



INTERNATIONAL FEDERATION OF AIR TRAFFIC CONTROLLERS' ASSOCIATIONS

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To Whom It May Concern:

IFATCA, the International Federation of Air Traffic Controllers' Associations, is extremely shocked to learn of the final verdict passed by the Russian court where three Air Traffic Controllers were sentenced to 5, 5 ½ and 6 years imprisonment (penal colony). These prosecution and sentencing do nothing to improve aviation safety, well to the contrary, and the consequences of such brutal and unjust treatment cannot yet be assessed.

Aviation is the safest mode of transport, and accidents are extremely rare. This is thanks to the continuous effort to learn from incidents and accidents where the stringent aviation standards may not have been met.

Russia remains amongst a few States that have chosen to deviate from international standards and recommendations – including those specified in Annexes 13 (Aircraft Accident and Incident Investigations) and 19 (Safety Management Systems) to the Convention on International Civil Aviation – when it comes to using safety reports to trigger court cases. To safeguard the whole aviation system in Russia, the judiciary needs an urgent adjustment in line with Resolutions 38-3 and 38-4 of the General Assembly of the International Civil Aviation Organisation, the aviation specialised body of the United Nations. (see Annex 2 for details)

The Russian judicial system judged and sentenced the three Air Traffic Controllers not for causing an accident and the death of people, but for failing to prevent an accident with tools that were not properly set up for the airport. There were no clear rules for operating the system. The Surface Movement Radar was left on its factory settings and there was no training provided on the use and operations of the system. (see Annex 1 for details)

It has been reported that during the trial, there was no intention from the judge to listen to the defence side but only to the prosecution's side. What makes it worse is that the prosecution's opinion, as accepted by the Russian court, was that the Air Traffic Controllers and not management should have made sure that all the air traffic control equipment was installed correctly and working according to the requirements.

The official accident report that led to the conviction of the three Air Traffic Controllers mentions the fact that controllers did not use the voluntary reporting system to identify the shortcomings that led to the accident. Yet there is a mention that Vnukovo airport had 34 runway incursion reports in the 4 years preceding the accident (2010-2014). Contrary, in the same period, only one incursion occurred in Sheremetyevo airport and three in Domodedovo. Both have considerably more traffic than Vnukovo.

Aviation, and in particular Air Traffic Control, is a highly complex industry where the front-end operator is working as an integral part of the system, interacting with other people, systems and procedures. Such complex systems are extremely resilient and do not fail only because of one element of the system: it is the system that fails, not the individual.

Lengthy and costly court cases do not improve aviation safety, nor do they contribute to the robustness of complex systems. They create a climate of fear amongst aviation professionals

- More than 50 Years of Professional Involvement -

IFATCA has been representing air traffic controllers since 1961, with more than 50,000 members in over 130 countries.

and result in a reluctance to submit reports. The opportunity to learn from these events is therefore severely compromised. Just Culture is not a carte-blanche for aviation professionals, including Air Traffic Controllers. It is an essential cornerstone that allows aviation professionals to actively engage in the process of improving safety.

IFATCA urgently calls upon Russia to align with other States and international standards, to incorporate the principles of Just Culture into their legal system in order to provide for a balanced approach between safety and the administration of justice. The international credibility of the Russian aviation system is at stake.

IFATCA further requests the complete pardon and immediate release of the three Air Traffic Controllers found guilty and sentenced to imprisonment for the Vnukovo airport crash on 20 October 2014.



Duncan Auld
President and CEO
IFATCA



Frédéric Deleau
Acting Executive Vice President Europe
IFATCA

The International Federation of Air Traffic Controllers' Associations (IFATCA) is the recognized independent, non-political and non-industrial International organization uniting air traffic controller associations for the last 60 years. IFATCA represents more than 50,000 air traffic control professionals in over 130 countries and holds an observer seat at the ICAO Air Navigation Commission. The main aims of the Federation are the promotion of safety, efficiency and regularity in international air navigation, along with safeguarding the professional interests of air traffic controllers.

TECHNICAL ANALYSIS of Final Accident report of falcon50 in Vnukovo on 20 Oct 2014.

(Analysis Based the final accident report published recently by the Interstate Aviation Committee and available on: https://mak-iac.org/upload/iblock/e12/Final_Report_eng_F-GLSA.pdf)

INTRODUCTION

The report breaches the Just (Safety) Culture principles promoted by ICAO. Although it identified an extensive number of shortcomings and systemic failures in the airport and ATC organisation, it singles out individuals and induces the notion that some illegal operations were performed by the individual controllers, whereas the report also clearly indicates it was a systematic organisational failure of a system that led to this accident.

Regarding the ATC operations investigation part of the report, a non-specialist reading the report can easily be lured into believing the controllers involved mentioned in the report were partially responsible for the accident, and that could explain the Judicial consequences with controllers sentenced to very harsh prison sentences.

CAUSES OF THE ACCIDENT

The main cause of the accident is clear: a snow removal vehicle cleaning a closed, non-active runway penetrated the active runway at its intersection while an aircraft was performing its take-off run under poor visibility conditions. The vehicle driver and its supervisor were both under influence of alcohol, performed the work without a clear plan and did not inform ATC of that plan. They used a vehicle which was not equipped with VHF so could not monitor the ATC frequency. The driver had switched the snow remover's lights off and penetrated the active runway without asking and obtaining the required authorisation from ATC.

The accident occurred at night with only 900 meters visibility. Without lights, the vehicle was not visible from the control tower.

However, it would seem the investigators mentioned that the controllers were obliged to monitor the take-off run using the newly installed surface movement radar (SMR) and in doing so could have prevented the accident.

THE SURFACE MOVEMENT RADAR (SMR)

The report says that this Danish-manufactured SMR was introduced one year earlier (Sept 2013) without being configured properly. Only three controllers had been trained to use it, none of which were on duty that day. Furthermore, the incursion alerts were disabled on the controller position screens. The audio alert was active but the loudspeakers were not installed, so not working. The system was never configured for the airport and had been left on its factory settings. The system was not made for airports with intersecting runways and configuring the SMR was only possible by system engineers, not by air traffic controllers.

The report acknowledges that the three controllers on duty did not receive training and did not understand how the system worked. The report acknowledges this clearly: *"Being untrained on the use of the [SMR] system the ground controller was not able to accomplish its duties properly"* (page 202) and this completely nullify the remark made in the earlier mentioned conclusion that said: *"Failure of the ground controller to comply with standard operating procedures by not taking actions to prevent the runway incursion though having radar information and alerts alert on [his Surface movement Radar, SMR] screen."*

MONITORING TAKE-OFF ROLL ON SMR

The other argument used against the controllers is about monitoring departure during take-off roll. The report acknowledges that there are no provisions or regulations that require the permanent monitoring by controllers of the SMR radar information. The regulations only mention that the departure controller should “visually” monitor departures until aircraft reaches 200m (page 209). The fact is repeated later on (page 210) saying: *“there are no requirements to monitor the course of aircraft taking off [using SMR radar”* but then goes on speculating: *“the Departing controller could have seen an alert if the mode would have been activated (it was not) and could have prevented the accident (page 211).*

Again, this is reported as an individual “failure” in the report’s conclusions! *“Failure of the [controllers] to detect the runway incursion on the SMR and failure to inform the crew”* (page 223).

Vnukovo airport is not equipped with Surface Movement Guidance and Control System (known as SMGCS). This means it is not equipped with a central guidance lighting system and stop bars preventing penetration of active runways that one finds in most large airports around the world.

On this point the report says (page 228): *“There is no system in the Russian Federation for the planning and implementation of SMGCS.[...] No airport regulation contains a requirement that there shall be SMGCS system deployed in airports.”*

CONCLUSION

From reading the report it appears that the whole Vnukovo airport operation needs to be brought to safe standards. There are definitely lessons that should be learned from this tragic accident, but prosecuting and sentencing individual controllers to 5 to 6 years of labour camp will not resolve the identified shortcomings. On the contrary, it clearly risks creating an atmosphere of fear amongst the Russian Federation’s controller community that they could face similar charges while having done nothing wrong. This will not improve safety, but is likely to have the opposite effect.

Extract of the Resolutions adopted at the ICAO 38th Session of the Assembly 2013:

A38-3: Protection of certain accident and incident records

The Assembly:

1. *Urges* Member States to continue to examine and if necessary adjust their laws, regulations and policies to protect certain accident and incident records in compliance with paragraph 5.12 of Annex 13, in order to mitigate impediments to accident and incident investigations, in consideration of the legal guidance for the protection of information from safety data collection and processing systems issued by ICAO;
2. *Instructs* the Council, taking into account the findings and recommendations of the Safety Information Protection Task Force and further work informed by those findings and recommendations, to take such steps as may be necessary to ensure meaningful progress toward the development of new and/or amended provisions in Annex 13, other Annexes as appropriate and related guidance material before the next ordinary session of the Assembly; and
3. *Declares* that this resolution supersedes Resolution A37-2.

A38-4: Protecting information from safety data collection and processing systems in order to maintain and improve aviation safety

The Assembly:

1. *Urges* all Member States to continue to examine their existing legislation and adjust as necessary, or enact laws and regulations and introduce supportive policies and practices, to protect information gathered from all relevant safety data collection and processing systems based, to the extent possible, on the legal and other guidance developed by ICAO;
2. *Urges* the Council to cooperate with Member States and appropriate international organizations regarding the development and implementation of guidance, taking into account the findings and recommendations of the Safety Information Protection Task Force and further work informed by those findings and recommendations, to support the establishment of effective safety-reporting systems, and the achievement of a balanced environment where valuable information derived from all relevant safety data collection and processing systems is readily accessible for the purposes of maintaining and improving aviation safety, while respecting principles of administration of justice and freedom of information;
3. *Instructs* the Council to take appropriate steps to ensure that ICAO Standards and Recommended Practices in Annex 19, other Annexes as appropriate and guidance materials on the protection of information gathered from safety data collection and processing systems (SDCPS) are enhanced, taking into account the findings and recommendations of the Safety Information Protection Task Force and further work informed by those findings and recommendations, with a view to ensuring and sustaining the availability of safety information required for the management, maintenance and improvement of safety, taking into account the necessary interaction between safety and judicial authorities in the context of open reporting culture; and
4. *Declares* that this resolution supersedes Resolution A37-3.

TRANSLATION NEWS ARTICLE RUSSIA – Source KOMMERSANT – 29/09/2020.

Source: <https://www.kommersant.ru/doc/4511102>

The Appeal Moscow City Court has confirmed the verdict against air traffic controllers Alexander Kruglov and Nadezhda Arkhipova. In July this year, the Solntsevsky District Court had found them guilty in the crash of a Falcon 50 business-jet carrying Total President Christophe de Margerie at Moscow Vnukovo airport in 2014. Ms. Arkhipova was released from punishment under amnesty, while Mr. Kruglov will have to present himself to a penal colony. The guilty verdict for the main defendant, supervisor Roman Dunaev, has not yet been confirmed, since he is on sick leave with suspected coronavirus. It is nevertheless expected that his sentence of six years in a penal colony will also remain unchanged. Judge Yulia Manerkina dealt with the case rather quickly, deciding to suspend the proceedings on his appeal while ruling on Alexander Kruglov and Nadezhda Arkhipova.

The defendants intend to further appeal the decision, insisting that their arguments were not heard. According to them, the court was clearly in a hurry because the statute of limitations on the criminal charges expires in less than a month.

The defence wanted to invite Ms. Svetlana Krivsun, a trainee-controller at the time of the accident, to testify. Initially, she herself was under criminal investigation, but was later only considered as a witness. The young woman was directly involved in the tragic event and her testimony is considered important. Despite this, the lower court did not call on her to present her testimony. In spite of this, Judge Yulia Manerkina refused all petitions, provoking indignation from the defence team and a request to challenge the judge, which was immediately denied. In his argumentation, the prosecutor Dmitry Nadysev explained that lacking or malfunctioning equipment – including loudspeakers and other alarms at the controller's workplace, that could warn him/her about the penetration of a vehicle on the runway – is the controllers' problem: they have a legal obligation to ensure that all their equipment is fully functional. The defendants again insisted that they had not violated any instructions and could not be held responsible for the actions of third parties: an intoxicated driver of a snowplough that collided with the accelerating aircraft and a ground service engineer, who failed to supervise him. It is worth mentioning here that those two admitted their guilt and were sentenced accordingly but were subsequently released from their responsibility under an amnesty measure.

After a short deliberation, Judge Yulia Manerkina ruled to uphold the verdict of the lower instance court.

The controllers' attorneys immediately indicated that they will continue to fight for the acquittal of their clients. In their opinion, the court did not consider all the arguments for the defence and the ruling was clearly rushed to avoid the statute of limitation expiry on October 21st. One of the lawyers, Mr. Oleg Babich explained that, in his opinion, the court refused "everything" and committed numerous gross violations of the Criminal Procedure Code.

29 СЕНТЯБРЯ, ПЯТНИЦА
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Диспетчера ждут на поселении
 Приговор по делу об авиакатастрофе во Внуково вступил в силу

«Коммерсантъ» 29.09.2020, 10:39

Фото: Анатолий Жданов / Коммерсантъ | [Рейтинг](#) | [Обзор](#)

Мосгорсуд подтвердил приговор диспетчерам Александру Круглову и
 Надежде Архиповой, которых в июле Солнцевский район суд признал
 виновными в крушении в 2014 году в столичном аэропорту Внуково
 бизнес-джет Falcon 50 с президентом компании Total Кристофом де
 Маржери на борту. Женщина была освобождена от наказания по