

# **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











NESPRESSO

NEW ZEALAND

CAMP

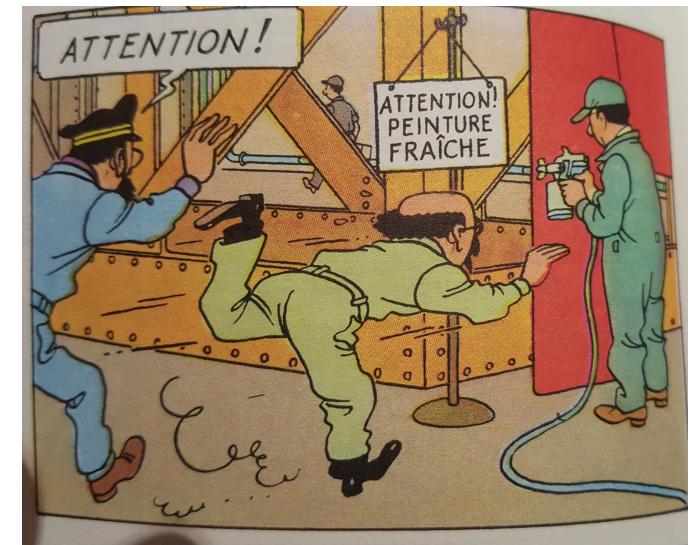
TAG  
HEUER

PUMA

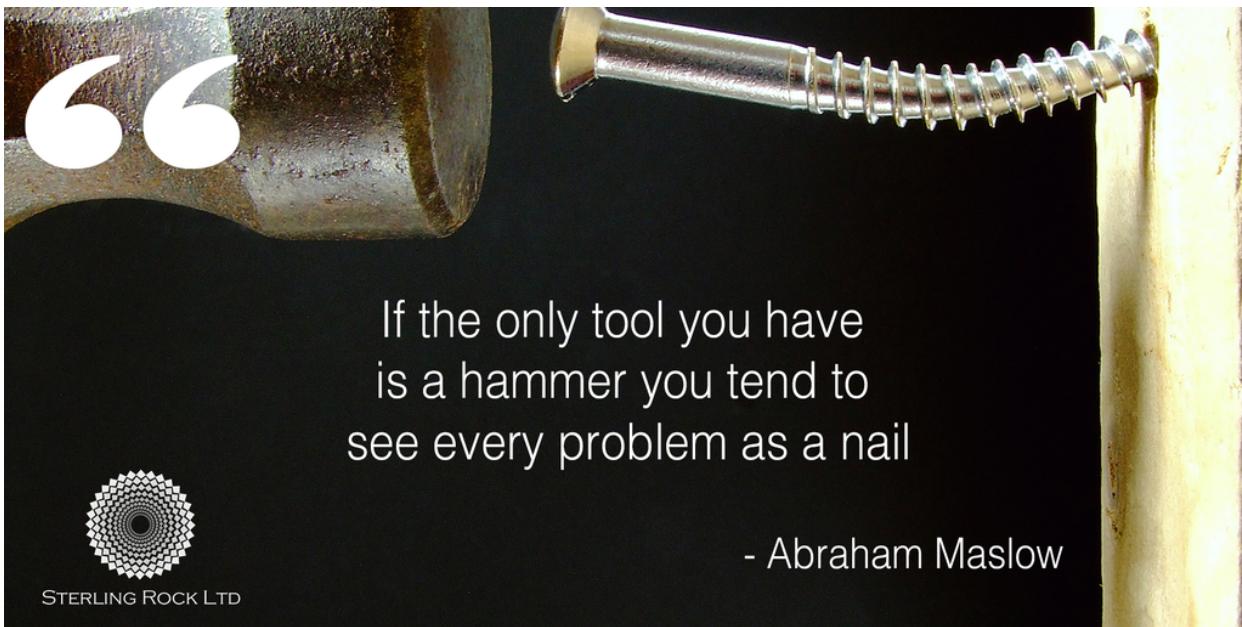






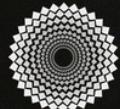




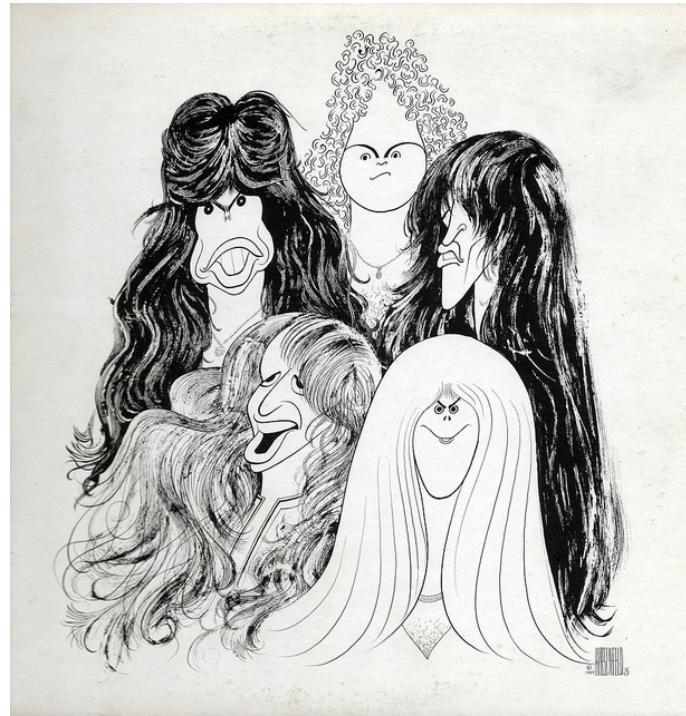


If the only tool you have  
is a hammer you tend to  
see every problem as a nail

- Abraham Maslow



STERLING ROCK LTD



# DRAW THE LINE

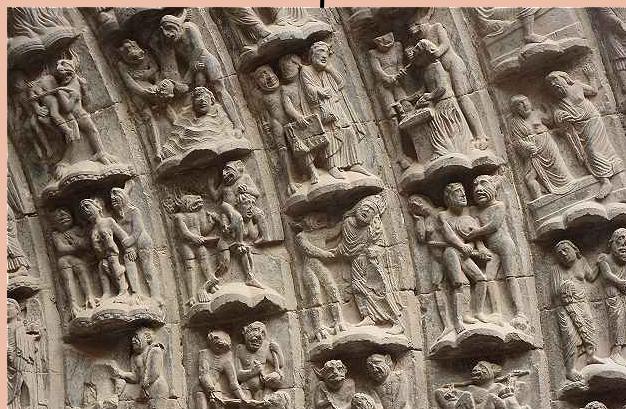
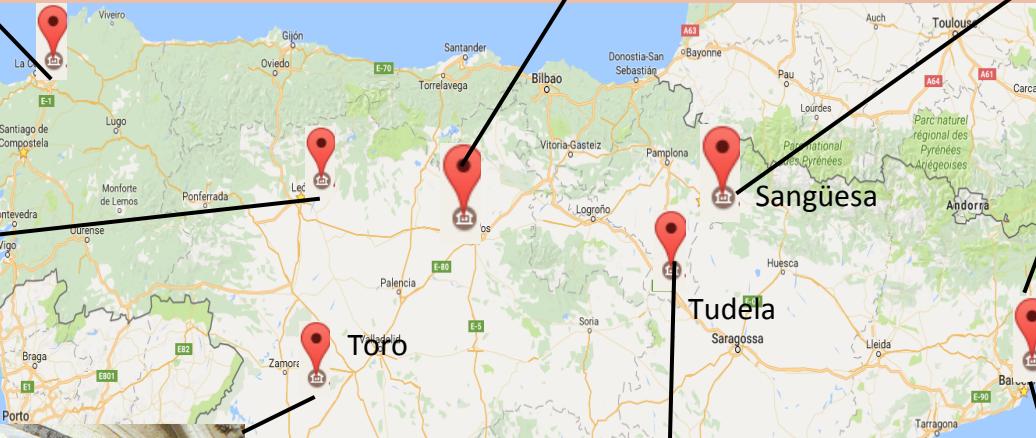
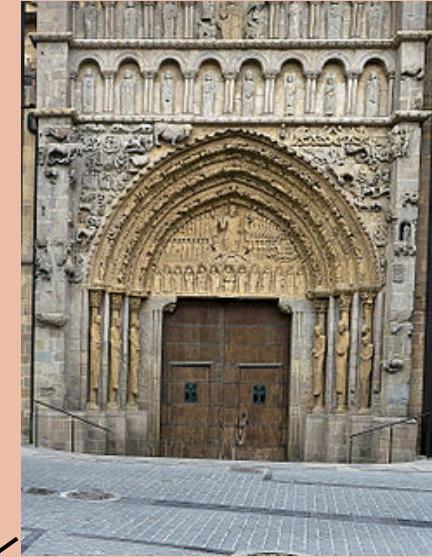




Espana goticà

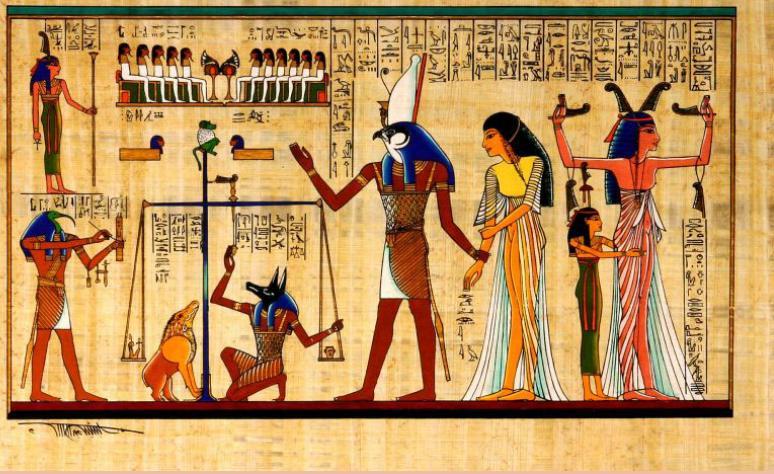


España goticà



España





Espana goticà

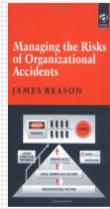
## Reporting



ASRS - 1975



Open Reporting

UK MOR Scheme  
1976BASIS  
(BA incident reporting Scheme)

## No-Blame Culture

Anonymity versus confidentiality

## CHIRP

Anonymous reporting systems

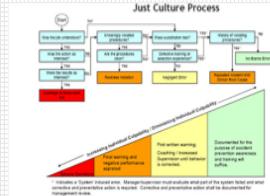
## Just Culture

## GAIN

## SASI

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

Eurocontrol, 2006



## Accountability

Eurocontrol ES2



EU 376/2014

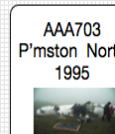
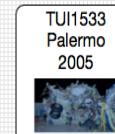
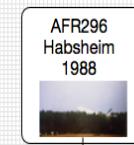
Just Culture Model Policy



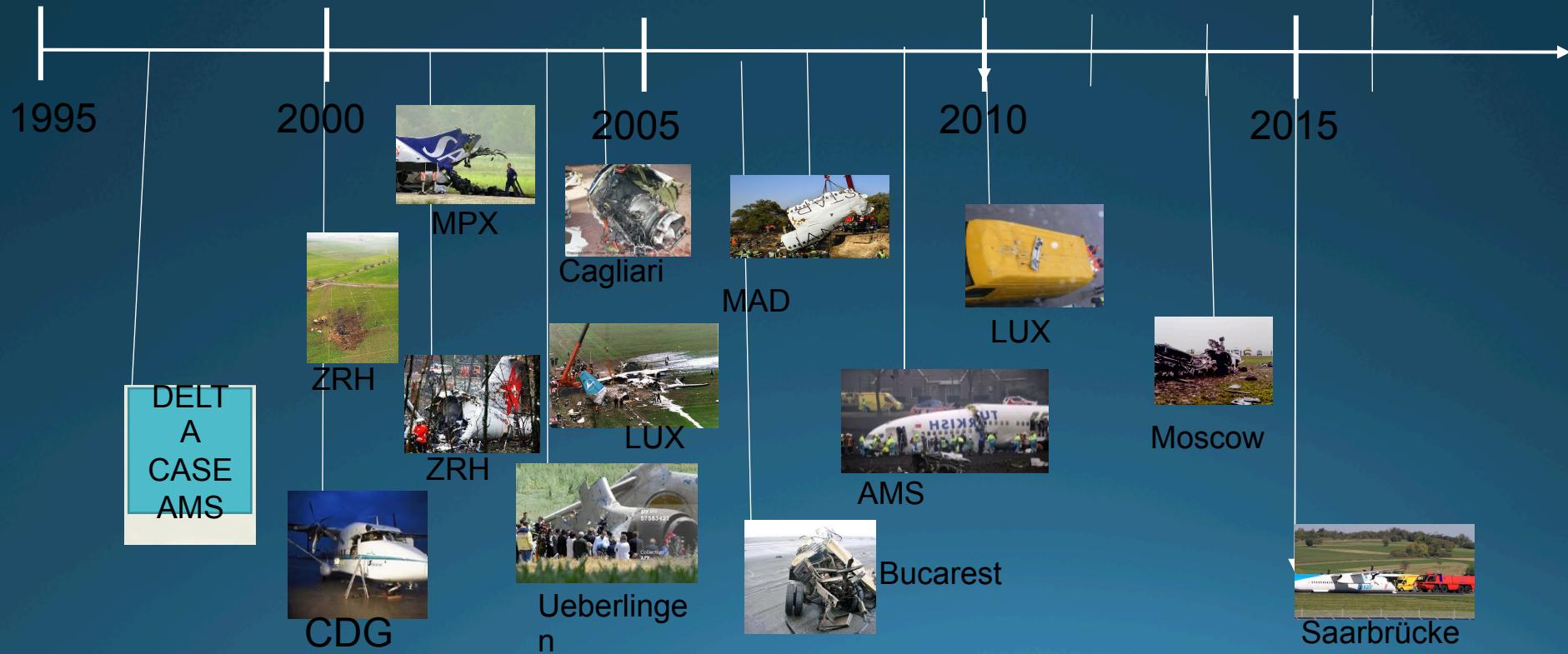
ASMT

JC RP1 SKPI

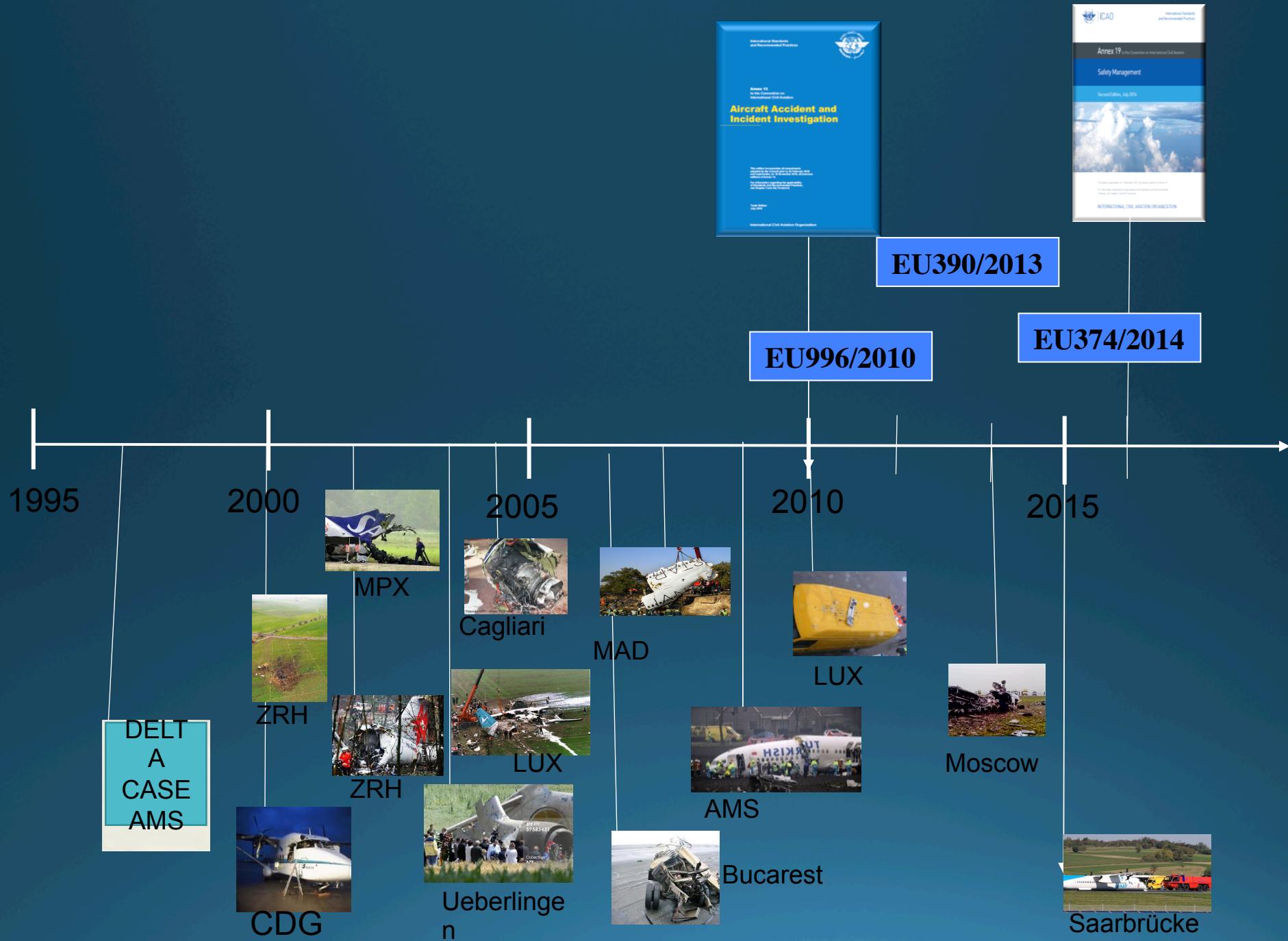
## Just Culture Prosecutors Course

BE476/JP550  
Zagreb  
1976AT1460  
Mt Crazzolin  
1987BA012  
Heathrow Penta  
1989AAA703  
Pimston North  
1995JAL907 & JAL958  
Yaizu  
2001CRX3597  
Zurich  
2001TUI1533  
Palermo  
2005GLO1907 & N600XL  
Matt Grosso  
2006LH540  
Nairobi  
1974SWR316  
Athens  
1979AFR296  
Habsheim  
1988ITF148  
Strasbourg  
1992DAL39  
Schiphol  
1998SAS686 & DIEVX  
Linate  
2001DHX611 & BTC2397  
Überlingen  
2003HCY522  
Athens  
2005JKK522  
Madrid  
2008ATCO (Tasic)  
Found guilty of  
ManslaughterFlight Engineer  
Negligent Homicide  
AcquittedPIC & CoPilot  
Negligent Manslaughter  
Negligent bodily injury +  
disrupting air services  
Co-Pilot acquitted  
PIC 5 years 2 months sentence  
converted to a fineCrew charged with murder  
Co-pilot Acquitted  
Manufacturer convicted of homicidePIC & Copilot +  
2 AFR officials +  
Flying club chairman  
Manslaughter  
Captain, 6 months  
prison sentenceCaptain convicted of  
negligently endangering  
aircraft and  
passengersSix defendants cleared  
of all charges  
Airbus and Air France  
held liableCaptain acquitted  
Status of CVR challengedThree ATCOs prosecuted  
2 found guilty & finedJAL Captain & 2 ATCOs  
prosecuted  
ATCOs found guiltyTwo separate prosecutions,  
11 defendants  
A number of convictions madeBFU Conclude pilot error.  
Six Crossair managers  
prosecuted  
All acquittedEight Skyguide employees  
prosecuted.  
Four found guiltyNine people charged with  
multiple manslaughter charges  
Crew sentenced to 10 years  
imprisonment  
Two engineers acquittedThe first case where  
criminal trials in two  
jurisdictions subsequent  
to an aviation accidentPilots & 4 ATCOs  
charged.  
Engineers & supervisors  
charged with manslaughter

# Just culture time line



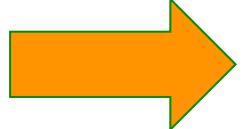
# Just culture time line





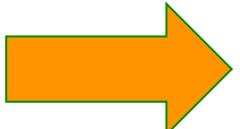
### Safety Data protection

ICAO	Annex 13 (10 <sup>th</sup> ed.)	5.12 and Attachment E
	Annex 19 (1 <sup>st</sup> 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 <sup>th</sup> ed.)	5.12 and Attachment E
	Annex 19 (1 <sup>st</sup> 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 <sup>th</sup> ed.)	NIL
	Annex 19 (1 <sup>st</sup> 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

Forward-looking

Backwards-looking

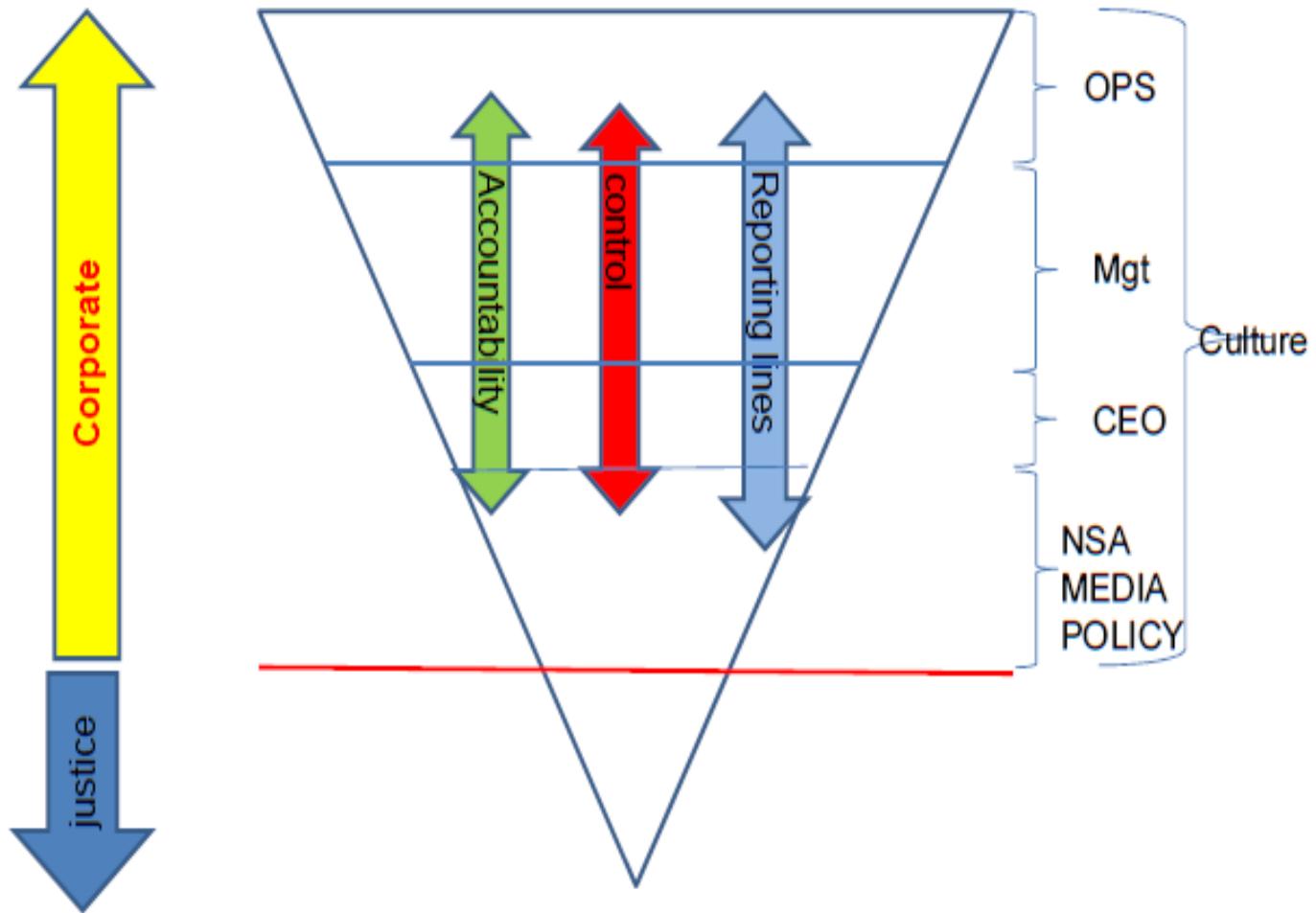
Learn about the culture and determine the context in which you are situated

1. Living with just culture. Where to start in your organisation.

2. The line, what is it? Who draws it? And how does it affect you?

3. Data disclosure. Protecting you from probing eyes

4. When it goes to court and in cultures with focus on blame and shame. Protection and the crisis organisation.



# 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;

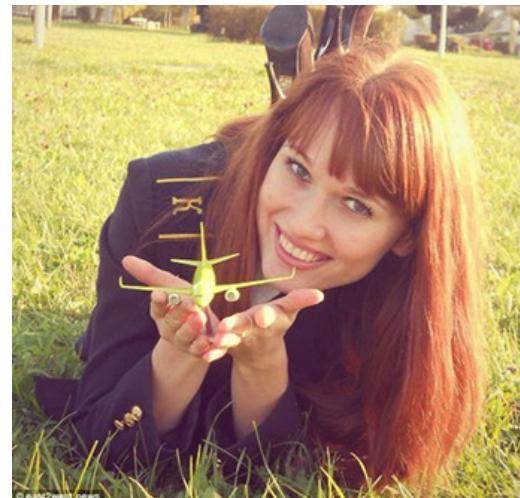
**Russian court puts trainee traffic controller under house arrest in Falcon crash case**

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.

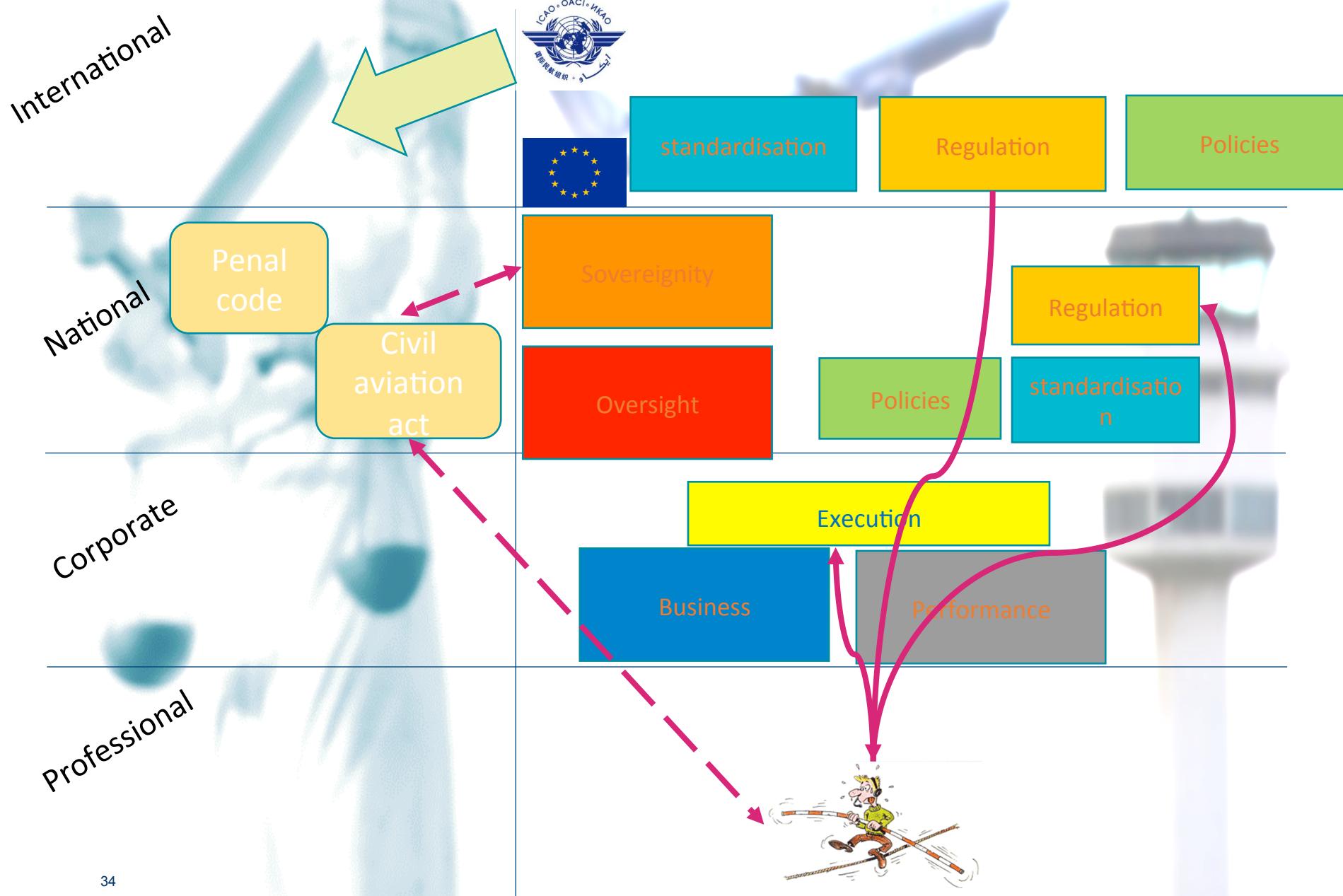
12. Each Member State shall designate a body responsible for the implementation of paragraphs 6, 9 and 11.

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.

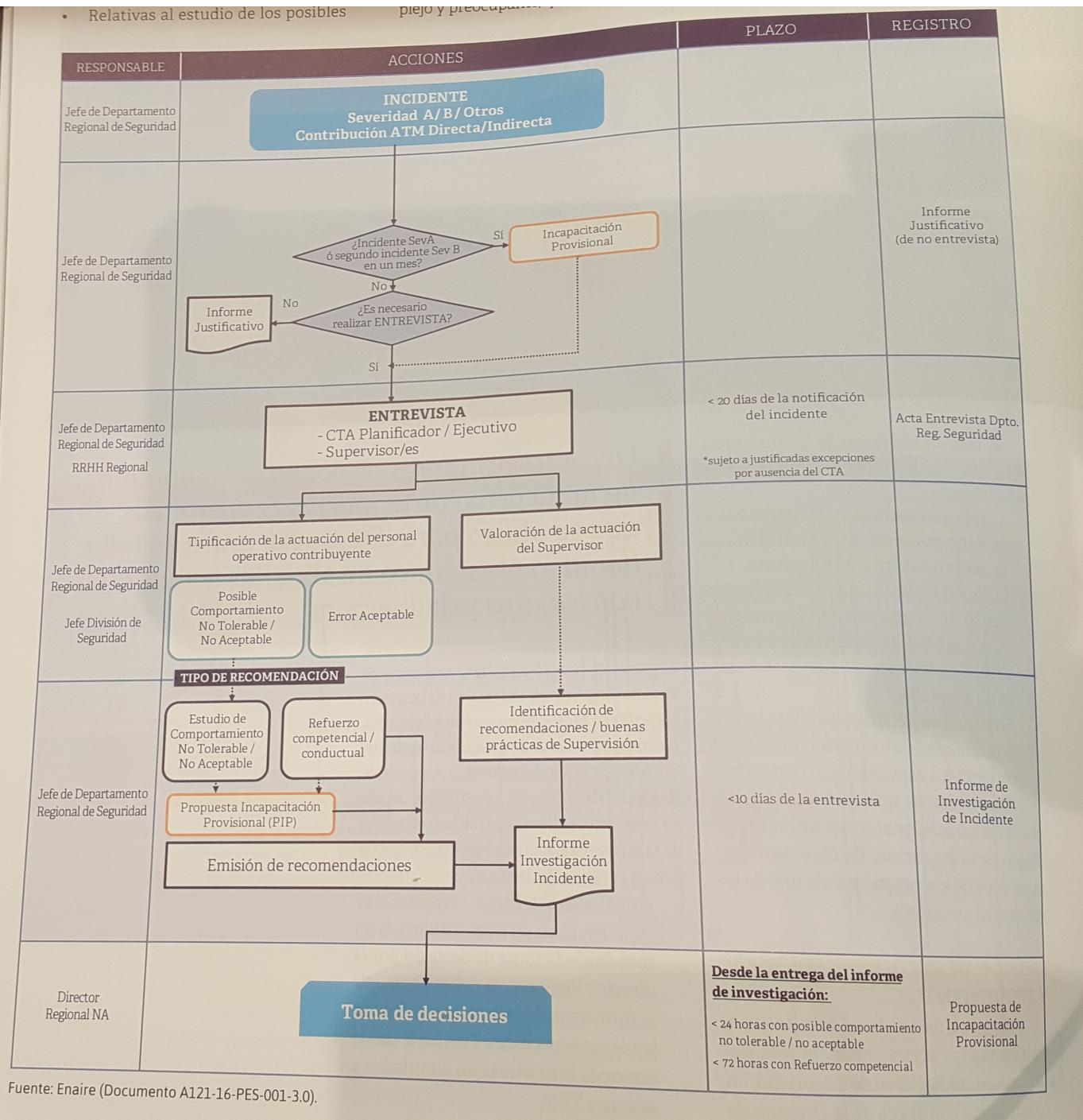
13. On 15 May 2019 and every five years thereafter, each Member State shall send the Commission a report on the application of this Article, and in particular on the activities of the body designated pursuant to paragraph 12. The report shall not contain any personal data

# Where does jC fit in?

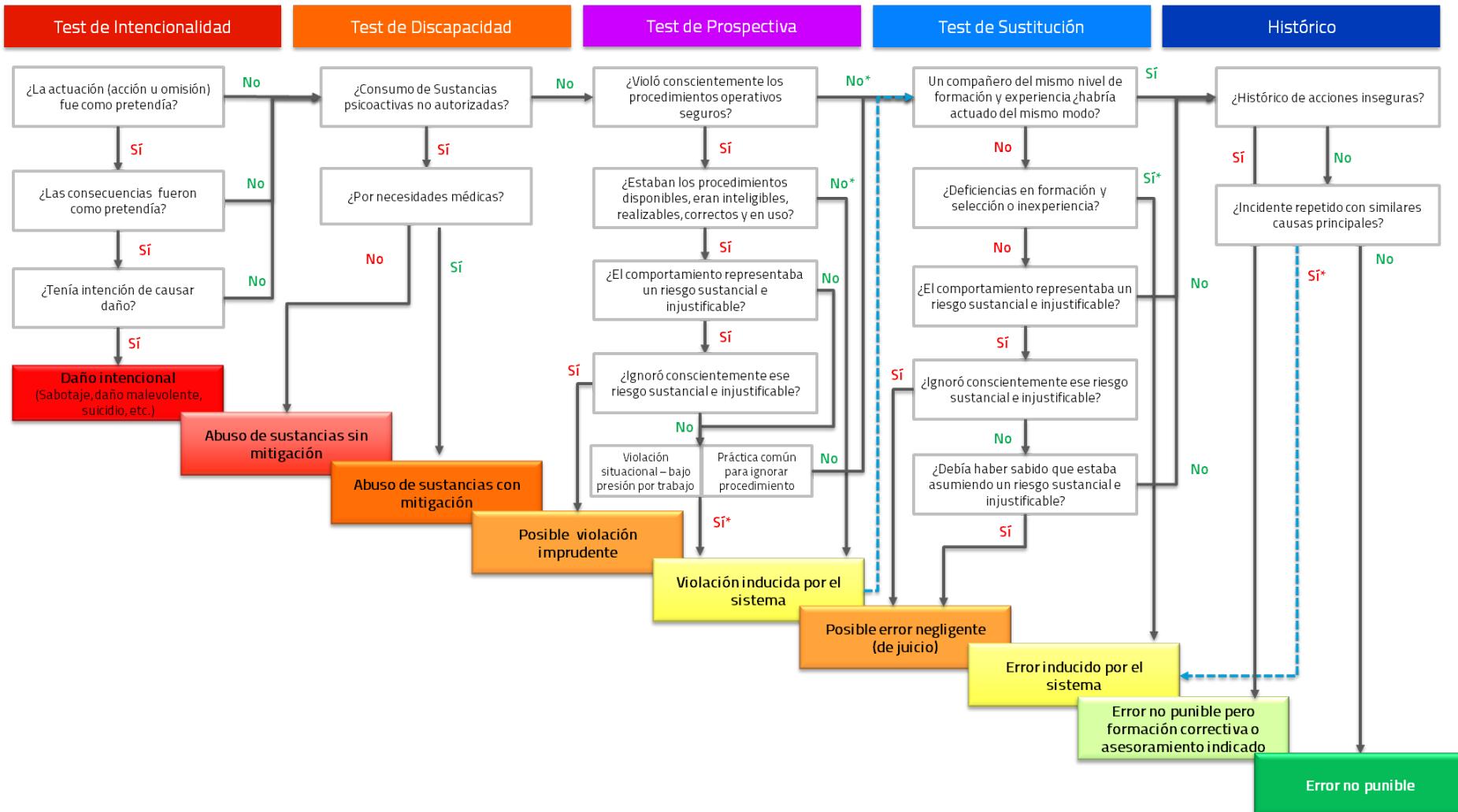


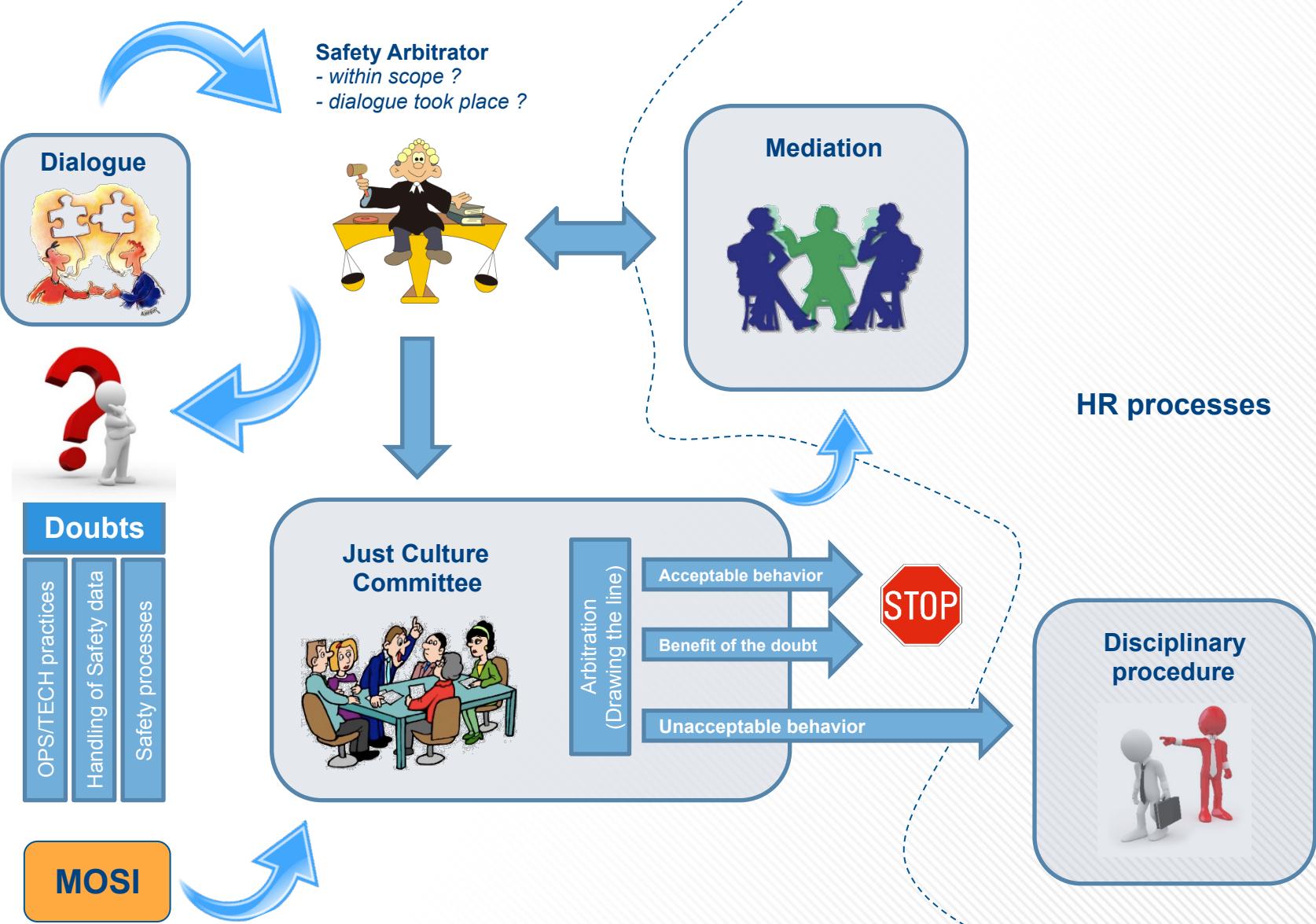
- Relativas al estudio de los posibles
- Relativas a la ejecución de las acciones
- Relativas a la ejecución de las acciones

- Relativas a la ejecución de las acciones
- Relativas a la ejecución de las acciones
- Relativas a la ejecución de las acciones



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





# 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 violation (Mistake)	Intentional violations	Reckless Behaviour Sabotage Intentional Violation for personal gain
• Overlooking of targets due to bad HMI design	• Climbing an aircraft without release	• Intentionally covering up safety-relevant occurrences	
• Overhearing an incorrect readback	• Leaving the position without quality handover		
• Forgetting to perform a planned action due to distractions	• Allowing oneself to get distracted by electronic devices		
<b>CONSOLE</b>		<b>COACH</b>	<b>DISCIPLINE</b>
Repetitive Behaviour (Routine) Test			
System (Substitution) Test			

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

# Improvement Measures

austro  
CONTROL

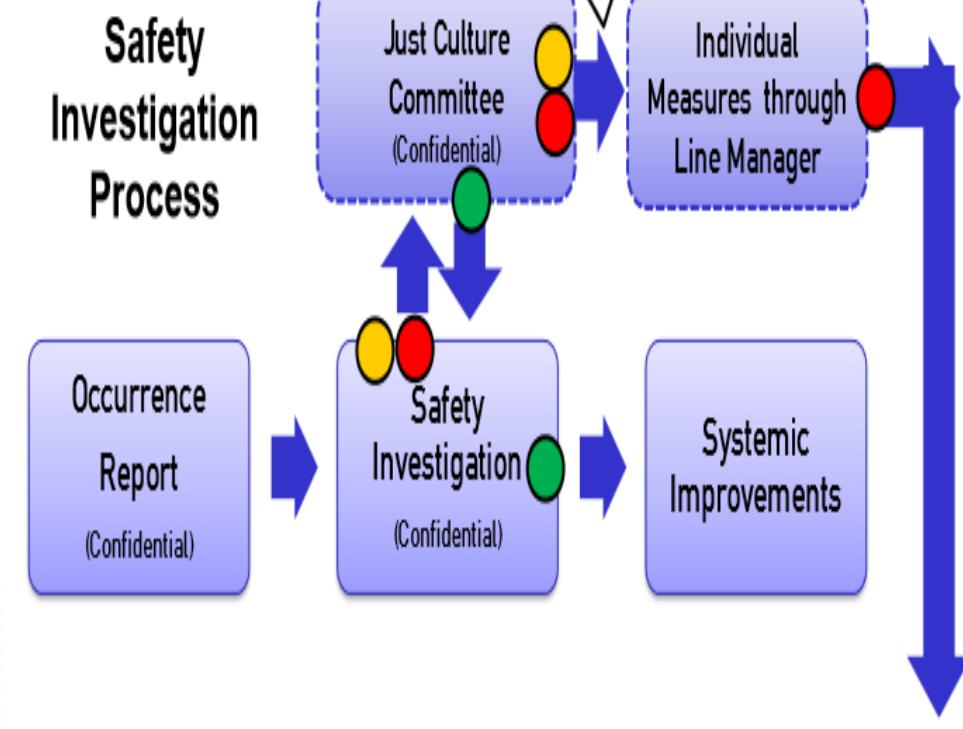
Tolerated	Not tolerated	
Human Error ("honest mistake")	At-Risk Behaviour	Reckless Behaviour
Product of our current System Design	A Choice: Risk believed insignificant or Justified	Conscious Disregard of Unjustifiable Risk
Manage through changes in: • Processes • Procedures • Training • Environment/ Conditions • Usw.	Manage through: • Removing incentives for at-risk behaviour • Creating incentives for healthy behaviours • Increasing situational awareness (risk perception)	Manage through: • Remedial action OR Disciplinary action • Warning • Note on file • Replacement • Degradation • Removal of Bonus • Dismissal
<b>System Re-Design</b>	<b>Coaching</b>	<b>Discipline</b>

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

# How does it work?

In case of individual at-risk or reckless behaviour names are released for corrective action!

## Safety Investigation Process



## Human Ressources Process

Code of Conduct

Collective Argeements

Employment Law

# IAA High Level Diagram for the Just Culture treatment of individuals

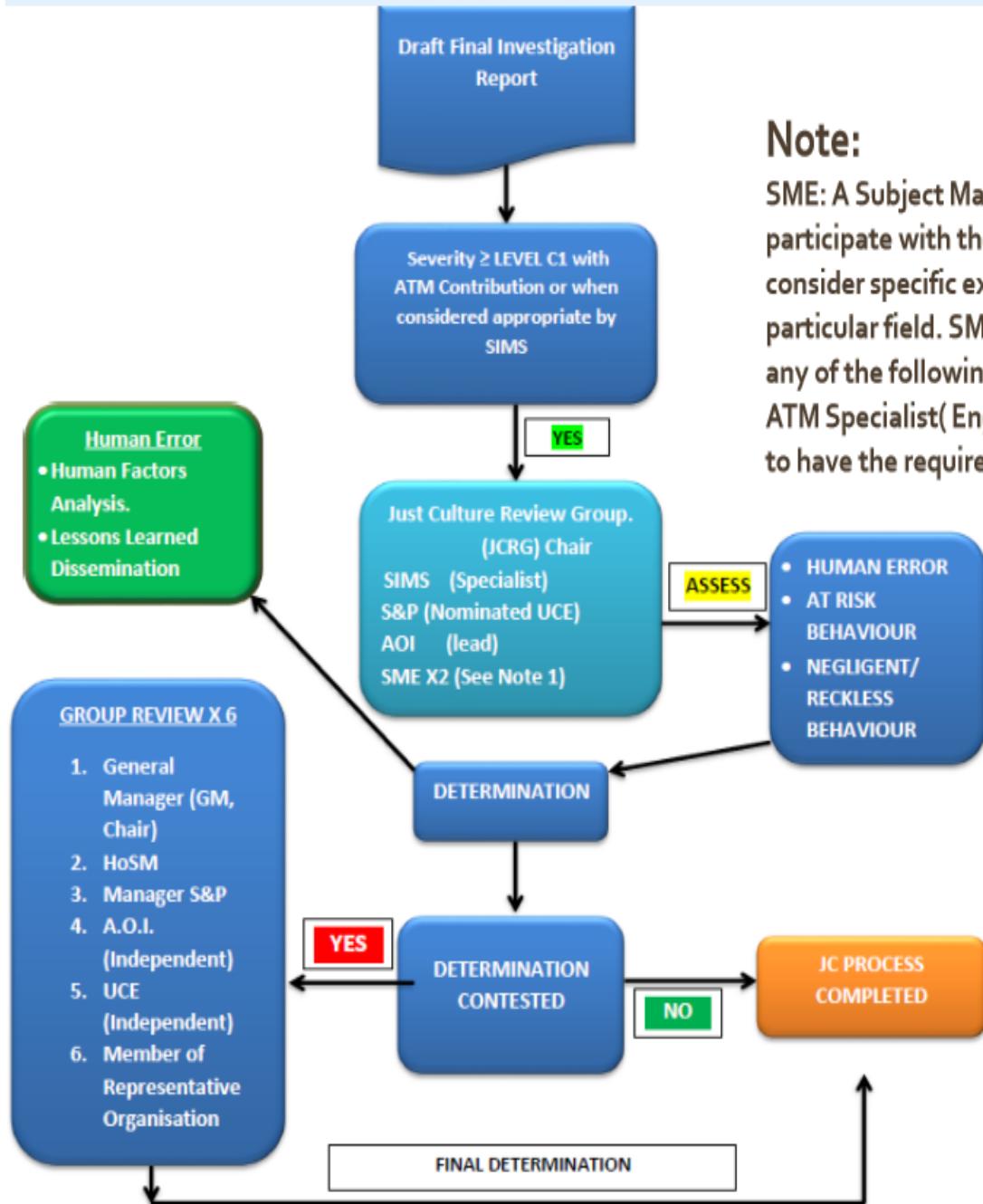
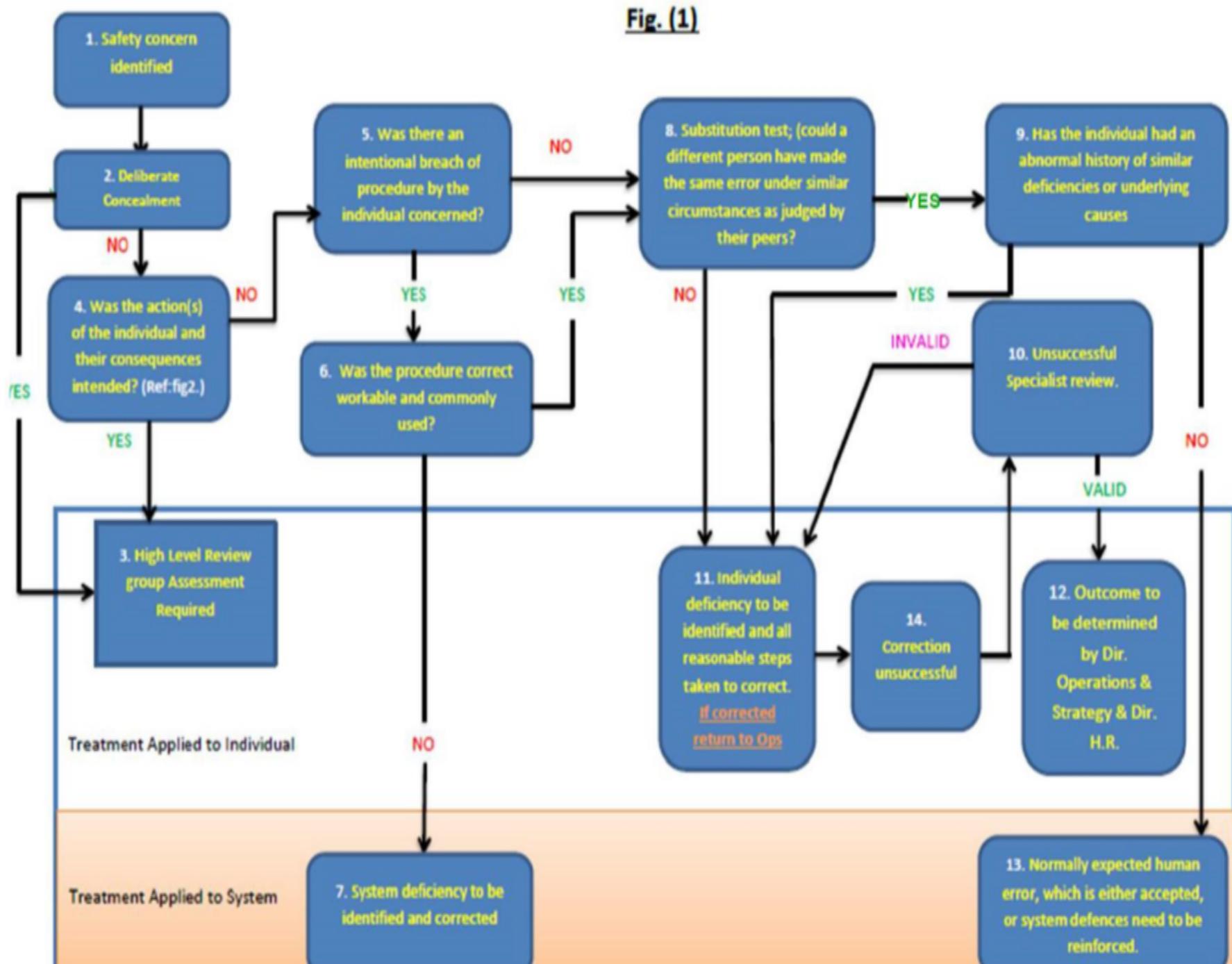


Fig. (1)



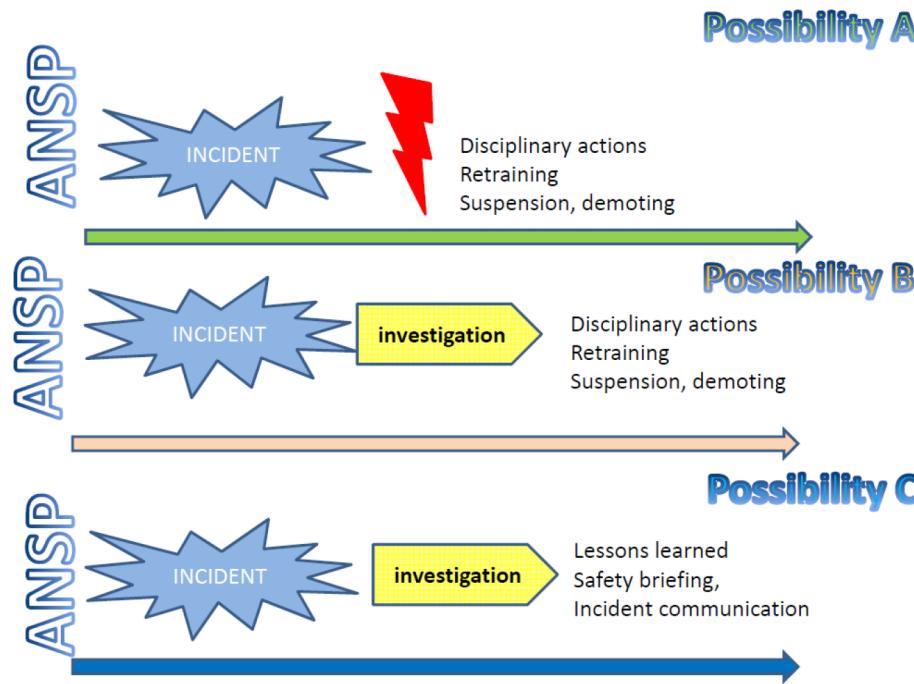
# Intermediate conclusion

- 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...

Corporate JC

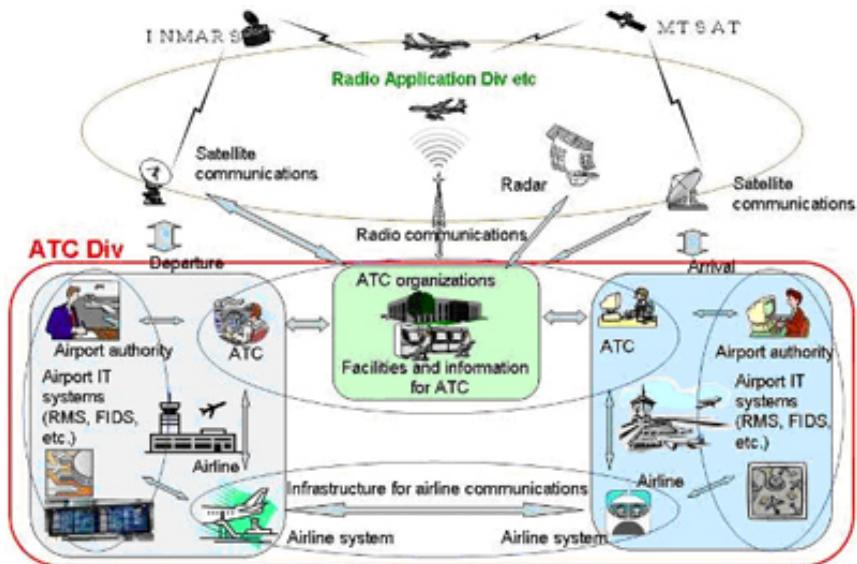


- *A Just culture is in the service of safety. Not a means of social control or a disciplinary mechanism. Be wary of an undue emphasis on gross negligence.*
- *To effect a Just Culture, trust needs to be built between all of those who have a legitimate and appropriate interest. This is a much larger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

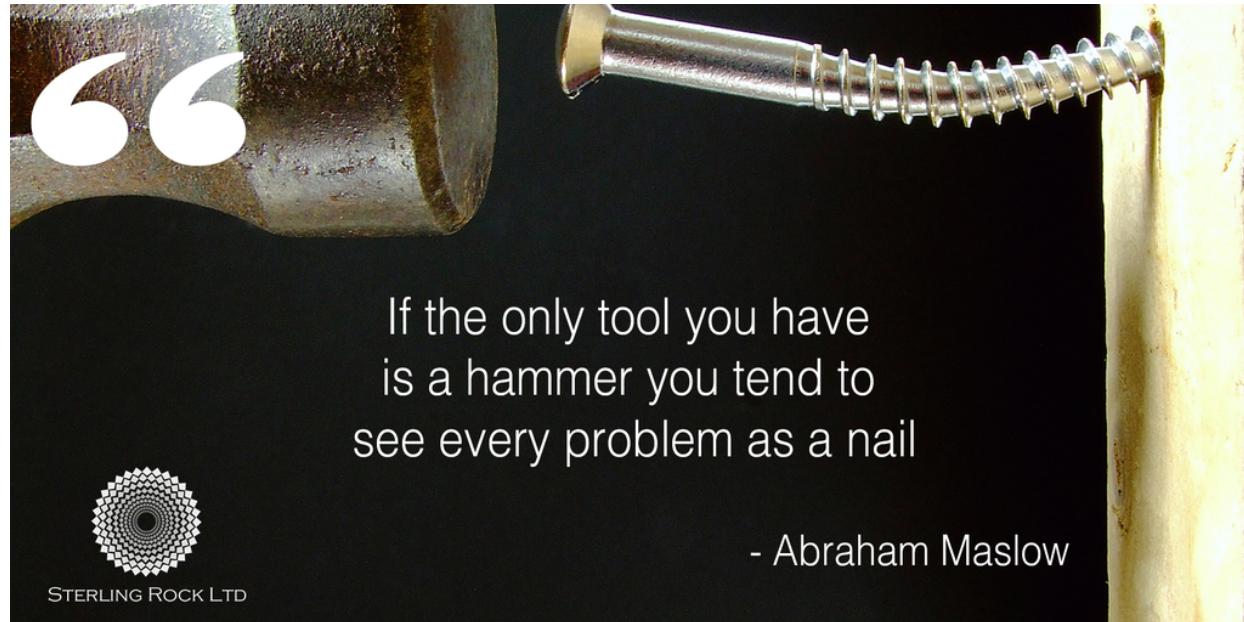
Ultra safe systems provoke accidents themselves by becoming too safe, too rigid, too proceduralised to respond to trouble

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



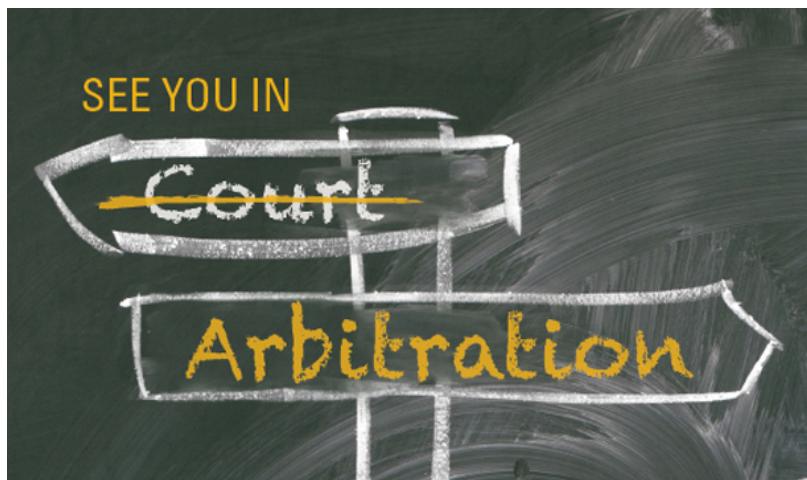
If the only tool you have  
is a hammer you tend to  
see every problem as a nail

- Abraham Maslow

The invention of Just Culture  
developed a focus on negligence

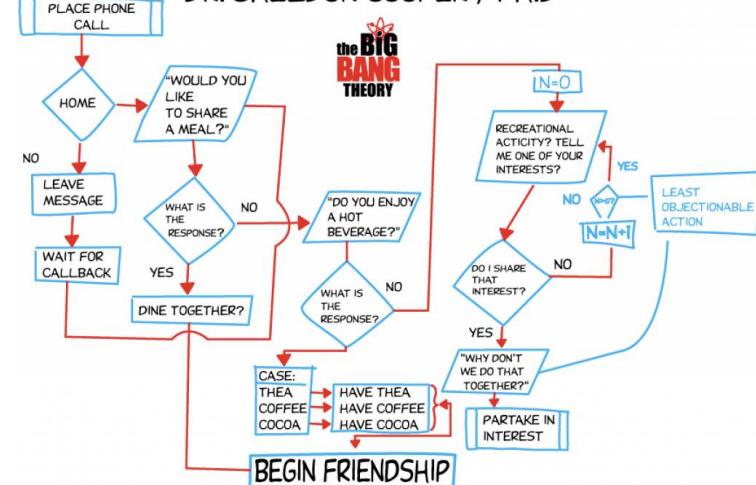
# What are we talking about?

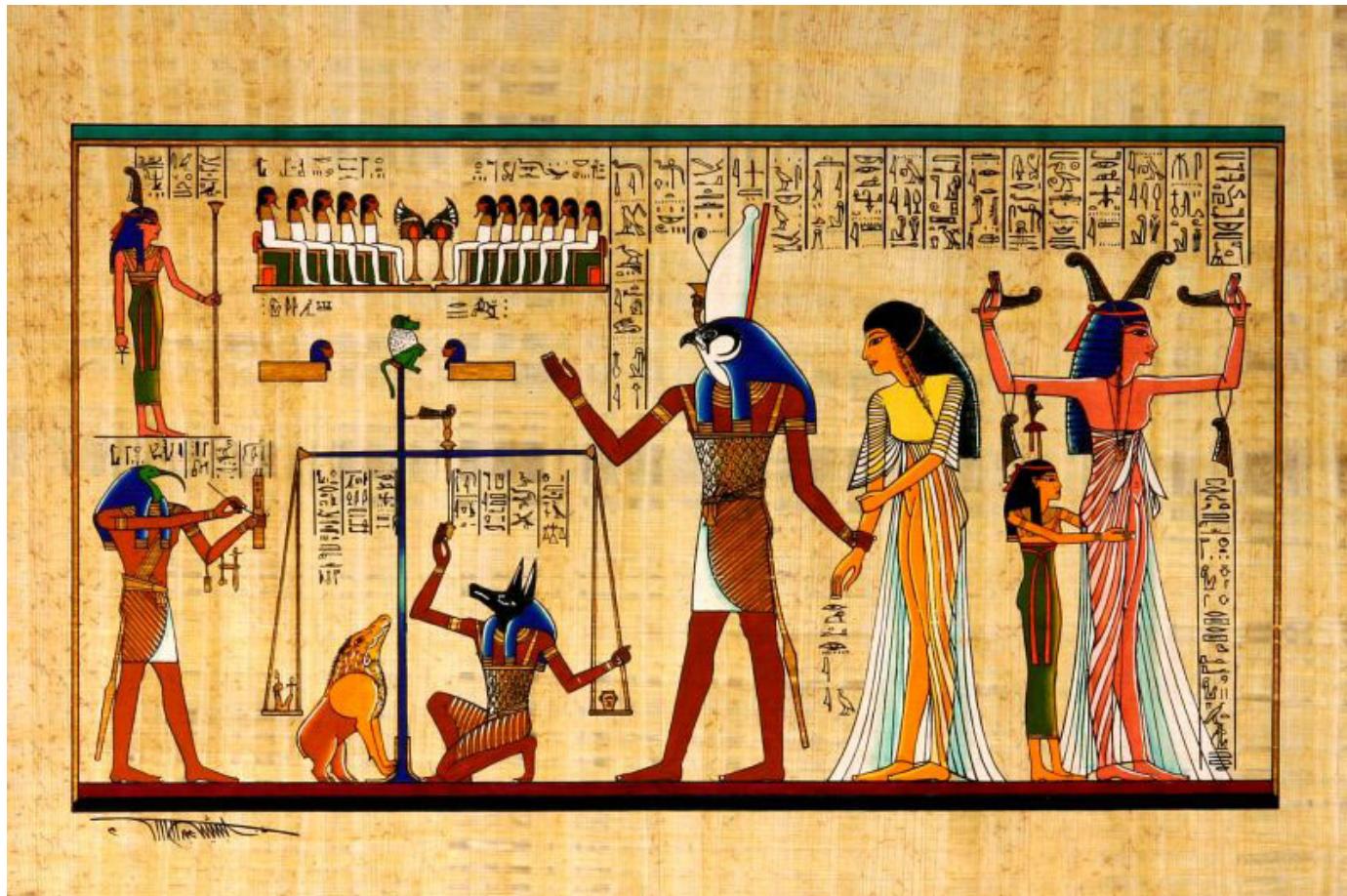




## THE FRIENDSHIP ALGORITHM

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 has been hurt?
Who did it?	What are their needs?
How bad is the infraction, and so what do they deserve?	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 and listens to</i>
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 and 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

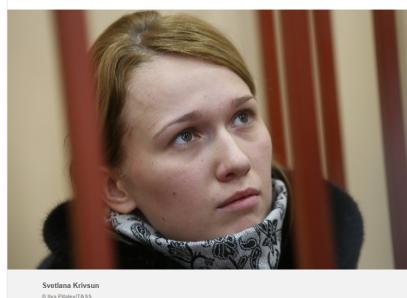
- Just culture is dual
- Just culture is a social construct
- Just culture is drawing the line
- Just culture is difficult



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

Russia October 24, 2014, 17:03 (UTC+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 Krivsun  
© Ria Novosti/TASS



www.alamy.com - FJM13X