

# FABEC JUST CULTURE CONFERENCE 2018

## SYNOPSIS

### Background

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On Friday 7 December 2018 skeyes hosted the FABEC Just Culture Conference with the **focus on bridging the gap between aviation safety and the judicial systems** governing FABEC ANSPs from a Just Culture perspective.

Towards overcoming these differences, the Conference brought together stakeholders from the European Commission, EASA, FABEC ANSPs, IFATCA, Belgium NSA, judiciary and academia by stimulating a fruitful exchange of good practices.



This leaflet provides a summary of the Conference based on the discussions between the participants.

### Foreword

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“**Safety** is key to the day to day operations of all FABEC ANSPs, as it is our aim to provide our services in a manner that our partners and airspace users can **operate in a safe and sustainable environment**, our first and foremost objective. An enabler for navigation through the dense and complex airspace of FABEC is to meet high safety standards.

A Just Culture is a supporting element therein, providing a **trustworthy** environment in our organisations for our operational staff **to work in all honesty and openness**.

It has been recognised that while the principles of Just Culture are very well implemented within the aviation safety sector, they are not always necessarily shared within the judicial system. Consequently, the differences in opinion may lead to situations where ANSP staff working in the frontline of the ATM/ANS business are facing charges.”



**JOHAN DECUYPER**  
CEO skeyes, former chairman FABEC ASB ANSP Strategic Board

## The importance of Just Culture



“...for the system to work it is essential to analyse what happened, which is only possible in a Just Culture environment.”

**LUC TYTGAT**

Director of the Strategy and Safety Management Directorate of EASA

“... in the complex environment in which FABEC ANSPs operate while persistently managing trade-offs between safety, cost effectiveness, capacity, flight efficiency, environmental impact, etc. we need Just Culture to prepare ourselves for a safe future.”

**ALEX BRISTOL**

CEO skyguide, FABEC Champion Safety



## Things we are doing right



“Within the context of the Preferential Runway System lawsuits, skeyes offered a lawyer to its ATCOs and supervisors.”

**PEGGY DEVESTEL**

COO DG Operations and Systems, skeyes

“At the global level a Just Culture framework has been put in place. It is found in: ICAO Annex 13, ICAO Annex 19, ICAO SMM, Regulation (EU) No 996/2010, Regulation (EU) No 376/2014.”

**MARC BAUMGARTNER**

skyguide, IFATCA/SESAR/EASA Coordinator

“In the case of two incidents at skyguide, the company stood 100% behind the ATCOs and paid for the lawyers.”

**JOHANNES CONRAD**

ATCO, skyguide

“Report, report, report to contribute to safety investigation and do not let yourself get discouraged because there are some hiccups that are unpleasant. It would be naive to assume that we would implement Just Culture without any hiccups and we should not let these derail the efforts in the long-term journey.”

**FRANCIS SCHUBERT**

CCO skyguide



“We received in total 10,000 reports; 4,000 in ECCAIRS. We have observed that the reporting culture and quality is getting better.”

**GIOVANNI SCHMIT**

Directorate-General for Aviation (Belgium)

“We learned that the prosecutor is not an evil guy or girl, lurking around behind the bushes with a photo camera to trap us. And the prosecutor learned that we are not a bunch of criminals trying to transgress the law. We are procedure-loving guys and we follow them.”

**JOB BRÜGGEN**  
Safety Officer LVNL



## Judicial system vs. aviation safety



“Prosecutors have good intentions but are bound by criminal law. If you do something very stupid (gross negligence and willful misconduct) you should be punished.”

**RODERICK VAN DAM**  
Chairman EUROCONTROL Just Culture Task Force

“The use of the occurrence reports by the prosecutors is surprising.”

**ERIC DE CAUSEMACKER**  
ATCO, skeyes

“The consequences of prosecutions may impair the decision-making processes of ATCOs due to the fear of pressure from the outside world.”

**PEGGY DEVESTEL**  
COO DG Operations and Systems, skeyes

“Just Culture works only until a certain line (i.e. it applies only to reporting). Thus ATCOs are advised not to speak with AAIB without a lawyer.”

**JOHANNES CONRAD**  
ATCO, skyguide



“As part of public law, the objectives of criminal law are there to protect the society and to safeguard public order and safety. In my opinion the principles of Just Culture fit perfectly into these objectives because in aviation Just Culture contributes to improving safety and prevention of incidents.”

**YVES VAN DEN BERGE**  
Cabinet Ministry of Justice

“... there is a danger that **what you write in a report** does not reflect what you intended to say and that further interpretation of the text might be very different than your original intent.”

**LUC BLENDEMAN**  
Air Accident Investigation Unit (Belgium)



“There are **different readings** between the safety reading and the legal reading of the same scenario.”

**MARC BAUMGARTNER**  
skyguide, IFATCA/SESAR/EASA Coordinator

## Improving Just Culture: what we need to do

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“What matters is looking into the contributory factors. Are the systems in place adequate? Look at the context first and do not blame the one at the sharp end.”

**PEGGY DEVESTEL**

COO DG Operations and Systems, skeyes

“EASA is expecting to finalise planned standardisation inspections of the EU Member States. Regardless of the outcome, on behalf of the European Commission, a commitment to support the implementation of Just Culture was expressed.”

**JOACHIM LÜCKING**

Head of Unit in charge of Aviation Safety, DG MOVE, EC



“Prosecutors could use safety data to build their picture.”

**LUC TYTGAT**

Director of the Strategy and Safety Management Directorate of EASA

“We need to **break the wall** with the judicial system.”

**ERIC DE CAUSEMACKER**

ATCO, skeyes



“Just Culture is trust culture and that you can only have if you are meeting people. Building mutual respect, co-operation and trust between safety and judiciary is paramount. Good prosecutors can say “Help me, I don’t understand”. **That’s why the exchanges like this are so important.**”

**YVES VAN DEN BERGE**

Cabinet Ministry of Justice

“Prosecution policy should be reviewed.

It would be nice to adopt a European approach for prosecutors.”

**RODERICK VAN DAM**

Chairman EUROCONTROL Just Culture Task Force

“How do you draw a line in a grey zone? There should be a consensus to treat these matters. The consensus should be international to discriminate what should be treated through restorative law and what through criminal law. Therefore, **we have an opportunity to get inspired by the Restorative Justice in the management of Just Culture.**”

**YVES VAN DEN BERGE**

Cabinet Ministry of Justice

“Next year we will do a study on the use of accident investigation reports in legal processes to see how these reports and the principles of Just Culture are being used.”

**JOACHIM LÜCKING**

Head of Unit in charge of Aviation Safety, DG MOVE, EC

## Closing note as quoted by Alex Bristol

“If we do not have a good Just Culture - ‘I don’t know what I don’t know’. And I will not find out what I don’t know if people don’t report and don’t feel free to report anything they want to. This concerns me most about the situation we find ourselves in, thus hindering the ability of our systems to learn and improve. Therefore we have to **find a way**, in unthreatening fashion, **to get across to our partners in the judiciary**. And I think if we **start seeing them as partners and not as adversaries** we stand a better chance.

One of the key conversations for me is the following. Here is the continuum of all things that can occur. You can have good input and still have good output. You can have good input, with the best of intentions, but still have bad output. On this continuum from gross negligence through the standard, all the way to the deliberate criminal act, we are having (or should be having) the discussion with the judiciary. **The question is not about whether this is right or wrong**. They are both wrong and should be punished appropriately. **But how far in do you come from those edges before you enter the area of this is normal operations? How big is that bandwidth?**

And then we come back to the big question where we should draw the line. There are certain elements where I think we are relatively comfortable inside of the company we are at. But the moment we get to those edges, it can only be the judicial system that makes the decision. It’s not and it should not be up to us to make those decisions. So that points towards the need for more and more discussion, more and more conversation with the judiciary and not because they are the problem. It’s because they exist and operate within the system within which we also operate and which we want to improve. And with that **spirit of continuous improvement into our future** it leads



us to **the need to seek further conversations in a partnership and forward-orientated way** (and not in the way that says everybody is wrong because they see it differently to us). I think **this points the way to a successful future** for us. And that’s certainly what we will be pushing for FABEC as well.

And the good news is that as the CEO, as an ex ATCO, and as a passenger I sleep well and I fly well!”