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Implement Just Culture in the Swiss legal system A dream or a real opportunity?

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Setting the scene

Court cases: #1 15.03.2011 Zurich Airport

- › Double take off (A320 vs A320) on crossing runways 28 and 16.
- › STSB (Swiss AAIB) conducted an investigation
- › After completion, district prosecutor opened a case
- › At court:
 - Dec. 2016 District court: Acquittal
 - Dec 2018 Supreme court: verdict of guilty (90 (360) daily rates monetary penalty on probation)
 - Federal court 2019: **Acquittal**

Court cases: #2 22.08.2012 Zurich Airport

- › SB20 DEP runway 28 and a light sports cruiser on final runway 16.
- › STSB (Swiss AAIB) conducted an investigation
- › After completion, district prosecutor opened a case
- › At court:
 - Mar. 2019 District court: verdict of guilty (90 (360) daily rates monetary penalty on probation)
 - Supreme court: **February 2021**
 - Federal court: ?



Court cases: #3 21.04.2013 Area Control Center Zurich

- › Loss of Separation with TCAS RA between RYR B737 and TAP A319
- › STSB (Swiss AAIB) conducted an investigation
- › After completion, federal prosecutor opened a case
- › At court:
 - May 2017 Federal prosecutor: verdict of guilty (daily rates monetary penalty on probation)
 - Jun. 2018 Federal Criminal Court: verdict of guilty (60 daily rates monetary penalty on probation)
 - Federal court 2019: **Confirmation of verdict**

Setting the scene

Art. 237 SPC (Swiss Penal Code) Disruption of Public Transport

- › 1. **Any person** who willfully **obstructs, disrupts or endangers public traffic**, in particular traffic on the roads, on water or **in the air and as a result knowingly causes danger to the life and limb of other people** is liable to a custodial sentence not exceeding three years or to a monetary penalty.

If the offender thus knowingly endangers the life and limb of a large number of people, a custodial sentence of from one to ten years may be imposed.

- › 2. If the person concerned acts **through negligence**, the penalty is a custodial sentence not exceeding three years or a monetary penalty.



What happened after these court decisions?

Media response



KOMMENTAR

Die Forderung der Lotsen nach Straffreiheit geht zu weit

Fluglotsen-Urteil bewirkt das Gegenteil des erwünschten Effekts

Die Bundesrichter haben einen Präzedenzfall geschaffen, der in der Schweiz und ganz Europa für Aufsehen sorgt.

Der
Landbote

Der Landbote
8400 Winterthur
052/ 266 99 01
www.landbote.ch

Medienart: Print
Medientyp: Tages- und Wochenpresse
Auflage: 25'586
Erscheinungsweise: 6x wöchentlich



Seite: 20
Fläche: 31'257 mm²

Auftrag: 383001
Themen-Nr.: 999.001

Referenz: 70053148
Ausschnitt Seite: 1/1

Erneut kommt ein Fluglotse vor Gericht

Balancing Safety and Accountability



Just Culture Plattform Schweiz





JUSTCULTURE.ch



Just Culture Plattform Schweiz

- 👉 Aligned actions
- 👉 Shared view on JC
- 👉 Results in everybody's interest



...to achieve an implementation of the principles of Just Culture in the Swiss legal system within a realistic time frame in cooperation with our partners and the judicial authorities

Partners



Changing the law is the goal



Parliamentary Initiative '19.478' / submitted in September 2019

- › Title ,Improving public safety by implementing Just Culture'
 - Amending the Swiss Penal Code (Art. 237)
 - no punishment if reported and no gross negligence or willful misconduct
 - Amending the Aviation Act
 - no punishment if reported and no gross negligence or willful misconduct
 - Amending the Aviation Ordinance
 - Balance check whether Safety Information can be used by the prosecutor
 - Amending the act related to the Swiss Transportation Safety Investigation Board (STSB) related to the EC996/2010

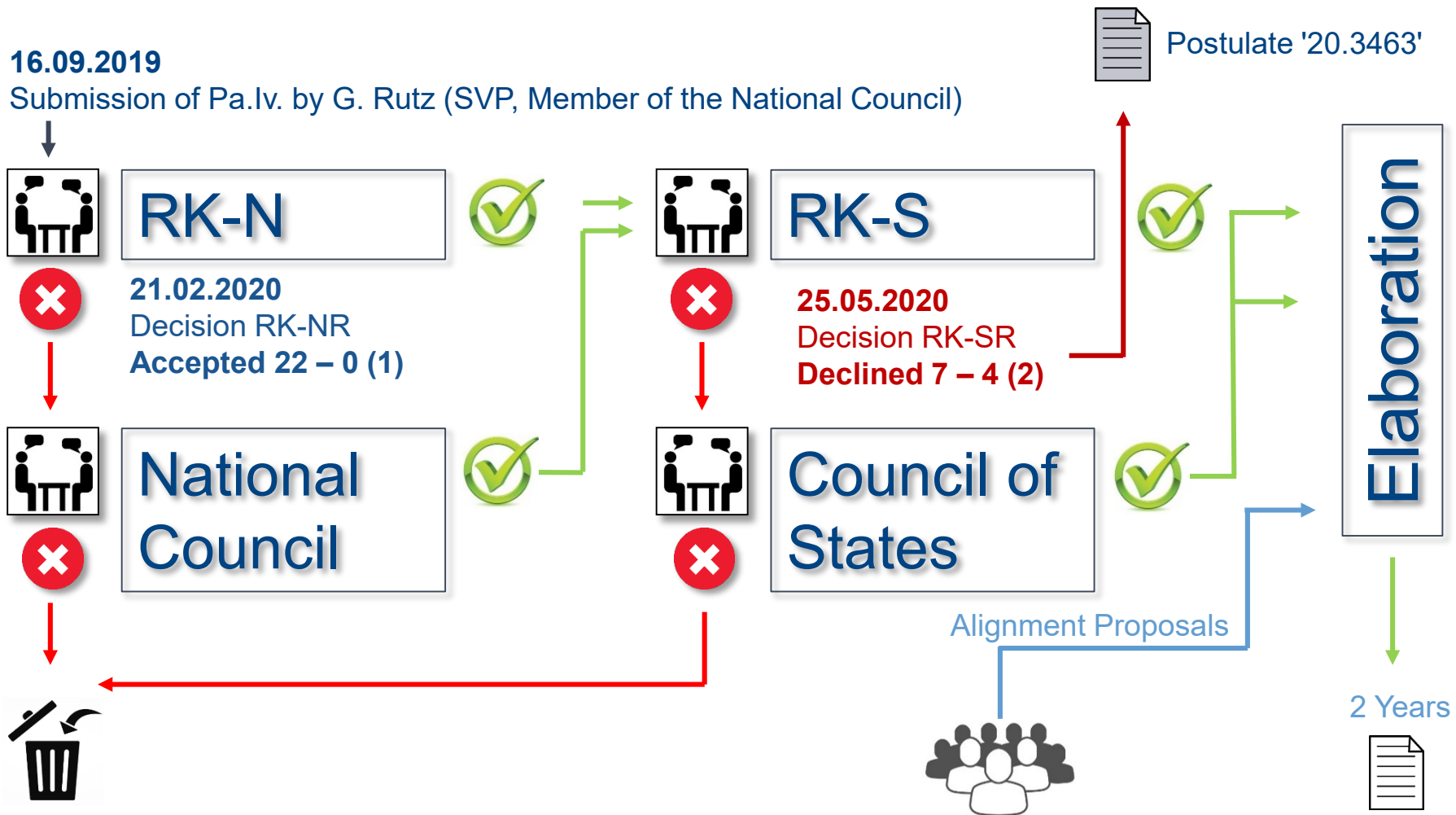
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Parliamentary Initiative '19.478'



Legal commission Council of States: Postulate [20.34.63](#)



LC-CoS

"[...] as it considers that the parliamentary initiative is not the right way forward. However, it has adopted a postulate (20.34.63) to instruct the Federal Council to examine the question of anchoring this principle in Swiss law."



Federal
Council

The Federal Council is instructed to examine how the principle of a just culture can be introduced into Swiss law as a general principle in aviation, healthcare or other high-security areas.

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Outlook



Outlook

- › Parliamentary Initiative still ongoing (Q2/2021)
- › Postulate is submitted and will be monitored
- › Just Culture Plattform Schweiz becomes visible www.justculture.ch in February 2021
- › Study with legal and socio-cultural universities in regard to JC to supplement the Postulate





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Thank you!

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