

**Everything you wanted to know about
Just Culture and were afraid to ask**

**Just Culture Awareness Workshop
24.5.2017**

Just Culture - what is it and what is not
IFATCA perspective
Marc Baumgartner
IFATCA

What is? what is not ?— warm up exercise







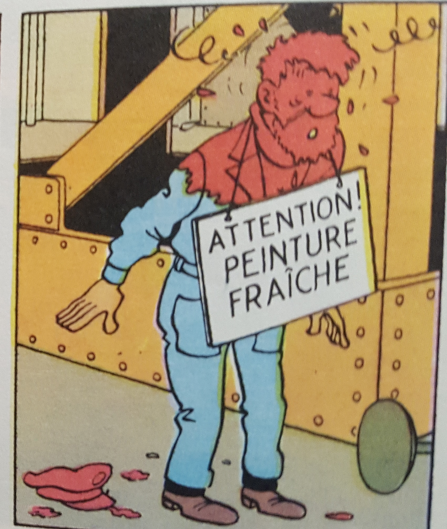
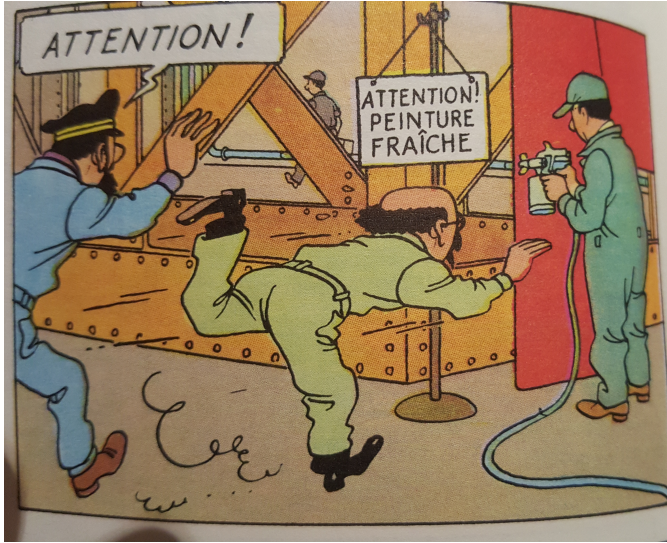




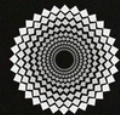
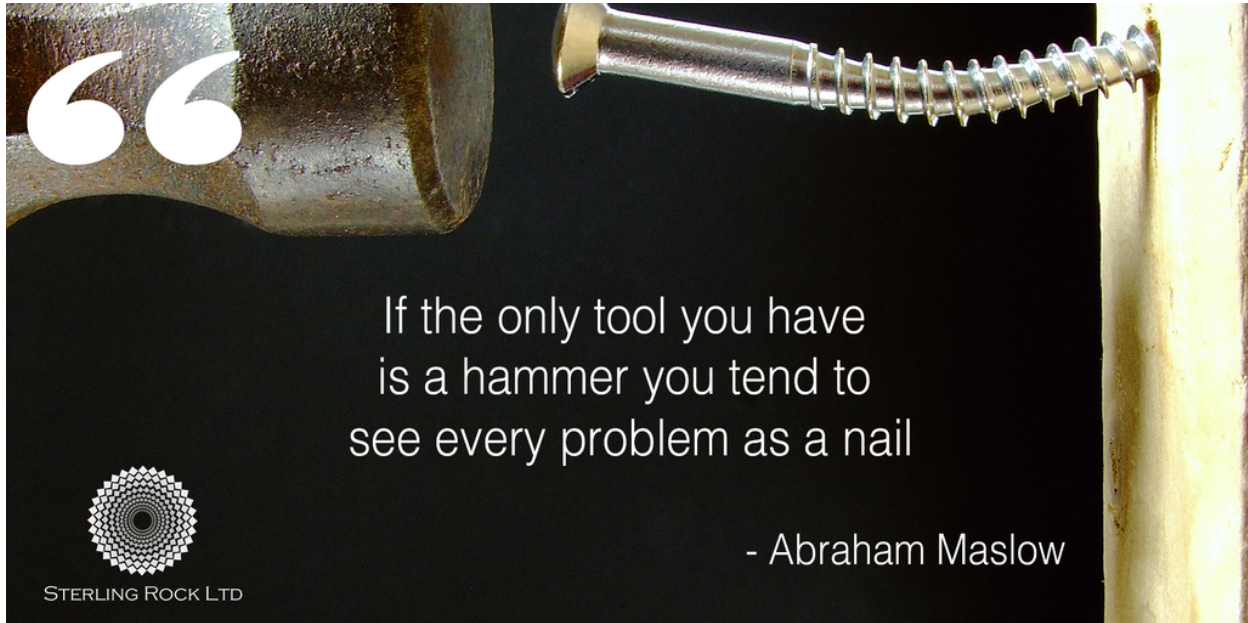












STERLING ROCK LTD



DRAW THE LINE









España



España gòtica



Reporting

ASRS - 1975

UK MOR Scheme
1976BASIS
(BA incident reporting Scheme)Open
Reporting

CHIRP

Anonymous reporting systems

Just Culture

GAIN

SASI

Accountability

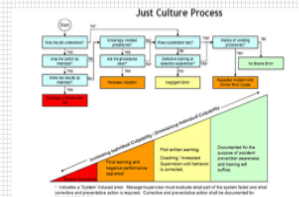
Eurocontrol ES2



EU 376/2014

EU JC Charter

More than three quarters of ATCOs surveyed hide incidents for fear of reprisal
Eurocontrol, 2006



Flight Data Monitoring



SAFREP

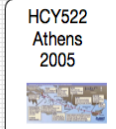
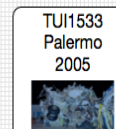
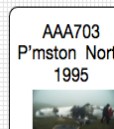
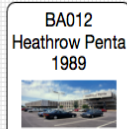
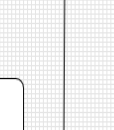
ASMT

Just Culture Prosecutors Course

JC RP1 SKPI

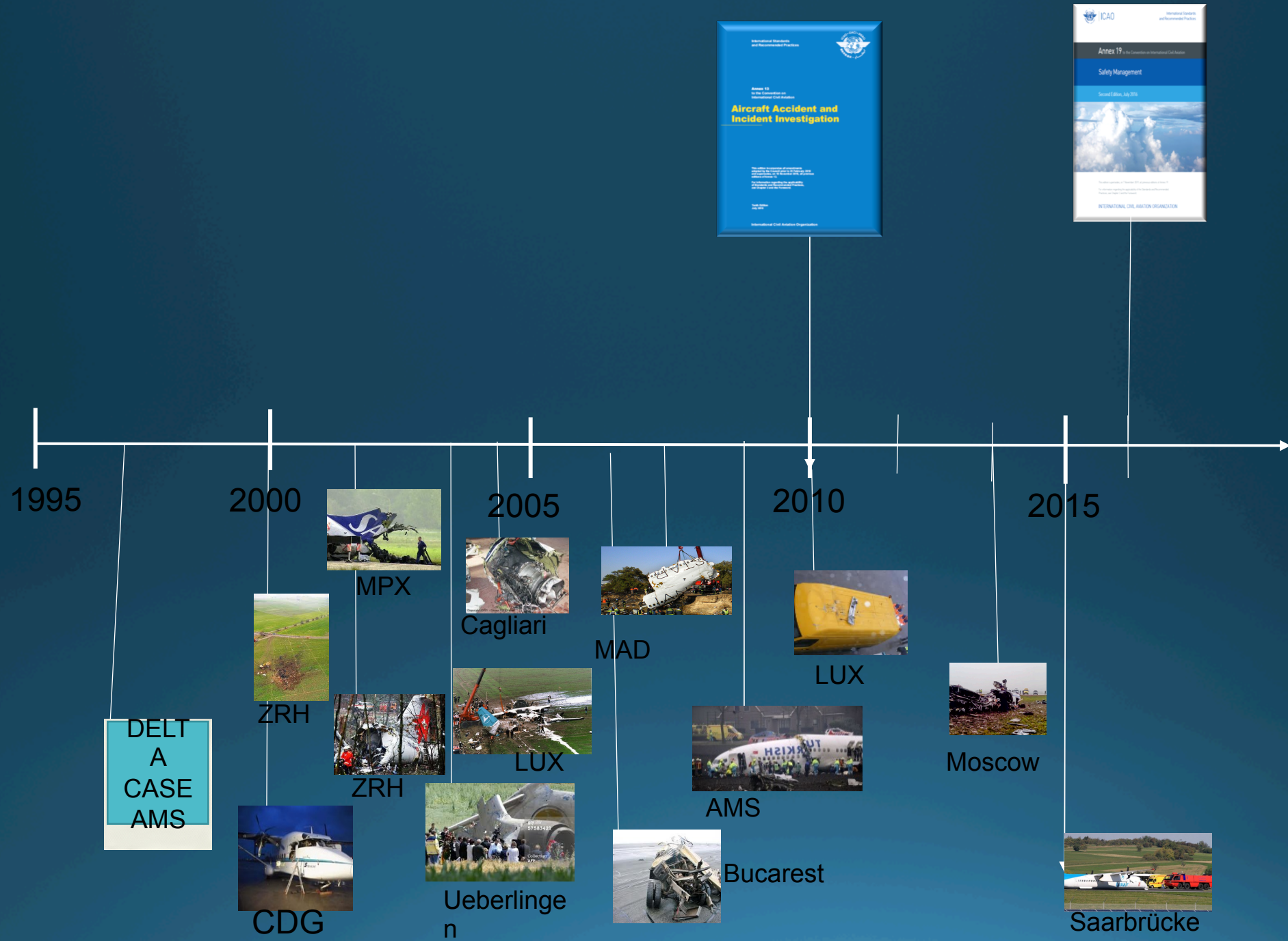
No-Blame Culture

Anonymity versus confidentiality

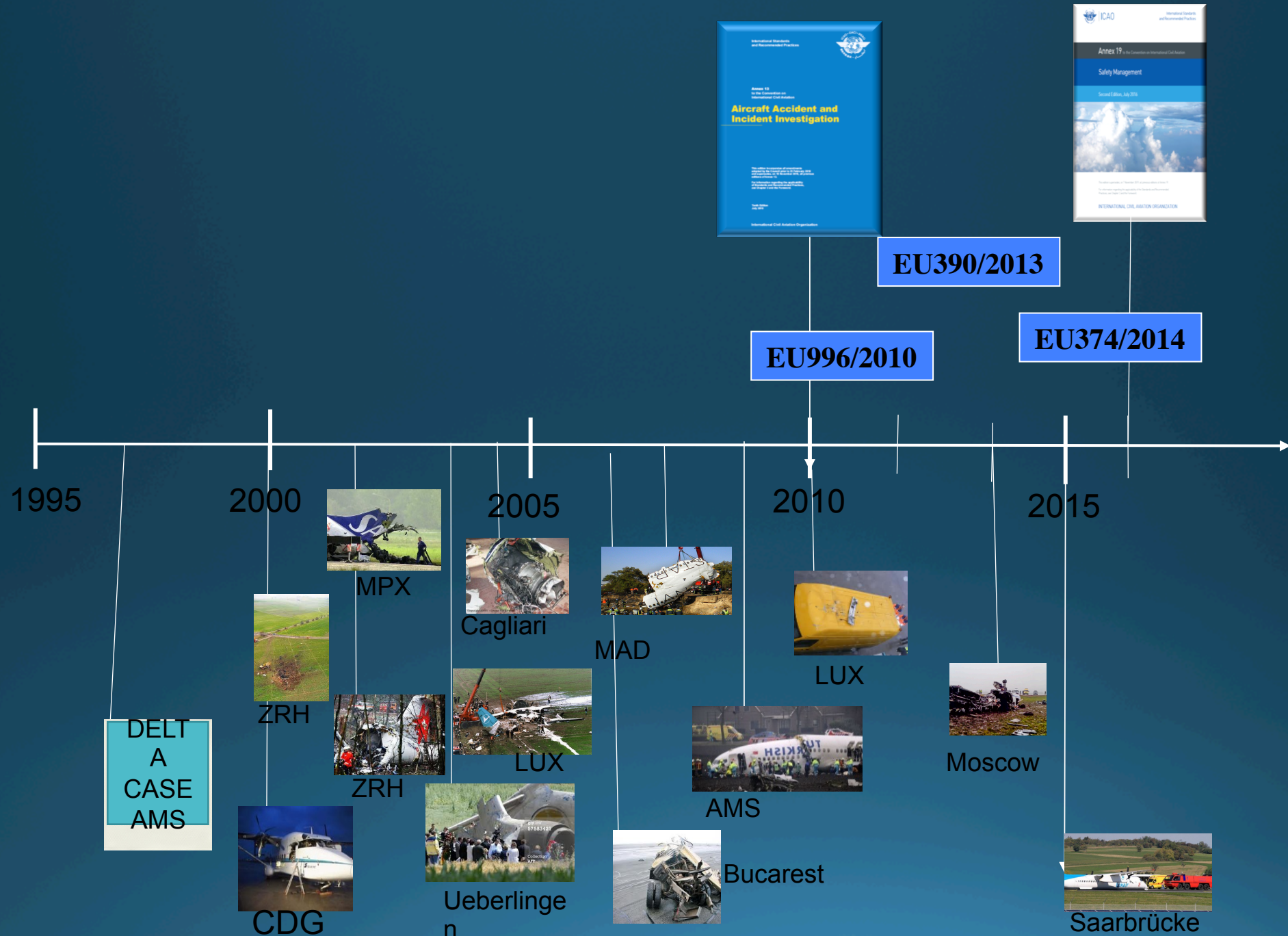
ATCO (Tasic)
Found guilty of
ManslaughterFlight Engineer
Negligent Homicide
AcquittedCrew charged with murder
Co-pilot Acquitted
Manufacturer convicted of homicidePIC & CoPilot
Negligent Manslaughter
Negligent bodily injury +
disrupting air services
Co-Pilot acquitted
PIC 5 years 2 months sentence
converted to a fineCaptain convicted of
negligently endangering
aircraft and
passengersPIC & Copilot +
2 AFR officials +
Flying club chairman
Manslaughter
Captain, 6 months
prison sentenceCaptain acquitted
Status of CVR challengedSix defendants cleared
of all charges
Airbus and Air France
held liableJAL Captain & 2 ATCOs
prosecuted
ATCOs found guiltyThree ATCOs prosecuted
2 found guilty & finedBFU Conclude pilot error.
Six Crossair managers
prosecuted
All acquittedTwo separate prosecutions,
11 defendants
A number of convictions madeNine people charged with
multiple manslaughter charges
Crew sentenced to 10 years
imprisonment
Two engineers acquittedEight Skyguide employees
prosecuted.
Four found guiltyPilots & 4 ATCOs
charged.The first case where
criminal trails in two
jurisdictions subsequent
to an aviation accidentEngineers & supervisors
charged with manslaughter

Source: Michaelides-Mateou & Mateou (2010)

Just culture time line



Just culture time line



Safety Data protection

ICAO	Annex 13 (10 th ed.)	5.12 and Attachment E
	Annex 19 (1 st ed.)	5.3 and Attachment B
	Assembly 38 (2013)	A38-3 and A38-4
European Union	996/2010 (OJL 295/35)	Recital 30, 34 §14
	376/2014 (OJL 122/18)	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)

Reporter protection

ICAO	Annex 13 (10 th ed.)	5.12 and Attachment E
	Annex 19 (1 st ed.)	5.3 and Attachment B
	Assembly 38 (2013)	A38-3 and A38-4
European Union	996/2010 (OJL 295/35)	Recital, 34 §14
	376/2014 (OJL 122/18)	Recital 35,45,50 § 15 (1) / 16 /20
	Directive 95/46/EC	(OJ L 281, 23.11.1995, p. 31).
	(EC) No 45/2001	(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)

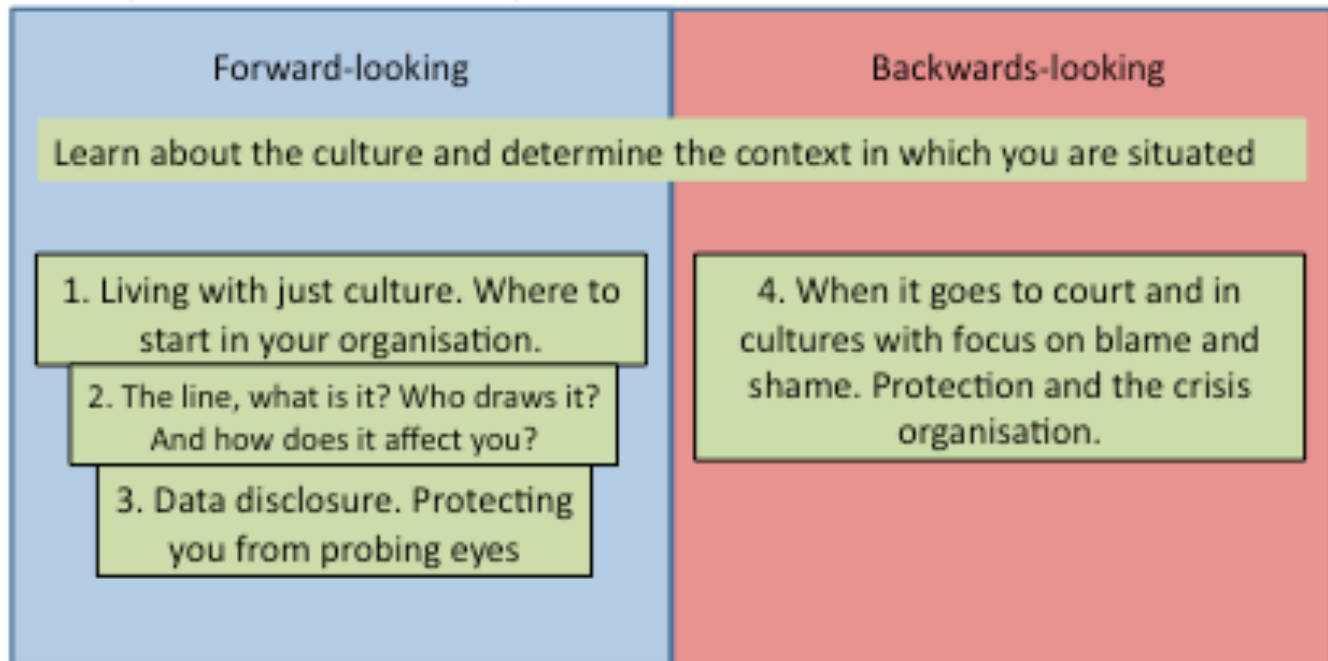
Definition of just culture

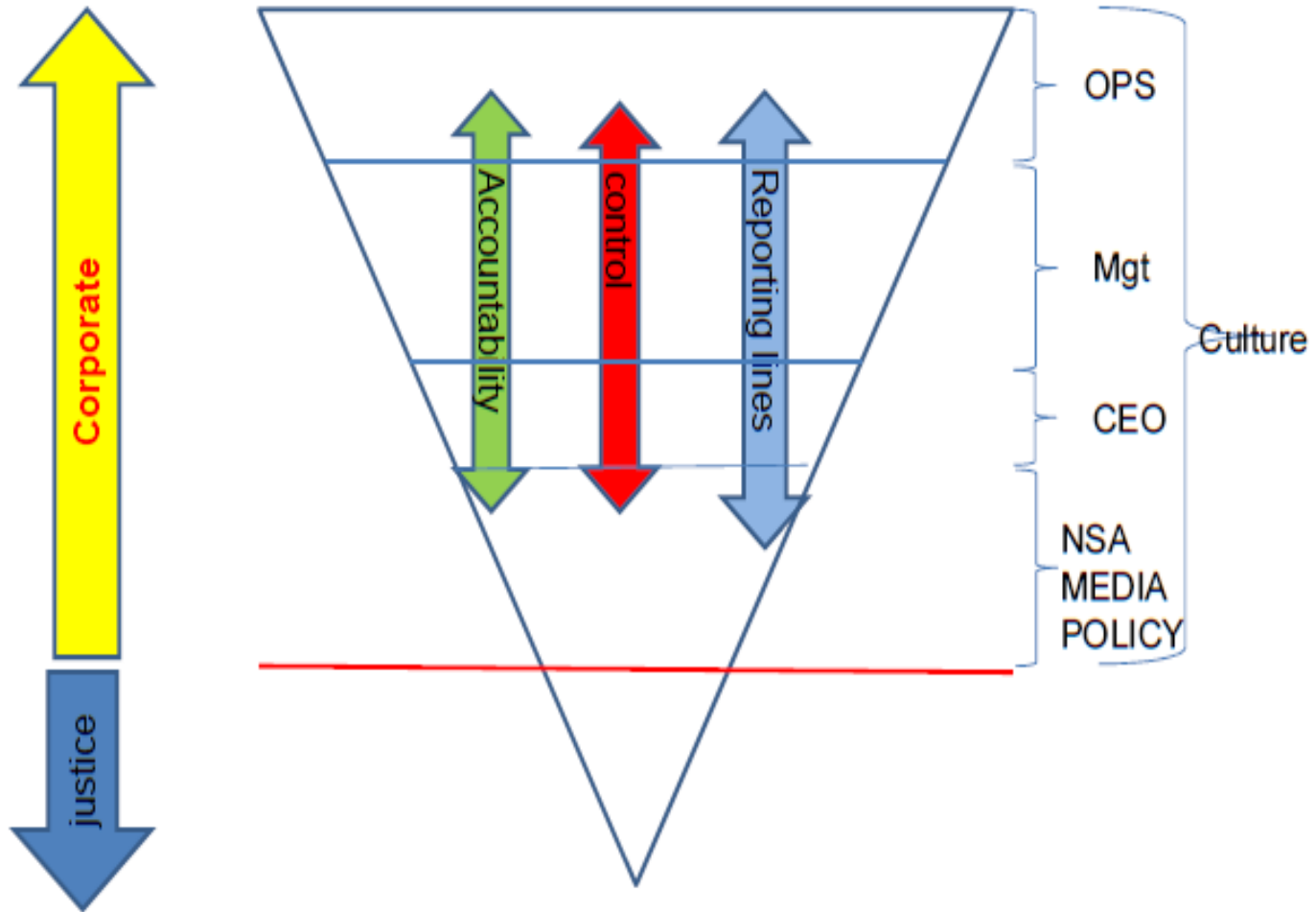
ICAO	Annex 13 (10 th ed.)	NIL
	Annex 19 (1 st ed.)	NIL
	Assembly 38 (2013)	A38-3 and A38-4
European Union	996/2010 (OJL 295/35)	Recital 24
	691/2010 updated 390/2013 (OJL 128/1)	§ 2 (10)
	376/2014 (OJL 122/18)	Recital 34,36,37,40,44 § 2 (12) / 6.1/6.3/6.4/16.11
IFATCA	POLICY	LM11.2.1 page 4247
Eurocontrol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

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





What says EU IR 376/2014

24.4.2014 L 122/35 Official Journal of the European Union EN



(34) In order to ensure the confidence of employees or contracted personnel in the occurrence reporting system of the organisation, the information contained in occurrence reports should be protected appropriately and should not be used for purposes other than maintaining or improving aviation safety. The internal 'just culture' rules adopted by organisations pursuant to this Regulation should contribute in particular to the achievement of this objective. In addition, the limitation of the transmission of personal details, or of information allowing the identification of the reporter or of the other persons mentioned in occurrence reports, by a clear separation between the departments handling occurrence reports and the rest of the organisation, may be an efficient way to achieve this objective.

Protection of the reporters identity

36) In addition, the civil aviation system should promote a 'safety culture' facilitating the spontaneous reporting of occurrences and thereby advancing the principle of a 'just culture'. 'Just culture' is an essential element of a broader 'safety culture', which forms the basis of a robust safety management system. An environment embracing 'safety culture' principles should not prevent action being taken where necessary to maintain or improve the level of aviation safety.

Just culture is part of safety culture

(37) A 'just culture' should encourage individuals to report safety-related information. It should not, however, absolve individuals of their normal responsibilities. In this context, employees and contracted personnel should not be subject to any prejudice on the basis of information provided pursuant to this Regulation, except in cases of wilful misconduct or where there has been manifest, severe and serious disregard with respect to an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or to property, or seriously compromising the level of aviation safety.

Reporting ≠ Absolution

40) In order to enhance the confidence of individuals in the system, the handling of occurrence reports should be organised in such a way as to appropriately safeguard the confidentiality of the identity of the reporter and other persons mentioned in occurrence reports with regard to fostering a 'just culture'. The aim, wherever possible, should be to enable an independent occurrence handling system to be established.

Independent occurrence handling

(44) Nevertheless, in the context of developing a 'just culture' environment, Member States should retain the option of extending the prohibition on using occurrence reports as evidence against reporters in administrative and disciplinary proceedings to civil or criminal proceedings.

Limit the use of occurrence report

Article 2 Definitions

(12) 'just culture' means a culture in which front-line operators or other persons are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but in which gross negligence, wilful violations and destructive acts are not tolerated;

Russian court puts trainee traffic controller under house arrest in Falcon crash case

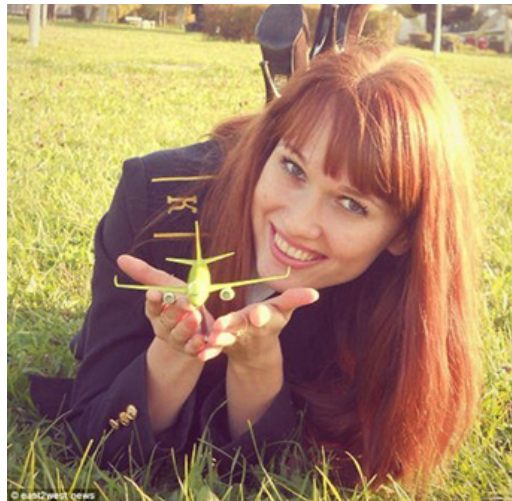
Russia October 24, 2014, 17:03 UTC+3

Overnight to October 21, a Falcon business jet en route from Moscow's Vnukovo airport to Paris hit a snowplough during takeoff, caught fire and crashed on the runway



Svetlana Krivsun

© Ilya Pitalev/TASS



Article 16

Protection of the information source

1. For the purposes of this Article, 'personal details' includes in particular names or addresses of natural persons.
2. Each organisation established in a Member State shall ensure that all personal details are made available to staff of that organisation other than persons designated in accordance with Article 6(1) only where absolutely necessary in order to investigate occurrences with a view to enhancing aviation safety.

Disidentified information shall be disseminated within the organisation as appropriate.

3. Each Member State shall ensure that no personal details are ever recorded in the national database referred to in Article 6(6). Such disidentified information shall be made available to all relevant parties, for example to allow them to discharge their obligations in relation to aviation safety improvement.
4. The Agency shall ensure that no personal details are ever recorded in the Agency database referred to in Article 6(8). Such disidentified information shall be made available to all relevant parties, for example to allow them to discharge their obligations in relation to aviation safety improvement.
5. Member States and the Agency shall not be prevented from taking any action necessary for maintaining or improving aviation safety.

6. Without prejudice to applicable national criminal 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 pursuant to Articles 4 and 5.

The first subparagraph shall not apply in the cases referred to in paragraph 10. Member States may retain or adopt measures to strengthen the protection of reporters or persons mentioned in occurrence reports. Member States may in particular apply this rule without the exceptions referred to in paragraph 10.

7. If disciplinary or administrative proceedings are instituted under national law, information contained in occurrence reports shall not be used against:

- (a) the reporters; or
- (b) the persons mentioned in occurrence reports.

The first subparagraph shall not apply in the cases referred to in paragraph 10.

Member States may retain or adopt measures to strengthen the protection of reporters or persons mentioned in occurrence reports. Member States may in particular extend that protection to civil or criminal proceedings.

8. Member States may adopt or maintain in force legislative provisions ensuring a higher level of protection for reporters or for persons mentioned in occurrence reports than those established in this Regulation.

9. Except where paragraph 10 applies, employees and contracted personnel who report or are mentioned in occurrence reports collected in accordance with Articles 4 and 5 shall not be subject to any prejudice by their employer or by the organisation for which the services are provided on the basis of the information supplied by the reporter.

10. The protection under paragraphs 6, 7 and 9 of this Article shall not apply to any of the following situations:

- (a) in cases of wilful misconduct;
- (b) where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises the level of aviation safety.

11. Each organisation established in a Member State shall, after consulting its staff representatives, adopt internal rules describing how 'just culture' principles, in particular the principle referred to in paragraph 9, are guaranteed and implemented within that organisation.

The body designated pursuant to paragraph 12 may ask to review the internal rules of the organisations established in its Member State before those internal rules are implemented.

12. Each Member State shall designate a body responsible for the implementation of paragraphs 6, 9 and 11.

Employees and contracted personnel may report to that body alleged infringements of the rules established by this Article. Employees and contracted personnel shall not be penalised for reporting alleged infringements. Employees and contracted personnel may inform the Commission about such alleged infringements.

Where appropriate, the designated body shall advise the relevant authorities of its Member State concerning remedies or penalties in application of Article 21.

13. On 15 May 2019 and every five years thereafter, each Member State shall send the Commission a report on the application of this Article, and in particular on the activities of the body designated pursuant to paragraph 12. The report shall not contain any personal data

Where does jC fit in?

International



standardisation

Regulation

Policies

National

Penal
code

Civil
aviation
act

Sovereignty

Oversight

Regulation

Policies

standardisation

Corporate

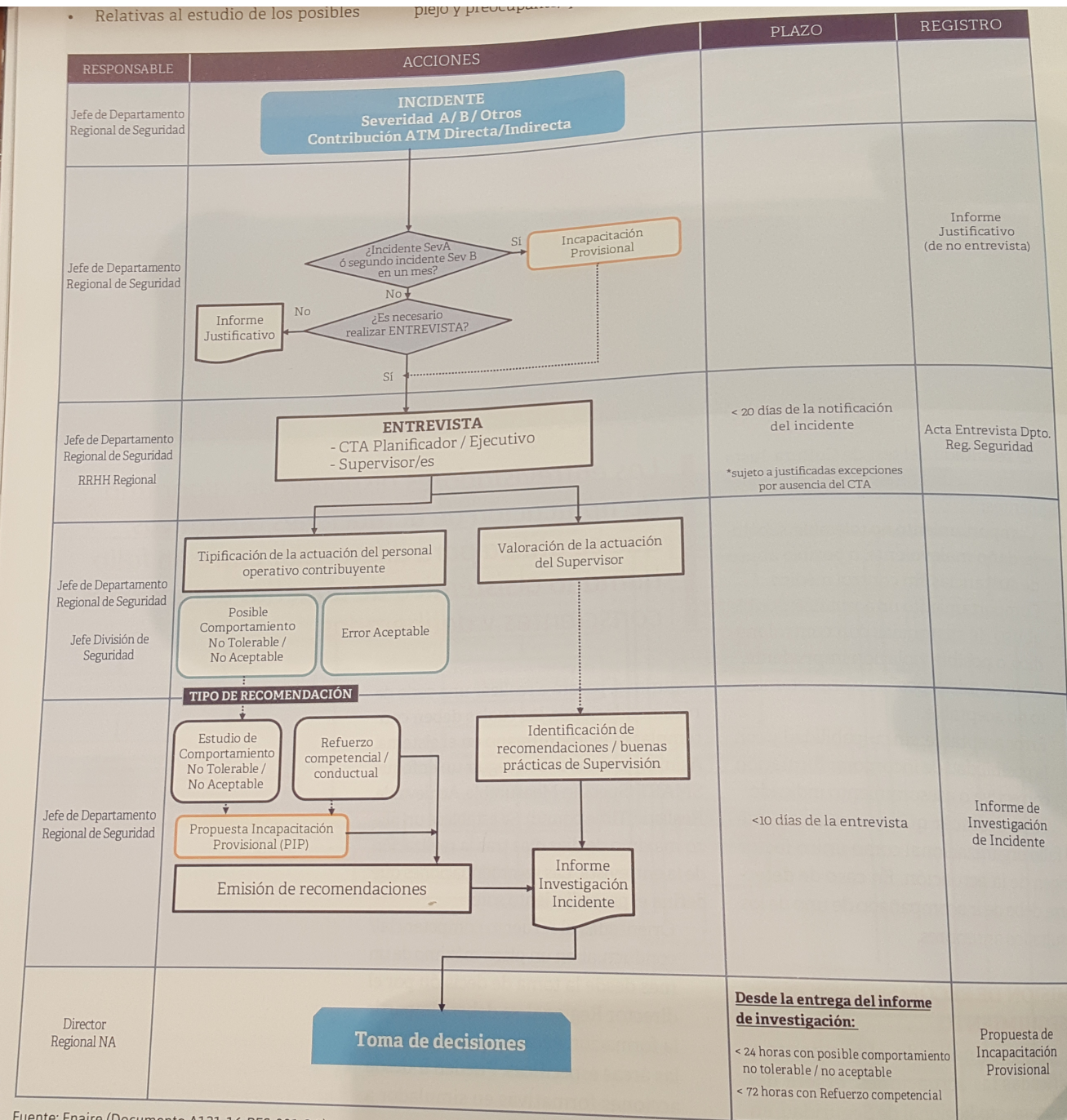
Execution

Business

Performance

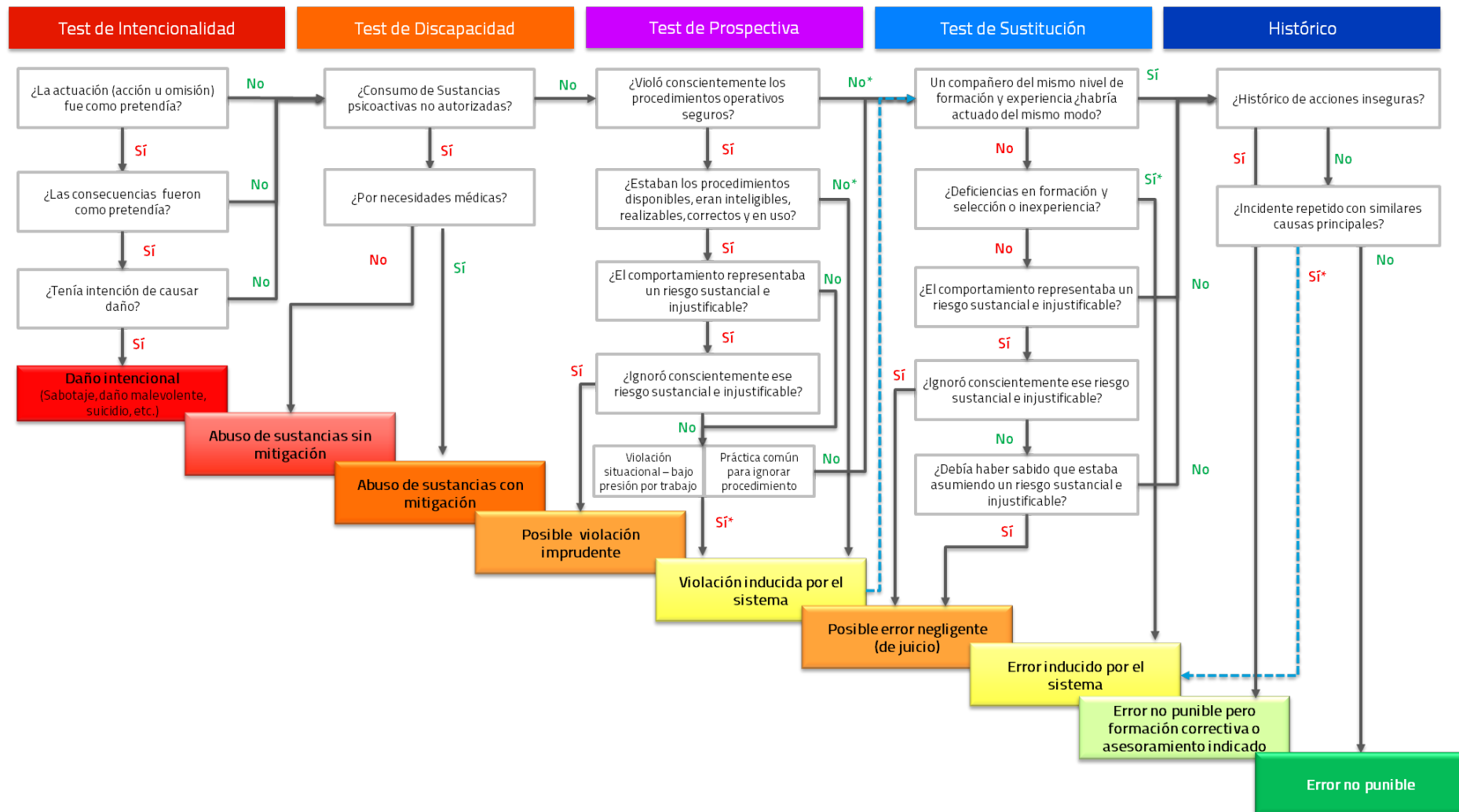
Professional

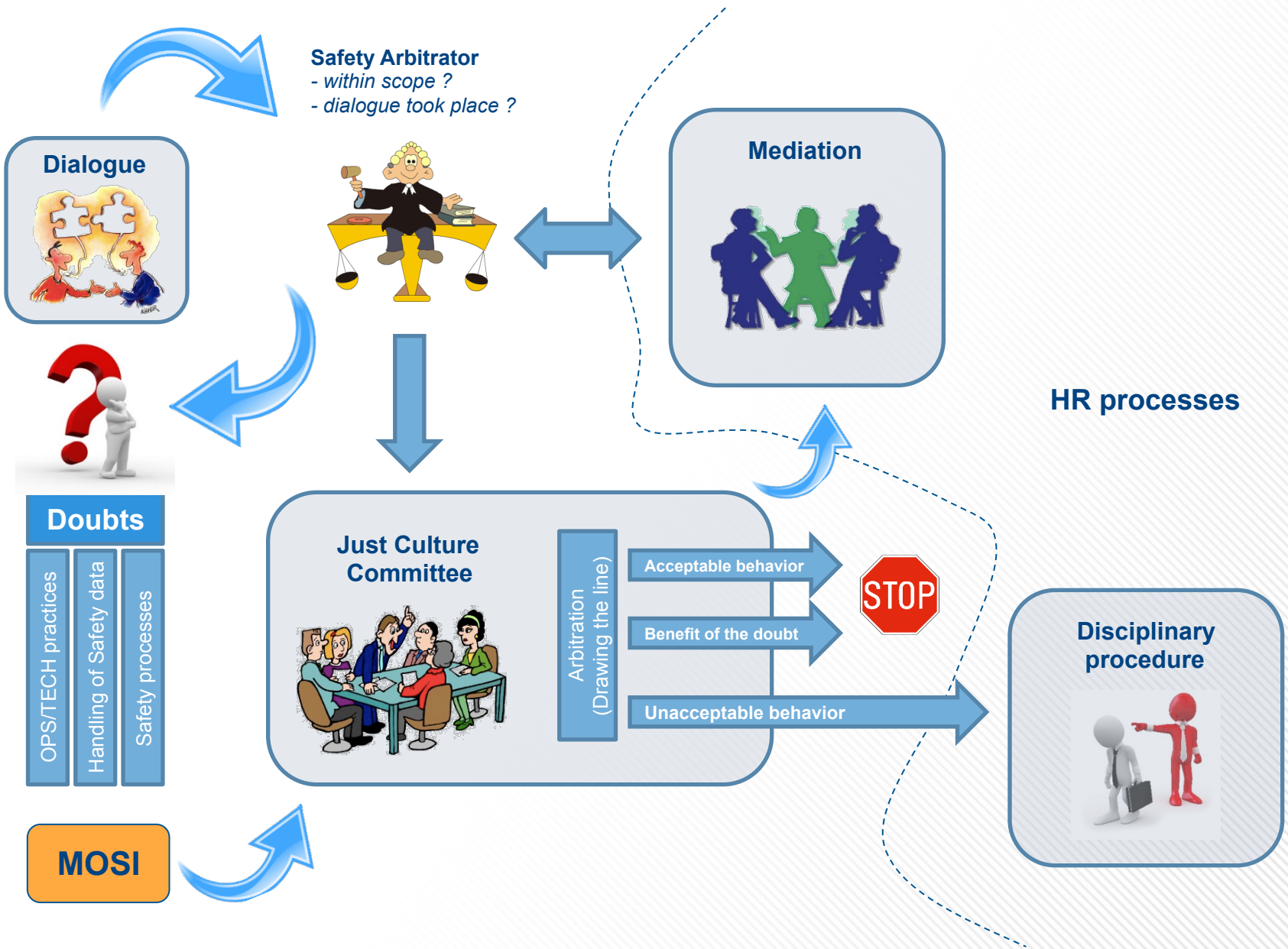




Fuente: Enaire (Documento A121-16-PES-001-3.0).

ATC magazine
No 97 p.28





Three Behaviours...

austro CONTROL		
Unintended Actions Unintended Consequence HUMAN ERROR	Intended Action Unintended Consequence AT-RISK BEHAVIOUR	Intended Action Intended Consequence RECKLESS BEHAVIOUR
Error Unintentional (Mistake)	Violation Intentional violations Intentional Violation for personal gain	Reckless Behaviour Sabotage
<ul style="list-style-type: none">Overlooking of targets due to bad HMI designOverhearing an incorrect readbackForgetting to perform a planned action due to distractions	<ul style="list-style-type: none">Climbing an aircraft without releaseLeaving the position without quality handoverAllowing oneself to get distracted by electronic devices	<ul style="list-style-type: none">Intentionally covering up safety-relevant occurrences
CONSOLE	COACH	DISCIPLINE
Repetitive Behaviour (Routine) Test		
System (Substitution) Test		

Source: Adapted from David Marx (JC Algorithm) and Baines& Simmons (FAIR)

Improvement Measures

austro CONTROL		
Tolerated	Not tolerated	
Human Error („honest mistake“)	At-Risk Behaviour	Reckless Behaviour
<i>Product of our current System Design</i>	<i>A Choice: Risk believed insignificant or Justified</i>	<i>Conscious Disregard of Unjustifiable Risk</i>
Manage through changes in: <ul style="list-style-type: none">ProcessesProceduresTrainingEnvironment/ ConditionsUsw.	Manage through: <ul style="list-style-type: none">Removing incentives for at-risk behaviourCreating incentives for healthy behavioursIncreasing situational awareness (risk perception)	Manage through: Remedial action OR Disciplinary action <ul style="list-style-type: none">WarningNote on fileReplacementDegradationRemoval of BonusDismissal
System Re-Design	Coaching	Discipline

Source: Adapted from David Marx (JC Algorithm) and Baines& Simmons (FAIR)

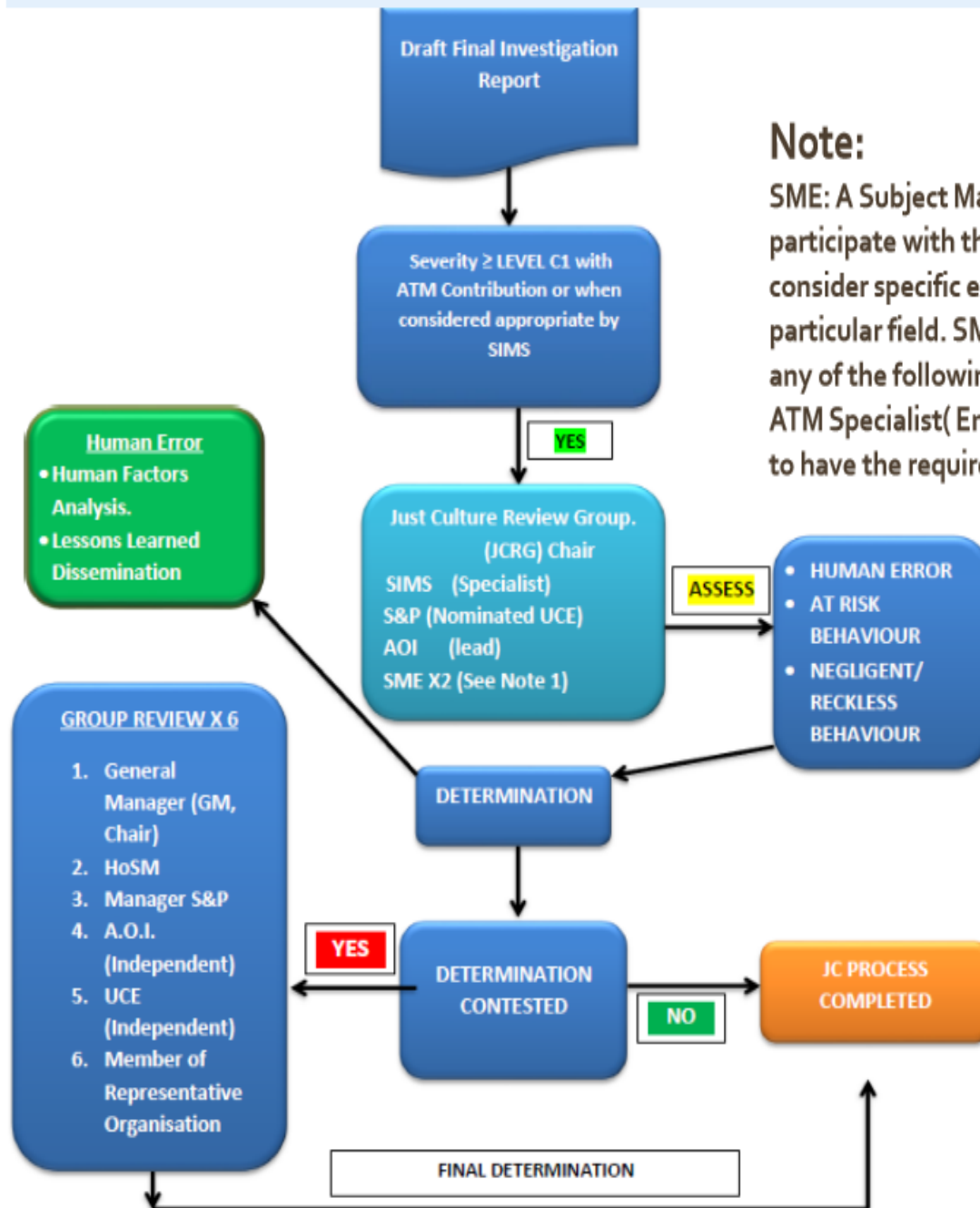
How does it work?



Human Ressources Process



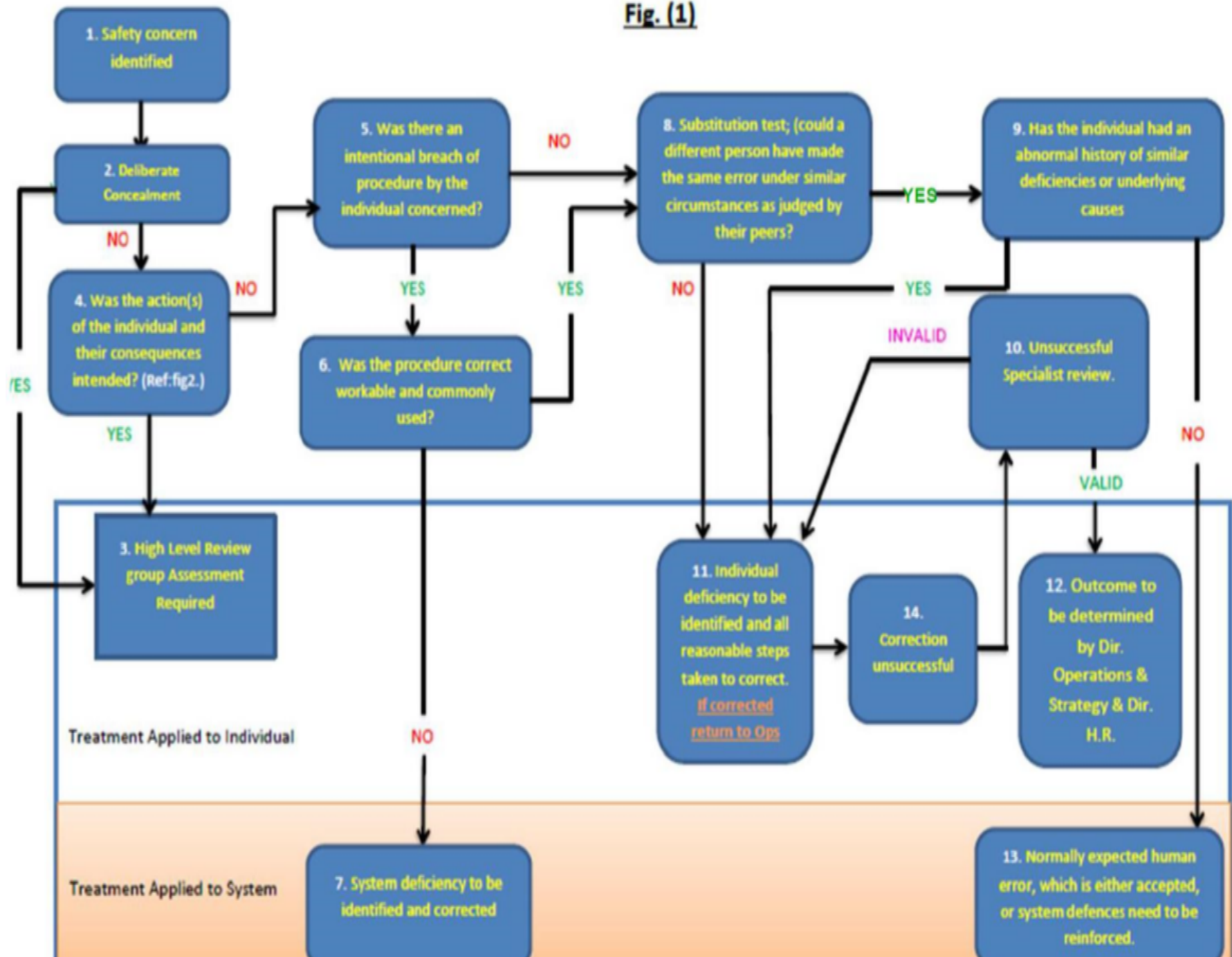
IAA High Level Diagram for the Just Culture treatment of individuals



Note:

SME: A Subject Matter Expert may be required to participate with the JCRG where the review group consider specific expert advice is necessary, in any particular field. SME may include, but not restricted to, any of the following: Station Manager, USM. Engineer, ATM Specialist(Eng, ATCO, R.O) or any person considered to have the required expert knowledge.

Fig. (1)

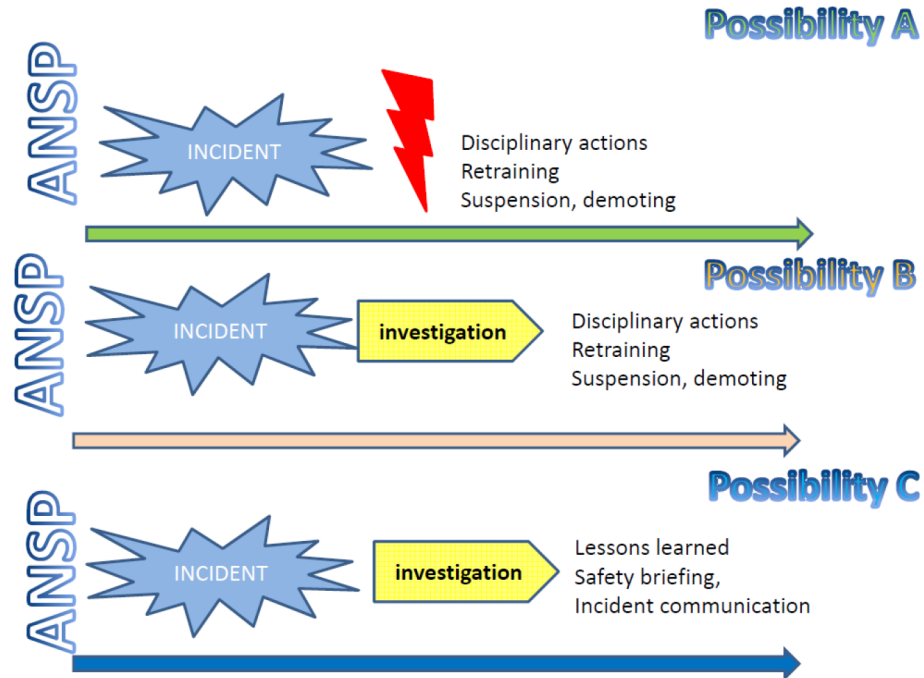


Intermediate conclusion

- Distinction between human error, at-risk behaviour and reckless actions
 - Marx (2001) involve increasing degrees of wilfulness and disregard
 - Based on culpability trees (Reason 1997)
- Legitimize managerial intervention in the sanction of individuals in the organization
- «internal tribunal» – does not prevent justice to intervene
- Where are the staff representatives (union, professional staff association)
- Sharp end is being assessed by whom?
- Appeal mechanism are not described (art. 12)

The dualism of JC - 2

And the second trajectory has a number of different outcomes potentially...

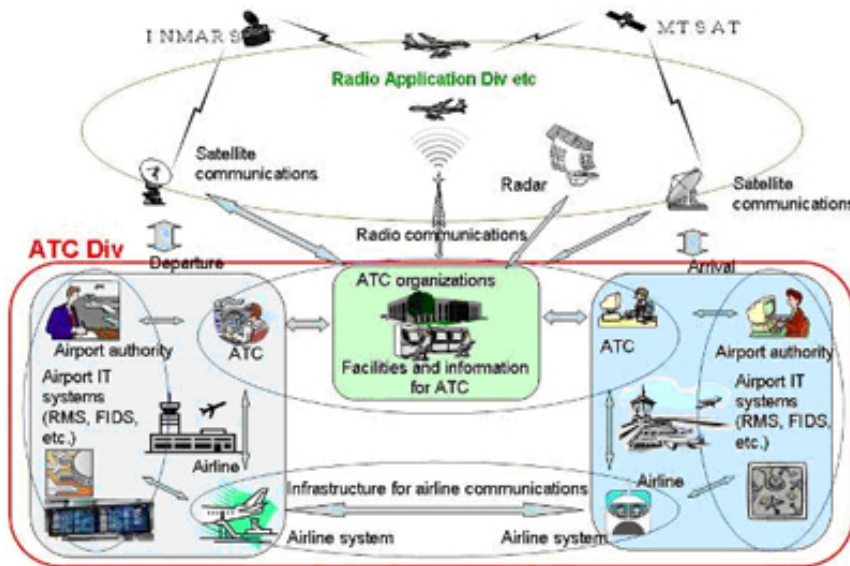


- *A Just culture is in the service of safety. Not a means of social control or a disciplinary mechanism. Be wary of an undue emphasis on gross negligence.*
- *To effect a Just Culture, trust needs to be built between all of those who have a legitimate and appropriate interest. This is a much larger 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



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

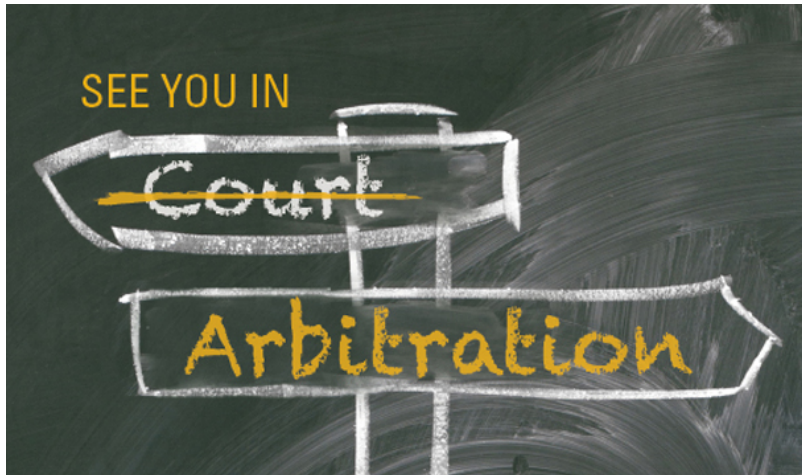
Immense focus on Negligence



The invention of Just Culture
developed a focus on negligence

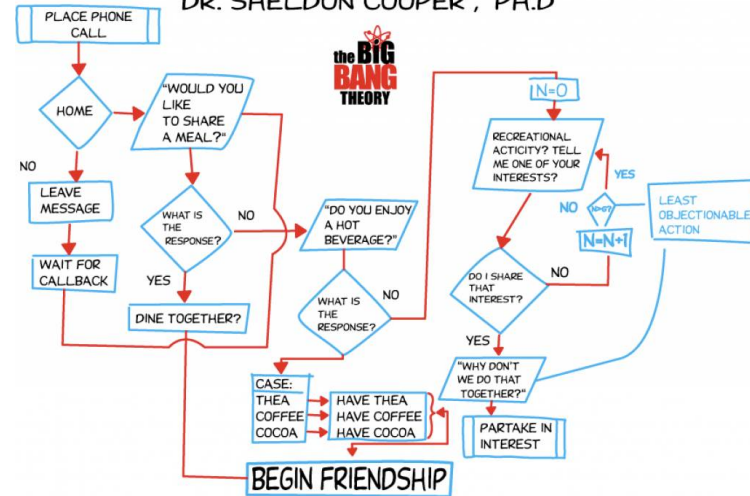
What are we talking about?

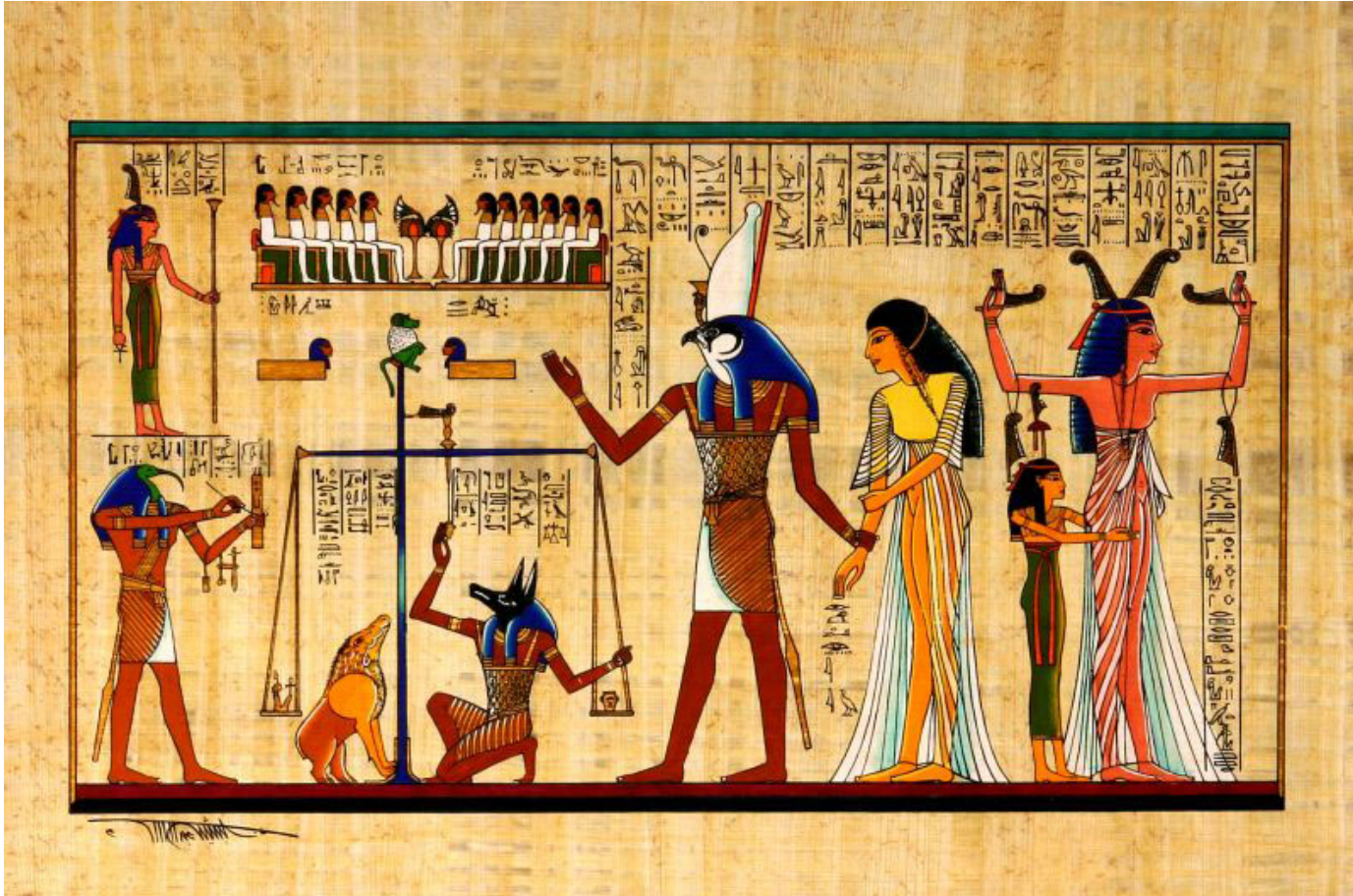




THE FRIENDSHIP ALGORITHM

DR. SHELDON COOPER, PH.D





«Just Culture:» Improving safety by achieving substantive, procedural and restorative justice

Table 1

Different retributive and restorative questions to ask.

Retributive	Restorative
Which rule has been broken? Who did it? How bad is the infraction, and so what do they deserve?	Who has been hurt? What are their needs? Whose obligation is it to meet those needs?

Table 2

Different ways in which retributive and restorative processes create justice.

Retributive	Restorative
Wrongdoing creates guilt, and demands punishment that compensates it	Wrongdoing creates needs, and obligations to meet those needs
Account is something the offender <i>pays or settles</i>	Account is something the offender <i>tells</i> and listens to
Asks <i>who</i> is responsible for the incident	Asks <i>what</i> is responsible for the incident
Learns and prevents by setting an example	Learns and prevents by asking why it made sense for people to do what they did
Focuses on what people involved in the incident deserve	Focuses on what people involved in, and affected by, the incident need
Creates justice by imposing proportional and deserved punishment	Creates justice by deciding who meets the needs arising from the incident
Meets hurt with more hurt	Meets hurt with healing
Looks back on harm done, and assigns consequences	Looks ahead at trust to repair, and invests in relationships
Builds trust by reinforcing rules and the authority to impose and police them	Builds trust by repairing relationships between people whose work depends on each other

Question for a just culture approach

1. Does the JC process address harms, needs and causes?
2. Is it adequately victim-oriented (including both first and second victims)?
3. Are practitioners encouraged to recognize their contribution to the (potential) harm caused, but also treated as potential second victims?
4. Are all relevant stakeholders involved in rule-development and in processes of restoring trust?
5. Is it based on dialogue, participation and collaborative decision-making?
6. Does it identify address deeper, systemic issues that gave rise to the incident in the first place ?
7. Is it respectful to all parties?



Santa Maria del Mar, Barcelona

Conclusion

- Just culture is dual
- Just culture is a social construct
- Just culture is drawing the line
- Just culture is difficult



Russian court puts trainee traffic controller under house arrest in Falcon crash case

Russia October 24, 2014, 17:53 © UTEC+3

Overnight to October 21, a Falcon business jet en route from Moscow's Vnukovo airport to P... snowplough during takeoff, caught fire and crashed on the runway



Svetlana Khrusov
© Ilya Pridor/TASS



www.alamy.com - FJM13X