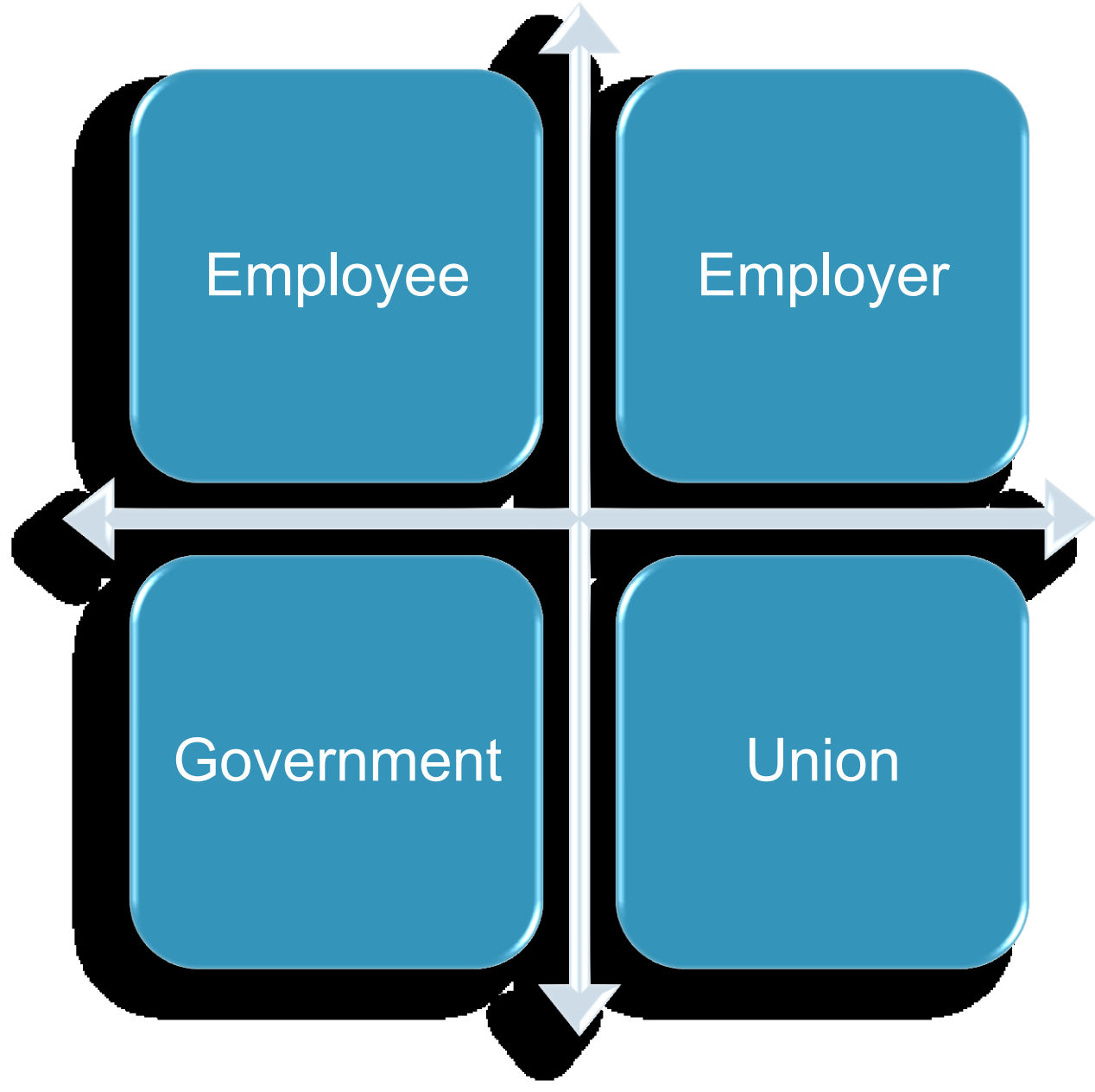




# EMPLOYMENT LAW



**PRIVATE LAW**  
Individual  
Equality  
Autonomy  
Freedom

**PUBLIC LAW**

- Constitution
- Hierarchy
- Enforcement
- Formal process

# EQUAL CONDITIONS OF WORKERS IN THE EU

- Prohibition of discrimination on grounds of nationality between EU Member States
- Any discrimination in working conditions between domestic workers and persons coming to work in the territory of a given State from other Member States is considered inadmissible
- Gender equality – equal wage for equal work
- The right to vocational training under the same conditions as domestic workers
- The right to join unions in the country of employment



# LABOUR CONTRACT

# BEFORE SIGNATURE

Employer



Employee

# AFTER SIGNATURE

Employer

The diagram consists of two blue rectangular boxes with rounded corners, one above the other. The top box contains the word 'Employer' and the bottom box contains the word 'Employee'. Both boxes are connected to a central vertical line that passes through the middle of the space between them. The boxes are set against a white background, which is itself centered on a dark blue background.

Employee

# MINIMUM REQUIREMENTS

## Example of Czech Republic

- Type of work
- Place of work
- Day of commencement of work



# DURATION OF THE CONTRACT

Indefinitely

For a definite period

• may be limited – e.g. in the Czech Republic at

# TERMINATION OF EMPLOYMENT

## By Employee

- Usually, the reason does not need to be stated
- Notice period

## By Employer

- Usually, the reason must be stated – not for employment „at-will“ (typically some states of U.S.A.)
- For breach of obligations by the employee
- Change of organizational structure/cancellation of job position
- Termination of employer

# RIGHTS AND OBLIGATIONS UNDER THE LABOUR CODE

The employee is required:

- Follow the instructions of the employer
- Perform work personally
- Only the work that corresponds the position
- In apportioned working time and
- To comply with obligations that arise from the employment relationship.

# OBLIGATIONS OF HEALTHCARE PROFESSIONAL ACCORDING TO HEALTHCARE ACT

(a) provide healthcare services to which they have a professional or specialist qualification, to the extent corresponding to their competence, patient's medical condition on appropriate professional level and to act in accordance with ethical principles,

b) immediately provide (expert level) first aid to everyone

c) fulfill other obligations imposed by HCA or other legislation.



UNIONS

# UNION

Legal entity consisting of employees or workers having a common interest

- E.g. all the assembly workers for one employer, or all the workers in a particular industry

Formed for the purpose of collectively negotiating with an employer (or employers) over wages, working hours and other terms and conditions of employment

Often use their organisational strength to advocate for social policies and legislation favorable to their members or to workers in general

# THE COMMUNITY CHARTER OF THE FUNDAMENTAL SOCIAL RIGHTS OF WORKERS - 1989

Employers and workers of the European Community shall have the *right of association in order to constitute professional organisations or trade unions* of their choice for the defence of their economic and social interests.

Every employer and every worker shall have the *freedom to join or not to join such organisations* without any personal or occupational damage being thereby suffered by him.



SALARY



# SALARY

Remuneration for work performed on behalf of an employer

Including such elements as a basic rate, a piecework bonus and other forms of bonus, overtime, etc.

# DETERMINING THE AMOUNT OF SALARY

Contractually agreed

Specified by regulation

- internal regulations of the employer

# MINIMUM WAGE

Should be in the amount that allows a decent living for workers and their families.

Most EU Member States have a statutory national minimum wage in place, although its level, adjustment mechanisms and coverage vary. Austria, Denmark, Finland, Italy and Sweden have minimum wages set within collective agreements, while Cyprus has statutory rates for different occupations.



# WORKING HOURS

(DIRECTIVE 2003/88/EC  
concerning certain aspects of  
the organisation of working  
time)

# BREAKS

## Breaks during work shifts

- No later than after 6 work hours (30 minutes)

## Rest hours (between shifts)

- 11 consecutive hours per 24-hour period

## Weekly rest period

- minimum uninterrupted rest period of 24 hours plus the 11 hours' daily rest

# MAXIMUM WEEKLY WORKING TIME

The average working time for each seven-day period,

Should not exceed 48 hours including overtime

# ANNUAL LEAVE

At least four weeks

Minimum period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated

# NIGHT WORK

Night workers whose work involves special hazards or heavy physical or mental strain do not work more than eight hours in any period of 24 hours during which they perform night work.

Health assessment

Obligation of an employer to notify authorities of regular use of night workers



# DEROGATIONS FROM DAILY REST, BREAKS, WEEKLY REST PERIOD AND LENGTH OF NIGHT WORK

In the case of activities involving the need for continuity of service or production, particularly ... treatment and/or care provided by hospitals or similar establishments, including the activities of doctors in training ...



# CHANGE IN WORKING ABILITY

# CHANGE IN HEALTH CONDITION

## Temporary incapacity

- a short-term change in health that does not allow work

## Partial incapacity

- health status has been changed in the long term so that it allows to

## Total incapacity

- health status has been changed in the long term so that it does not

# PREGNANCY

## Pregnant worker

- worker who informs her employer of her condition, in accordance with national legislation

DIRECTIVE 92/85/EEC - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01992L0085-20140325>

# PREGNANCY

Employer shall assess the nature, degree and duration of exposure, in the undertaking and/or establishment concerned

- If the adjustment of her working conditions and/or working hours is not feasible, or cannot reasonably be required on duly substantiated grounds, the employer shall take the necessary measures to move the worker concerned to another job.
- If moving her to another job is not feasible or cannot reasonably be required on duly substantiated grounds, the worker concerned shall be granted leave in accordance with national legislation and/or national practice for the whole of the period necessary to protect her safety or health.

# PREGNANCY

Workers shall not be obliged to perform night work during their pregnancy and for a period following childbirth which shall be determined by the national authority competent for safety and health

# PREGNANCY

## Prohibition of dismissal

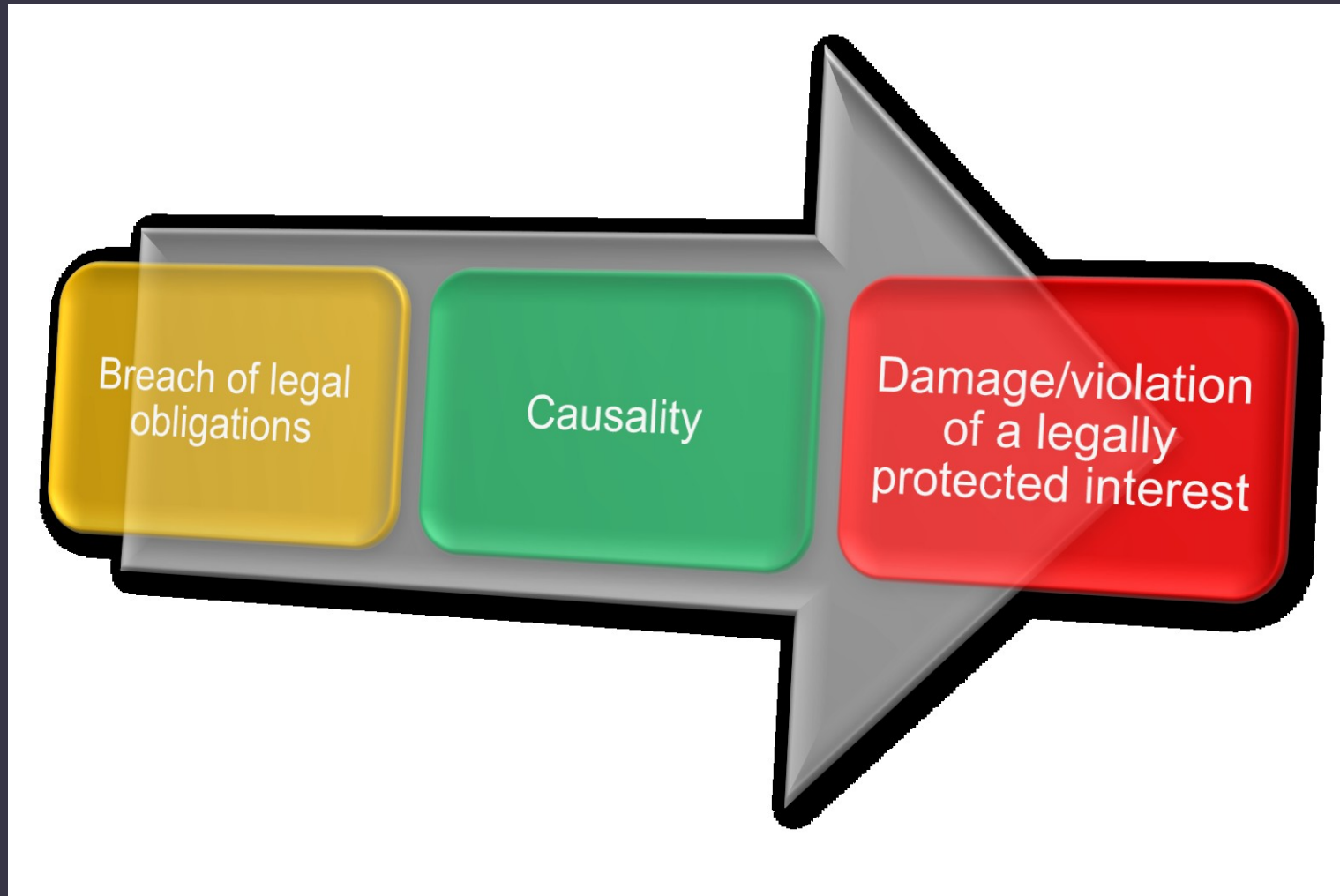
- from the beginning of pregnancy to the end of the maternity leave, save in exceptional cases not connected with their condition which are permitted under national legislation, provided that the competent authority has given its consent;



# EMPLOYEE LIABILITY



# ASSUMPTIONS OF LIABILITY



# THE OBLIGATION OF PREVENTION

The employee is obliged to act in such a way as to prevent material damage, non-material damage or unjust enrichment.

If intervention is urgently needed to prevent damage to the employer, the employee is obliged to intervene; employee does not have to do so if it is prevented by an important circumstance or if employee would put himself or other employees at serious risk.

# DAMAGES

The employee is usually liable to his employer for the damage he causes

- usually associated with a breach of some obligation (remember

May be limited

- e.g. the upper limit of liability in Czech Republic is four and a

LOSS WHERE THE CAP ON  
LIABILITY DOES NOT APPLY  
(SPECIAL WRITTEN AGREEMENT  
OR PROTOCOL NEEDED  
BEFOREHAND)

## Loss of vested things

- an employee is liable for the loss of vested things

## Loss of entrusted value

- an employee is liable for the loss of entrusted value



# HEALTH INSURANCE AND OUT-OF POCKET PAYMENTS OF PATIENTS

# FOUR REVENUE SOURCES OVERALL

Government spending (tax)

Compulsory „social“ insurance

Commercial insurance

Out of pocket payments

# REVENUES SHARE

Revenues of financing schemes	Government	Social insurance contributions	Compulsory prepayment	Voluntary prepayment	Other private (insurance)
<b>Country</b>					
Norway	85,4	..	..	..	14,6
Sweden	83,4	..	..	0,6	16,0
United Kingdom	80,1	..	..	2,9	17,0
Canada	71,7	1,4	..	9,9	16,9
Spain	67,8	3,3	..	4,6	24,3
Hungary	51,1	16,6	..	2,2	30,1
Japan	41,0	43,0	..	2,2	13,7
United States	40,0	10,1	34,4	4,4	11,1
<u>Israel</u>	38,9	24,6	..	11,2	23,5
Turkey	37,7	40,7	..	..	21,6
Switzerland	28,4	1,3	33,1	6,7	30,6
Mexico	23,9	28,5	..	5,6	42,1
Korea	17,5	40,1	1,5	6,8	34,1
<u>Germany</u>	14,7	62,5	7,1	1,4	14,2
Poland	11,3	58,0	0,5	5,4	24,7
Average	46,2	27,5	15,3	4,9	22,3

# CONCLUSION

Each system relies on combination of state subsidies and individual insurance

Out of pocket payments /prepayments/ are usually strictly regulated if not directly forbidden

- Physician has to be aware of rules not to be accused of bribery or taking advantage of patient



# PHYSICIAN NEEDS TO KNOW THE RULES REGARDING:

Gratitude and gifts

Direct payments

Conflict of interest

Prefferential treatment (skiping the queue)



# CONFLICT OF INTEREST

# SIGNIFICANT POLICY PROBLEM

Anything that can create risk, that your actions regarding primary interest (patients well-being) will be influenced by your secondary interest.

# EXAMPLE FROM THE UK: NHS CODE OF CONDUCT

<b>7. Implementing the Trust's Principles</b>	<b>8</b>
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7.1.1 Gifts	8
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# EXAMPLE PROFESSIONAL CODE FOR PHYSICIANS IN GERMANY – ADOPTED BY GERMAN MEDICAL ASSOCIATION

## **II. Duties Towards Patients**

- Art. 7 Treatment Principles and Rules of Conduct
- Art. 8 Obligation to Provide Information
- Art. 9 Confidentiality
- Art. 10 Obligation to Keep Medical Records
- Art. 11 Medical Examination and Treatment Methods
- Art. 12 Fee and Remuneration Agreements

## **4. Safeguarding of Medical Independence in Cooperation with Third Parties**

- Art. 30 Medical Independence
- Art. 31 Impermissible Allocation
- Art. 32 Impermissible Donations
- Art. 33 Donations during Contractual Cooperation



GIFTS AND TOKENS  
OF GRATITUDE |

# GIFTS AND GRATITUDE

Small gifts in the value 5-10 EUROS are usually tolerated

- Gifts from patients *after* the treatment is provided

Larger gifts can be considered as compromising „Medical Independence“

- Sometimes outright forbidden



EXAMPLES



# EXAMPLE – GERMAN CODE OF CONDUCT

## **Art. 31**

### **Impermissible Allocation**

- (1) Physicians are not permitted to demand or have themselves or third parties promised or granted payment or other benefits, or themselves promise or grant payment or benefits, for the allocation of patients or examination material or for the prescription or acquisition of pharmaceuticals, medical aids or medical devices.

# EXAMPLE – GERMAN CODE OF CONDUCT

## **Art. 32**

### **Impermissible Donations**

- (1) Physicians are not permitted to demand gifts or other benefits from patients or other persons for themselves or for third parties, or to have them promised to or accept them for themselves or third parties, if this creates the impression that the independence of the medical decision is influenced as a result. An influence is not against professional ethics if it is conducive to an economical method of treatment or prescription on the basis of social law and the physician retains the possibility of making an alternative decision on medical grounds to that which is connected with financial incentives.

# EXAMPLE – CONFERENCE EVENTS (GER)

- (2) The acceptance of benefits of reasonable value is not against professional ethics as long as these are utilised exclusively for continuing medical education related to the profession. The benefit granted for participation in a scientific continuing medical education event is unreasonable if it exceeds the necessary travel costs and conference fees.
- (3) The acceptance of third-party contributions for carrying out events (sponsorship) is only permissible to a reasonable extent and exclusively for financing the scientific programme of continuing medical education events. The extent and conditions of sponsorship are to be openly disclosed when announcing and holding the event.

# EXAMPLE NHS CODE OF CONDUCT - UK

Gifts should normally be firmly but politely declined. However, articles of low intrinsic value, need not necessarily be refused.

- Items of intrinsically small value [less than £5] need not be declared. Diaries; Pens; Calendars;

Gifts with the value of between £5- £25 may be accepted but must be declared.

- Bottles of wine or spirits; Books , CDs / DVDs; Decorative objects such as glass tankards, glass

Any other gifts over this value should be politely declined. Under no circumstances should employees accept personal gifts of cash even if this is below the limit of £25.



INVITATIONS TO  
LUNCHESES,  
CONFERENCE AND  
EVENTS

# INVITATIONS TO FREE ATTENDANCE OF CONFERENCES AND EVENTS

Accepted only if it serves education and scientific purpose

Must not compromise your independence

Regulation of pharmaceutical companies

- How to organize „promotional“ events

Regulation on the ethical side of physician

- See examples

# NHS CODE (EXAMPLE)

## 7.1.2 Hospitality

Modest hospitality, provided it is normal and reasonable in the circumstances, e.g. lunches in the course of working visits, may be acceptable, though it should be similar to the scale of hospitality which the Trust, as an employer, would be likely to offer or you would be prepared to pay for yourself. All other offers of hospitality or entertainment should normally be declined.

### **Examples of acceptable hospitality may include:**

- Invitations to attend functions where the attendee is representing the Trust;
- Working lunches, light refreshments.

### **Unacceptable hospitality that should be declined may include:**

- Personal invitations to sporting events, or other entertainment;
- Tickets for non-work related events;
- Holidays (including free holiday accommodation), weekend breaks, air or rail travel;
- Non-working lunches or evening meals, cabarets and nightclub entertainment.

# GERMAN CODE OF CONDUCT

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# DIRECT PAYMENTS FOR TREATMENT

# IF THE TREATMENT IS FULLY PAID BY THE PATIENT

Non-necessary treatment (i.e. cosmetic surgery)

- Usually without regulation

Necessary treatment (i.e. patient is not covered by insurance)

- Price usually is regulated

# TREATMENT IS PARTIALLY PAID BY THE PATIENT

## Compulsory payments

- Sometimes the physician is obliged to charge small compulsory payments as a „de facto tax“ to protect systems from overspending

## Extra payments

- Payments for extra benefits outside what is covered by insurance as „standard treatment“
- Cannot be conditional, patient cannot be treated negatively if they refuse these payments

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