



European
Commission

EU Policy and Regulatory Approach

Jean-Pol Henrotte
European Commission

Just Culture – Time to Deliver
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Transport

Content

EU Commission policy

Present legislation

- Accident investigation
- Occurrence reporting
- Performance scheme in ATM

Work in progress

Conclusions



Commission Policy

EU Just Culture before the Just Culture

- **1994 Directive on accident investigation**
 - Sole objective: prevention (Art.1)
 - Not apportioning blame or liability (Art.4)
 - Status of investigation/rights of investigators (Art.5)
 - Independent body (Art.6)
 - Report stating the sole objective (Art.7)
 - A safety recommendation shall not create a presumption of blame or liability (Art.10)



Present Legislation

Reg. EU 996/2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC

- **Builds on Directive 94/56 and reinforces it (e.g. resources, investigator's rights, etc)**
- **New provisions to improve JC**
- **Member States to lay down rules on penalties**



Relations with Judicial Authorities

- *Coordination with other investigations (Art.12)*
- *Obligation of an open cooperation through the establishment of advance arrangements between safety investigation authorities and other authorities involved such as judiciary*



Protection of Information (Art.14)

Identity of persons involved, their statements taken by investigators, personal information

Notes, draft, opinions of investigators, draft reports,

CVRs, VRs in ATC units, image recordings,

Other communications or recordings,

Occurrence reports

Covering letters for safety recommendations

○ *FDRs*



Protection of Information (Art.14.3)

The administration of justice or the authority competent to decide on the disclosure of records according to national law may decide that the benefits of the disclosure of the records ... for any other purposes permitted by law outweigh the adverse domestic and international impact that such action may have on any future safety investigation.

Present Legislation

*Directive 2003/42 on
occurrence reporting in civil
aviation*

- **Sole objective is prevention and not to attribute blame or liability (Art.1)**
- **Dissemination of Information (Art.7)**
- **Protection of Information (Art.8)**



Dissemination of Information

- *Civil aviation safety regulator and civil aviation investigating bodies shall have access... to enable it to draw the safety lessons*
- *Reg 1330/2007: implementing rules for the dissemination*
 - **Only to interested parties (when needed to improve safety)**
 - **Limited to what is strictly necessary**
 - **Verification procedure (genuine interested parties)**





Protection of Information

- *Member States shall ensure ... appropriate confidentiality of the information received*
- *Names or addresses of individual persons shall never be recorded in the database*
- *MS ensure that employees who report incidents ... are not subjected to any prejudice by their employer*



Protection of Information

Without prejudice to the applicable rules of penal law, Member States shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because they have been reported under the national mandatory occurrence-reporting scheme, except in cases of gross negligence

Present Legislation

Reg 691/2010 laying down a performance scheme for air navigation services and network functions

- **provides for Key Performance Indicators in 4 areas (Safety, Environment, Capacity, Cost-efficiency)**
- **3rd Safety KPI: measurement of the level of JC**
- **Contains a definition of JC**



Definition of JC (Art.2.k)

"Just culture" means 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

Present Legislation

*Reg 1216/2011 amending
Reg 691/2010*

- **Specifies the process and roles of MSs, EC, EASA, PRB and EUROCONTROL**
- **Acceptable Means of Compliance and Guidance Material developed by EASA (December 2011) contains two questionnaires for the measurement of JC at State and ANSP level.**



Work in Progress

Revision of the Directive on occurrence reporting

- **Draft proposal to be published year end**
- **Builds on Directive 2003/42 and reinforces it**
- **Clarify and complement the existing provisions on JC issue**
- **Necessary JC-related definitions to help "drawing the line"**
- **National focal point to report breaches to "Just Culture" principles**



Conclusions

- *For the last 20 years, the European Commission has been promoting and supporting Just Culture within the legal framework of its competence.*
- *JC has been introduced in EU legislation step by step in a pragmatic and realistic approach.*
- *The new legislation will be designed to better implement JC in the civil aviation industry.*

