

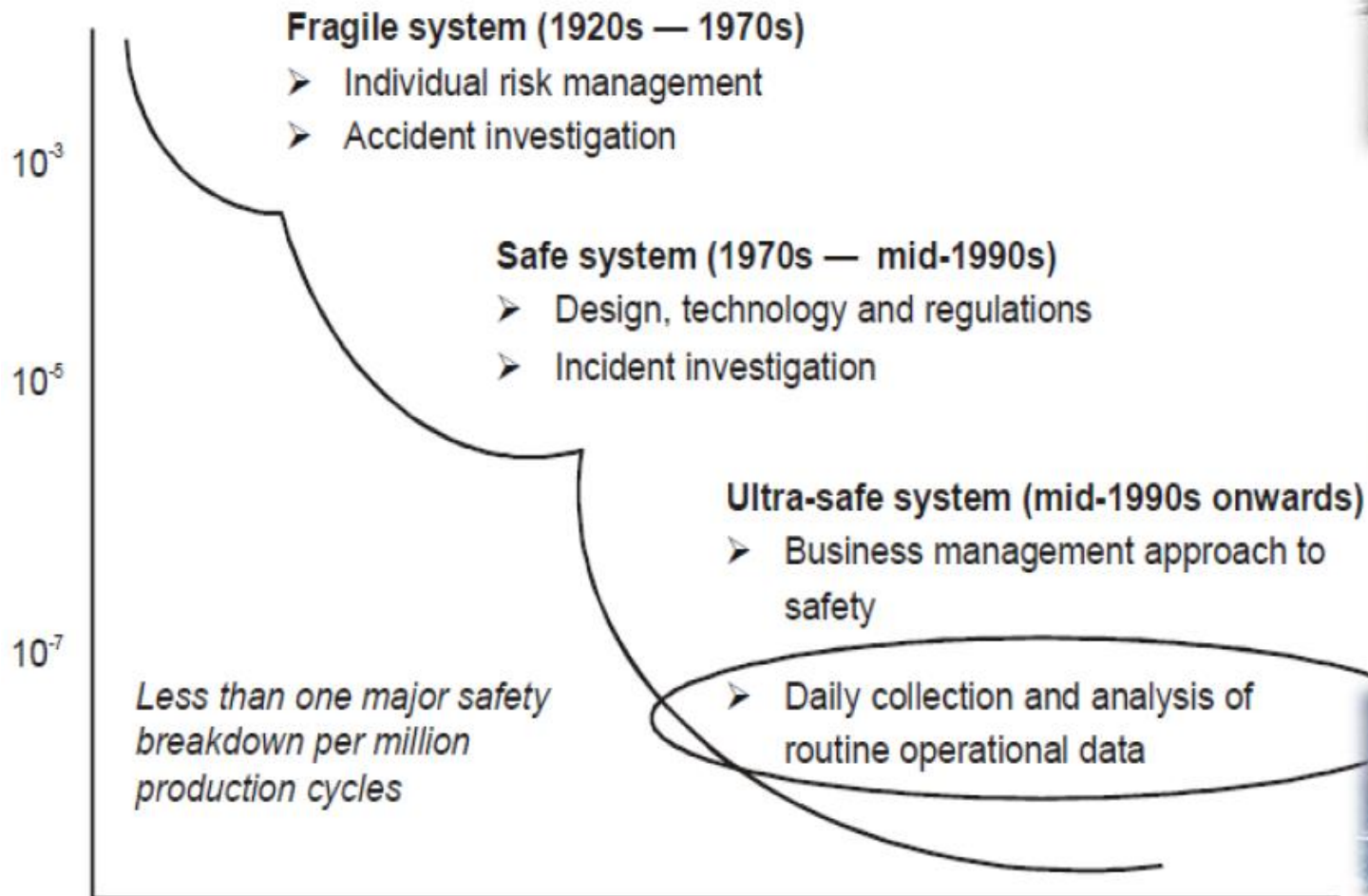
## The canary in the coal mine – why a Just Culture saves lives



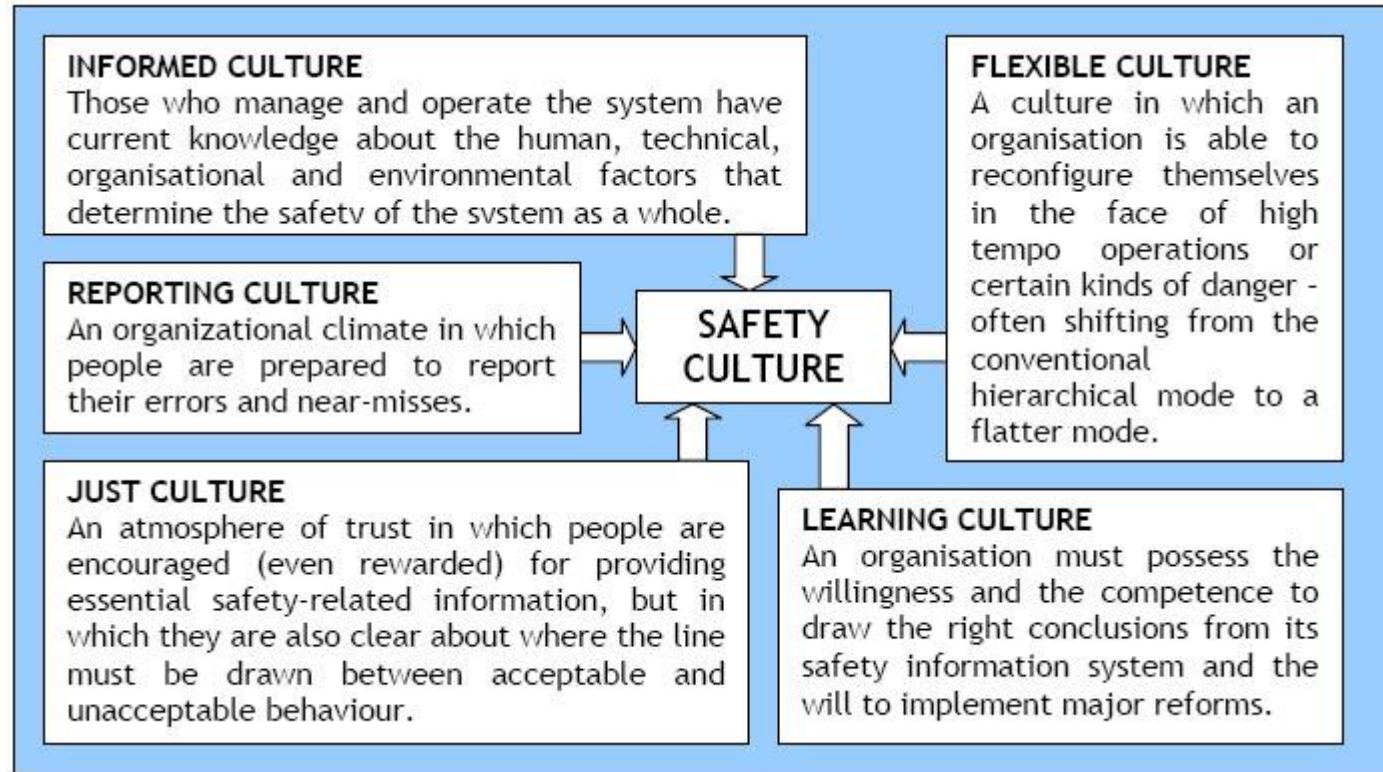
Source: Science Museum Group © The Board of Trustees of the Science Museum

Marc Baumgartner, IFATCA, SESAR and EASA coordinator

# Civil Aviation's Evolution of Safety (ICAO)



# Safety Culture



James Reason 1997

# Why? - Learn and comply





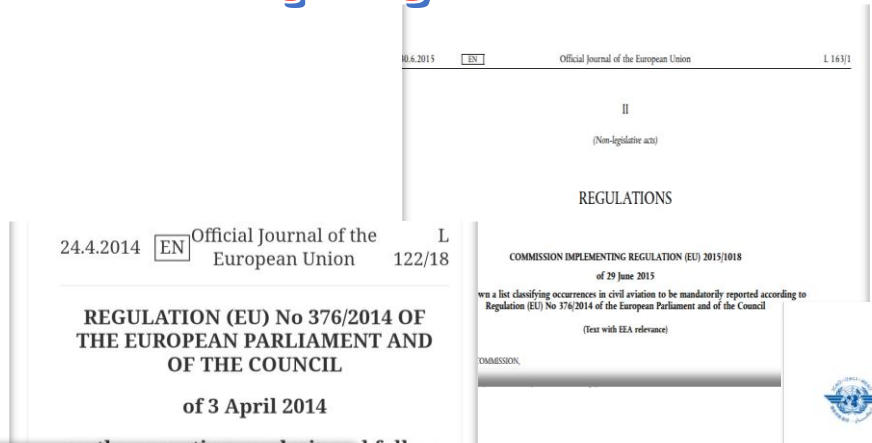
# Why? – Comply and Learn



Skybrary.aero/NTSB



Source author/skyguide



12.11.2010 EN Official Journal of the European Union L 295/35

**REGULATION (EU) No 996/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC**

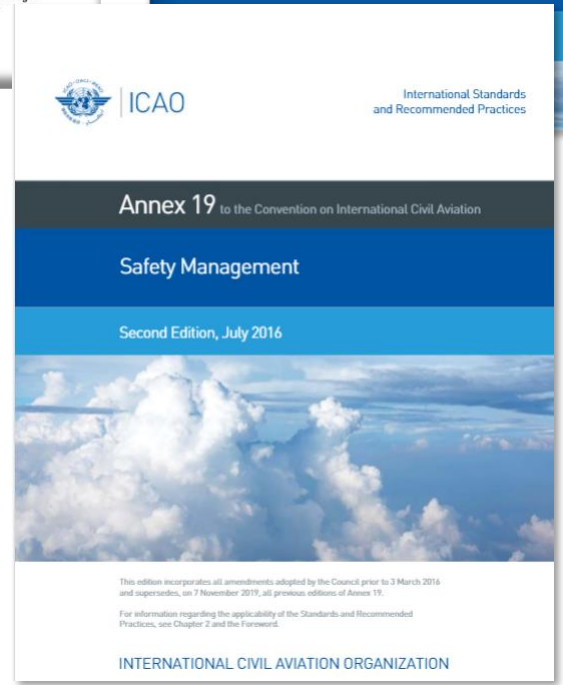
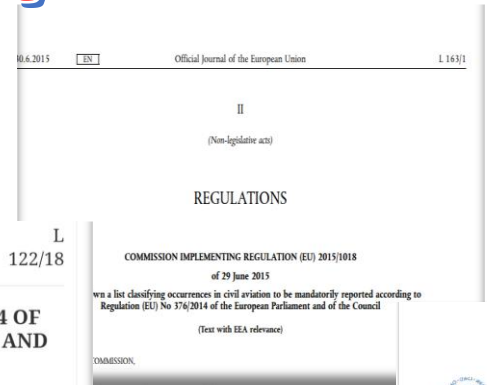
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

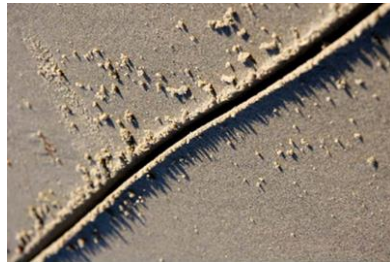
Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,



# What is Just Culture?

European description of Just Culture

A culture in which front line operators or others are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training,



*but where gross negligence, wilful violations and destructive acts are not tolerated.*

Blame free



All errors to system failure  
No individual is to be held  
accountable

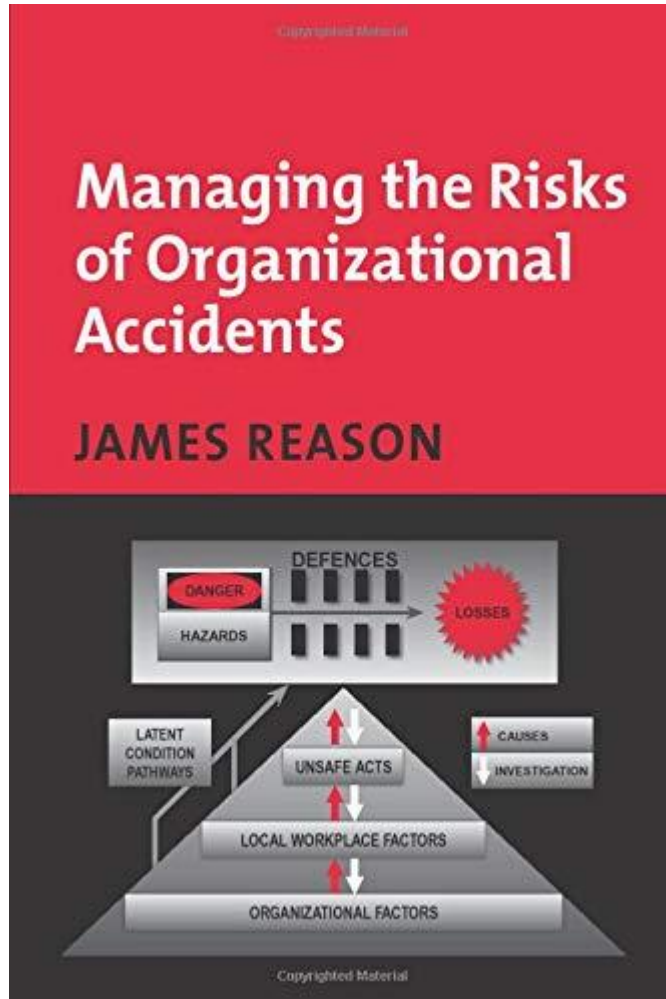
*Just  
culture*

Punitive culture

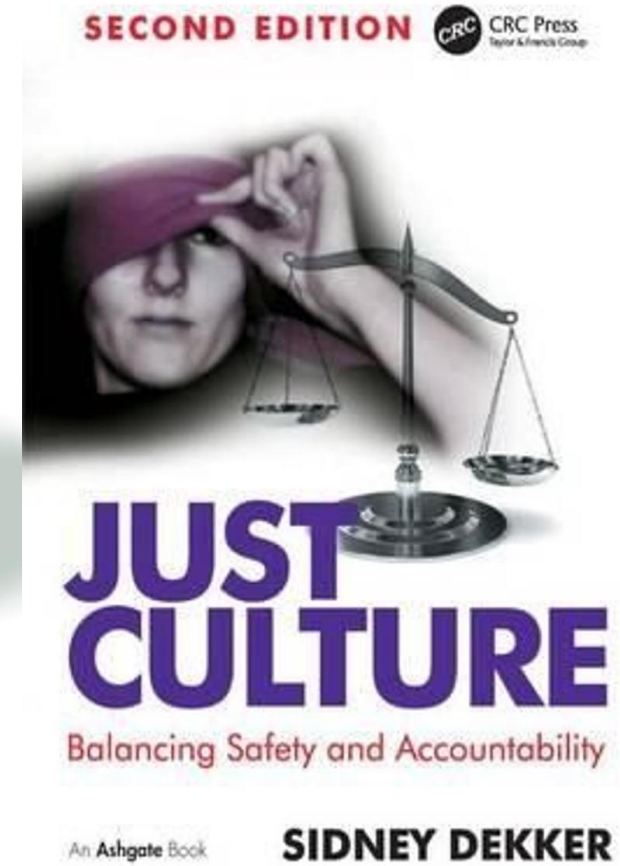
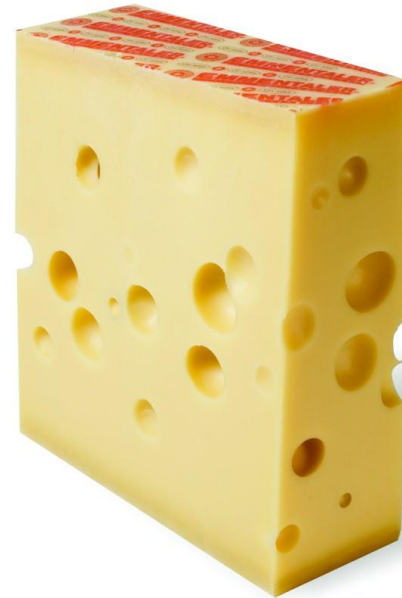


Individuals are  
blamed for all  
mistakes

Where does it come from?

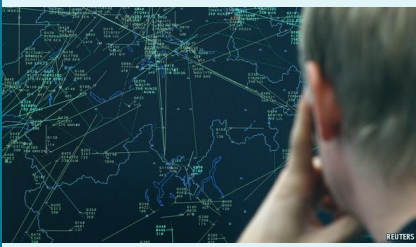


1997

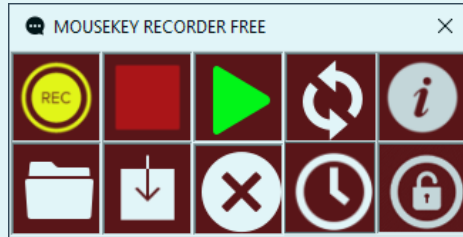


2012





## SAFETY DATA



## SAFETY INFORMATION

### Difference

*Bestman has a lot of problems, says Janice Smith. One in three children in the UK are overweight by the age of 10. But how should we tackle it? The Government promises to get tough on the fast-food industry, but nothing that it has or wants elaborated diets will work, and that isn't going to happen. Public response, indicated in 2007 by the public majority is to 'take people, take things, take fat, 'planning' a solution more than a 'decision' for the best acceptable response. 'being able about fat people that it's healthy, counterproductive. 'Planned' for children, start to 'what can' fat why go to the gym if you think you are going to be 'what' in response to such 'what' a new 'fat' posture. 'movement has, again, approach it, don't go to 'what' clearly' on the new trend.*



[YOUR LOGO HERE]

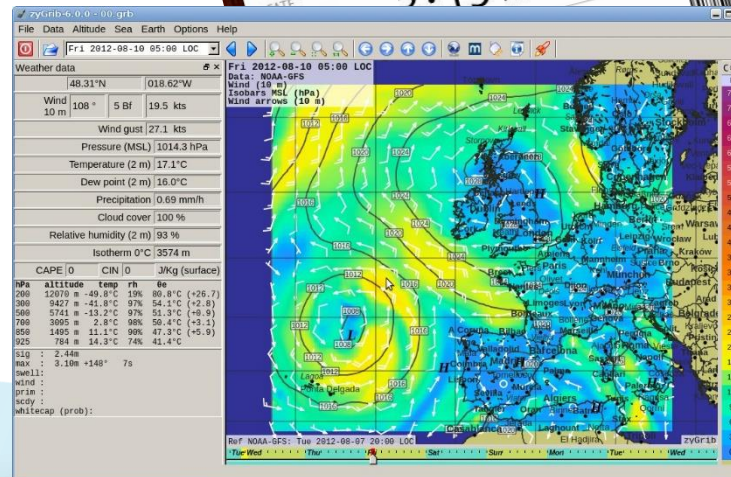
### Incident Investigation Questioner

Person Interviewed: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_  
 Company: \_\_\_\_\_ Job/Project: \_\_\_\_\_ Location: \_\_\_\_\_  
 Type of Incident:  Fatal  Serious Injury  First Aid  Fire/Explosion  Property Damage  
 Equipment Failure  Vehicle Damage  Other: \_\_\_\_\_

❖ For most of these questions, an important follow-up question is "If not, why not?"

Items	Yes/No	Comments
<i>Check the raw material unsafe in some</i>		
Was a safe work procedure being used?		
Had conditions changed to make the normal procedure unsafe?		
Were safety devices working properly?		
Was lockout/tagout used when necessary?		
Were the appropriate tools and materials available?		

# Safety Data Source Examples



# Safety Data Source Examples





## Safety information



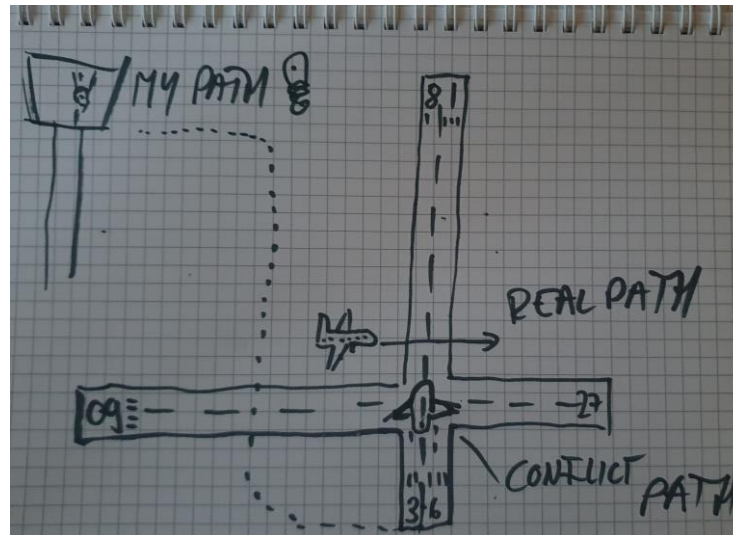
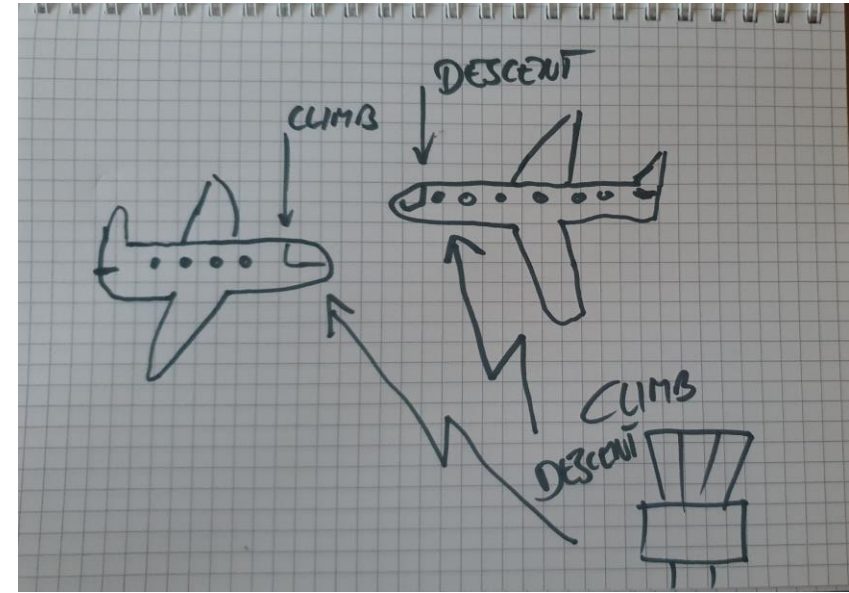
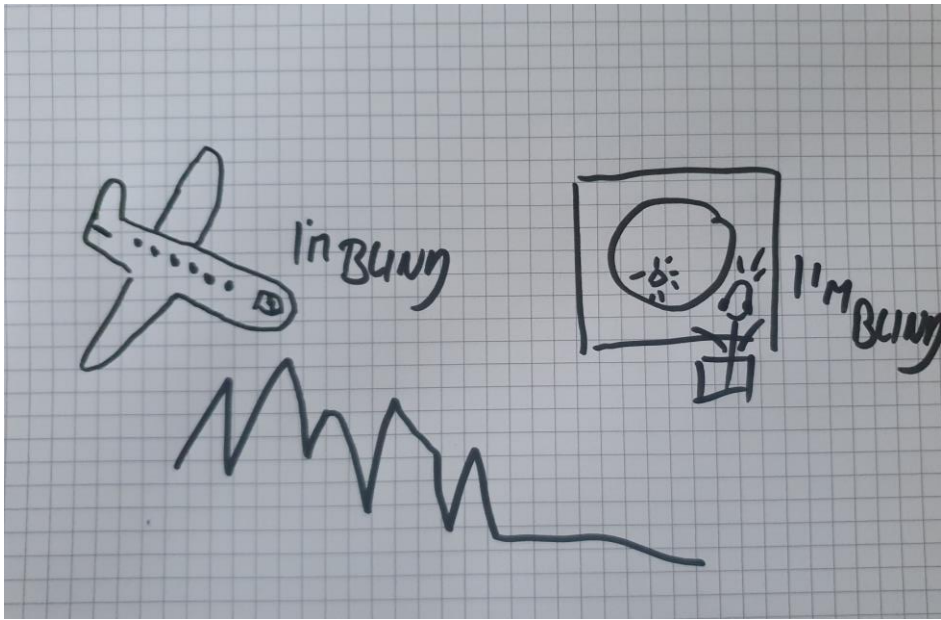
Etsy.me/2AeAwHr

## Source of knowledge



Textbookrecycling.com





Source author

# Safety information



Etsy.me/2AeAwHr

# Source of knowledge



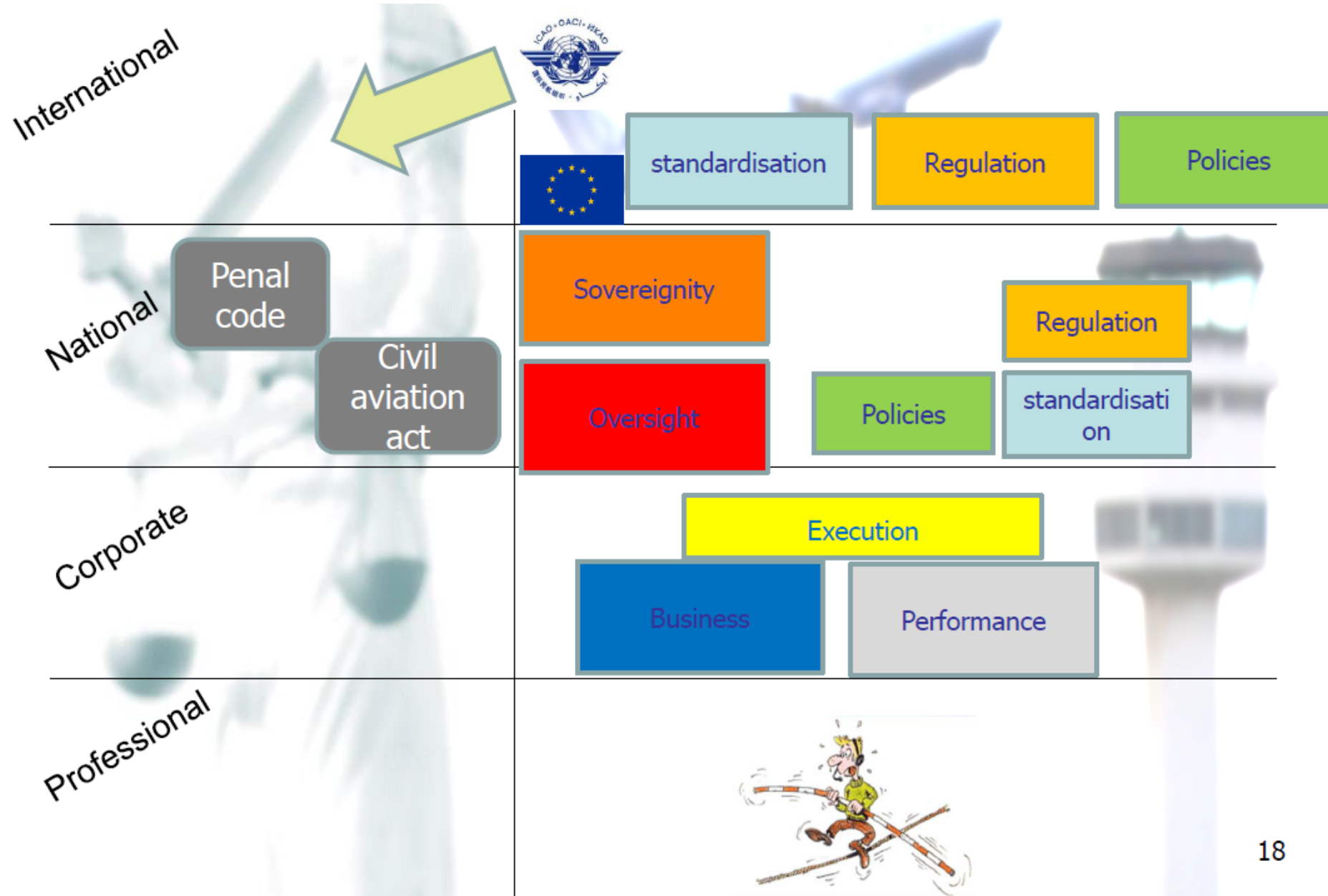
Textbookrecycling.com

# Source of error



Fnac.ch

# Where does Just Culture fit in?





<b>Safety Data protection</b>		
ICAO	Annex 13 (10 <sup>th</sup> ed.) Annex 19 (1 <sup>st</sup> ed.) Assembly 38 (2013)	5.12 and Attachment E 5.3 and Attachment B A38-3 and A38-4
European Union	996/2010 (OJL 295/35)  376/2014 (OJL 122/18)	Recital 30, 34 §14 Recital 35,45 § 15 (1)
IFATCA	POLICY	LM11.2.6. page 4 2 4 13 LM 11.2.7 page 4 2 4 14
Eurocontrol	Just Culture Policy	(Provisional council decision 2012)



<b>Reporter protection</b>		
ICAO	Annex 13 (10 <sup>th</sup> ed.) Annex 19 (1 <sup>st</sup> ed.) Assembly 38 (2013)	5.12 and Attachment E 5.3 and Attachment B A38-3 and A38-4
European Union	996/2010 (OJL 295/35)  376/2014 (OJL 122/18)  Directive 95/46/EC  (EC) No 45/2001	Recital, 34 §14 Recital 35,45,50 § 15 (1) / 16 /20 (OJ L 281, 23.11.1995, p. 31).  (OJ L 8, 12.1.2001, p. 1).
IFATCA	POLICY	WC 8.7.2. page 4 2 1 40 LM 11.2.4 page 4 2 4 11
Eurocontrol	Just Culture Policy	(Provisional council decision 2012)



<b>Definition of just culture</b>		
ICAO	Annex 13 (10 <sup>th</sup> ed.) Annex 19 (1 <sup>st</sup> ed.) Assembly 38 (2013)	NIL NIL A38-3 and A38-4
European Union	996/2010 (OJL 295/35) 691/2010 updated 390/2013 (OJL 128/1) 376/2014 (OJL 122/18)	Recital 24 § 2 (10) Recital 34,36,37,40,44 § 2 (12) / 6.1/6.3/6.4/16.11
IFATCA	POLICY	LM11.2.1 page 4247
Eurocontrol	Just Culture Policy	(Provisional council decision 2012)





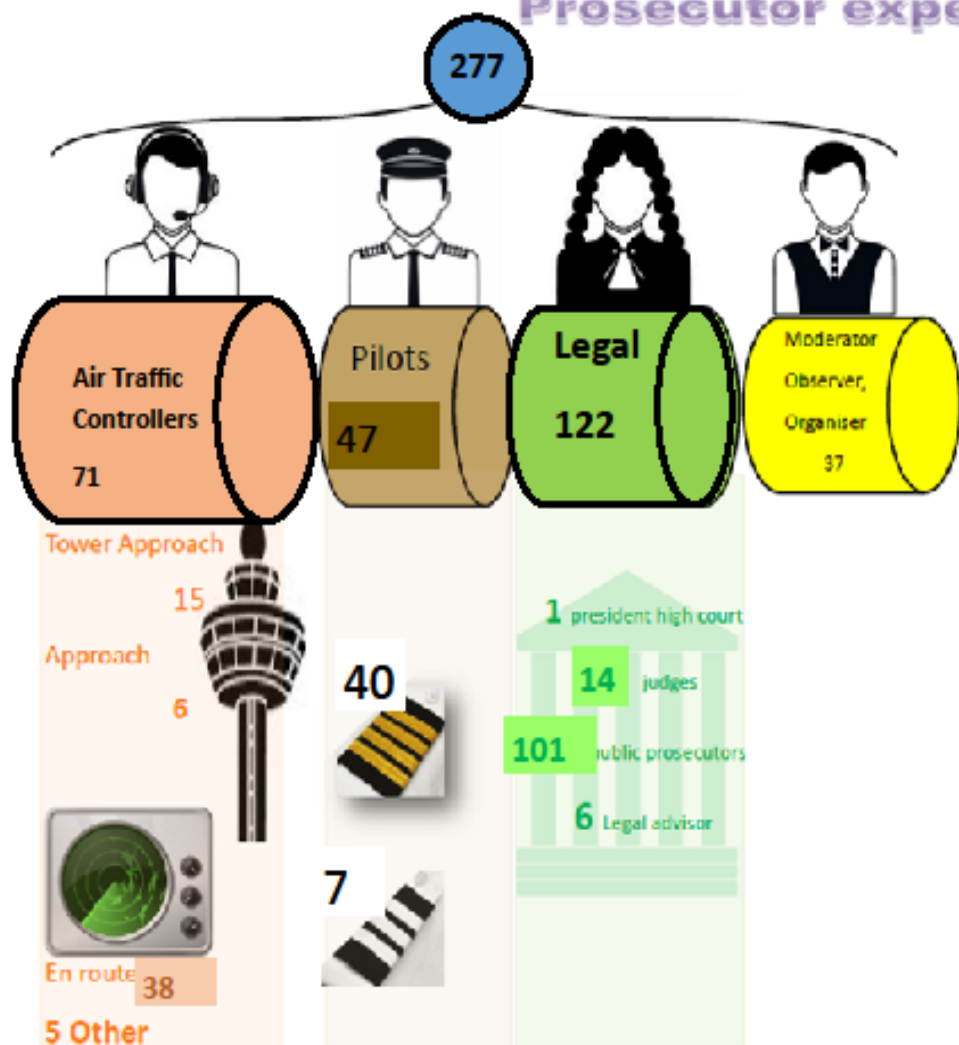
# EU 376 2014 OCCURRENCE REPORTING ART 16



- **Refrain from instituting proceedings** (administrative and criminal proceedings) solely based on report, National law prevails, exception in case of gross negligence and willful misconduct
- **Prohibition of exploitation:** If disciplinary or administrative proceedings are instituted under national law, information contained in occurrence reports shall not be used against: the reporters; or the persons mentioned in occurrence reports.
- **Protection against disadvantages:** Civil aviation employers are not allowed to expose their employees and contracted personnel to disadvantages (termination of contract, liability and cut of salary), exception gross negligence and intentional misbehaviour



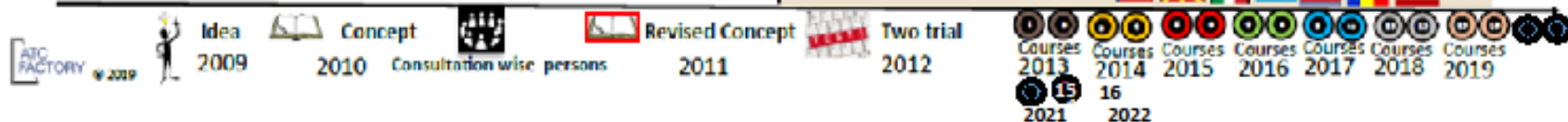
# Prosecutor expert training course

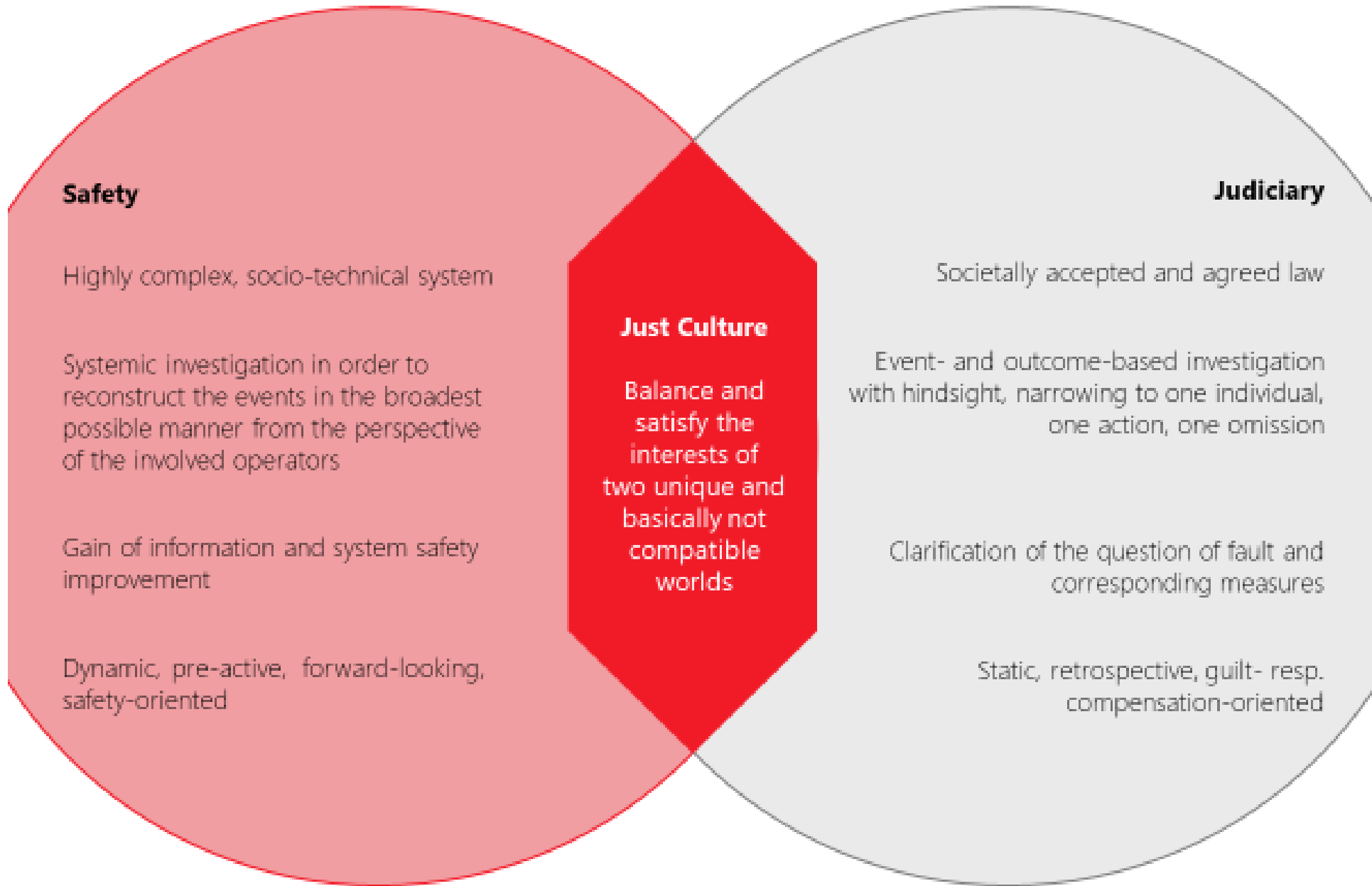


	Pilot	ATCO	Legal	other
Albania	0	0	5	0
Austria	1	2	0	0
Belgium	2	1	1	2
Bulgaria	0	0	2	0
Bulgaria	1	0	0	0
Croatia	0	3	0	0
Cyprus	0	1	2	0
Czech Republic	0	0	9	0
Denmark	1	2	0	0
EC	0	0	0	0
Estonia	0	0	1	0
Eurocontrol	0	1	0	16
Finland	1	0	1	0
France	1	2	1	0
North Macedonia	0	1	0	0
Germany	6	4	0	0
Greece	0	4	0	0
Hungary	0	1	0	0
Iceland	1	0	0	0
Ireland	1	0	0	0
Italy	3	6	16	2
Lithuania	0	2	3	0
Luxembourg	0	1	0	0
Luxembourg	1	0	0	0
Malta	2	1	2	0
Montenegro	0	1	0	0
Netherlands	2	0	5	2
Norway	1	0	0	2
Poland	0	0	16	0
Portugal	1	0	1	0
Romania	0	2	10	0
Serbia	0	1	0	0
Slovak Republic	0	0	2	0
Slovenia	1	2	3	0
Spain	2	13	8	0
Sweden	0	0	0	0
Switzerland	1	4	0	0
Turkey	1	3	1	0
UK	0	1	2	0
Mexico	2	0	0	0
Japan	2	0	0	0
USA	2	0	0	2
Israel	0	1	0	0



Roadshows organised by Eurocontrol





# Bridging the Gap



## Safety

- Improve report drafting
- Develop pool of expertise
- Propagate a shift in semantic understanding from 'no blame' to 'non-punitive'
- Model Policy
- JC "Roadshow"

Working together to bridge the gap



## Administration of Justice

- Drawing the line
- Training to improve aviation knowledge
- Avoid unintended conclusions
- Model Policy
- JC "Roadshow"



## Reading Material

Sidney Dekker, *Foundations of safety science, a century of understanding accident and disasters*, (CRC, 2019)

Sidney Dekker, *Just Culture, Balancing Safety and Accountability*, (Ashgate, 2012)

European Union. *European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation*, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 Text with EEA relevance

European Union. *Council Directive DIRECTIVE 2003/42/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 June 2003 on occurrence reporting in civil aviation*

GAIN (Global Aviation Information Network), *A Roadmap to a Just Culture: Enhancing the Safety Environment* (GAIN -Global Aviation Information Network, 2004)

ICAO Annex 13 to the *Convention on Civil Aviation. Aircraft Accident and Investigation*, 9<sup>th</sup> Edition. article 3.1. (ICAO 1999)

Maria Kovacevic et al, *Transportation Research Procedia* 43 [2019]

Michael Milde, *Aircraft accident investigation in international law*, (Air Law IX 1984) 61

Rudy Pont, *Managing a pragmatic Just Culture implementation*, (Unpublished MSc thesis, City University, London 2019)

Francesca Pellegrino, *The Just Culture Principles in Aviation Law: Towards a Safety-Oriented Approach* (Springer Nature Switzerland 2019)

James Reason, *Managing the risks of organizational accidents*, (Ashgate, 1997)

W.D. Reynard, C.E Billings, E.S.Cheaney R Hardy., *The Development of the NASA Aviation Safety Reporting System* (NASA Reference Publication 1114, 1986)

Aart A. van Wijk, *Aircraft Accident Inquiry in the Netherlands. A comparative Study* (Deventer, Kluwer 1974)

Raphal Widmer-Kaufmann, *Forschungsstudie zur Just Culture im Auftrag vom Bundesamt für Justiz eingereicht von der Foundation for Aviation Competence*. (FFAC, 2022) 69



Just Culture Policy



**HELVETICA**  
SWISS CONTROLLERS ASSOCIATION

### Just Culture Manual for ATCO, ANSE & ATSEP

Behavior after an incident  
and further proceedings



10/10 October 2022



Source : United States Mine Safety and Health Administration