



FAILED Justice

The Italian judicial system totally failed the cause of aviation safety during the investigation of the Tuninter ATR 72 ditching accident in 2005 (see story, p. 26). This failure, documented in the report of the Agenzia Nazionale per la Sicurezza del Volo (ANSV) aviation safety investigative authority, was not, for the most part, due to capricious decisions of any individual, but tragically was in line with what is called for by Italian law.

The report, released nearly four years after the accident, states that the ANSV's ability to conduct its inquiry in accordance with Annex 13 of the Convention on International Civil Aviation "was found to be limited in the light of that envisaged by the criminal procedures system in force."

The obstructions of the ANSV's duties were many. ANSV was not allowed to directly inspect the aircraft wreckage, which was impounded by the judicial authority. ANSV personnel could only observe.

Prevented from sampling or testing fuel and oil samples from the fuel tanks and engines, ANSV had to rely on the judicial authority's collecting and testing. ANSV could only observe.

The judicial authority did not pass along to the ANSV documentation of its findings until the ANSV filed legal applications, and even then did not release all

of the documents "until ANSV repeatedly pressed for them," the report said.

Access to the flight data recorder (FDR) and cockpit voice recorder (CVR) was delayed until 10 days after they were recovered. The data that ANSV laboratories then extracted from the FDR and CVR were immediately sequestered by the authorities, along with the original tapes. The ANSV did get a copy of the raw FDR data for decoding; the CVR material was given to the ANSV a few days later.

As little cooperation as ANSV got, accredited representatives of the interested parties to this accident — including those from Tunisia, where the aircraft was registered and the airline is based; France, where the aircraft was built; Canada, where the engines were built; and the United States, where the propellers were built — were more broadly excluded from the process, even to the point of not being allowed to receive FDR and CVR data. The inability to share FDR data meant the ANSV was unable to mount simulations of the event until more than 15 months after the accident. Sadly, on the day that data were released, the general news media somehow received the CVR recording in both audio and transcript form.

Most of the judicial authority's behavior, the ANSV took pains to note, "was

in accordance with applicable Italian criminal laws."

Highlighting the safety threats involved in being unable to quickly obtain information and access to all available help to discover how to prevent future such accidents, the ANSV included in its report recommendations that Italian law be changed to allow ANSV "immediate and unconditional access to all elements ... necessary for the technical investigation," to ensure the rights of accredited international parties to the investigation and to prevent any recordings or transcripts pertaining to the investigation from being improperly used.

There are more outrageous elements to this sad tale than space here can accommodate, but this colossal cluster of obstructions to the safety process mounted by government prosecutors is yet another strong argument for the decriminalization of the accident investigation process, a cause Flight Safety Foundation is dedicated to advance.

A large, stylized handwritten signature in black ink that reads "J.A. Donoghue".

J.A. Donoghue
Editor-in-Chief
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