



EU Twinning Project

Capacity Building of the National Center for Personal Data Protection of the Republic of Moldova MD 13ENPI JH0317 (MD/29)

# Directive (EU) 2016/680 gap analysis results

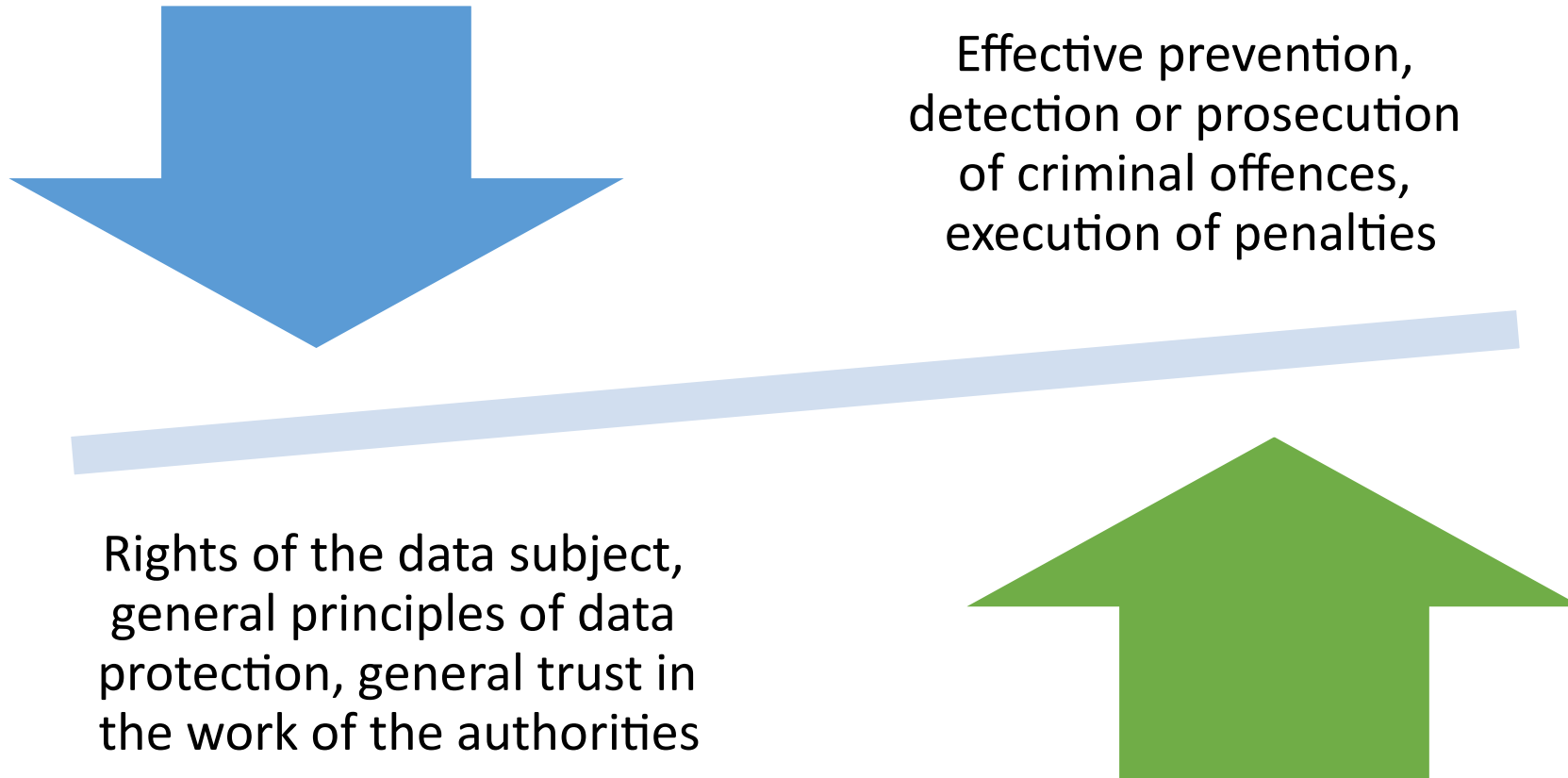
21.02.2018

P.Devenyi

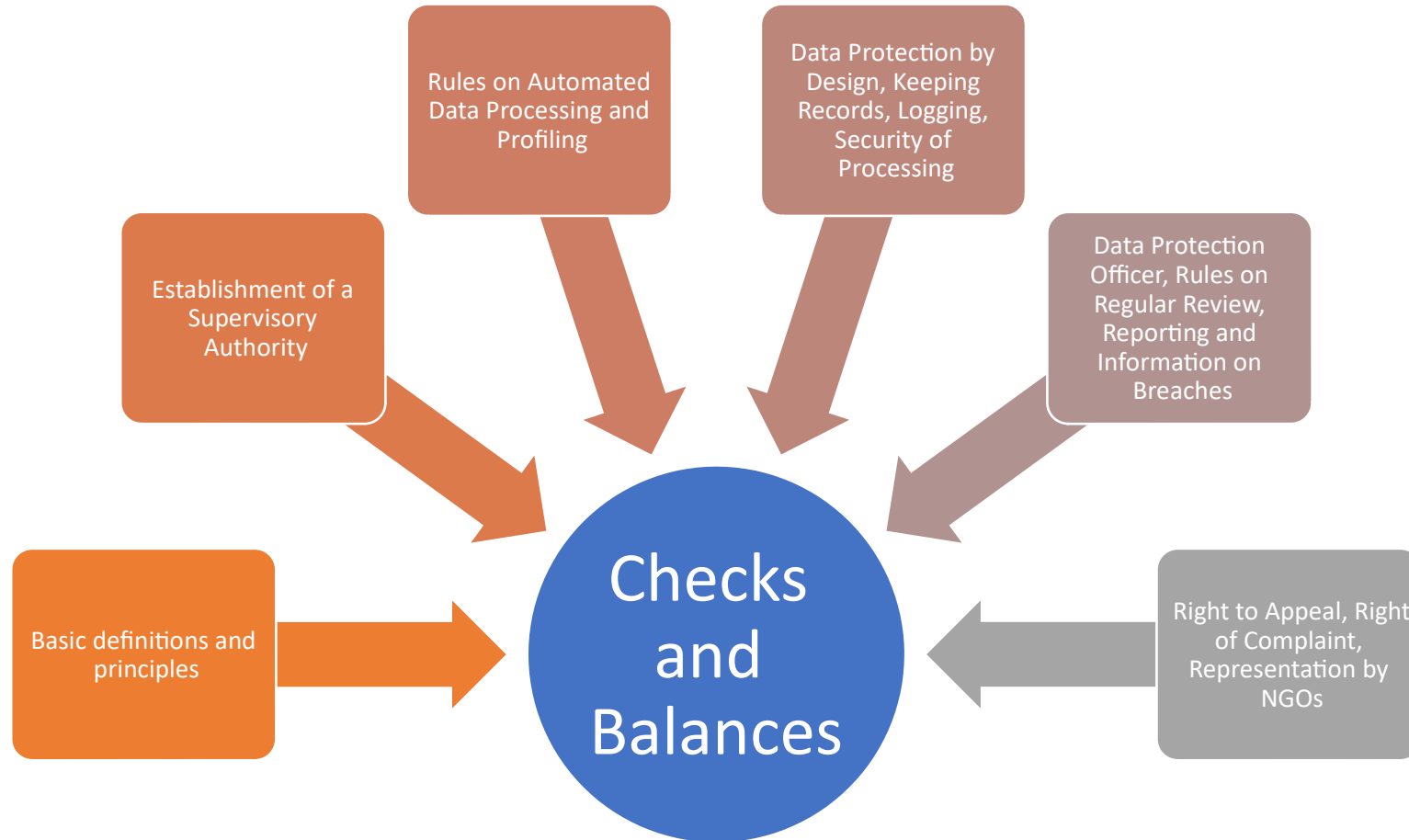
# The reason behind the directive: ECJ rulings

- The ECJ had two important cases that had an important impact on the development of directive (EU) 2016/680.
- In case C-293/12 „Digital Rights Ireland”, the Court reminded that where interferences with fundamental rights are at issue, the extent of the EU legislature’s discretion may prove to be limited, with the result that review of that discretion should be strict.
- In case C-362/2014 „Schrems”, the Court said that the national supervisory authorities must be able to examine, with complete independence, any claim concerning the protection of a person’s rights and freedoms in regard to the processing of personal data relating to him.

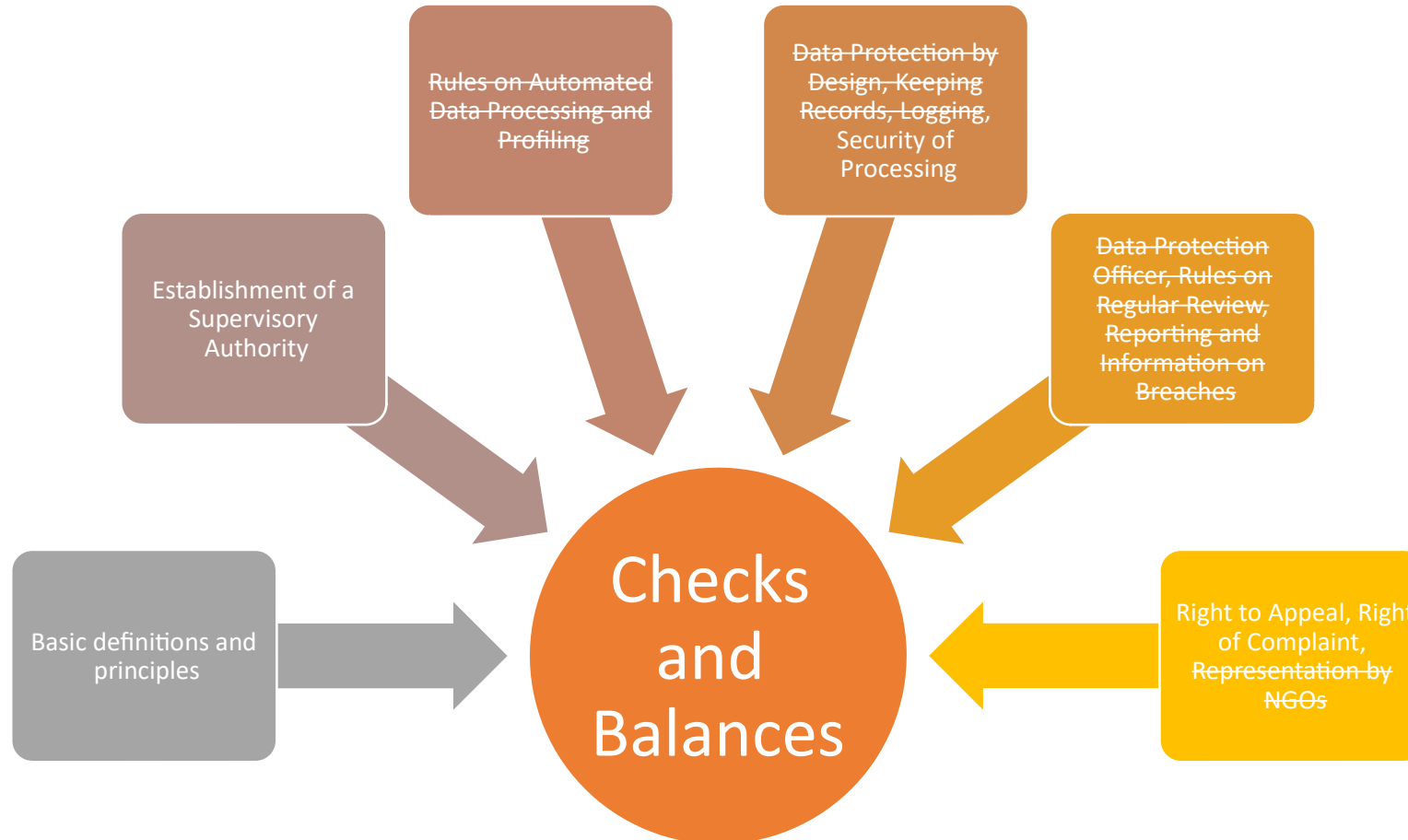
# The goal of the directive is to strike a balance



# The structure of the directive



# Mind the gap!



# The role of supervision

“Supervision is an essential component of the fundamental right to data protection, and the level and intensity of supervision should not be dependent on the sector where the personal data are processed.”

Giovanni Buttarelli

# How cooperation between the Centre and the investigative authorities could be improved?

- Mutual trust and letting the other perform its tasks
  - The Centre is an authority to enhance the level of data protection
  - The Centre is to supervise data protection, it does not participate in investigative procedures
  - By offering maximum cooperation, the investigative authority may ensure that the tasks of the Centre can be performed by causing as minimum a disturbance in the work of the investigative authorities as possible
- The Centre is not to interfere with ongoing investigations, but this should not mean that the fact that there is an ongoing investigation should be used as an excuse to limit cooperation
- The supervisory role of the Centre is to enhance the performance of the investigative authorities by increasing the trust of the public in the work of the authorities
  - by providing expert help on designing internal procedures
  - by providing independent means of complaint management