

Appendix 1 to GM 12 SKPI Just Culture – State level - possible justifications

ID	Area	Question	Possible justifications
Policy and its implementation			
ST.P.1	Policy elements related questions	Is there an explicit Just Culture policy, which is endorsed at appropriate State level and made public?	A law which regulates the treatment of aviation safety related incidents as well as related regulations. Written statement in policy at State level.
ST.P.2	Policy elements related questions	Does it contain a description of what is considered to be unacceptable behaviour?	In accordance with the definition in Article 2, (k) of Commission Regulation (EU) No 691/2010 “unacceptable behaviour” should be considered as gross negligence, wilful violations and destructive acts. Besides this definition, it is realised that it is difficult to implement a hard line between acceptable and unacceptable behaviour. Therefore, there is a link between this question and question ST.L.4.
ST.P.3	Policy elements related questions	Does it refer to legal provisions which guarantee no punishment for self-reported occurrences (except for the cases defined above in question ST.P.2)?	Legal provisions.
ST.P.4	Policy elements related questions	Does it provide for legal support (e.g. counselling, court expertise etc.) for its own staff in case of prosecution / legal action related to a reported safety event?	Communications to staff advising that legal support is available and indicating the procedure how to access such support.
ST.P.5	Policy elements related questions	Does the State require a Just Culture policy in Air Navigation Service Providers?	Legal provisions.
ST.P.6	Roles and Responsibilities clearly defined and implemented	Is the role of different State authorities and Air Navigation Service Providers in handling safety reports and the flow of information clearly defined in the State?	Description of a reporting system which would include the rights of access / limitation of the rights of access by the stakeholders as well as obligations to safeguard the information.

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ST.P.7	Roles and Responsibilities clearly defined and implemented	Is the safety investigation and/or analysis process within the State entirely independent from any judicial authority?	The safety investigation referred to is the one mandated in Regulation (EU) No 996/2010 on the investigation and prevention of accidents and incidents in civil aviation. Possible evidences: documentary proof (eg. organisation chart) for existence of investigation authorities/entity, which does not have a link or dependences with any judicial authorities.
ST.P.8	Roles and Responsibilities clearly defined and implemented	Does the State actively strive to implement Just Culture provisions in its legislative framework?	Text of legal initiatives taken and material evidencing that the State is actively working on such implementation, e.g. through workshops, seminars and other awareness building measures.
ST.P.9	Training	Is there a regulatory requirement to include elements and/or courses on Just Culture in the training programmes for staff working in the competent authority and service providers (ab initio and recurrent training)?	Legal provisions.
ST.P.10	Training	Are qualifications and training requirements as regards Just Culture for State safety investigators clearly defined?	Safety investigators as per Regulation (EU) No 996/2010 on the investigation and prevention of accidents and incidents in civil aviation. Possible evidences: qualification and training requirements for safety investigators indicating elements and/or courses on Just Culture.
Legal/Judiciary			

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ST.L.1	Primary legislation	In case there is a Freedom of Information legislation, does it provide for exemptions applicable to safety information?	<p>The exemptions mentioned are intended to provide protection to the safety data and information in order to ensure its continuing availability for safety related work.</p> <p>The sensitive nature of safety information is such that the way to ensure its collection is by guaranteeing its confidentiality, the protection of its source and the confidence of the personnel working in civil aviation (Preamble of Directive 2003/42/EC).</p> <p>Examples of safety-sensitive information are medical records, name of the reporter, parties to the reported incident etc.</p> <p>Possible evidences: legal provisions.</p>
ST.L.2	Primary legislation	If an incident falls under Just Culture policy, are general provisions referring to potential threatening the safety of the public applicable by judicial authorities under penal law?	Legal provisions.
ST.L.3	Primary legislation	Are there provisions in the law affording protection from prosecution to individuals involved in safety events, under the principles of Just Culture?	Legal provisions.
ST.L.4	Judicial procedures and specific aviation legislation	Is there an entity within the State, supported by Subject Matter Experts, with clearly defined rules, which decides whether relevant safety events are a matter for prosecution?	<p>How this “entity” will be organised, structured and functioning depends on the national situation. Important to note is that the more a State has made clear, agreed arrangements about who gets to draw the line between acceptable and unacceptable behaviour, the more predictable the judicial consequences of an occurrence are likely to be.</p> <p>Possible evidences: Terms of references, working arrangements etc.</p>

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ST.L.5	Judicial procedures and specific aviation legislation	Is there a judicial procedure to ensure that in the case of prosecution linked to an aviation accident/incident Subject Matter Experts will be involved?	Judicial procedures showing the involvement of Subject Matter Experts.
ST.L.6	Judicial procedures and specific aviation legislation	Are the provisions of Directive 2003/42/EC on occurrence reporting in civil aviation and in particular the provisions contained in its Article 8 (Protection of information) fully and effectively implemented in the national legislation?	Legal provisions.
ST.L.7	Formal agreement	Is there an advance agreement to guarantee appropriate use of safety information?	Agreement, working arrangements, procedures related to the use of safety information.
ST.L.8	Formal agreement	Is there an agreed process to deal with aviation incident matters between the aviation and judicial/police authorities?	Article 12.3 of EU Regulation 996/2010 provides for the establishment of advance arrangements between safety investigation authorities and other authorities likely to be involved in the activities related to the safety investigation such as the judicial authorities. Other advance arrangements addressing Just Culture principles could also be established between aviation entities and judicial authorities. Possible evidences: advance arrangements, working arrangements, procedures.
Occurrence reporting and investigation			
ST.O.1	Occurrence reporting and investigation	Does the State provide regular statistical feedback to the public based on safety reports received (e.g. annual reports)?	Reports already made available to the public, containing statistical safety data.
ST.O.2	Occurrence reporting and investigation	Are Subject Matter Experts involved in making the decision in cases where personnel licences/ratings could be affected?	Legal provisions or list of the members of a panel/board, which have already proposed/made a decision relevant to personnel licences/ratings.