



HELIOS. THIS COULD HAPPEN TO ANY ONE OF US

So at last the long and protracted Greek legal case is now over for our fellow Licensed Engineer Alan Irwin. Alan was found guilty of 121 cases of manslaughter by a Greek court in Athens in May 2012 and was sentenced to 10 years in a Greek prison.

However he has recently won his appeal and was found 'Not Guilty' by the Greek Appeal Court on the basis that his alleged action of leaving a single cockpit switch in a certain position following maintenance should have been picked up by the Flight Crew and therefore he could not be blamed for the accident in which a Boeing 737-300 5B-DBY belonging to Helios Airlines of Cyprus crashed near the village of Grammatiko in Greece at 09:03am on the 14 August 2005 killing all 121 people on board.

Alan was charged along with three other defendants facing similar charges, however these other three defendants have recently lost their appeals and face long prison sentences unless their final appeal is successful. These other defendants were senior employees of the airline: Managing Director Demetris Pantazis, Flight

Operations Manager Giorgos Kikkides, and Chief Pilot Ianko Stoimenov.

Most of you will be familiar in some way with this case. On the day of the Helios Airways Accident the Greek Accident Investigation Department (AAIASB) took control of the investigation as the aircraft had crashed in Greek territory. This was the largest major Aircraft Accident Investigation this department had conducted. From early on doubts were expressed by various parties about the quality of the investigation. The Greeks did not ask for any assistance from other Accident Investigation Organisations such as the UK AIB or the US based NTSB contrary to what often happens when the responsible investigating state is inexperienced in major Aircraft Accident Investigations.

The decision to prosecute was made by the Greek

authorities and Alan was charged with the manslaughter of all those who perished on the flight. At the same time the Cypriot authorities laid similar criminal charges against Alan in the Cypriot courts. Alan then faced similar charges in two separate EU States to be tried simultaneously in their respective courts.

The Greek prosecution used the Greek Accident Investigation Report as the backbone of their case. The Chicago Convention of 1944 states in Annex 13, Chapter 3.1 that 'the sole objective of the investigation of an accident or incident shall be the prevention of accidents and incidents. It is not the purpose of this activity to apportion blame or liability.' This provision is echoed in EU Regulation 996/2010 which provides that: 'The sole objective of safety investigations should be the prevention of future accidents and incidents without apportioning blame or liability.' However despite these two rulings virtually all of the Greek prosecution's case was based on the accident report.

The Cypriot legal system eventually decided not to prosecute Alan on the grounds that they felt his alleged actions before the flight could not be seen as a criminal act and so dropped the case. Politics played its part in Cyprus though and the way in which the Cypriots acted was seen by some as more to do with how the Greek system was dealing with the case rather than the actual facts of the case.

The defence team argued that the Accident Report itself was flawed; they were able to prove beyond doubt that the evidence that was in the report was contradictory, inaccurate and unsound. Many of the crucial components used to prosecute the defendants are now missing, the Pressurization Mode Selector, P5-6 Press Mode Selector Panel, P5-10 Bleed Selector Panel, Outflow Valve Motors, Green Manual Mode Filaments, Quick Access Recorder. The FDR was only partially downloaded believed to be because of a pre-determined mindset of the investigators that thought they knew what had happened. The defence team employed many different professional people and organisations to assist in their efforts to prove the investigation contained grave errors. They hired a highly reputable Canadian company specializing in Air Accident Investigation that compiled a report which proved beyond doubt that the controller switch could not have been in Manual Mode at impact by microscopic examination of the Manual Mode Filaments and other techniques. This report was rejected by the AAIAB as they feared its inclusion would delay the publishing of the report! Imagine a

scenario whereby potentially pivotal new evidence in an accident investigation is ignored on the grounds of it turning up too late! The UK AIB has since asked the Greek Authorities to reopen the investigation due mainly to the new evidence uncovered by the defence team. This new evidence also convinced the two highly experienced retired NTSB investigators used by the Greek investigators as consultants to believe that the investigation should be reopened. The head of the Greek investigation team, also used by the prosecution as a key witness during the trial, was clearly a very elderly and sick man and was seen in court to struggle with the questions. He was clearly not up to the task asked of him due to his ill health and the defence felt he should not have been on the stand. Yet despite these concerns his evidence was obviously taken as highly important and substantial by the Greek judges.

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During the trial there was a Bar Council strike and during this period hearings were conducted in the absence of the defence legal team, depriving the defendants the right to a fair trial. Defence Council were repeatedly prevented from conducting full examinations of the prosecution witnesses and the order in which the witnesses were called was decided by the court at very short notice. This made it difficult for the defence lawyers to prepare for the cross examination and more importantly made it difficult to arrange for defence witnesses to attend as most of them resided in other countries.

Helios Airlines was regularly audited by the UK CAA as the Cypriot Authority preferred to delegate this complex task to the highly experienced UK based Authority, the UK CAA had never found any level 1 findings against Helios Airlines, and its record was exemplary.

The defence team lobbied the UK Government over the treatment of the defendants, including visits to the

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then Minister of Justice, Jack Straw and more recently Kenneth Clarke's office. The line the UK Government has taken all the way through this shambles is that they will not interfere with another EU Member State's legal system until all avenues have been exhausted in the state in question, so despite the obvious flaws in the Greek legal system, our Government would only take an interest when Alan had gone to prison in Greece. He would then have to join the 150,000 or so other cases queuing in the Court of Human Rights. He would not by the way have any UK legal protection from extradition, as under EU rules no extradition warrant would be required. In fact when Scotland Yard were questioned by Alan they informed him that they would assist the Greeks, if asked to, by finding him, arresting him and then placing him on a direct flight to Athens, no questions asked.

Let us paint a scenario now that might make you start to think about your own role in all of this. It's a normal day on the line at your workplace, one of your 'G' registered aircraft comes in with an Auto Speedbrake defect in the book, you talk to Maintrol and they ask you to troubleshoot the defect for a couple of hours as the aircraft is not due to fly again that day. You go through the troubleshooting and cannot fault the system. After some more checks you decide to clear the entry detailing all you did and release the aircraft for service. The next day the aircraft departs, but on the way has to divert to Athens as one of the passengers is taken ill. The aircraft touches down late and runs out of runway skidding off the end and killing some Greek school children in a bus. The Greek Accident Investigators are on the case and guess what? Your name is in the Tech Log signing off the Auto Speedbrake defect the day before. Now let's think who they will be coming after. The next question is who will pay your defence costs? The Helios defence team has spent in excess of three million Euros so far. This has been paid for by the airline's insurer but not without the defence

team having first to threaten them with legal action if they did not fund the costs. Ask your company if you would be insured, more importantly ask your company's insurer if you would be insured. Don't hold your breath waiting for the answer and if the answer is 'yes' then don't believe them. Chances are you will be fobbed off with legal jargon and unwritten promises.

The lessons to be learned from this whole episode are many and I think we are all old and bold enough to try and understand more of where we all fit in this tragic story.

What should you do if you are involved in an accident investigation? How much information would you now feel comfortable giving to an accident investigator knowing that it could be used in a European Court to prosecute you? You would not have a legal representative with you as is your right when questioned under a criminal investigation so how do you know that what you say could not later be used to hang you.

There are some good things that have come out of this terrible accident, mainly the modification that is now fitted on 737s to better alert the crew to high cabin altitude by the fitting of a Red Master Warning caption easily seen by the crew. Due to this story, the aviation community is now more aware of what can happen when we are just carrying out our normal duties. There are others still to play out, the Spannair accident for one.

ALAE branch of Prospect would like to say that in no way should Alan's story take away any of the tragic consequences of the Helios crash for the families and friends of the dead and our heartfelt sympathy goes to all of those innocent victims. However we must ensure that further judicial tragedies do not occur in Greece or anywhere else for that matter. Please let's not forget the final victims in all of this are Managing Director Demetris Pantazis, Flight Operations Manager Giorgos Kikkides, and Chief Pilot Ianko Stoimenov. They have been found guilty of causing the deaths of 121 people and have to live with that judgment for the rest of their lives, is that right given all of the issues in this case?

ALAE branch of Prospect intend to publish various documents related to the trial and will keep you all informed of this in the near future.

The past seven years has been a very traumatic time for Alan. We would like to thank him for allowing fellow Licensed Aircraft Engineers to gain an insight into this awful experience.