



ICAO

Symposium on Assistance to Aircraft Accident Victims and their Families (AAAVF2021)

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Hosted by



MINISTERIO
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SPANAIR FLIGHT JK5022

- The total compensation paid by the insurer for this air crash approximately totals to forty three million dollars of the one thousand five hundred million dollars of the coverage.
- That means an average of two hundred and fifty thousand dollars for victim, of the nine million dollars covered by the insurance policy for each victim. That's **less than a three percent**.
- Neither the victims nor their families regard such figure as a fair amount.



A LONE RULING, A NEW HOPE

- The revoked sentence of the Provincial Court
- Application of the Montreal Convention. Article 25
- Compensation facts: 43 millions \$ vs 1.500 millions \$. 2,86 % of the coverage
- It's not about the money, it's about fairness



**"Now is the time to reset.
To reshape. To rebuild.
To recover better, guided
by human rights and
human dignity for all."**

António Guterres

United Nations Secretary-General, 22 February 2021

JUST A SENTENCE

- Article twenty five of the Montreal Convention needs a subparagraph in order to reach its full potential. A simple sentence. Like *"In case of death, disability, or serious injuries of the victim of an air crash, the compensation to that person or his family will not be less than a 50 percent of the maximum proportional amount of the insurance coverage"*.
- To establish a direct and proportional link between the compensation to the victims and families of an air crash, and the insurance coverage.



ACHIEVING FAIR COMPENSATION FOR VICTIMS ENSURING THE STABILITY OF THE CIVIL AVIATION SECTOR IS POSSIBLE, NECESSARY, AND EASIER THAN IT SEEMS

- ICAO must work in the immediate future to establish a proportionality between the coverage of the insurance and the compensation, enforcing the true meaning of the article twenty five of the Montreal Convention, to make a better future and a more caring world.

Thank you all for letting me share my experiences. My objective will be to propose a change of the international law about the compensation of air crash victims and their families to this United Nations Agency for the Civil Aviation. A feasible change. As you know from the reports of the victims of Spanair's flight JK5022 that have deposed here, more than thirteen years ago a plane with one hundred and seventy two people on board took off from Madrid. Its destination was this wonderful island. However, it never reached such destination. One hundred and fifty four people died, and eighteen more were seriously injured.

A lot of things went wrong that day. But the airline did one thing right. The lives of all and each one of the victims of that air crash were covered with a total amount of one thousand five hundred million dollars. I beg you to consider this figure for a second. One thousand and five hundred million dollars for each plane and for each accident, meaning that each victim had their personal damages covered in an average of nine million dollars. Being so, what compensation received the eighteen survivors and the families of the one hundred and fifty four deceased? Thanks to a parliamentary investigation commission, we now know that the total compensation paid by the insurer for this air crash approximately totals to forty three million dollars. That means an average of two hundred and fifty thousand dollars for victim. Two hundred and fifty thousand dollars of the nine million dollars covered by the insurance policy for each victim, that's less than a three percent. As you can imagine, neither the victims nor their families regard such figure as a fair amount.

The reasons behind that miserly three percent of compensation are not exclusive of the Spanish or Europeans legal systems. The problem is shared by the whole civilized world. It is difficult that the compensation could reach a ten percent of an insurance coverage like this one. That means that, if the air companies make a huge economic effort to grant a millionaire coverage for the possible victims of an air crash, the states fail when it comes to executing that opportunity. Old laws and ancient legal customs promote that more than ninety percent of the provided compensation does not meet its goal. This United Nations Agency must react promptly against this sad reality.

The international civil aviation is undoubtedly the most efficient expression of the humankind, even above the space exploration or the military corps. No mistake is permitted. Because the most insignificant error can lead to a tragedy like what happened with Spanair's flight JK5022. So, if the international civil aviation must comply with an efficiency ratio of one hundred percent, it must pursue that the compensations to the victims when the ratio fails, does not total only a three percent of the coverage of the insurance that the airlines have paid to protect the lives of the passengers.

How could ICAO and aviation improve the compensation system of damages from an air crash? In Spain we had an only ruling, one sentence from a Provincial Court that implemented the international legislation and multiplied by almost four times the average compensation. That judgment was later revoked by the Supreme Court. But that sentence showed us the way. I invite you to follow that example and change the future. Change the world. In an easy and feasible way.

The article twenty five of the Montreal Convention says clearly that the air companies may increase, without limits, their responsibility. So they can increase the coverage of the damages as much as they want or need. The problem is that if an airline applies article twenty five of the Montreal Convention, assuring the damages caused by its activity in millions of dollars, as did Spanair in 2008, the final compensation will be only a very small percentage of that amount, regardless of the country where that compensation is due. Isn't it obvious? Article twenty five of the Montreal Convention needs a subparagraph in order to reach its full potential. A simple sentence. Like *"In case of death, disability, or serious injuries of the victim of an air crash, the compensation to that person or his family will not be less than a 50 percent of the maximum proportional amount of the insurance coverage"*.

But this is just an ideal. You can implement it in the Montreal Convention or in any other international law that you see fit. It can be this sentence, or any other you find proper to reach one simple goal: **To establish a direct and proportional link between the compensation to the victims and families of an air crash, and the insurance coverage.** Most of us have arrived to this meeting by plane, and we will leave the island by the same mean of transportation. When we do so, our bodies, our lives, the continuity of our dreams and illusions will be insured probable in millions of dollars, as it happened with the Spanair's flight JK5022. Five, ten, fifteen, twenty millions... What is the purpose of that fact, if more than ninety percent of that amount will never be paid to us or our families, whatever happens?

ICAO must work in the immediate future to establish a proportionality between the coverage of the insurance and the compensation, enforcing the true meaning of the article twenty five of the Montreal Convention. That proportionality would not risk the economic stability of the civil aviation sector. Quite the opposite, because if this change leads to a decrease in the coverage of the insurance, the cost of that insurance for the air companies also should be reduced. In five days, this United Nations Agency will turn seventy seven years old. You are the maximum authority in the world responsible for a system that, like clockwork, enable ten million people to fly, daily, through our sky. In a year, the civil aviation transports the equivalent to half the human population of this planet. In these dark and hard times, when we are under siege by a horrid virus that is testing our resolve as human beings, you are our first hope. Hope for believing that this world will continue to be the amazing place that it is, where we live and trade, where we explore and discover, where we connect and reunite. As you have allowed us, for the last seventy seven years.

So I finish by begging you that, to avoid that the victims of an air crash and their families continue in a no man's land, being compensated in a tiny percentage of the amount in which those lives are insured, ICAO promote and push for a change in the international aviation laws, establishing indeed a proportional bridge between the compensations and the coverages to make a better future and a more caring world. Even if there is a small chance to succeed we owe this to everyone who is not in this room to try. Thank you.

Thank You

