

JUST CULTURE

ESSENTIALS DELIVERABLES GOALS

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A balance scale with two white spheres on a blue sky background. The scale is perfectly balanced, with the two spheres hanging at equal heights from a central pivot point. The background is a clear blue sky with some light, wispy clouds. The scale itself is a simple, elegant design with a white conical base and a thin, curved beam.

ESSENTIALS

A BALANCING ACT

A BRIDGE

A CATALYST

JUST CULTURE ESSENTIALS

EMPHASIS ON OCCURRENCE REPORTING

INCIDENTS

PROTECTING THE REPORTER



JUST CULTURE: FEARS & FOLLIES

Non-Punitive

Criminalization

Full Protection

No Blame Culture

Safety II

JC Algorithm

Real Culture



BALANCING

TWO EQUAL GOALS:

SAFETY AND THE RULE OF LAW

NO EXTREMES:

NO IMMUNITIES FROM PROSECUTION

NO MISUSE OF CORPORATE OR JUDICIARY POWERS

RESOLVE AT THE ROOTS:

PROTECT REPORTING PROCESS

ESTABLISH PROSECUTION AND CORPORATE POLICIES

SUPPORT JUDICIARY AND CORPORATE EDUCATION



Just Culture Concept (by any name)

DEFINITION

A Culture where 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.



TWO SEGMENTS OF JUST CULTURE

ORGANISATIONAL / CORPORATE LEVEL

INTERFACE WITH NATIONAL JUDICIARY





“Honest
Mistake”



“Unacceptable
Behaviour”

WHO MAKES THE CALL?

ONLY A NATIONAL PROSECUTOR CAN MAKE THAT CALL AND INVESTIGATE THE FACTS AND CIRCUMSTANCES IN ACCORDANCE WITH APPLICABLE CRIMINAL LAW.

“GROSS NEGLIGENCE” : SERIOUS DISREGARD TO AN OBVIOUS RISK AND PROFOUND FAILURE TO TAKE SUCH CARE THAT IS EVIDENTLY REQUIRED IN THE CIRCUMSTANCES. BROADLY RECOGNISED AS POTENTIAL CRIMINAL BEHAVIOUR. (CRIMINAL INTENT)



JC AND THE REST OF THE WORLD

ICAO

ANNEX 13 Accident/Incident Investigation

ANNEX 19 Safety Management Systems

EU/COMMISSION/EASA

Regulations 691/2010; 996/2010 and 376/2014

EASA Basic Regulation – Regulation (EU) 2018/1139



GLOBAL REALITY CHECK

Most States have established a priority for the Judiciary (Police and Prosecutorial Officials) in the investigation of accidents and incidents;

Many States have prevented use by their Judiciary of the evidence the investigator has collected and collated;

Almost all Safety Data Protection Rules make an exception for the Administration of Justice as a protected sovereign function

JUST CULTURE ESSENTIALS

The Just Culture definition is comprehensive and indivisible; it applies to all situations or domains.

Adopting JC as part of the ICAO/EU or National Legal Order cannot change its scope. Take it or leave it!

Any interference with the exclusive right of a national Prosecutor or Court to address criminally relevant behaviour would jeopardize Just Culture and the universal principle of the Rule of Law





JUST CULTURE DELIVERABLES

TRAINS & PLANES...



JUST CULTURE TASK FORCE DELIVERABLES

- GLOBAL JUST CULTURE CONFERENCES
- NATIONAL AVIATION PROSECUTION POLICIES
- PROSECUTOR EXPERTS COURSES
- JC REPOSITORY & KNOWLEDGE CENTER
 - EUROPEAN TRANSPORT:
 - AVIATION ✓
 - RAILWAYS ✓
 - MARITIME (✓)
 - HEALTHCARE: ?



MODEL TRANSPORT PROSECUTION POLICY

Coordination between safety investigators and judiciary authorities

Recognises the need to protect accidents and incidents findings; not to be used by a prosecutor as evidence

Criminal prosecution limited to cases of “gross negligence” and “wilful misconduct”

No prosecution for actions, omissions or decisions of a reasonable person, even in the case of an unpremeditated or inadvertent infringement of the law

Full recognition of the Independence of the National Prosecutor



PROSECUTOR EXPERT COURSE

EUROCONTROL/IFATCA initiative

Train & Educate Aviation/Railway Experts for Prosecutors;

Dedicated Experts - exclusively available on request;

A dialogue between Safety and National Judiciary;



PROSECUTOR SUPPORT

Full recognition role and function Prosecutor

“Kitchen Table” phase

FACTS:

- Their relevance for an occurrence or accident
- Helping a Prosecutor to decide to investigate or not
- Helping a Prosecutor when applying a Prosecution Policy



NUMBERS AND ACTIVITIES

JC AND MODEL PROSECUTION POLICIES

- › 20 STATES in Europe
- › 100 PROSECUTORS and JUDGES

PROSECUTOR EXPERT TRAINING

- › 10 Courses in EUROCONTROL (Luxembourg & HQ)
- › 60 ATCO's › 40 PILOTS › 60 PROSECUTORS (and some JUDGES)



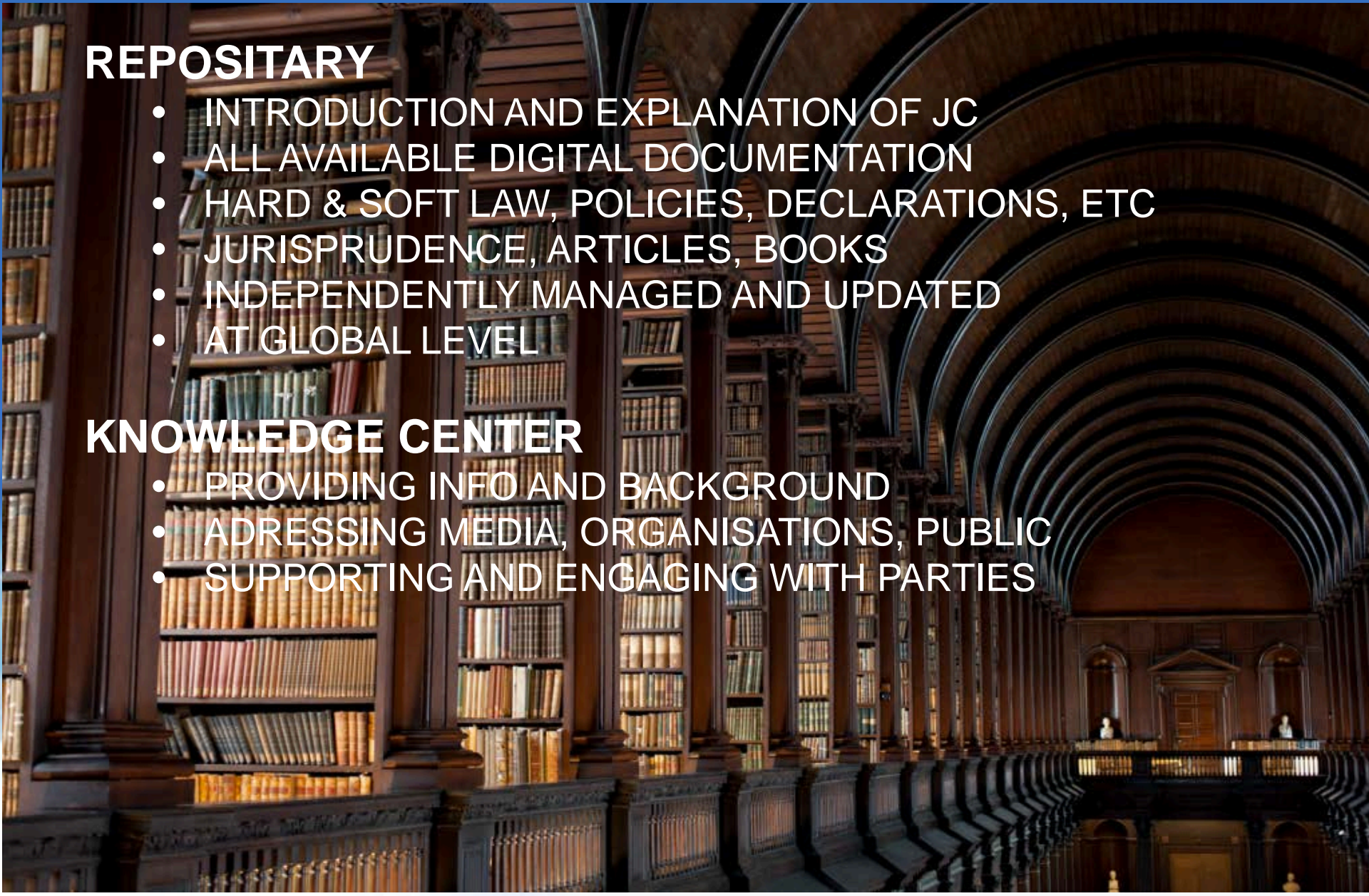
JC REPOSITORY AND KNOWLEDGE CENTER

REPOSITORY

- INTRODUCTION AND EXPLANATION OF JC
- ALL AVAILABLE DIGITAL DOCUMENTATION
- HARD & SOFT LAW, POLICIES, DECLARATIONS, ETC
- JURISPRUDENCE, ARTICLES, BOOKS
- INDEPENDENTLY MANAGED AND UPDATED
- AT GLOBAL LEVEL

KNOWLEDGE CENTER

- PROVIDING INFO AND BACKGROUND
- ADDRESSING MEDIA, ORGANISATIONS, PUBLIC
- SUPPORTING AND ENGAGING WITH PARTIES



JUST CULTURE AT CORPORATE LEVEL

EU REGULATION 376

EU DECLARATION OF NOVEMBER 2015

PROLIFERATION OF VARIOUS CORPORATE JC POLICIES

INSTITUTIONALISED INTERNAL JC CORPORATE
PROCESSES





JUST CULTURE GOALS

DELTA CASE

Incident at Schiphol

Runway incursion: An aircraft cleared for take-off and another towed aircraft crossing same runway – Incident was avoided thanks to pilot – No damages

Consequences

- Criminal proceedings against a trainee-controller, a supervisor and another employee of Dutch ATC
- On appeal, two defendants were found guilty as charged – no sentence imposed.



TURKISH AIRLINES CRASH SCHIPHOL



ISSUES

JUST CULTURE AS A UNIVERSAL REMEDY

DIFFERENT JUST CULTURE FOR DIFFERENT
SITUATIONS

JUST CULTURE AS A FORMAL LEGAL OBLIGATION

THE MYTH OF TOTAL PROTECTION





FUTURE OF JUST CULTURE



REALISTIC
CONCEPT

FULLY BALANCED

(EU) HARMONISED
CRIMINAL NORMS