



skyguide

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

Robin GURT

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28.10.2020 JC Webinar ECTL

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**

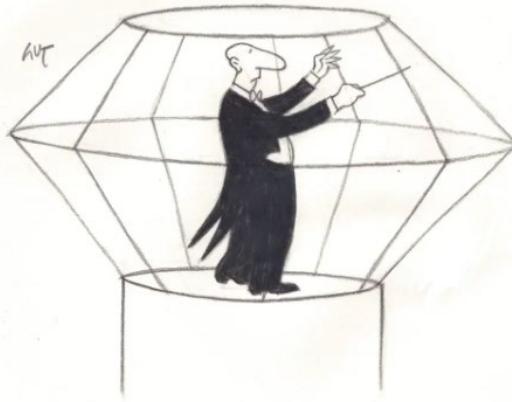
Setting the scene

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

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

SKYB

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

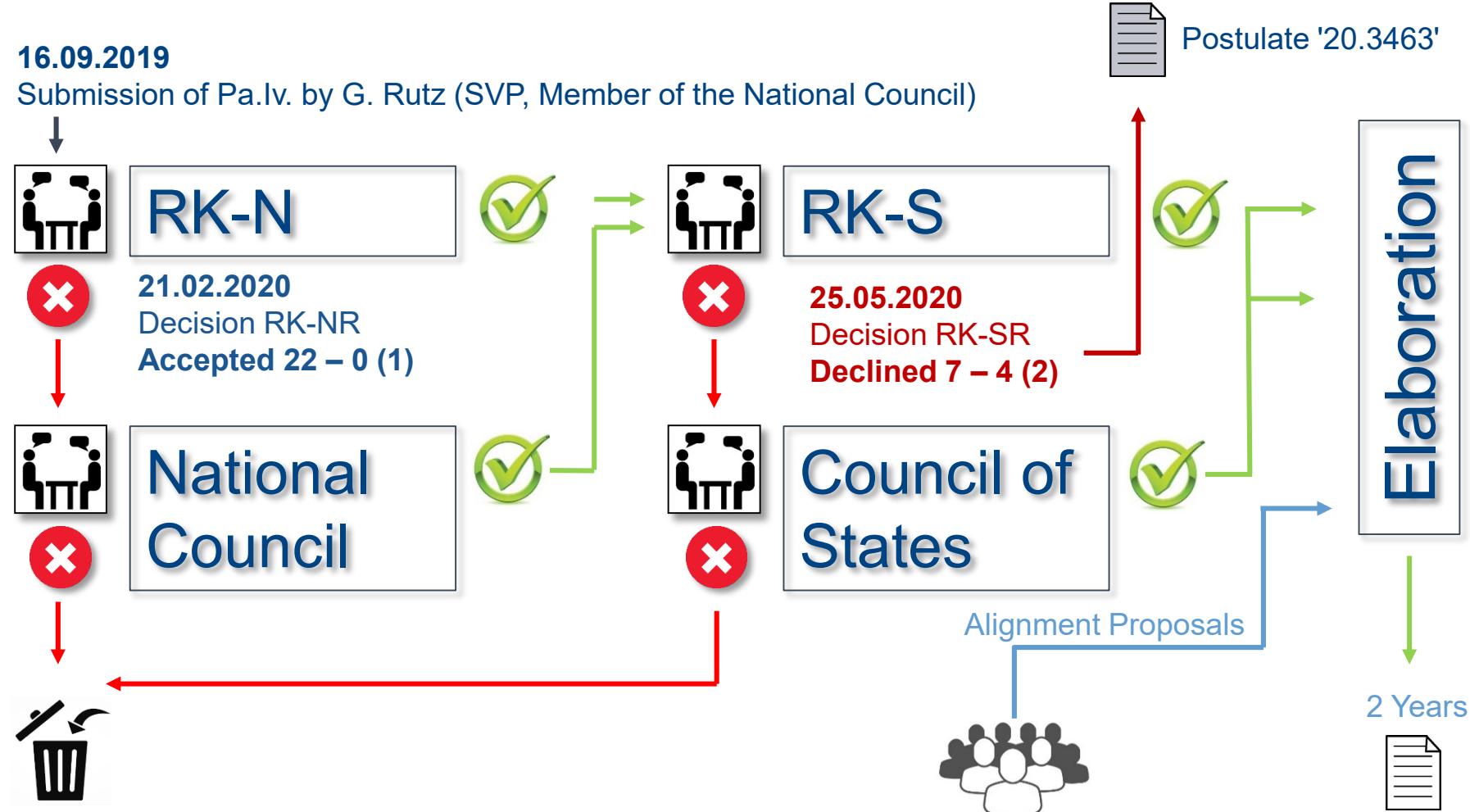
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Parliamentary Initiative '19.478'



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



LC-CoS



Federal
Council

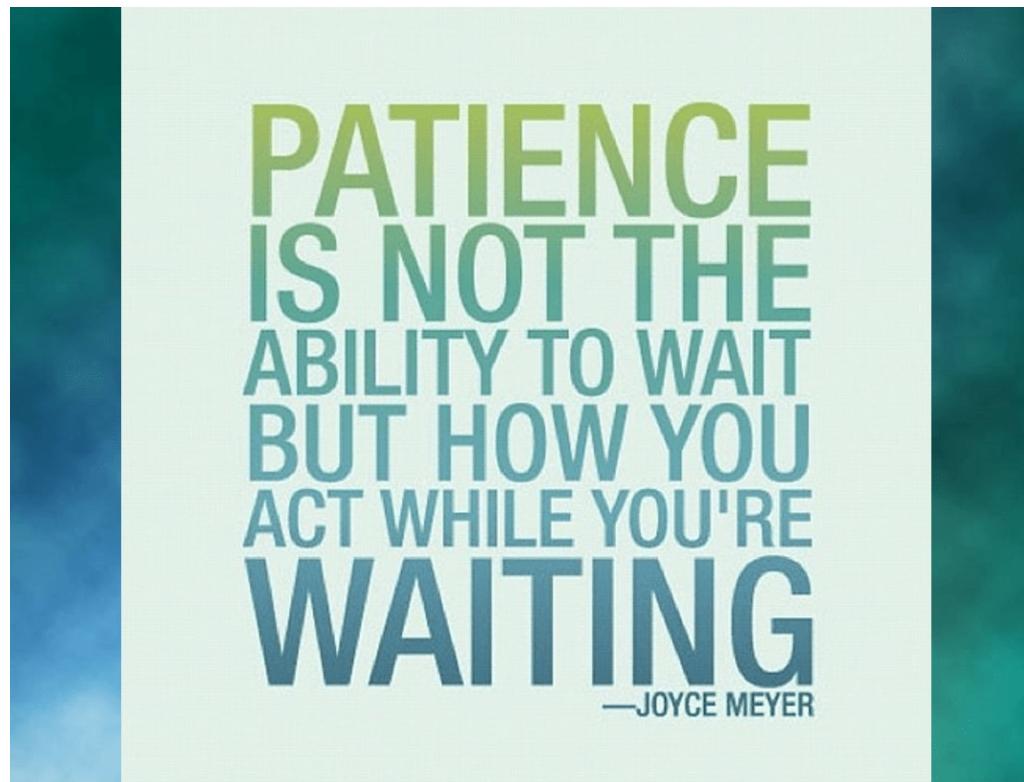
"[...] as it considers that the parliamentary initiative is not the right way forward. However, it has adopted a postulate (20.34.63) to instruct the Federal Council to examine the question of anchoring this principle in Swiss law."

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.

Outlook

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- › 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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