



*"[air navigation control, [...] is a task involving the exercise of public authority and is not of an economic nature, since that activity constitutes a service in the public interest which is intended to protect both the users of air transport and the populations affected by aircraft flying over them". (Extract of decision C.364/92 of the European Court of Justice).*

Mr Jean-Claude Juncker  
Prime Minister  
Minister of State  
4, rue de la congrégation  
L-1352 Luxembourg

Aix-en-Provence, 24th of March 2010

Dear Prime Minister Juncker,

ATCEUC represents the Luxembourgish air traffic controllers and their organisation "Luxembourg Guild of Air Traffic Controllers (GLCCA) Asbl". We need to refer to an incident which happened at Luxembourg airport early this year.

A "Cargolux" Boeing 747 on landing touched a van on the runway on the 21.01.2010. Investigation started and a preliminary report was issued by Mr. Claude Waltzing, Director of the Luxembourg Civil Aviation Directorate on 05.02.2010.

There are several points of severe concern and criticism with respect to the handling of this incident.

1. The preliminary report is written in an arbitrary way and filled with untrue statements. It lacks neutral consideration and contains erratic interpretations of Rules and Regulations which are taken out of their original context.
2. This occurrence on 21.01.2010 was considered an accident by the Department of Transport instead of an incident, contradicting acknowledged definitions by the International Civil Aviation Authority (ICAO), thus contradictory to international law.
3. Mr. Waltzing contradicts the Manual of Air Traffic Services (MATS), the main document for Luxembourg Air Traffic Control, certified by himself through the Air Navigation Service Provider Certificate, issued 07.12.2009 to the Air Navigation Administration ANA-Administration de la Navigation Aérienne, and valid until 07.12.2011. Please find a copy of the certification attached.
4. Neither Safety Manager nor Incident Investigator have been involved in the incident analysis in an appropriate manner.
5. Despite being deficient, arbitrary, and - most of all - not finalised, the preliminary report was published already.
6. Although the report is not finalised yet, Minister Claude Wiseler transferred the matter to the disciplinary council already, based on the report.

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SPKTA (Albania) - SSKL (Slovenia) - TUEM (Eurocontrol) - USCA (Spain) - ZZKRL (Poland)**

7. Notwithstanding any results of a profound analysis of this incident, the air traffic controllers involved have already been condemned and have been subjected to disciplinary measures. The Unit Competency Scheme, forming an integral part of the MATS, clearly states that after reassessment of the competencies of the air traffic controllers concerned they would be able to carry out their duty again. However, both air traffic controllers are carrying out office tasks and are facing the loss of their qualification by April 15<sup>th</sup>.

There is evidence of the incorrectness of Mr. Waltzing's interpretations! Our member organisation, the GLCCA Asbl, is able to provide it any time.

Note: In addition to all this, in this preliminary report the Director of the Civil Aviation Directorate also accuses two other air traffic controllers of being responsible for a near-collision between a Boeing 747 and a Lear Jet on the ground at Luxembourg Airport, dated 30.01.2010. It needs to be stressed that this accusation is merely based on an arbitrary report by the pilot-in-command of the Boeing 747. Neither an investigation nor a transcription of the situation was carried out before. The Tower controllers were not even informed about this filed report until the publication of the preliminary report.

Through the transposition into national legislation of the European Directive 2003/42/CE of the European Parliament and the Council, dated 13.06.2003, regarding the notification of occurrences in Civil Aviation, the Luxembourg Government has the constraint to provide for the application of the "Règlement grand-ducal du 8 mai 2007 relatif aux comptes rendus d'évènements dans l'aviation civile".

As the Luxembourg Air Navigation Service Provider, Luxembourg Air Navigation Administration (ANA) is a member of the Civil Air Navigation Services Organisation (CANSO), it also has to abide by the principles of the CANSO's working paper on "Just Culture". This CANSO paper was presented in response to a paper by France on behalf of the European Community and its Member States, by other ECAC Member States and by Eurocontrol, which proposed a "Just Culture" definition and actions to support its implementation.

ATCEUC has observed the development of the situation in Luxemburg closely. We urge you intervene personally

- to revoke the disciplinary measures imposed on the air traffic controllers without proven guilt...
- to ensure the application of "Just Culture" principles without delay...
- to ensure an approach in line with international legal standards and published procedures...
- to properly involve all necessary parties, e.g. Safety manager and Incident Investigator...
- to enable a fair, thorough, transparent and independent investigation...


...in order to remedy this situation in a fair and constructive way.

We would like to point out that our member association GLCCA is more than willing to cooperate in order to establish the "Just Culture" process. It is willing to assist in order to optimise safety in aviation, as it has been its aim through its objectives since its foundation in 1959.

Yours sincerely,



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Attachment:

Air Navigation Service Provider Certificate

Copies:

Mr José Manuel Barroso  
The President of the European Commission

Mr Claude Wiseler  
Minister for Sustainable Development and Infrastructure

Mr Claude Waltzing  
Director of Civil Aviation Directorate

Mr Ender Ülcün  
Director of the Air Navigation Administration