protection?

- ▶ Data protection/privacy a fundamental right
- ▶ Condition for human rights, democracy and rule of law
- ▶ Condition for law enforcement cooperation
- ▶ Condition for off-shoring
- ▶ Helps protect confidentiality, integrity and availability of data and systems

"Personal data" is any personal information which can lead to the identification of someone

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Council of Europe data protection standards

“Data Protection Convention 108”

Convention for the Protection of Individuals with regard to Automated Processing of Personal Data (28 January 1981)

“Data Protection Protocol 181”

Additional Protocol to Convention 108 “regarding supervisory authorities and transborder flows” (2001)

Soft-law Recommendations (14)

Rec(1987)15 Use of personal data in the police sector

Rec(2010)13 Processing of personal data for profiling

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Protocol 181

Guardians: Supervisory authorities

- Set up one or several independent authorities to ensure that data protection principles are respected
- Power to investigate and bring to court violations

Transborder data flows

to jurisdiction of states or organisations not party to Convention 108 if :

- adequate level of protection
- or if domestic law provides for it
- or legitimate prevailing interests
- or if safeguards are provided

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Future of Convention 108

Open for accession by non-member states

- Uruguay invited in 2011
- Accession under consideration in other countries

Modernisation of Convention 108

Modernisation underway to

- Meet new challenges of information and communication technologies
- Provide for follow up (monitoring) mechanism

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