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LIABILITY INSURANCE

Mandatory by Law or Market Law?

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LIABILITY INSURANCE

Main points of presentation

- **Business Environment**
- **Basic Features of Liability**
- **Corporate - Business Liability**
- **Employer's Liability (Labour accidents)**
- **Market's trends & challenges**

LIABILITY

PENAL

The one who intentionally or maliciously or by gross negligence harms, is punished

NOT INSURABLE

CIVIL

The one who by negligence, error or omission, creates damages is obliged to indemnify

INSURABLE

- “Laws / Legal system” but also ... “Laws of the Market”!
- Civil Liability becomes more demanded and more severe!



CIVIL LIABILITY

SUBJECTIVE

The person who suffered a damage, has to prove:

- The damaging cause / error
- The damage itself
- The respective link between the cause/error & the damage

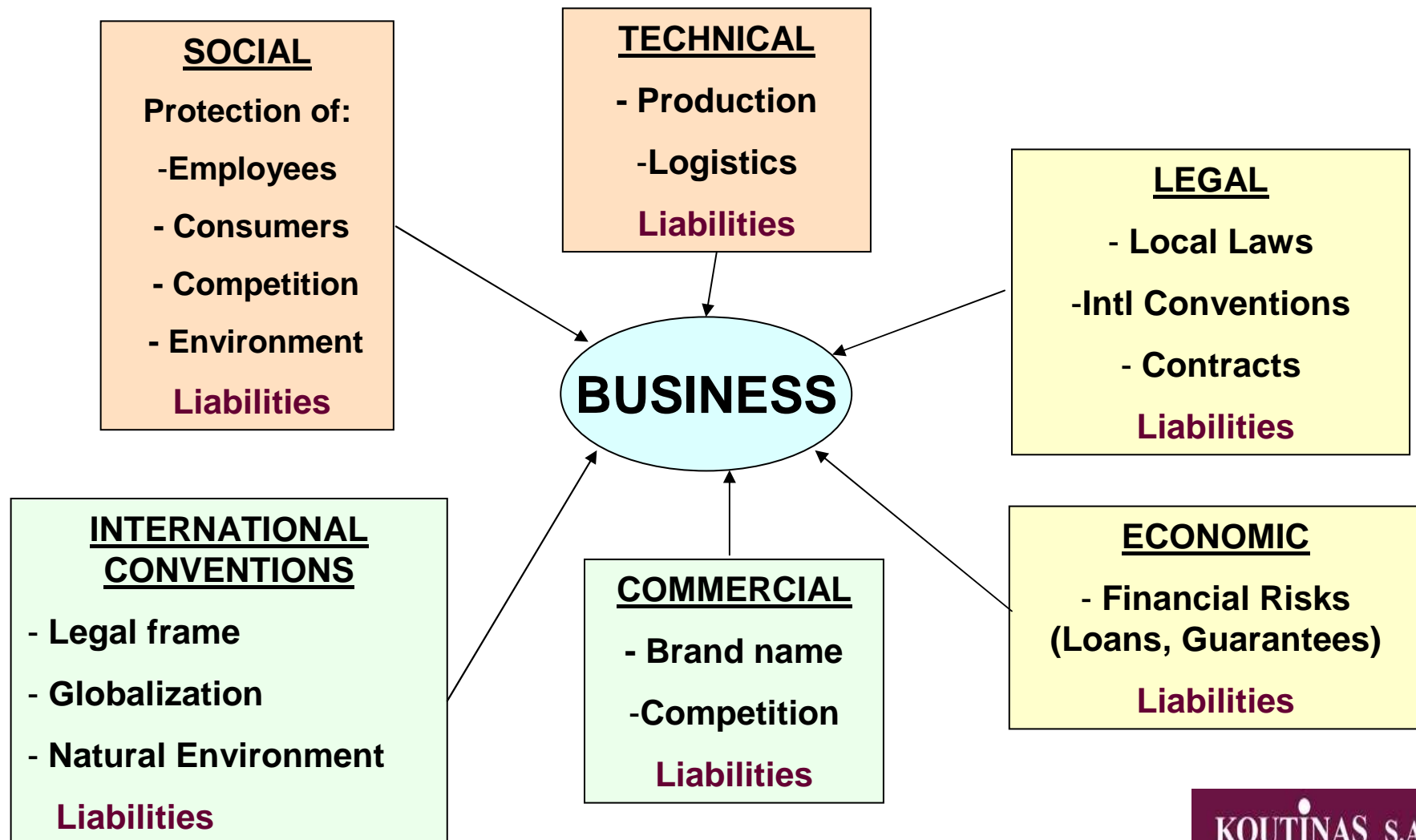
OBJECTIVE (STRICT)

To avoid consequences, the person “by default” considered liable, must prove existence of “another” cause:

- Force Majeure (Act of God)
- Liability / Error committed by someone else, ...

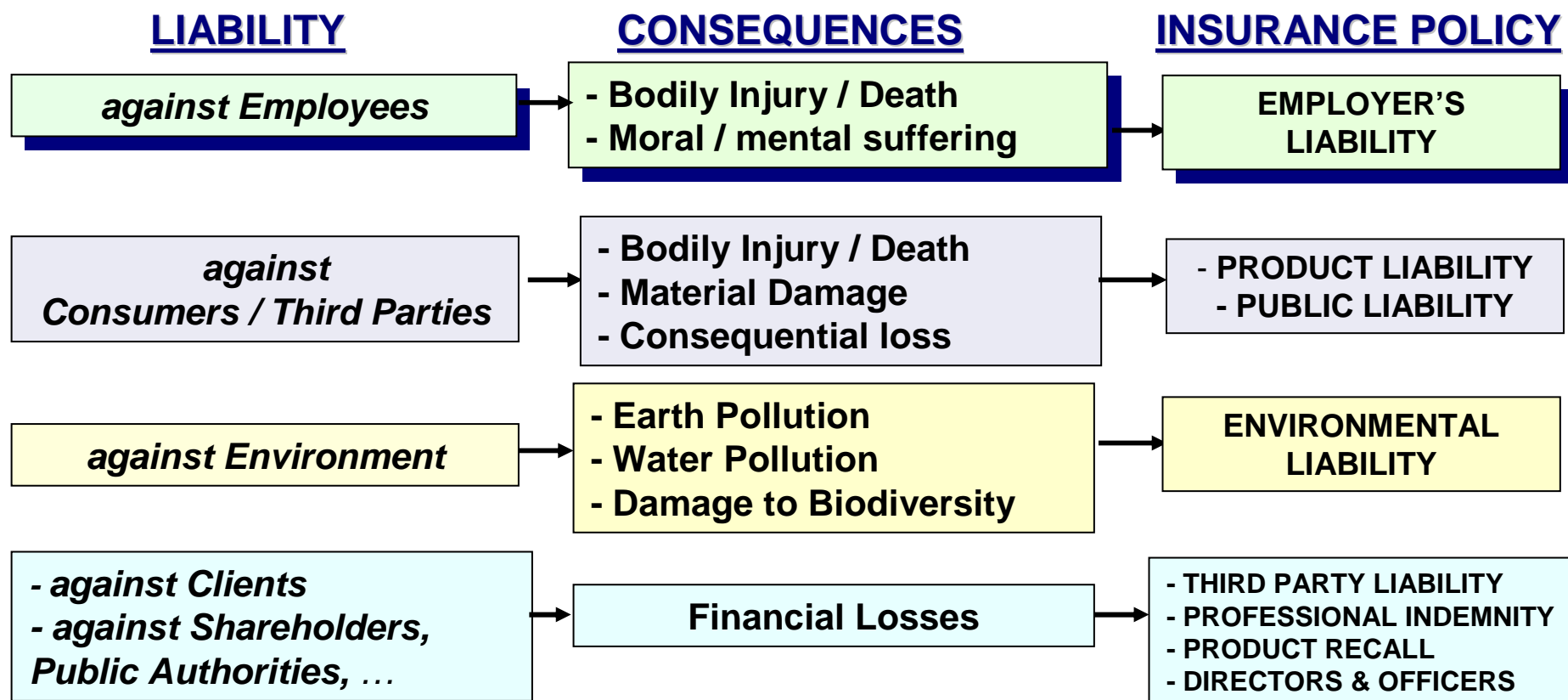
**In the current legal & socio-economic conditions,
most of liabilities are objective (strict)!**

PARAMETERS AFFECTING BUSINESS



LIABILITY INSURANCE

Business environment & Liabilities



*In the contemporary legal - institutional framework,
Liability is becoming more and more strict!*



CORPORATE - BUSINESS LIABILITY

- **Public/ Third Party Liability**
(Human Errors in the frame of business activity)
- **Employer's Liability**
(Labour Accidents)
- **Product Liability**
(Failure in the Design-Manufacture, Errors in Users Manual or in the maintenance guidelines of a product)
- **Environmental Liability**
(Human Errors in the frame of business activity)
- **Professional Liability**
(Indemnity for damages due to errors and / or omissions)



LIABILITY INSURANCE

What Insurance Policy covers?

- Legal protection by experienced Legal Advisors, appointed by the Insurance Company
- Financial Indemnity for Bodily Injuries or / and Death of a Third Party
- Financial Indemnity (direct and / or indirect consequential economic loss)
- Legal costs & expenses in connection with claims that can not be settled extra-judicially



LIABILITY INSURANCE

At what Indemnity Limits?

General easy answer can not be given.

To determine the optimal efficiency (benefit / cost) need:

- Analysis of the Insured's Business Activity
- Knowledge of the development strategy
- Consideration of market conditions
- Contribution of specialist Insurance Broker!

Golden Rule:

"Buy enough to feel safe as far as you are able to pay the insurance cost"



EMPLOYER'S LIABILITY

Key criteria of Insurability

1. Type of Business Activity (% of total income)

- **Service Companies**
- **Commercial Sector**
- **Industrial Sector** (*Explosives, Flammables, Toxics, Radioactives etc.*)
- **Construction Sector** (*Works at height or Underground, Shipyards etc.*)

2. Human Resources (personnel, work force etc.)

3. Annual Turnover / Fees & Payrolle

4. Claims History



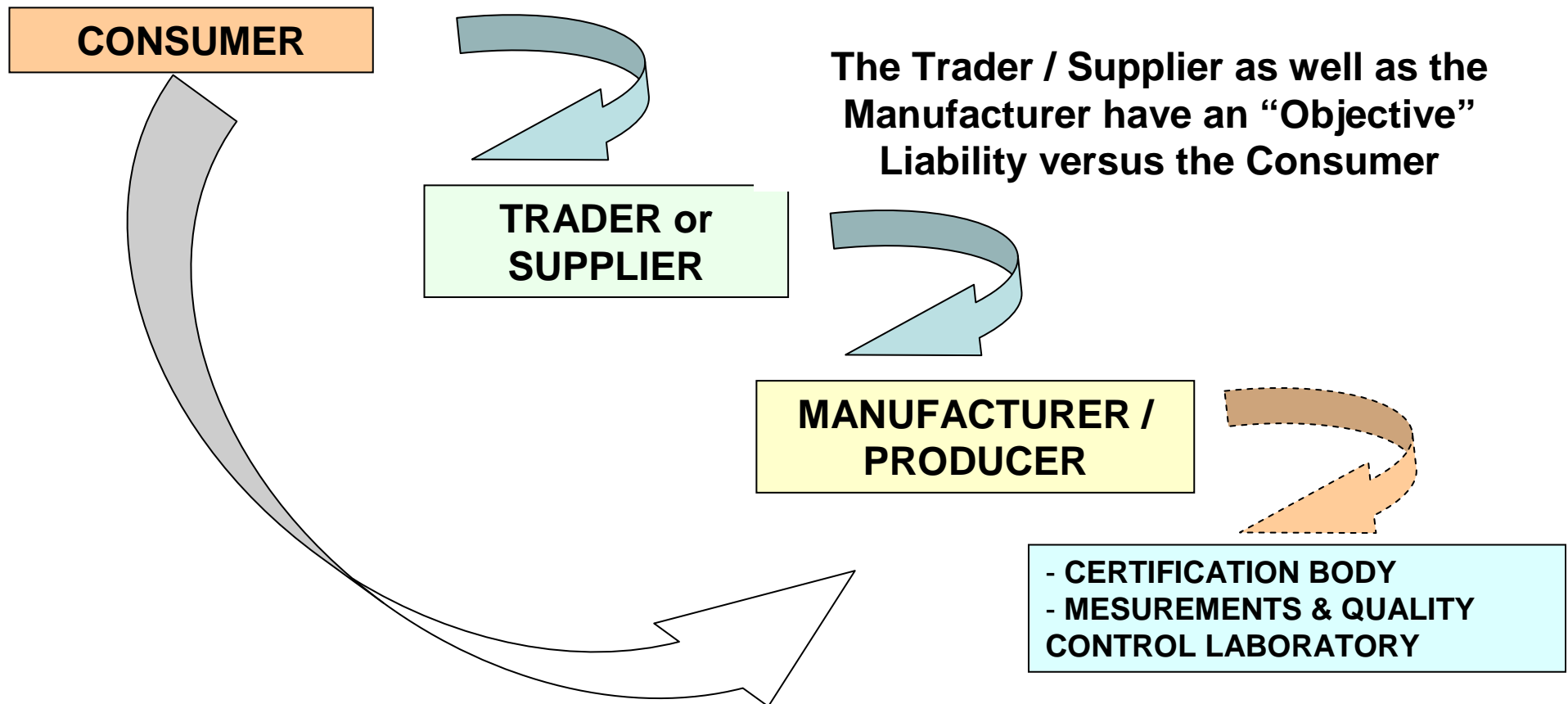
EMPLOYER'S LIABILITY

- Employer is “by default” liable (strict liability)
- Safety Engineers /“OS&H” Firm may be liable

- Assessment of occupational risks in the working environment
- Organization of systems for preventing and treating accidents
- Specialized studies in ergonomics, fire safety & working conditions
- Development of Work Regulations and Safety Rules
- Application of Medical rules aiming to prevent occupational diseases
- Supervision of Safety & Health measures (Project/Business workplace)

PRODUCT LIABILITY

Case of Manufacturing & Trading



The Laboratory of Measurements / Controls and the Certification Body have a “subjective” Professional Liability



ENVIRONMENTAL LIABILITY

Each and every Business activity that may causes damage to the environment will bear the cost for the proper preventive measures as well as the cost to limit the damage occurred and to establish the damaged environment at the prior situation (Directive 2004/35/EU The “Polluter Pays Principle”)

Basic characteristics

- **Covers a wide spectrum of business activities**
- **Defines environmental parameters regarding**
(Soil, Surface and sub-surface waters, Biodiversity)
- **Liability is severe (strict)**
- **Several entities can denounce/present claim to Authorities**
- **State Authorities will be obliged to react.**
- **Necessity/Obligation for financial security (Insurance)**



PROFESSIONAL LIABILITY

(Errors & Omissions Insurance)

Main Professions concerned

- Architects & Consulting Engineers
- Lawyers – Law Firms
- Certified Auditors - Accountants
- Insurance Intermediaries
- Surveyors - Real Estate Consultants
- Certification Firms & Laboratories
- Information Technology Consultants
- Security Service Companies
- Miscellaneous Consultants & Service Providers ...



LIABILITY INSURANCE

Mature markets

- Liability Insurance is a well established practice in most of the EU countries
- Globalization of economies as well as social tendencies render Liability Insurance as an absolute need
- Tendency for more litigation, higher Indemnity Limits & increased premiums

Mandatory by Law or Law of the Market?



LIABILITY INSURANCE

Immature – emerging markets

- Prevailing mentality and lack of appropriate information, doesn't favorize the development of Liability Insurance. However, conditions change ...
- Practice with very low indemnity limits and “narrow” policy wordings is “dangerous” for the Insured, the Insurance Intermediary and the Insurance Company
- More information, specialized training & high level services are required
- Very important the role of Insurance-Reinsurance Brokers

Mandatory by Law or Law of the Market?



LIABILITY INSURANCE

Why is it necessary

- Damaging conditions and human negligence (errors and/or omissions) cannot be completely eliminated
- Eventual damages and subsequent economic losses may be unbearable
- Every activity, in today's competitive - globalised business environment, needs appropriate cover
- Liability Insurance is not just a need in doing business. Is a reliability proof, and an incentive for business development!



LIABILITY INSURANCE

Advantages

- Reliable Legal & Financial protection in the contemporary even more competitive and litigious business environment
- Protects the Balance Sheet and the executives of the Company in any claims against them
- A “value” of the Firm's assets with a positive impact on its credibility image
- Encourages entrepreneurial initiatives / getting risks
- Expresses reliability and responsibility of the Company to its Employees, to the State and the Society



LIABILITY INSURANCE

Conditions to be positive

- ✓ **Soundness of Insurance Policy**
 - *Risk Analysis & Responsibilities*
 - *No abusive exclusion or “hidden” cover restrictive clauses*
 - *Effective indemnity procedures*
- ✓ **Reliability of the Insurance Company**
- ✓ **Reliability & quality services by the Insurance Intermediary Insurance Broker**