

**Just Culture:
Reflections from our involvement in
the JC Prosecutors course to go
forward
(and just where is safety...)**

Anthony Smoker, Tom Laursen &
Marc Baumgartner, IFATCA

Lisboa, 23rd November 2016

ifatca



Just Culture, prosecutions, safety intervention accidents over time

Safety interventions and themes

Reporting

CALLBACK

ASRS - 1975

UK MOR Scheme 1976

BASIS (BA incident reporting Scheme)

Open Reporting



Just Culture

GAIN

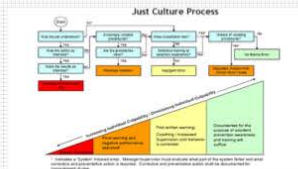
SASI

Accountability

Eurocontrol ES2

More than three quarters of ATCOs surveyed hide incidents for fear of reprisal

Eurocontrol, 2006



SAFREP



Just Culture Model Policy



EU 376/2014

EU JC Charter

Just Culture Prosecutors Course

JC RP1 SKPI

No-Blame Culture

CHIRP

Anonymity versus confidentiality

Anonymous reporting systems

Flight Data Monitoring

ASMT

Accidents & Criminalisation

LH540 Nairobi 1974	BE476/JP550 Zagreb 1976	SWR316 Athens 1979	ATI460 Mt Crezzoin 1987	AFR296 Habsheim 1988	BA012 Heathrow Penta 1989	ITF148 Strasbourg 1992	AAA703 P'mston North 1995	DAL39 Schipol 1998	JAL907 & JAL958 Yaizu 2001	SAS686 & DIEVX Linate 2001	CRX3597 Zurich 2001	DHX611 & BTC2397 Uberlingen 2003	TUI1533 Palermo 2005	HCY522 Athens 2005	GLO1907 & N600XL Matt Grosso 2006	JKK522 Madrid 2008
Flight Engineer Negligent Homicide Acquitted	ATCO (Tasic) Found guilty of Manslaughter	PIC & CoPilot Negligent Manslaughter Negligent bodily injury + disrupting air services Co-Pilot acquitted PIC 5 years 2 months sentence converted to a fine	Crew charged with murder Co-pilot Acquitted Manufacturer convicted of homicide	PIC & Copilot + 2 AFR officials + Flying club chairman Manslaughter Captain, 6 months prison sentence	Captain convicted of negligently endangering aircraft and passengers	Six defendants cleared of all charges Airbus and Air France held liable	Captain acquitted Status of CVR challenged	Three ATCOs prosecuted 2 found guilty & fined	JAL Captain & 2 ATCOs prosecuted ATCOs found guilty	Two separate prosecutions, 11 defendants A number of convictions made	BFU Conclude pilot error. Six Crossair managers prosecuted All acquitted	Eight Skyguide employees prosecuted. Four found guilty	Nine people charged with multiple manslaughter charges Crew sentenced to 10 years imprisonment Two engineers acquitted	The first case where criminal trails in two jurisdictions subsequent to an aviation accident	Pilots & 4 ATCOs charged.	Engineers & supervisors charged with manslaughter

Source: Michaelides-Mateou & Mateou (2010)

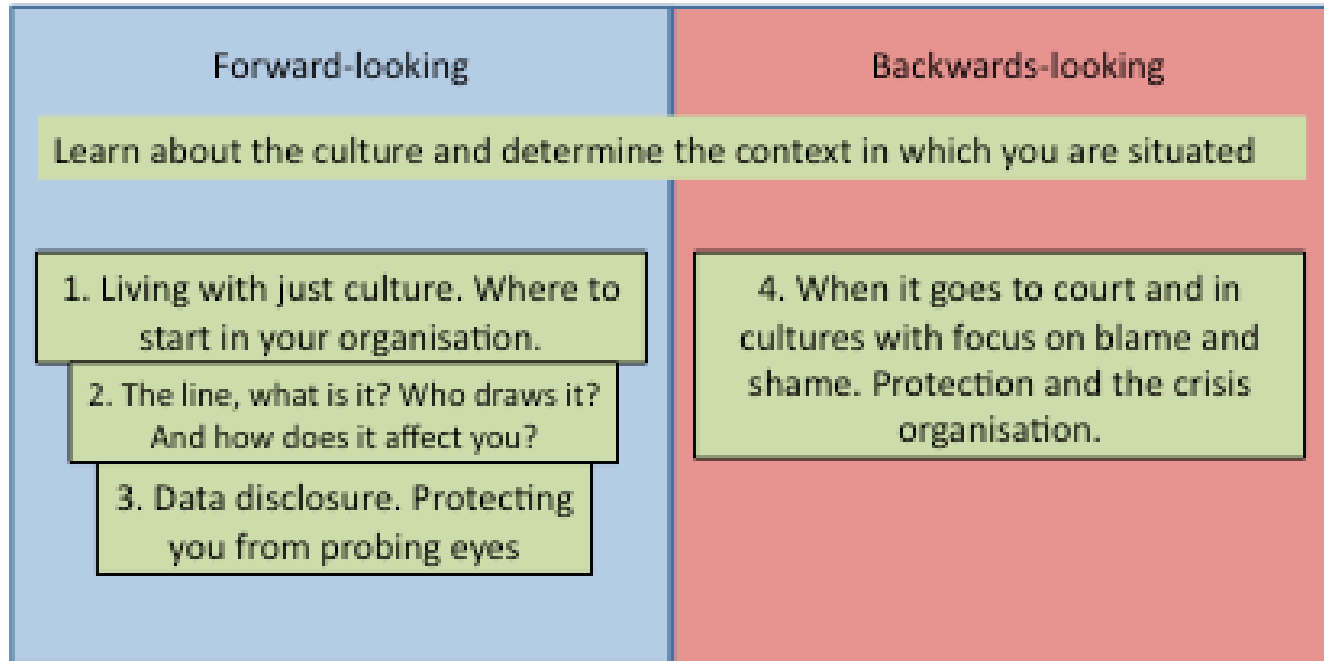
Court cases and convictions

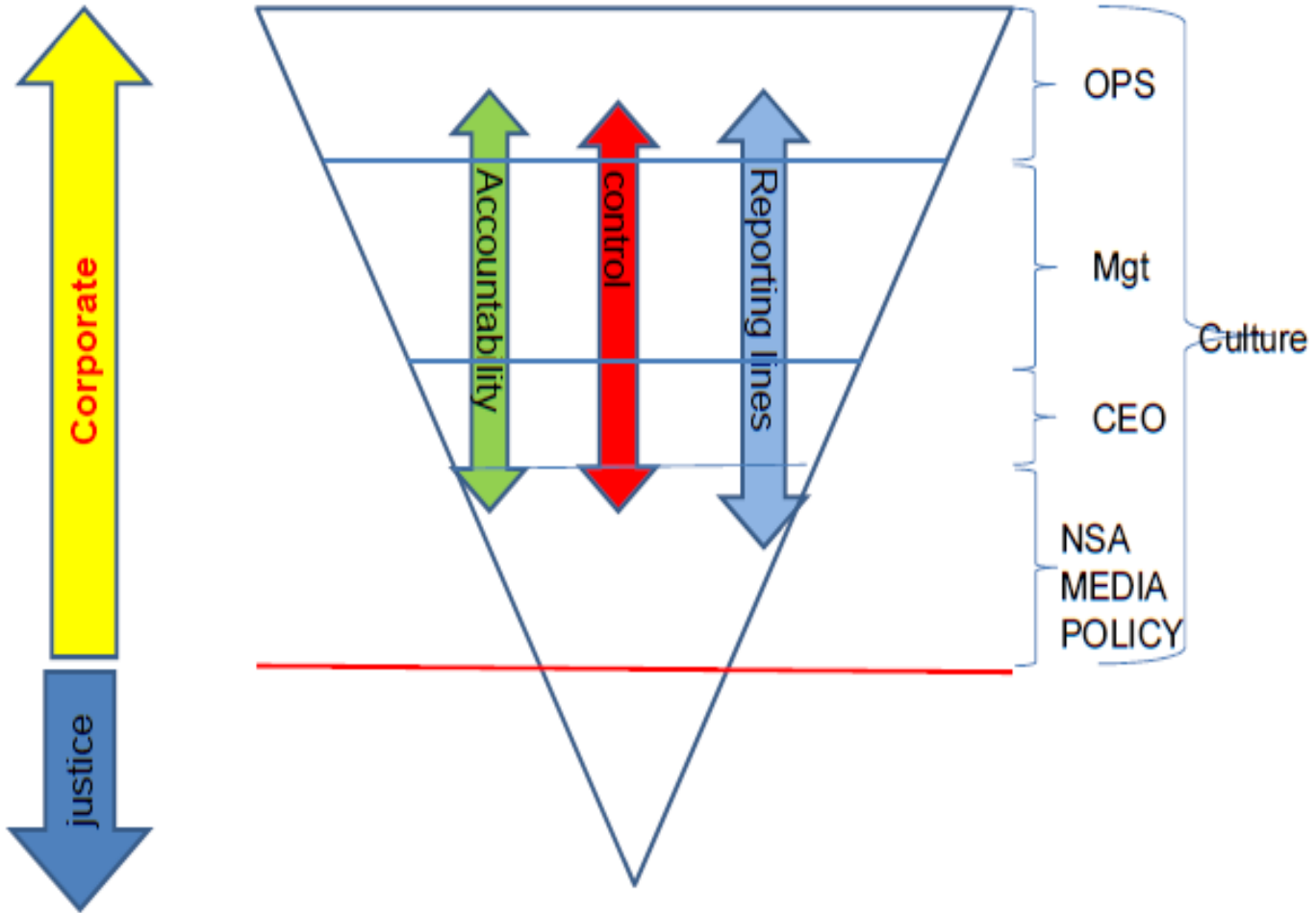


The dualism of Just Culture

When an event will remain inside the organisation or with the regulator

When you expect that an event will go to court





- *A Just culture is in the service of safety. Not a means of social control or a disciplinary mechanism. Be wary of an undue emphasis on gross negligence.*
- *To effect a Just Culture, trust needs to be built between all of those who have a legitimate and appropriate interest. This is a much larger group than may be initially thought.*
- *To achieve the ideals of a Just Culture will require collaboration and understanding of others views.*
- *Just Culture will be tested. Just Culture will be misinterpreted. Each occasion that it is tested or misinterpreted is a learning opportunity for all and can be used to strengthen Just Culture. Be informed to influence these occasions*
- *Just Culture is perishable. It requires hard work to be sustained by continued commitment to the ideals and by continuous dialogue.*
- *Just culture is not simple. Each event where Just culture is tested will have its own unique context.*

A changing world



More technology, rules and regulations



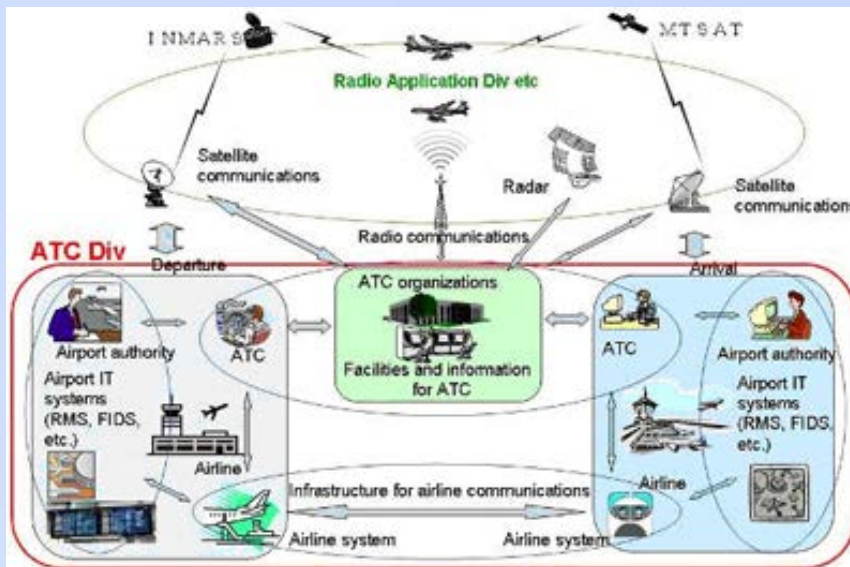
More complexity



ifatca



Controlled and managed safety



Controlled safety:

- Legal requirements
- Regulations
- Barriers
- Technology

Managed safety:

- Adaptive intelligence of the operator
- Operator strategies

IFATCA experience

There is a balance between controlled and managed safety

Ultra safe systems provoke accidents themselves by becoming too safe, too rigid, too proceduralised to respond to trouble

The public understanding of the balance leads to an excessive attribution of the causation of accidents to front line operators and recently also managers

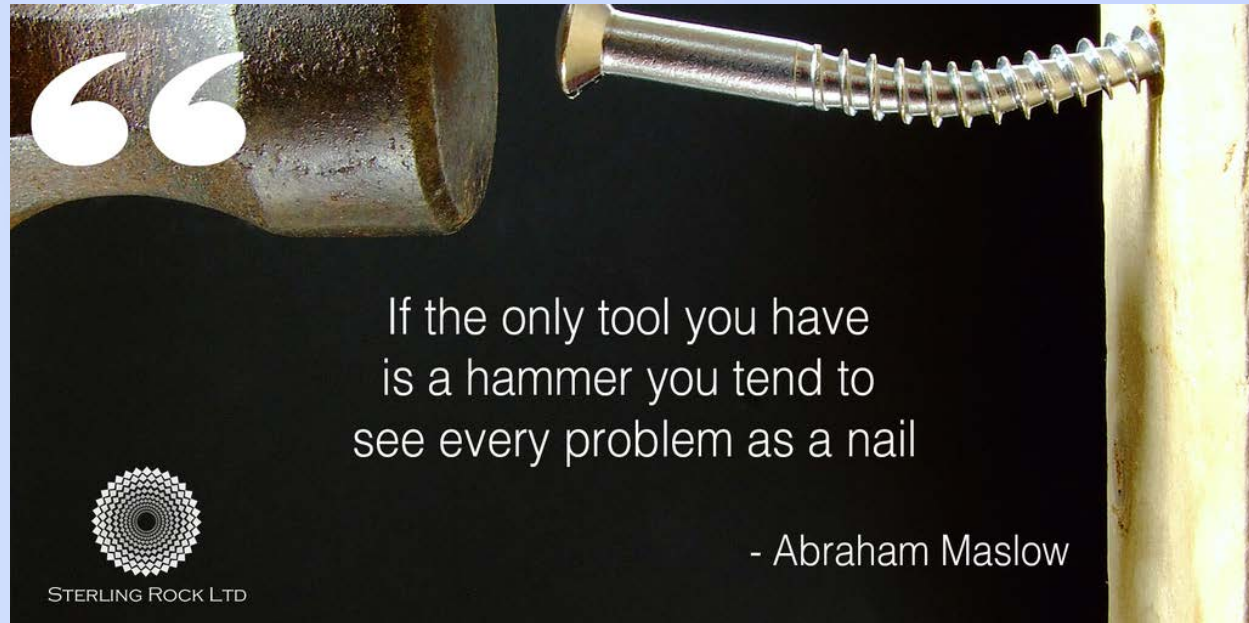
Little emphasis or public willingness to develop answers

Amalberti, 2013

ifatca



Immense focus on Negligence



The invention of Just Culture
developed a focus on negligence

ifatca



What is the Judicial and Organisational answer to the systemic change?

The reaction of the public:

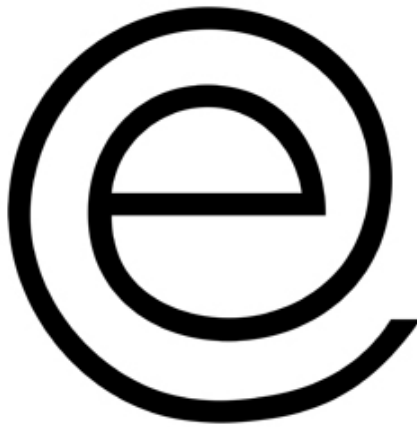
- More emphasis on personal responsibility
- More prosecution of individuals



Organisations, the public, Investigation boards, the judiciary to accept the change and develop tools to adapt



IFATCA – the future of Just Culture in Aviation



-



A few proposals

Sesar.coord@ifatca.org



Achievements to date in Just Culture initiatives

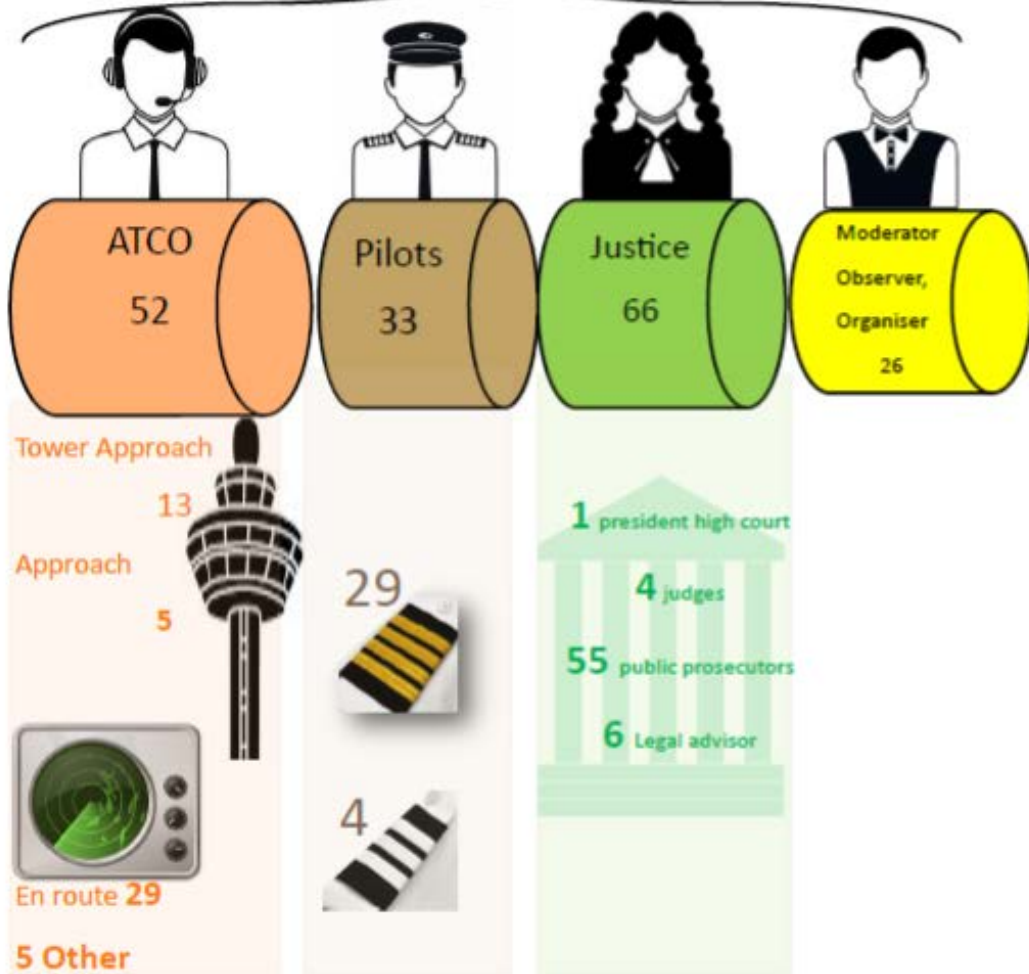
- **European JC Task Force**
- **Common Aviation Prosecution Policy in Europe**
- **Education and Support; Prosecution Expert Pool project – IFATCA/EUROCONTROL with contribution from ECA**
- **Local or regional WS with Prosecutor**
- **EU rules and initiatives**
- **ICAO High Level Safety Conference - Follow-up Recommendations and General Assembly**
- **ICAO SIP TF**
- **ICAO SX-SG**
- **FAA Programmes**
- **IFATCA, IFALPA/ECA & CANSO**
- **E2 conferences**
- **Performance scheme**



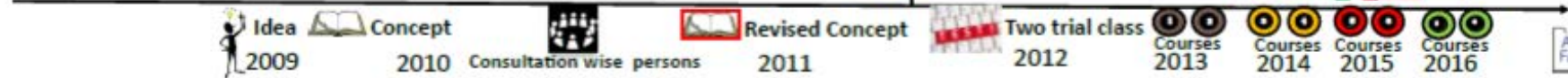
Prosecutor expert training course



177



	Pilot	ATCO	Legal	other
Albania				3
Austria	1	2	0	
Belgium	2	1	0	
B&H	0	0	2	
Croatia	0	2	0	
Cyprus	0	1	0	
Czech Repul	0	0	5	
Denmark	1	2	0	
EC				1
Eurocontrol	0	2	0	12
Finland	1	0	0	
France	1	1	1	
FYROM	0	1	5	
Germany	6	4	0	3
Greece	0	4	0	
Hungary	0	1	0	
Iceland	1	0	0	
Ireland	1	0	0	
Italy	3	6	10	
Latvia	0	0	2	
Lithuania	0	1	0	
Luxembourg	1	0	0	
Malta	2	1	1	
Montenegro	0	1	0	
Netherland	2	0	3	2
Norway	1	0	0	1
Poland	0	0	13	
Portugal	1	0	0	
Romania	0	2	6	
Serbia	0	1	0	
Slovak Repul	0	0	1	1
Slovenia	1	2	0	
Spain	2	12	3	
Sweden	3	0	0	1
Switzerland	1	3	6	1
Turkey	1	2	1	
UK	2	1	2	



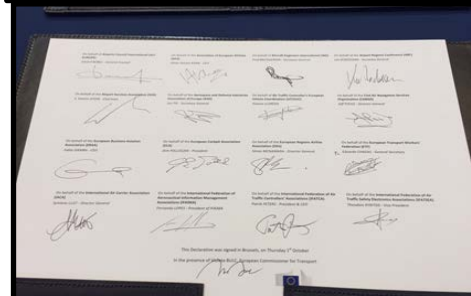
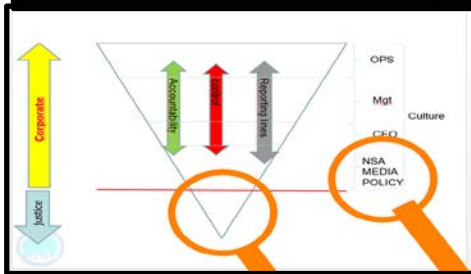
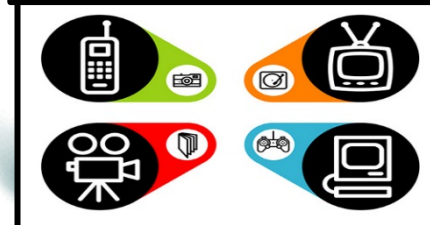
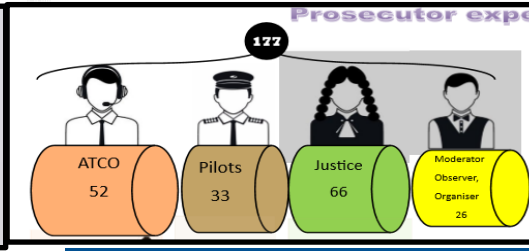
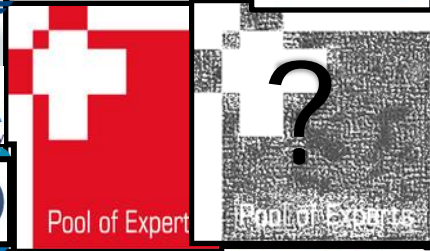
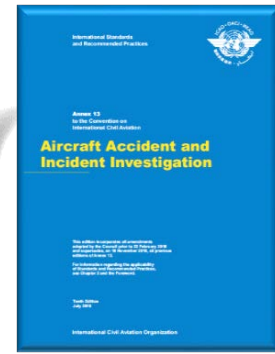
Plus ça change!

- The commission with the 376/2014 has contributed to the just culture issue at the corporate level – but has it solved the just culture issue at large?
- IFATCA talks about the dualism of just culture to capture the somewhat ambiguous elements which could might confuse the discussion (again)
- The social partners (CANSO – ETF and ATCEUC) are trying to establish a just culture toolbox for company level.
- The PRB and EASA are assessing based on self-assessment questionnaire the level of presence (or corresponding absence) of a Just Culture environment along three main sections:
 - o Policy and its implementation
 - o Legal & judiciary;
 - o And occurrence reporting and investigation
- Some of the IFATCA member associations have organised at national level conference etc. and education for the judiciary
- And, as IFATCA are using some of the just culture principle to assist the member association.





Call for future actions – few ideas



Open safety data

Liability in automation

Combined approach to science

Combined training

Return of experience

Automated data

Disruptive technology

Administration of law?

Policy makers



Creation of a multi – modal think tank on just culture

"Safety in an increased digitalised world in transport"
Challenges and risks



What do you need as guidance material and support with regard to JC?

What is the Judicial and Organisational answer to the systemic change?

Should corporate JC mirror, be a clone of the judicial trajectory of Just Culture?

Do the two trajectories share congruent objectives?

Where is safety?