

Legal Aspects and Blame-Free Culture

rapporteur :

Charleen Ratcliff

Facilitators : Dominique Van Damme and Oliver Straeter

Legal Aspects and Blame-Free Culture

♦ Working group profile :

– Background:

- Controllers
- HF specialists
- CISM experts
- Military ATS

– Member States:

- Excellent representation with wide range of experience

Legal Aspects and Blame-Free Culture

♦ Working group objectives :

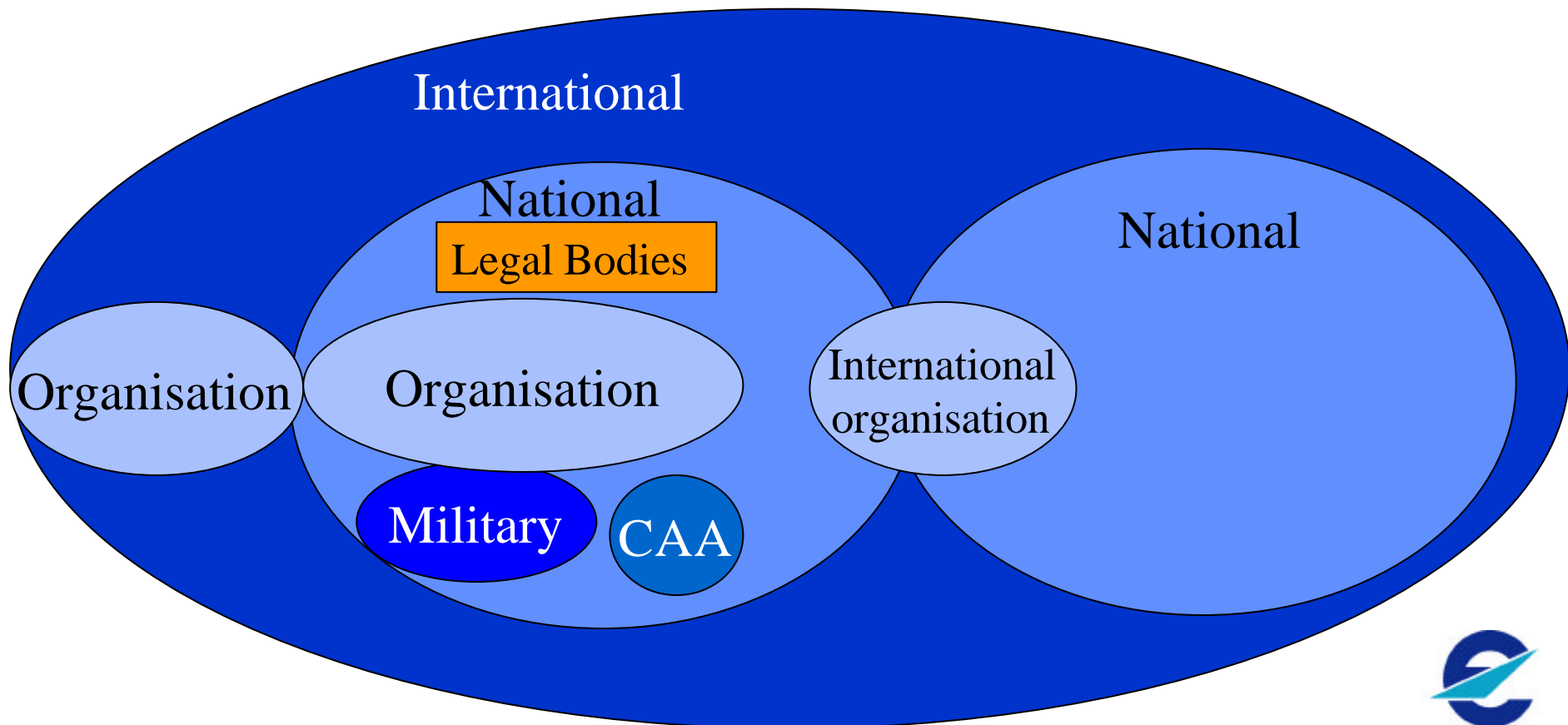
1. To identify possible conflicts between Blame-Free Culture and Legal Aspects in CISM
2. To explore ways to share information and exchange experiences
3. To share concerns of CISM Implementation for ATCOs, Management, and International & Military environments

Legal Aspects and Blame-Free Culture

- ◆ Question for the brainstorming :
 - What are the legal aspects of CISM?
 - How to achieve a 'Blame-Free' Culture?

Legal Aspects and Blame-Free Culture

◆ LEGAL ASPECTS - The Framework



Legal Aspects and Blame-Free Culture

- ◆ **Main Idea Clusters: LEGAL ASPECTS**
 - 1.Organisational Policies
 - 2.External Legal Bodies / Impacts
 - 3.Confidentiality of the CISM Process
 - 4.CISM Implementation

Legal Aspects and Blame-Free Culture

- ◆ **LEGAL ASPECTS- Cluster 1 : Organisational Policies**
 - 1. Accountability: organisational & individual
 - 2. Company regulations on this matter=confidentiality guaranteed
 - 3. HR Department Involvement
 - 4. Health & Safety
 - 5. Cracks in the “closed” system of ATC: Necessity of protection - A firm statement by management
 - 6. Duty of Care
 - 7. Blame free but with responsibilities
 - 8. Legal support of the organisation
 - 9. Statement of company support by incident investigation

Legal Aspects and Blame-Free Culture

- ♦ **LEGAL ASPECTS - Cluster 2 : External Legal Bodies & Impacts**
 - 1. In a Civil/Military ATC- might be different rules/legislation for civil - military controllers: How to handle it from CISM perspective?
 - 2. Fundamental - discussion with the Dept Of Justice about responsibilities
 - 3. Role of CAA
 - 4. CISM from cross border / intercultural perspective (civil - military): delegation of ATS - handling of incidents
 - 5. National regulations & Level of involvement
 - 6. International organisation - which legal system?

Legal Aspects and Blame-Free Culture

- ◆ **LEGAL ASPECTS - Cluster 3 : Confidentiality of the Process**
 - 1.Document debriefing incidents?
 - 2.Keep it confidential
 - 3.Confidentiality vs. Obligation / responsibility to speak
 - 4.Guarantee confidentiality - national
 - 5.Record keeping vs. anonymity / confidentiality
 - 6.Professional confidentiality
 - 7. Protection of information
 - 8.Recording of CISM interventions?

Legal Aspects and Blame-Free Culture

- ◆ **LEGAL ASPECTS -Cluster 4 : CISM Implementation**
 - 1. Separate CISM from Investigation (organisational & legal policy statement)
 - 2. CISM does NOT equal investigation
 - 3. Admittance to negligence - question: to be reported by debriefer
 - 4. Protect CISM team roles and work (special status)
 - 5. CISM NOT under legal umbrella?
 - 6. Debriefing Peers as witnesses
 - 7. Loss of licence: case for CISM?
 - 8. Court cases (RARE) - not an excuse not to implement

Legal Aspects and Blame-Free Culture

- ◆ **Main Idea Clusters: BLAME-FREE CULTURE**
 - 1.How to promote Blame-Free Culture
 - 2.Role of Management
 - 3.Theoretical / Concept Issues
 - 4.Peer Selection

Legal Aspects and Blame-Free Culture

- ◆ **Blame-Free Culture - Cluster 1: How to promote Blame-Free Culture**
 - 1. Learn to criticise in a constructive way - communication training
 - 2. Voluntary reporting system & bulletin
 - 3. Incident investigation - “Learning” not cause
 - 4. Blame Free refresher courses - explain “Reason Model” and act so
 - 5. Safety bulletin
 - 6. Examples of blame free policies
 - 7. Information to others - no secrets
 - 8. Intercultural training precedes implementation of CISM
 - 9. TRM

Legal Aspects and Blame-Free Culture

- ◆ **Blame-Free Culture - Cluster 2: Role of Management**
 - 1. Commitment by management to Blame Free Policy
 - 2. Clear guidelines for incident investigations (consequences, etc)
 - 3. Strong influence at management level: train and inform them
 - 4. Keep giving company & personal support even if “outside” world comes “inside”
 - 5. Media - organisation to stand up against media
 - 6. No blame culture is a grey area from legal point of view

Legal Aspects and Blame-Free Culture

- ◆ **Blame-Free Culture - Cluster 3: Theoretical / Concept Issues**
 - 1. Define culture
 - 2. How to assess & determine culture
 - 3. Watchdog - Who? How?
 - 4. Reality - does “blame free” really exist?
 - 5. Definition of “Blame-Free”
 - 6. Blamed by who? Co-workers / management

Legal Aspects and Blame-Free Culture

- ◆ **Blame-Free Culture - Cluster 4: Peer Selection**
 - 1. Choosing reliable/respected people as CISM team
 - 2. Keep separate CISM people from management

Legal Aspects and Blame-Free Culture

◆ Top 5 Priorities

- 1.Keep CISM and Incident Investigation separated
- 2.Legal aspects not an excuse to not implement CISM
- 3.CISM Teams: special status from legal point of view (confidentiality)
- 4.Important to share information
- 5.Protection of debriefer and individual

Legal Aspects and Blame-Free Culture

♦ Parking lot

- 1. Fear for blame
- 2. Leave me alone
- 3. Demobilisation does not equal punishment
- 4. First contact after incident: Who? When?
- 5. Follow up of CISM after outcome of investigation

Legal Aspects and Blame-Free Culture

◆ Conclusions

- Establishment of blame free culture and confidentiality is necessary for success for ATCO to accept CISM
- Complexity of issues generated questions which could serve as a checklist to use for CISM implementation