

# Just Culture in aerospace medicine: balancing safety, accountability and autonomy

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# Disclosure statement

**We have no conflicts of interest**

# Introduction

**Concern for aircrew mental health**

**EASA action plan & opinion 14/2016**

**EU-regulation 1042/2018**

**Alcohol and drugs testing, Psychological testing, Peer support**

**Consensus-based**

**Regulations or culture change?**

**Just Culture for mental health**

**Focus on mental health, also other health problems (diabetes)**

# Outline

**What is a Just Culture?**

**Just Culture in European aviation industry**

**European Corporate Just Culture declaration**

**Legal background of Just Culture, especially in European Law**

**Some ethical remarks → Just Culture for mental and other health risks**

**Balancing safety, accountability and autonomy**

**Regulatory vs conceptual approach to mental health risks**

**European situation!**

# What is a Just Culture?

**Developed in safety-critical industries such as aviation and oil industry**

**Improving safety by learning from accidents and incidents**

**Safe reporting possible**

**Goal: improving future safety but at the same time justice for all involved**

**In a Just Culture, people are not punished for accidents and mistakes unless they were dishonest, grossly negligent or performed willful misconduct**

**Balance between providing safety and accountability**

# Just Culture in Industry

## European Corporate Just Culture declaration

Non-legally binding declaration for Just Culture within the context of an organisation

Set of key principles that each organisation is encouraged to implement



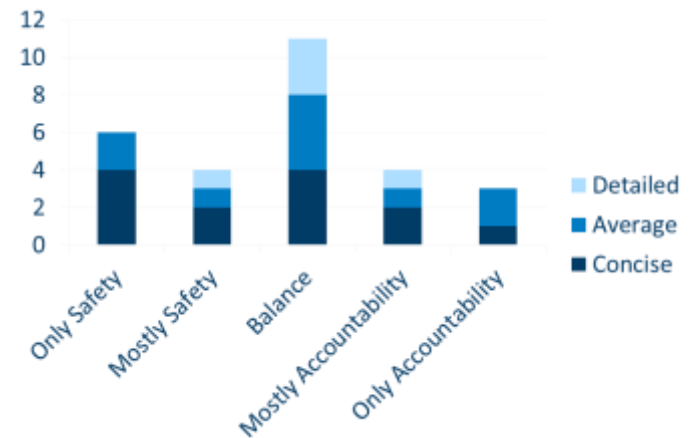
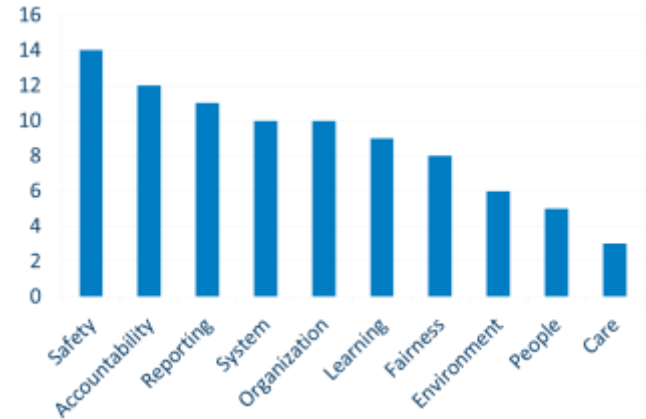
# European Just Culture declaration

Safety	Accountability
<p>Acting safely is a top priority</p> <p>Despite training, expertise, experience, abilities and good will → undesirable outcome</p> <p>Focus on system performance and contributing factors first</p> <p>Not apportioning blame and/or focus on individual responsibilities</p> <p>Reporters are protected from adverse consequences</p> <p>Positive behaviour and actions should be captured and encouraged</p>	<p>Support provided by organisations, in cases where staff are subject to external procedures</p> <p>Provide staff with the appropriate environment, tools, training and procedures</p> <p>Actions, omissions or decisions taken commensurate with experience and training?</p> <p>Define a process to determine unacceptable behaviour</p> <p>Document how safety data is managed, stored, protected and disclosed</p> <p>Understand and accept responsibility with regards to Just Culture principles</p> <p>Regularly review and assess the maturity of their Just Culture internal rules</p>

# Just Culture in medicine (n=29)

Many, highly different, definitions

Most focus on finding a balance between safety and accountability





# Just Culture and law

**Seems to be fundamentally different**

**Sometimes at odds with civil and criminal law**

**Civil law: liability and settling damages**

**Criminal law: provide retribution**

**Just Culture: future safety**

**Difficult to 'survive' in law**

**Need for specific regulations (such as EU 376/2014, accident investigation)**

**Sometimes informal agreements industry and prosecution office**

# Just Culture in (High) Court

## High Court England and Wales

### Two recent judgements

[2016] EWHC 2279 (Admin) & [2016] EWHC 2280 (QB)

### First acceptance of Just Culture in a High Court!

Differentiation accident and criminal investigations

**Importantly:** In accident investigation no protection of criminal suspect  
No caution, right to remain silent

**Data obtained in safety investigation cannot be used directly in criminal investigation**

# Just Culture for (mental) health

**No civil or criminal liability, no legal difficulties**

**Mentioned in EASA-opinion**

**By EPPSI (European Pilot Peer Support Initiative)**

**Not specifically mentioned in EU-regulation 1042/2018**

**However**

*Alcohol testing: 'objective, transparent and non-discriminatory'*

*Peer support 'non-punitive' & 'confidential'*

**(At least partially) in line with Just Culture principles**

# Some ethical remarks

**Just Culture** carries elements of:

**Utilitarianism (Best for society as a whole)**

→ Safety

**Deontology (Moral rules are absolute, people never be used as a means)**

→ Accountability

**Balance**



# Just Culture for (mental) health

**Compatible with medical ethics**

**Medical ethics → human dignity**

**Adding human dignity**

**Autonomy as a value to represent human dignity**

**Adding autonomy to balance safety and accountability**

# Expanding the classic definition

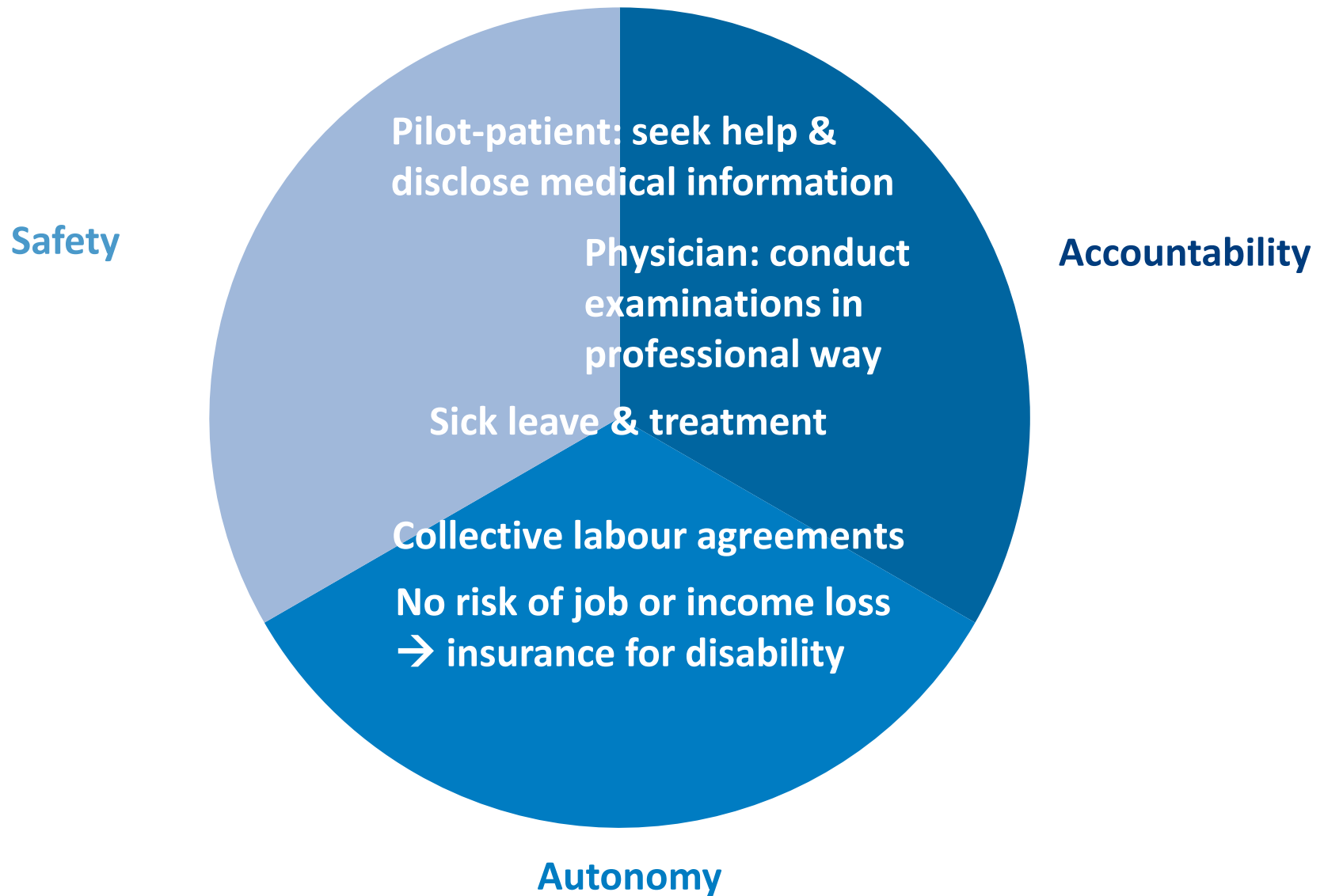
## Classic definition



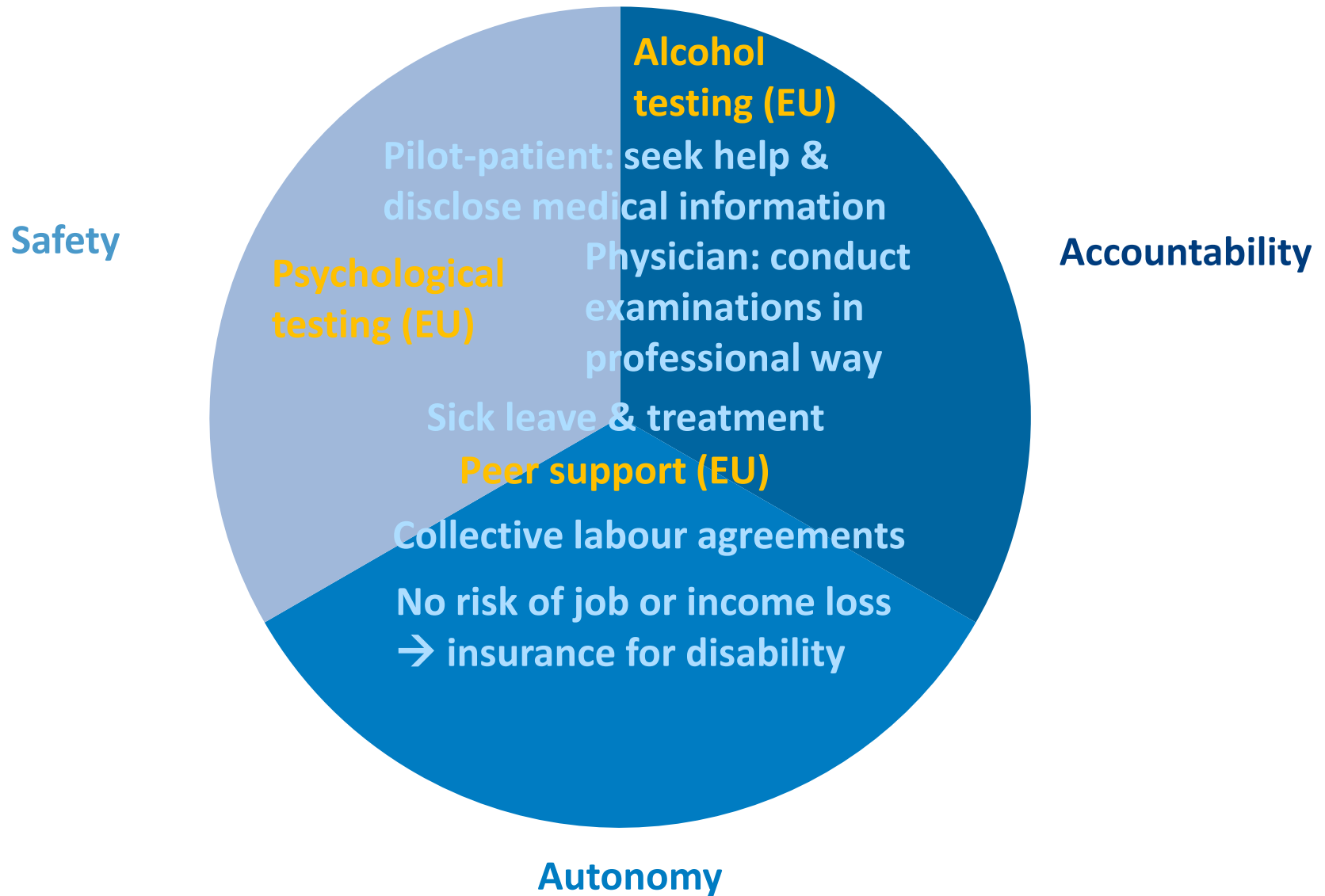
## Just Culture for (mental) health risks



# Example: pilot with depressive disorder



# Example & EU 1042/2018





# Conclusions

**Just Culture originally developed in accident and safety investigations**

**No punishment unless dishonest, grossly negligent or willful misconduct**

**Balancing safety and accountability**

**Highly appreciated in aviation industry, legal difficulties**

**Useful for mental health problems, need to take human dignity into account**

**Balancing safety, accountability and autonomy**

**Balancing rights and duties**

**Safe peer support, comply with medical examination, insurance**

# Discussion

## Regulatory measures

To mitigate mental health risks (testing)

To facilitate culture changes (peer support)

## Culture change

### Not clinical evidence based

### Just culture starting point for culture change

### Mental health only, or only organisational issues?

Rosters/time off duty, transfer to different crew-base etc

# Future directions

**Unions and airlines**

**Just Culture in new regulations on pilot mental health**

**Diabetes, other medical conditions?**

**Cabin crew, maintenance etc**

**ESAM partner to new European Just Culture declaration?**



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<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1042&from=EN>

# Just Culture declaration

## 1. Acting safely is a top priority.

2. Staff, at all levels, should be, as a starting point, **considered to act in the interest of safety**, in a manner commensurate with the training, experience and professional standards that fit their position or function. To achieve this **organisations are responsible for providing** their staff with the appropriate environment, tools, training and procedures.

3. It is acknowledged that, in an operational aviation industry environment, individuals, **despite their training, expertise, experience, abilities and good will**, may be faced with situations where the limits of human performance combined with unwanted and unpredictable systemic influences may lead to an **undesirable outcome**.

4. Analysis of reported occurrences by organisations should **focus on system performance** and contributing factors first and **not on apportioning blame and/or focus on individual responsibilities**, except in the cases foreseen under Regulation (EU) No 376/2014 and other applicable legislation.

5. When assessing individual responsibility, **organisations should focus on determining if actions, omissions or decisions taken were commensurate with experience and training, and not on the outcome of an event**.

6. **Reporters** of safety information, and any other person mentioned in the report, **are protected from adverse consequences**, in accordance with Regulation (EU) No 376/2014.

7. Whilst acknowledging that adverse events can frequently be the driver for analysis, **positive behaviour** and actions should be **captured and encouraged**.

8. Organisations should **promote effective implementation of Just Culture principles** within the organisation at all levels and with all parties,

including their representatives. All should actively foster mutual trust and respect, and promote support and cooperation to build the necessary trust across the organisation. Staff should be educated in Just Culture principles and all relevant documentation should be made available.

9. Just Culture internal rules should include, amongst others, the **definition of a process**, including the actors involved, to **determine an unacceptable behaviour**, in accordance with its description in Regulation No 376/2014.

10. Just Culture internal rules should **document how safety data is managed, stored, protected and disclosed**. It should also document to what extent the organisation intends to share de-identified data for safety learning purposes.

11. **Support** provided by organisations, **in cases where staff are subject to external procedures** on the basis of an occurrence they have reported or been involved in, reinforces the mutual trust that is necessary to ensure an effective Just Culture.

12. A consistent and effective Just Culture environment requires **going beyond publication of Just Culture internal rules**.

13. To effectively implement a Just Culture **staff at all levels**, as well as top management, should **understand and accept their responsibility with regards to Just Culture principles** and internal rules and their promotion.

14. Organisations, in cooperation with involved parties, including their competent authority, should define how they intend to **continuously promote and stimulate the implementation of Just Culture principles** and practices throughout the organisation.

15. Organisations should **regularly review and assess the maturity of their Just Culture internal rules** and compare it to the Just Culture perception within the organisation. Benchmarking may also be of benefit and may be considered.

# What it could mean

**Balancing rights (autonomy) and duties (to provide safety, accountability of various stakeholders)**

**Physician:**           **Conduct examinations in the most professional way**  
**(respect for autonomy, accountability)**

**Airline:**               **No risk of job or income loss → insurance for disability**  
**(autonomy)**  
**Safe peer-support systems (autonomy, accountability, safety)**

**Airlines / unions:** **Just Culture in collective labor agreements (accountability)**  
**Insurance for disability in collective labor agreements**  
**(autonomy)**

**Pilot-patient:**       **Obligation to disclose relevant medical information**  
**(accountability, safety)**