

Appendix 1 to GM 42 13 SKPI — Just Culture — State level — possible justification evidence

ID	Area	Question	Possible evidence
Policy and its implementation			
ST.P.1	Policy elements related questions	Is there a an explicit clearly identified Just Culture policy, which is endorsed by the relevant Ministry or aviation authority at appropriate State level and made public?	<p>A law or written instrument which regulates the treatment of aviation safety-related incidents as well as related regulations, such as a written policy statement in policy endorsed at State level.</p> <p>It should be noted that the policy may be a separate stand-alone document, but it may also be defined in different legislative instruments.</p> <p>A 'Yes' answer is understood as a positive response to all three elements of the question, namely:</p> <ul style="list-style-type: none"> - There is a written policy, - which is endorsed at State level, and - is made available to the general public.
ST.P.2	Policy elements related questions	Does it the Just Culture Policy contain a description of what is considered to be unacceptable behaviour?	<p>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.</p> <p>Besides this definition, it is recognised that it is may be difficult to implement a hard line articulate a clear distinction between acceptable and unacceptable behaviour. Therefore, there is a link between this question and question ST.L.3.</p>
ST.P.3	Policy elements related questions	Does it the Just Culture Policy refer to legal provisions which guarantee no punishment for self-reported occurrences (except for the cases defined above in question ST.P.2)?	Policy/legal reference(s).

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 4	Policy elements related questions	Does the State require a Just Culture policy in Air Navigation Service Providers?	Policy/legal reference(s).
ST.P.6 5	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.
ST.P.7 6	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 evidence: documentary proof (e.g. organisation chart) for existence of investigation authorities/entity, which does not have a link or dependences with any judicial authorities.
ST.P.8 7	Roles and Responsibilities clearly defined and implemented	Does the State actively strive take initiatives to promote Just Culture provisions in its legislative framework-judicial system?	Text of legal initiatives taken and material evidencing that the State is actively working on such promotion implementation, e.g. through workshops, seminars and other awareness building measures, aiming at Just Culture improvements in the judicial system.
ST.P.9 8	Training	Is there a regulatory requirement Does the State ensure that to include elements and/or courses on Just Culture are included in the training programmes for relevant staff working in the competent authority and service providers e.g. (ab-initio initial and recurrent continuation training)?	Legal provisions or other evidence that Just Culture is included in the training programmes for relevant staff of the competent authority.

ST.P.10 9	Training	Are qualifications and training requirements as regards Just Culture for State safety investigators clearly defined?	<p>‘Safety investigators’ as per Regulation (EU) No 996/2010 on the investigation and prevention of accidents and incidents in civil aviation.</p> <p>Possible evidence: qualification and training requirements for safety investigators indicating elements and/or courses on Just Culture.</p> <p>It is assumed that for answering this question, appropriate coordination with the relevant investigation authority should be ensured, as needed.</p>
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Legal/Judiciary

ST.L.1	Primary legislation	In case there is a Where Freedom of Information legislation is promulgated, 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. 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). Examples of safety-sensitive information are include medical records, name of the reporter, parties to the reported incident, etc.</p> <p>Possible evidence: legal provisions.</p>
ST.L.2	Primary legislation	If an incident falls under Just Culture policy, are general provisions referring to potential threatening the public safety of the public which can be applicable invoked by judicial authorities under penal law?	<p>Legal provisions</p>
ST.L.3 2	Primary legislation	Are there provisions in the law affording protection from prosecution to individuals involved in safety events, under the principles of Just Culture?	<p>Legal provisions.</p>

ST.L.4 3	Judicial procedures and specific aviation legislation	Is there an entity within the State, supported by Subject Matter Experts, with clearly defined rules principles, against which the Subject Matter Experts which decide 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>The intent of the question is to identify if there is a process in place leading to a decision of which safety event should be brought to prosecution.</p> <p>Possible evidence: Terms of references, working arrangements etc.</p>
ST.L.5 4	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?	<p>Judicial procedures showing the involvement of Subject Matter Experts.</p> <p>The intent of the question is to make a link to question ST.L.3 with regard to experts involved in the process.</p>
ST.L.6 5	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?	<p>The spirit of Directive 2003/42/EC on occurrence reporting in civil aviation can be found in its Article 1:</p> <p><i>'The objective of this Directive is to contribute to the improvement of air safety by ensuring that relevant information on safety is reported, collected, stored, protected and disseminated. The sole objective of occurrence reporting is the prevention of accidents and incidents and not to attribute blame or liability.'</i></p> <p>Article 8 of the same Directive contains several aspects:</p> <ul style="list-style-type: none"> • proceedings should not be instituted because the Organisation (in case of the Directive, the State) only becomes aware of an occurrence through reporting; • the procedures should ensure that employees who report are not subject to any prejudice by their employer.

			Possible evidence: internal rules and procedures.
ST.L.7 6	Formal agreement	Is there an advance agreement established process on exchange of information to guarantee appropriate use of safety information by police/judicial authorities?	<p>The aim of the question is to establish the conditions under which the exchange of sensitive information is ensured between the holder of the information/data (ANSP) and the requester of that information/data (police/judicial authority). The term ‘process’ should be read as encompassing different types of arrangement or process that may be in place at the national level.</p> <p>Possible evidence: agreement, working arrangements, procedures related to the use of safety information.</p>
ST.L.8 7	Formal agreement	Is there an agreed process to deal with interactions on aviation incident matters between the aviation authorities and judicial/police authorities?	<p>Article 12.3 of Regulation (EU) No 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 (could be other than investigation authorities) and judicial authorities.</p> <p>Possible evidence: advance arrangements, working arrangements, procedures.</p>

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.
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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?	Proposed/existing legal provisions or list of the members of a panel/board, which have already made a decision relevant to personnel licences/ratings. This question is linked to the ST.L.3 and ST.L.4.
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