

Dr. Markus Rüssli, LL.M., Attorney at Law

**Report on the administrative investigation
into the former Institute of Astronomy of the
D-PHYS at ETH Zurich**

provided for the attention of the

Executive Board of ETH Zurich

Zurich, 3 October 2018

Anonymised version (without references; produced on 5 April 2019)

*This English translation of the original German investigation report is provided for information purposes only.
Some verbatim English quotes in the original report may have come from interviewees whose native tongue is not English.*

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Abbreviations

Para.	Paragraph
Art.	Article
BPG	Federal Personnel Act of 24.3.2000 (SR 172.220.1)
Let.	Letter
BVGE	Decisions of the Swiss Federal Administrative Court
BVGer	Federal Administrative Court; Decision of the Federal Administrative Court
D-PHYS	Department of Physics
E.	consideration
em.	emeritus
ETH Law	Bundesgesetz über die Eidgenössischen Technischen Hochschulen vom 4.10.1991 (SR 414.110) (Federal Act on the Federal Institutes of Technology of 4.10.1991)
ETHZ	ETH Zurich (Swiss Federal Institute of Technology Zurich)
f., ff.	and following
HR	Human Resources
Prof., Proff.	Professor; Professors
ProfessorenV ETH	Ordinance of the ETH Board on Professors of the Swiss Federal Institutes of Technology of 18.9.2003 (SR 172.220.113.40)
PVO-ETH	Ordinance of the ETH Board on Staff in the Domain of the Swiss Federal Institutes of Technology (Personnel Ordinance ETH Domain) of 15.3.2001 (SR 172.220.113)
RSETHZ	Legal collection of ETH Zurich
RVOV	Ordinance on the Government and Federal Administration Organisation of 25.11.1998 (SR 172.010.1)
M. no.	Margin number
P.	Page
SNS	Swiss National Science Foundation, SNSF
SR	Systematic collection of federal law
VwVG	Bundesgesetz über das Verwaltungsverfahren (Administrative Procedure Act) of 20.12.1968 (SR 172.021)
No.	Number

I. Introduction

A. Overview

- 1 On 24 October 2017, the Executive Board of ETH Zurich decided to launch an administrative investigation into the former Institute of Astronomy under the Department of Physics (D-PHYS) after serious allegations had been made concerning the leadership behaviour of a member of the teaching staff. These range from weak leadership to disrespectful behaviour and discrimination against employees.

B. Mandate

- 2 On 30 November 2017, the President of ETH Zurich commissioned the following investigation:

1. Subject of the investigation

The subject of the investigation is the clarification of allegations made against a member of the teaching staff at the former Institute of Astronomy by former and current staff members. All circumstances must be taken into account which could have enabled or facilitated any misconduct.

Specifically, the following must be assessed:

- the behaviour of Prof. NN taking account of the personnel and organisational circumstances in the management functions of the former Institute of Astronomy and the D-PHYS;
- indications of other misconduct or irregularities in the former Institute of Astronomy, or by association, in the D-PHYS;
- the role of the Human Resources department and, where appropriate, other bodies and/or committees in relation to the fact that alleged earlier indications of potentially inappropriate management behaviour by Prof. NN were unable to escalate beyond the organisational unit D-PHYS and – in serious cases – reach the Executive Board;
- any indications of violations of compliance regulations and the applicable regulatory and legal provisions;
- based on any relevant actions, facts and scenarios identified: room for improvement with regard to organisation, processes and regulations.

I. Introduction

At the request of the Legal Office, the Executive Board may, at any time and as appropriate, amend or supplement the subject matter of the investigation and extend it to other relevant facts or scenarios to be investigated.

2. Investigative body

Attorney Dr. Markus Rüssli, Umbricht Attorneys, Zurich, is entrusted with conducting the investigation. He compiles a report on the investigation, which is submitted to the Executive Board.

3. Informing the authorities and persons concerned

The authorities and persons involved in the administrative investigation shall be informed by the Legal Office that an administrative investigation has been initiated and that Dr. Rüssli has been instructed to conduct it.

4. Powers of the investigative body

The investigating body may issue instructions, but not decrees, within the framework of its mandate. The procedure is based on Art. 27g and 27h of the Government and Administration Organisation Ordinance (GAOO).

5. Protection of official secrecy

The investigating body and its subsidiary bodies shall be bound to observe official secrecy and, where applicable, legal professional privilege.

6. Compensation of the investigative body

The investigative body shall charge an hourly rate for its expenses. Remuneration shall be charged for an auxiliary minutes secretary.

The investigating body shall invoice its expenses on a quarterly basis, for the first time as of

31 December 2017.

7. Provision of the necessary aids

The Legal Office shall compile the necessary files for the attention of the investigative body. The investigative body may at any time demand the submission of further files from the authorities and persons involved in the administrative investigation, insofar as these relate to the object of the investigation.

8. Reporting

The investigative body shall draw up a report on the investigation. It describes the process and the results of the investigation and presents any room for improvement with regard to organisation, processes and regulations.

The report will be written in German. A decision on whether to obtain a translation into English and on the production of an anonymised or abridged version will be taken when the investigation report is available.

9. Dates

The investigation report must be submitted by the end of April 2018. In the event of any delays, the investigative body will inform the Executive Board of the reasons and the presumed new submission deadline.

- 3 On 27 November 2017, a meeting took place at ETH Zurich at which Prof. NN and her husband, Prof. X, were informed by the President of ETH Zurich and the Vice President for Human Resources and Infrastructure about the opening of the administrative investigation and the planned course of events.

C. Procedure

- 4 The conduct of the administrative investigation made it necessary to interview numerous persons in Switzerland and abroad. In the period from 28 December 2017 to 8 May 2018, 32 interviews were carried out. In July 2018, at the request of Prof. NN's legal representative, four further interviews were conducted. 20 (current and former) doctoral and postdoctoral candidates, nine professors and senior scientists, three administrative employees and three other persons from the Human Resources and Controlling departments were interviewed. On 4 May 2018, Prof. NN was interviewed in the presence of her legal representative.

- 5 Of a total of 41 persons who were asked to take part in interviews, two were not

prepared to participate in the procedure; three others did not take part. Since these five persons were persons outside ETH Zurich, they could not be obliged to participate. All persons employed at ETH Zurich took part in the interviews.

6 The interviews were conducted either in the offices of Umbricht Attorneys at Law in Zurich or via Skype or telephone. The persons interviewed were made aware of their procedural rights and obligations and a record was drawn up and signed by the persons interviewed.

7 This report is based on the interviews conducted and on the documents submitted by the respondents, on the files made available by ETH Zurich (Legal Office, Ombudspersons), on the statement made by ETH Zurich on 12 June 2018 as well as on the statement made by Prof. NN on 21 August 2018 and the 84 documents submitted by her.

D. Procedural rules

8 Art. 36 of the Professors' Ordinance ETH¹ provides that Art. 58-58b PVO-ETH shall apply in the event of a breach of employment law obligations. Pursuant to Art. 58 of the ETH Domain Personnel Ordinance (PVO-ETH)², an administrative investigation is carried out if it needs to be clarified whether there is a situation which requires official intervention in the public interest.

¹ Ordinance of the ETH Board on Professors of the Swiss Federal Institutes of Technology (Professors' Ordinance ETH) of 18.9.2003 (SR 172.220.113.40).

² Ordinance of the ETH Board on Personnel in the Domain of the Swiss Federal Institutes of Technology (Personalverordnung ETH-Bereich, PVO-ETH) of 15.3.2001 (SR 172.220.113).

Art. 27a-27j of the Ordinance on the Organisation of Government and Administration (RVOV)³ shall apply mutatis mutandis.

- 9 The conducting of the administrative investigation and the questioning of persons are regulated in Art. 27g and 27h RVOV. In order to establish the facts of the case, the investigating body shall use evidence in accordance with Article 12 of the Administrative Procedure Act (Verwaltungsverfahrensgesetz - VwVG)⁴. This includes documents, information from the parties involved, information from third parties, inspection and expert opinions. The investigating body is not allowed to interrogate witnesses⁵. The authorities and employees of ETH involved in the administrative investigation are obliged to cooperate in establishing the facts; the provision of information by persons outside ETH is voluntary⁶. The authorities and persons involved in the administrative investigation have the opportunity to inspect and comment on all files concerning them (Art. 26-28 VwVG). They have a legal right to be heard (Art. 29-33 VwVG)⁷.

E. Sequence of the process

- 10 At the request of Prof. NN's legal representative, parts of the investigation files were issued to him in a letter dated 1 February 2018. The so-called testimonials, which were marked as confidential by the authors of the testimonials, were not submitted. In order to maintain confidentiality, the names of the authors as well as text passages which would allow conclusions to be drawn about their identity were concealed in the files transmitted. At one point, the names of third parties who are not connected with the present administrative investigation were then blacked out .

3 Ordinance of the Government and Administration Organisation (RVOV) of 25.11.1998 (SR 172.010.1).

4 Federal Act on Administrative Procedure (Verwaltungsverfahrensgesetz, VwVG) of 20.12.1968 (SR 172.021).

5 Art. 27g para. 1 RVOV.

6 Art. 27g para. 2 and Art. 27h para. 3 RVOV.

7 Art. 27g para. 4 and 5 RVOV.

- 11 A further request for inspection of files dated 9 February 2018 was only partially granted on 5 March 2018, with reference to the ongoing investigation, and inspection of the files was promised for the period following the questioning of Prof. NN.
- 12 In a letter dated 20 March 2018, Prof. NN's legal representative objected to the approach taken and requested full access to the file. He asserted that the testimonials and the interview records to date should be made available to Prof. NN prior to her questioning. If this was refused, Prof. NN would not be available for questioning. In a letter dated 27 March 2018, Prof. NN's legal representative further pointed out that the testimonials were already widely known; it was illegal to use confidentiality as a pretext not to have to show them to Prof. NN.
- 13 In a statement dated 29 March 2018, the legal representative of Prof. NN was informed that the report on the administrative investigation would not be based on the testimonials declared confidential which the ombudspersons had received at the beginning of 2017, but exclusively on the interview records. It was pointed out that the assurance given by the ombudsperson to the authors of the testimonials that they would not surrender the testimonials to Prof. NN is binding on the author of this report. Both the records of the interviews and other files collected in the course of the investigation were made available for inspection after Prof. NN had been questioned.
- 14 On 18 April 2018, the Prof. NN's interview date was able to be set for 4 May 2018; the non-participation of Prof. NN was no longer an issue. On the same day, the Head of the Legal Office at ETH Zurich was informed that it would not be possible to submit a draft report by the end of April 2018.
- 15 Following the questioning of Prof. NN, the complete files were sent to her legal representative on 18 May 2018 - as promised on 29 March 2018. Only the testimonials and a few files that would allow conclusions to be drawn about the names of the testimonial authors were excluded from inspection.

- 16 On 22 May 2018, the draft of the final report was submitted to the legal representative of Prof. NN and to the Executive Board, requesting them to submit their comments and any evidence by 22 June 2018.
- 17 On 12 June 2018, the Head of the Legal Office of ETH Zurich submitted a brief statement on the recommendations with regard to increasing the protection of the doctoral students.
- 18 On 21 June 2018, Prof. NN's legal representative requested an extension of the deadline for submission of the comments to 31 August 2018. He then made the request that former ombudspersons be questioned. He also demanded that several professors be interviewed. Finally, a request was made for the interviewing of a former postdoctoral researcher and a former doctoral student of Prof. X.
- 19 In a letter dated 25 June 2018 an extension of the deadline to 23 July 2018 was granted and an examination of the application for the interviewing of further persons was promised.
- 20 Following renewed applications dated 20 and 27 July 2018, the deadline was extended for the very last time to 22 August 2018. Then, in a letter dated 25 July 2018, Prof. NN's legal representative was sent the records of the interviews carried out in accordance with the application and a detailed explanation was given as to why the other persons had not been interviewed. The reason given for not carrying out the interviews was that it was neither apparent what new findings these interviews would bring nor to what extent Prof. NN could be exonerated thereby. The interviewing of other persons external to ETH was omitted on the grounds that it was not clear what further details they could provide on Prof. NN's dealings with her staff. Prof. Z's interview had already made this clear. Although Prof. Z knew Prof. NN from their time together in the ETH Women Professors Forum, the former could in no way comment on how Prof. NN treated her students and postdocs.
- 21 On 22 August 2018, a 90-page statement with 84 enclosures was received from the legal representative of Prof. NN. The opinion is divided into two parts. The first part (sections 1 to 7) sets out the comments on the draft final report. In the second part, which comprises 50 pages, the relationship with ten former doctoral students of Prof. NN is examined and their statements within the framework of the interviews analysed.
- 22 In a letter dated 11 September 2018, the legal representative of Prof. NN asked for a comprehensive statement as to what further investigative actions would be undertaken

or whether such had already taken place. He also expressed his expectation that Prof. NN could participate in further interviews and ask supplementary questions.

23 In a letter dated 12 September 2018 the author of this report stated that no final decision had yet been taken on further action.

24 After a comprehensive review of the files, it was possible to dispense with further collecting of evidence, which the legal representative of Prof. NN was informed of on completion of the report⁸. The final report was completed on 3 October 2018 and subsequently submitted to the client, handing over all investigation files.

II. Chronology of events

A. Conflict between Prof. NN and a doctoral student

25 On 1 March 2015, doctoral student A begins her work at the former Institute for Astronomy in the research group of Prof. NN. She is tasked with the analysis and processing of images of galaxies that were created as part of the "Dark Energy Survey" (DES) project and to which Prof. NN has access as part of a research cooperation. Prof. NN is not satisfied with A's performance due to lack of progress. In an employee assessment carried out in October 2016, she gives her doctoral student the second worst rating, C. In December 2016, she decides to discontinue supervising her doctoral thesis and only to extend her employment contract with her doctoral student, which expires at the end of February 2017,

⁸ Cf. the reasons set out below under margin no. 175, 182 ff.

by a few months in order to ensure an orderly transition. In support of her claim, she cites the lack of performance and the fact that mutual trust no longer existed.

26 On 19 December 2016, Prof. NN inquires with the ETHZ Legal Office, after having already contacted the Deputy Head of D-PHYS and the Director of Studies on 12 December, as to how to proceed with the research data processed by A. Based on Art. 12 Para. 3 of the Guidelines for Research Integrity and Good Scientific Practice at ETH Zurich, Prof. NN presents doctoral student A with an agreement on 19 January 2017, which stipulates that A hands over all primary and secondary data and materials to Prof. NN before she leaves ETHZ. This agreement is not signed by A.

27 On 5 January 2017, doctoral student A contacts one of the two ETHZ ombudspersons by e-mail. They meet for a discussion on 9 January 2017. On 10 January 2017, a meeting then takes place between A and the Vice Rector for Doctoral Studies. He later has contact with other doctoral students of Prof. NN. In addition, A turns to the personnel manager P.

B. Escalation of the conflict through the submission of testimonials

28 Subsequently, both the Ombudsperson's office and the Vice Rector for Doctoral Studies and the Deputy Head of D-PHYS receive a dossier from doctoral student A with comments (hereinafter referred to as "testimonials") from former and current staff members of the Institute for Astronomy in which their experiences with Prof. NN are described. In these testimonials, Prof. NN is accused of leadership weakness as well as disrespectful and improper behaviour towards employees.

29 On 25 January 2017, Prof. NN discontinues the supervision of A's doctoral thesis as of the end of February 2017; the employment relationship with her is not be renewed. Within the D-PHYS, an interim solution for A is sought; she is temporarily included in the research group of the Deputy Head of the D-PHYS.

- 30 On 31 January 2017, the Vice Rector for Doctoral Studies informs the Rector that a dossier on Prof. NN has been submitted. Since the Rector is friends with Prof. X, the (then) chairman of the D-PHYS and spouse of Prof. NN, she does not participate in the matter.
- 31 On 6 February 2017, on the initiative of Prof. NN, a three-hour meeting takes place between her and the Vice Rector for Doctoral Studies; this is conducted in Italian. Prof. NN suspects that doctoral student A has deleted the Dark Energy Survey data, because she and her colleagues no longer have access to it. During the meeting, the Vice Rector for Doctoral Studies reveals to Prof. NN that a dossier exists in which serious allegations are made against her. Prof. NN feels humiliated ("mortificata") according to the Vice Rector for Doctoral Studies.
- 32 On 9 February 2017, a further three-hour meeting takes place in which Professor NN, the Vice Rector for Doctoral Studies, the Deputy Head of D-PHYS and the Director of Studies take part. Since the testimonials cannot be released due to their confidentiality, it is pointed out to Prof. NN that the conduct she is accused of would be contrary to the basic rules of leadership and conduct towards employees according to the Compliance Guide. Prof. NN presents a list of her successful doctoral students and explains the high dropout rate of her doctoral students is due to the high requirements she sets. In her statement of 21 August 2018, Prof. NN accuses the Vice Rector for Doctoral Studies and the then Deputy Head of the D-PHYS of uncritically accepting the accusations made against her without having checked their truthfulness. It had also never been clarified whether A had rightly been removed from the doctoral programme. Both professors had been biased; this was shown in particular by the e-mail sent by the then Deputy Head of D-PHYS following the Rector's discussion.
- 33 On 14 February 2017, the Ombudsperson and the Vice Rector for Doctoral Studies meet for an exchange of views. The two agree that the Vice Rector for Doctoral Studies will support doctoral student A in the search for a new doctoral supervisor and that the ombudspersons will investigate the leadership style and behaviour of Prof. NN. On the same day, on the initiative of Prof. NN, a meeting takes place between her and the Ombudsperson. According to Prof. NN, she provided the ombudsperson with a written summary of the situation.
- 34 Two other doctoral students also want to end their supervision relationship with Prof. NN. Prof. T takes over their supervision, later also that of A. A's performance is positively evaluated by Prof. T.

C. Search for solutions

35 The Vice President for Human Resources and Infrastructure is informed. He receives the dossier from the Vice Rector for Doctoral Studies and contacts the Ombudspersons on 16 February 2017. Together with the HR manager, he takes charge of the matter. On 23 February 2017, the Vice President for Human Resources and Infrastructure informs the President of ETH Zurich.

36 On 1 March 2017, the Vice President for Human Resources and Infrastructure, the Head of HR and the Head of the Legal Office discuss the content of the testimonials with Prof. NN and her (then) lawyer. During the meeting, Prof. NN presents three papers on the files, including a list with the names of her doctoral students, an assessment of their performances and a statement on case A. The discussion is continued on 24 March 2017. At the second meeting, Prof. NN agrees to the following measures:

- “– Personal coaching focusing on the interactions with PhD, postdocs, other faculty as well as administrative and technical staff (external female coach, full confidentiality against ETH Zurich).
- Additional co-supervisor for new PhD students, preferably faculty of D-PHYS, chosen by Prof. NN in agreement with PhD student, ETH Vice Rector for Doctoral Studies and the Director of Studies of D-PHYS.
- Commitment of Prof. NN to respect the relevant regulations and to deliver the required documents in time (e.g. research plans).”

- 37 The agreed measures are confirmed by the President of ETH Zurich in a letter dated 25 April 2017.
- 38 On 6 March 2017, the Ombudsperson sends a two-page summary of the nine testimonials received to date by e-mail and forwards this to Prof. NN with a request for comment.
- 39 On 8 March, the Trusted Intermediary of ETH Zurich is commissioned to resolve the conflict between Prof. NN and doctoral student A regarding the use of research data. The Intermediary then submits a new agreement for the use of the data, which is not signed by Prof. NN.
- 40 The ETH President wants to calm the situation by means of organisational measures at the D-PHYS. To this end, at a meeting on 5 April 2017, he urges Prof. X to resign as head of the department; his resignation is made by letter dated 11 May 2017.
- 41 Prof. NN comments on the testimonials on 13 April 2017 in an eight-page submission. This includes a two-page table with the names of the doctoral students and postdocs she supervises, their professional development and an assessment of their performance. Prof. NN concludes that it is difficult to comment on the general allegations without knowing the details and the concrete circumstances. She subsequently once again requests the disclosure of the testimonials.
- 42 On 4 May 2017, the ETH President and the Vice President for Human Resources and Infrastructure meet with a delegation from D-PHYS. The Institute of Astronomy is to be dissolved or shut down. The professors of the institute are to transfer to the (renamed) Institute of Particle and Astrophysics; Prof. X and Prof. NN will receive independent professorships.
- 43 On 10 May 2017 Prof. NN and Prof. X are informed about the planned reorganisation. Further meetings are held on 16 May and 24 May 2017, at which

various options (leaving ETH, taking a sabbatical to remedy the situation, etc.) are discussed. On 23 June 2017, Prof. X announces that he and his wife want to stay at ETH and take a sabbatical.

44 On 1 June 2017, the President and Vice Rector for Doctoral Studies invite former doctoral students of Prof. NN to a hearing.

45 In a letter dated 30 June 2017, the ETH President informs the (new) Head of Department, D-PHYS, and the Vice Rector for Doctoral Studies that Professors X and NN had received a six-month sabbatical and asks for help to ensure that Prof. NN's resumption of her activities in the spring semester of 2018 could take place in a calm as possible environment.

D. Further intervention of the Ombudspersons

46 On 4 May 2017, the two Ombudspersons addressed the Executive Board. They argued that Prof. NN lacked the character and leadership skills to exercise the functions of a professor at ETH Zurich. Due to the events of recent years, she was to be denied permission to continue to supervise doctoral and postdoctoral students within or outside her research group at ETH Zurich. They also urged the Executive Board to dismiss Prof. NN.

47 On 10 May 2017, a meeting was held between the Vice President for Human Resources and Infrastructure and the Ombudspersons to inform them of the state of affairs.

48 On 10 July 2017, the two Ombudspersons came to see the ETH Board. They were concerned, on the one hand, with the leadership behaviour of Prof. NN and, on the other, with the way the President of ETHZ dealt with human resources-related issues. In the letter, they mentioned that further testimonials and twelve oral reports had been received; a total of 13 written and 16 oral statements had been received.

E. Formal warning for Prof. NN

49 In a registered letter dated 11 July 2017, Prof. NN received a formal warning^{8a} from the President of ETHZ about her improper behaviour towards a doctoral student, together with a threat of dismissal in the event of recurrence. In two e-mails dated 27 June 2017, Prof. NN had allegedly accused a doctoral student of boycotting a project: according to Prof. NN, he was responsible for the rejection of an application for the Hubble Space Telescope. This formal warning was rejected by Prof. NN as having no grounds.

F. Decision of the ETH Board

50 On 21 August 2017, the Executive Board submitted its comments on the Ombudspersons' letter, which the ETH Board treated as a supervisory complaint. In it, the Executive Board denied the accusation of inaction, stating in the letter that adequate improvement measures had been taken, which made further investigations unnecessary.

51 In its decision of 23 October 2017, the ETH Board determined that the President of ETH Zurich had taken prompt action, and that he had immediately taken measures to better protect young scientists. With reference to Prof. NN, however, the ETH Board came to the conclusion that the accusations made against her should be investigated in more detail; they should not be left unchallenged. The ETH Board affirmed that there was a public interest in an administrative investigation and in clarifying the situation as comprehensively as possible. The aim of the investigation was not only to clarify the allegations against Prof. NN, but also to consider all the circumstances that might have favoured or made such behaviour possible, as well as the treatment of the doctoral students. In addition, the ETH Board considered the prerequisites for an investigation due to research misconduct to have been met, as evidence for such misconduct could have been found in the files.

^{8a} Translation note: "Ermahnung" in German. This can sometimes refer to an informal "reprimand", but in this case was a "formal warning", since it also carried the threat of dismissal if the misconduct continued.

G. Opening of an administrative investigation

52 At an extraordinary meeting on 24 October 2017, the Executive Board decided to conduct an administrative investigation. On 25 October 2017, the President informed ETH Zurich employees by e-mail of the opening of an administrative investigation; a media release was issued on the same day. An initial briefing session was held on 6 November 2017, and on 30 November 2017, the investigation order was formally placed.

H. Opening of another investigation on suspicion of misconduct in research

53 On the occasion of an extraordinary meeting on 17 January 2018, the Executive Board decided, on the basis of Art. 5 of the Procedure to address allegations of research misconduct at ETH Zurich⁹, to appoint an investigative committee for further investigation following a preliminary examination by the Trusted Intermediary, and on the basis of their report. The aim of this investigation (separate from the present administrative investigation and not conducted by the author) is to clarify the allegations made against Prof. NN for research misconduct.

III. Situation at the former Institute for Astronomy

A. Appointment of Professors X and NN

54 Prof. NN and her husband Prof. X were appointed to ETH Zurich on 1 February 2002. Prof. NN was initially hired as an associate professor; on 1 April 2007 she was appointed full professor. With Professors X and NN, the Institute for Astronomy, whose activities had been limited to solar physics, was to be expanded. Until their appointment in 2002, only two professors belonged to the Institute. Until 2008, they had their offices on Scheuchzerstrasse near the ETH Center; Professors X and NN moved into offices at Höggerberg.

⁹ RSETHZ 415.

B. Further appointments

55 Following the retirement of Prof. St in November 2007, further professors joined the Institute.

56 Various SNSF assistant professors joined the Institute thereafter; some are still there.

C. Strong position of the X/NN couple

57 In the past, the following persons were in charge of the Institute of Astronomy:

Period	Director	Deputy Director
---------------	-----------------	------------------------

[...]

58 Prof. X then served as head of the D-PHYS or as its deputy, namely from October 2005 to September 2007, and from August 2013 to July 2015 as deputy head of the department and from August 2015 to his (premature) resignation on 11 May 2017 as head of the department.

59 Until the appointment of Prof. T in 2011, the Institute of Astronomy consisted of only three full professorships, two of which were held by Prof. X and Prof. NN. Dr. M, titular professor, took part in some of the meetings of the Institute's management, although he did not have the right to vote.

60 The strong representation of the X/NN couple in the Institute with only three, later four full professorships was consistently criticised by the professors K, M, T and Y interviewed during the administrative investigation; no criticism was expressed by Prof. O. The organisation was described as "unhealthy" and complicated. Professors X and NN regarded the institute as their own; it was a "family business" and the other professors were only seen as guests. Nothing apparently changed in the dominant position of X and NN when other professors later took over the management of the institute. One either had to subordinate oneself or become an "outsider". Prof. NN attributes the strong position held by her and Prof. X to their outstanding scientific qualifications.

61 The fear that some expressed that the dominant position of the X/NN couple in the Institute might have contributed to the fact that complaints about the leadership behaviour of Prof. NN were neither brought to the attention of the Institute's management nor of the other professors of the Institute was not confirmed in the course of the investigation. Even though the initial organisational situation can in no way be described as optimal, it did not prevent doctoral students and postdocs from addressing their problems with Prof. NN to other professors. Professors K, M, T and Y knew that there were difficulties in the research group NN, and they all believed that the accusations made against Prof. NN were credible. The fact that they did not take their knowledge to the management of the department had nothing to do with the organisational structures in the management of the Institute for Astronomy and the predominance of the X/NN couple, but had other reasons. This will have to be discussed in more detail¹⁰. No evidence could be found that Prof. X might have prevented an escalation to the head of the department. It also seems unlikely that the doctoral students and postdocs concerned would have turned to Prof. NN's spouse with their knowledge and problems.

62 Today it would no longer be possible to employ a married couple at the same institute. Point 2.1.2 of the Guidelines on the Employment of Spouses, Life Partners and Relatives at ETH Zurich of 11 June 2013¹¹ excludes spouses from working at the same institute.

IV. Leadership behaviour of Prof. NN

A. Background

63 According to the ETH Professors' Ordinance, professors are responsible for teaching and research of international standing. They promote a new generation of professionally qualified scientists¹². They train the students, support their staff and ensure their further education, and

¹⁰ In the following reference 130 ff.

¹¹ ETH Zurich Legal Collection 121.14.

¹² Art 4 para. 1 ETH Professors' Ordinance.

supervise doctoral students¹³. They assume their responsibility as supervisors¹⁴.

64 The Compliance Guide of ETH Zurich lists the following *management principles*¹⁵:

- Be conscious of the responsibilities of your leadership role
- Lead by objectives and focus on development
- Communicate openly and clearly
- Actively support personal development
- Promote team spirit
- Enable change

65 Art. 4 Para. 2 Letter g of the Federal Personnel Act¹⁶ stipulates that employers, which would include ETH Zurich, must take appropriate measures to protect the personal rights and health as well as the occupational safety of their employees.

66 Art. 9 of the Staff Regulations for the ETH and Associated Bodies requires the two Federal Institutes of Technology and the research institutes to ensure a climate of *personal respect and trust* that excludes any discrimination. Inadmissible interference with the personal rights of individual employees, such as the exercise or toleration of attacks or actions against personal or professional dignity, must be prevented by appropriate measures, regardless of the persons carrying out such interference.

67 The Compliance Guide of ETH Zurich states that, for ETH Zurich, respectful interaction with each other is central. Sexual harassment, discriminatory, threatening or other incorrect behaviour, regardless of the person from whom it originates, will not be tolerated¹⁷.

13 Article 5 paragraph 1 ETH Professors' Ordinance.

14 Article 5 paragraph 3 ETH Professors' Ordinance.

15 Compliance Guide, German version 2015, p. 9 (RSETHZ 133).

16 Federal Personnel Act (BPG) of 24.3.2000 (SR 172.220.1).

17 Compliance Guide, German version 2015, p. 9 (RSETHZ 133).

B. Doctoral students of the research group NN

68 The following doctoral students were active in the NN research group:

Name	Duration	Remarks
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[...]

C. Management style

69 In the course of the interviews, numerous accusations were made against the leadership style of Prof. NN. These can be grouped as follows:

1. High performance expectations

70 Prof. NN is described as charming, spirited and impulsive with a lot of commitment; a person who always wants to produce outstanding results in every respect. Her aim is for astrophysics to be associated with ETH Zurich. In the interviews it was said that Prof. NN had to constantly prove to herself that she was the best and that she was afraid that her reputation could somehow be damaged. She is very quick to take offence. Prof. NN works a lot. According to a former doctoral student, she once said to him that she worked so hard "that she didn't even go to the toilet". Prof. NN states that it is possible that she made such a (completely trivial) statement.

71 She may have placed the same high expectations on her scientific staff as on herself. One of her former doctoral students said that she could be hard and demanding, but at the same time, according to another doctoral student, she could also be caring. A former postdoc said, "She really cares about people," but that at the same time she could be "bossy".

72 Not all employees can have met her expectations. Those who were able to deliver the required performance seem to have had few problems with her; they were better able to handle the pressure. According to one of the interviewees, one had first to gain her respect; and after that she would accept different opinions.

Anyone who couldn't do that had a hard time with her. It would have been easier for doctoral students if they had had a second external supervisor to assist them, according to the interviewee. That being the case, one of the respondents said that

"Those who didn't have external collaborations and were absolutely dependent on her, those crashed."

73 Prof. NN did not know how to deal with those employees who could not perform as required; at least many of the interviews conveyed this impression. She demanded an even greater commitment from such employees, which - according to Prof. NN - could not be objected to. Her attitude was that if work did not meet the required standard, it was self-evident that it must be improved.

74 According to a former doctoral student, the additional commitment required had led to a vicious circle, especially among foreign employees without a social circle. The more they worked, the lower the efficiency, which in turn prompted Prof. NN to demand more work. In individual cases, the workload of certain employees may have been very high. For example, a former doctoral student put on record that although she was already working ten to twelve hours a day (including weekends), she was encouraged to work more; the work simply could not be done, she said.

75 According to the interviewees, Prof. NN's high performance expectations of her (scientific and administrative) staff included the expectation that they would be available at all times, even in the evenings or at weekends, or that work would be done over the weekend. If a person had not replied to an e-mail within an hour on a weekend, a second one arrived with a question mark in the subject line or the note "Urgent"; people were also sometimes summoned at very short notice for a Skype call on a Saturday or Sunday, even if there were no deadlines to be met.

76 Prof. NN confirmed at the oral interview that in individual cases she had expected that employees would be reachable by e-mail or Skype or that they would do some work over the weekend. According to her these were exceptions, however, which had been agreed in advance with the employees; this particularly concerned the weekend of 14-15 January 2017, to which a doctoral student referred. In her written statement of 21 August 2018, she then denied that the "doctoral candidates or postdocs had to be available at all times", stating that the evidence invoked would not stand up to critical examination. At one point she explained that one cannot expect a nine-to-five job if one wants to achieve high goals, and that under the pressure of a deadline, work must be done at the weekend. The assertion that she had asked for more work was wrong, she

claimed.

2. Independent achievement of objectives

77 Prof. NN demanded that her staff carried out their work independently; according to the interviewees, cooperation was undesirable or forbidden. Prof. NN said something along the lines that “you have to think with your mind and solve your problems without others”. Even if you were working on the same project, you were only permitted to discuss the work with the other doctoral students or the postdocs of the research group NN or other research groups in the Institute of Astronomy if you had permission from Prof. NN. In some cases, doctoral students and postdocs were actually prohibited from communicating. Cooperation with international research collaborations was either impossible or only possible via Prof. NN. In this way, the emergence of ideas was brought to a standstill and employees were isolated from one another. One of the respondents explained:

“There was also another group working on the same project, not exactly the same, but with a similar kind of data with the same instruments (Prof. X’s group). We were also asked not to talk to them at all. She also asked me not to respond myself to the emails of the collaborators which were outside the institute. Everything had to be under her control, should come from her. I was given a task from a member of the consortium on the concept that we were working on, and I responded to the email of the person who emailed me, and then I just said thank you and asked a question. She suddenly replied to the email with a cc to all the members saying that what I did was wrong and if I had any questions I should ask her and then she would give me the permission to contact them. We were not allowed to do anything without her permission.”

78 Prof. NN denied this representation, claiming that the opposite had been the case. There had been one “very, very interactive and collaborative situation” within her research group; there had not been any prohibitions on discussions or conversations. If the exchange of data was controlled or restricted, the aim was either to prevent data from being released with errors or made accessible to unauthorised third parties, or to have the data tested by several independent persons. Prof. X also explained that cooperation between his research group and that of Prof. NN had been possible.

3. Checks

79 According to the interviewees, close monitoring was part of Prof. NN's management style. It was unanimously stated that she always wanted to be kept informed about all details. One of the respondents said:

“This at times was putting some extra pressure, because things were really scrutinized to tiny details. It was not always easy to defend your results, if you weren’t 100% sure. She followed very closely how things were done and she really wanted to have the overview of everything that was happening in her group, of the science that we were producing.”

80 She went on to say:

“I think she really wanted to be in control of what was happening in her group. She wanted to know the details of what was happening, be aware of what people were doing and how they interacted among each other. She wanted to be informed of the exchanges among people, e.g., if people discussed the science among themselves when she wasn't present. She really wanted to be informed of all the details.”

81 Due to her tendency to concern herself with all details, Prof. NN was often referred to as a "micromanager" in the interviews. Prof. NN explained that the checks were part of her duties as a professor, and that she had to be in the picture as to what her doctoral students were doing. Only if she knew the details could she prevent mistakes. The fact that she wanted to be in the picture within her group about ongoing work and discussions could not be objected to. Her husband Prof. X said that the checks served to prevent the publication of false data.

82 Prof. NN's need for control - according to the statements in the interviews - was expressed, among other things, in the fact that employees had to submit any e-mails to her in advance that they wanted to send to members of other research collaborations or to persons outside ETH Zurich. In addition, no e-mails were permitted to be sent without sending a copy to Prof. NN. If one did not obey this instruction, one was reprimanded or threatened with sanctions, e.g. termination. Lectures at ETH internal colloquia were allowed to be given by her doctoral students only with the consent of Prof. NN.

83 Prof. NN confirmed during the interview that e-mails to recipients outside ETH Zurich were to be submitted to her and that she always wanted to be served with a copy. If she did not receive a copy, she said that she kindly reminded the person concerned to do so in the future. She said she had not threatened them with dismissal. She said that it was important that no unchecked research results were sent out. This would have damaged the reputation both of the doctoral students and of ETH Zurich. Word for word, she said:

“I am responsible for what I provide, for what is published, what is provided.”

84 A former postdoctoral student then explained that Prof. NN had wanted to dismiss her because she had mistakenly believed that she had informed a professor who was not working at ETH about a project. Word for word, she stated:

“And she was really upset and then she was screaming. As I said, my grandmother is Italian, I don't take shouting personally, but she was shouting, she was upset. <I will fire you because you told [...] about this>. And I said, <No, I promise I did not tell [...], because I did not tell [...]. And then she calmed down and she found out that [...], who was also in Padova with [...] told her that. She did not fire me.”

85 Prof. NN did not comment on this accusation in her statement.

86 It was also said that the presence of the employees had been checked during the day and in the evening. For example, one of her former secretaries said on record that she had been instructed by Prof. NN to make tours of the offices to check their presence; her predecessor, however, had no such instructions. Prof. NN explained that this was not a permanent instruction; rather, she had asked her secretary to check the presence of staff when she had not met them in the office, although they should have been there. A doctoral student who was no longer in the office at 6.15 p.m. received an e-mail from Prof. NN saying that she had been sought, but that she had obviously already left. Another doctoral student said that he had received e-mails from her several times when she hadn't met him in his office around 8 p.m., with the question of where he had been this time. Prof. NN explained that this was only the case if a meeting had been agreed beforehand and the doctoral candidate had not attended.

87 According to the interviewees, the close controls did not come with close *support*. For example, many of the respondents stated that the care they received was insufficient or that they did not receive the support they needed. They said they were on their own. One of the respondents declared that she had learned nothing. The lack of care was also criticised in the employee survey of 2013¹⁸. Prof. NN said that she had supported all her PhD students and that her goal had been "to get [them] to the best possible position for themselves at the end of their PhD training". She went on to elaborate:

"So, with all my students I tried everything I could to push them <from the bottom> to see where they could get up to, on their own merit. And with some people I very proudly managed to help them, and with others I realized that I wasn't able to help: because I did not see the potential."

88 In her written statement, she then said that the statements of many of the interviewed persons showed that she had taken great care of her doctoral and postdoctoral students. Also the e-mails submitted by her would confirm this, she wrote.

¹⁸ In the following reference 153 ff.

She said that her demands were intended to ensure that the doctoral and postdoctoral students could achieve the goals they had set themselves.

89 In response to the question as to whether some of the doctoral students had been overtaxed, one of the interviewees said:

"If you go into a project and you have no idea about high-performance computing, you don't know what the scientific goal is, you don't get any support, and then you have to present results while you are completely isolated, within a short time and under pressure, and if, then, you don't deliver exactly what is demanded... Then you can speak of being overtaxed. I call it bad care. Expectations, requirements, reality just weren't in tune."

4. Ambivalent leadership style

90 The leadership style of Prof. NN is described as erratic. It apparently sometimes happened that one day you were working in one direction and the next day in a completely different direction. No strategy was discernible; there was no common thread. Instead of setting goals, it is claimed that she could lose herself in little things. In many cases, the employees did not even know what exactly she had expected of them; there was a lack of clear instructions. The leadership is therefore classified as weak.

91 Prof. NN denies that she pursues an ambivalent leadership style. She then explains, using several examples, that she gave precise instructions to her staff.

5. Working atmosphere and discussion culture

92 According to many of the interviewees, the research group was dominated by a tense, pressured working atmosphere. The mood - according to one of the respondents - was quite bad right from the start (i.e. back in 2004 and 2005). Another describes the working atmosphere as intense, but not bad; another describes it as good, although that respondent recalls that there were people who did not consider it so good.

Only one of the respondents described the working atmosphere as extremely friendly.

93 As a rule, Prof. NN spoke personally with each employee on a weekly basis. Some of these meetings lasted over four to five hours and sometimes deep into the night, with only part of the meeting consisting of discussions about the work. It was practically only Prof. NN. that spoke, according to respondents. It was described as a never-ending circular monologue; a stage for self-display. An actual discussion had not been possible at all. It is claimed that she met critical questions with a never-ending torrent of words; one did not have a chance to speak.

94 Prof. NN writes in her statement, submitting numerous e-mails, that the meeting dates were always agreed in advance with the possibility of a postponement if the proposed date did not suit; 45 minutes were planned for each meeting. On the occasion of her questioning, she then said that in the discussions work had always been in the foreground. She had only talked about personal matters if they had been raised by her employees. For example, one of her doctoral students told her about her parents' divorce. The doctoral student was very preoccupied with this and wanted to talk to her. She was given the role of a surrogate mother. To the accusation that only she had spoken at the meetings, Prof. NN explained that she could have saved herself the meetings if it had only been a matter of talking to herself. She claimed that it was obvious that the "group" around the doctoral student A had a recognisable interest in presenting the working climate as badly as possible in order to justify the change to Prof. T. In order for the criticism expressed to appear credible, they would have had to give particularly detailed descriptions; according to Prof. NN there was a complete lack of such descriptions.

D. Conduct towards employees

95 During the interviews, Prof. NN was accused of numerous violations of the personal rights of doctoral students and postdocs. The allegations made can be classified as follows:

1. Disrespectful behaviour

96 According to the respondents, the criticism expressed by Prof. NN was disproportionate and sometimes extremely harsh. In addition to accusations such as not being good enough or working too little, criticism also became personal, such as criticising (bad) posture or addressing alleged psychological problems. Prof. NN told a research assistant that her body language showed her how aggressive she was towards her. She asked others to spend less time on make-up.

97 Prof. NN vehemently contradicted these accusations (with the exception of the comment on make-up). Rather, for reasons unknown to her, the aforementioned scientific employee was aggressive towards her. As regards the make-up issue, her remark had to be put in the right context. An important part of the training, Prof. NN explained, was to go through the latest publications in the field of astronomy every day. Since doctoral student A did not want to spend the time necessary for this, she explained to her: "It is much better if you run out of one hour in your day that you sacrifice the hour for the make-up rather than the hour for the astro- ph".

98 Several of the respondents stated that Prof. NN had yelled at them and that they had been disparaged or insulted. Doctoral student C, who, according to Prof. NN, had been asked to leave the research group, said:

"Basically, she tried to convince me to leave. At the beginning, I didn't want to leave and said, <you have to fire me if you want me to leave>. Then she got out of her mind. I don't remember the conversation, I just remember she was yelling at me."

99 Prof. NN denied yelling at her employees. Due to C's inadequate performance, she talked to her doctoral student about the situation after about six months. According to Prof NN, after a reflection period for C, they then came to the unanimous conclusion that the best thing would be for C to leave ETH Zurich. In her statement of 21 August 2018, Prof. NN describes C's departure in such a way that C wanted to terminate the employment relationship. If C claimed that she - Prof. NN - had asked her to leave ETH Zurich, then that was a lie. In an overview of her doctoral students written by Prof. NN, however, the entry on doctoral student C contradicts this description: "Advised to leave after one year and did so by mutual agreement."

100 Prof. X also denied that his wife had yelled at her students, but remarked that, as a lively Sicilian with a different cultural background, she communicated differently from Swiss or English people.

- 101 Several of the respondents stated that they had been described as stupid, incompetent, sloppy or losers, insulted for mistakes or compared to cleaning staff who could be dismissed at any time. Also the expression, "a monkey can do it" came up many times. Religious people were described as idiots.
- 102 These accusations were denied by Prof. NN during her interview. Mutual respect, regardless of position and hierarchy, was of great importance to her, she said. The aforementioned comparison with cleaning staff had been, moreover, taken out of context. It was about the fact that everyone, whether a cleaner or a judge, had to finish their work and show results. The same applies to astronomers; they too must make progress and bring their work to a conclusion. It was never about disparaging anyone, from her point of view. In her written statement she confines herself to describing the statements made as unbelievable. These were all completely abstract and did not relate to verifiable facts.
- 103 In an English-language e-mail sent by doctoral student A to a senior scientist at ETH Zurich and written by Prof. NN, the (ambiguous) Italian expression "Salutiasoreta" is used at the end. This expression did not have the meaning "greetings to your sister", but contained - according to doctoral student A - a hidden insult. Prof. NN explained that this was a colloquial term which had no offensive meaning. Word for word, she said:

"It was a silly way of saying [to A] <and here write your greetings>."

104 In a "clarification" attached to the interview record of 30 May 2018, Prof. NN justified herself. After the draft report had been submitted, she said that she had investigated the meaning of the expression "Salutiasoreta" and had found with dismay that it had a derogatory meaning, of which she was not aware. She apologises for the use of that term.

105 Prof. NN also apparently spoke badly of former employees; for example, publications by former doctoral students and postdocs had been described as "shit". This is disputed by Prof. NN. Prof. X put on record that this word was not part of his wife's vocabulary.

106 One of the respondents said:

"It happens often that she belittles students. She would see herself as the victim, the victim of terrible students she was too kind with and now she is dealing with these terrible students."

107 It was claimed that Prof. NN's criticism went so far that some of the employees burst into tears. Several of the interviewees confirmed that employees had come away from meetings with Prof. NN in tears, or that they had come across them crying in the corridor after meetings with Prof. NN. Prof. NN explained in her interview that the tears were not due to her criticism. Word for word, she said:

"I didn't entertain meetings where I was torturing people to bring them to tears."

108 She further explained that she could not remember that the doctoral student F had cried. Throughout his six and a half years of employment, she could only remember one meeting at which he was a little despairing. The doctoral students B and C, on the other hand, often come to her office already crying for reasons for which she was not responsible; this had happened three times in the case of C. In her written statement she describes the statement of the doctoral student F that he had burst into tears as fictitious.

109 It was also said that there was an atmosphere of fear in the NN research group. Prof. NN was apparently well aware of this. In this regard, one of the respondents explained:

"More than once, in discussions I had with her, it came up that I and others were afraid of her or of meetings with her, because they were often very unpleasant. Then she answered that someone like me couldn't be afraid of her, she was only Prof. NN, how could you be afraid of her?"

110 Prof. NN could not remember any such statement during the interview. Her goal has always been to help her doctoral students. They could have come to her at any time; her door was always open.

111 Several of the respondents stated that they tried to forget the events, partly with professional support, or that they suffered from health problems. A former PhD student said:

"I just mentally broke because I could not go on like that, it was too much pressure."

112 In her statement of 21 August 2018, Prof. NN denied all these accusations and described the statements of the doctoral and postdoctoral students as unbelievable. The respondents would have had enough time to coordinate their stories with each other. According to Prof. NN, the former doctoral student A had not only mobilised the doctoral students who had been at ETH Zurich at the same time as her, but also those who had been in the doctoral programme in earlier years. It could not be assumed that other former doctoral students suddenly had the idea at the beginning of 2017 to complain, independently of A. They had all been mobilised by A with the clear goal of making Prof. NN appear in the worst possible light. These doctoral candidates were therefore not independent sources.

2. Unfair treatment of women

113 Several of the respondents complained of poorer treatment of women. The demands made on women and men were different. Women had less respect; they had to prove themselves more and perform better than men. Behaviour towards women was apparently more aggressive, stricter. Others, on the other hand, could not detect any difference in treatment. Regarding the accusation that women were put in a worse position than men, Prof. NN said that although she did make demands on her female PhD students, these were not greater than those made on the male students. The number of female employees shows that she has always tried to promote women. She has, she says, always been committed to the advancement of women (also as co-founder of the ETH Women Professors Forum); the accusation that women are discriminated against is therefore particularly malicious.

114 One of the respondents said the following when asked whether women and men had been treated differently:

"Unfortunately yes, by putting less trust in women, and at the same time applying her own

demands on herself to women, with statements like, 'If you have children, it harms your career,' and 'You have to perform twice as well as men, otherwise you have no chance because the whole world is against women, and if you are not strong or have a thick skin, you have no chance.' In this regard, the demands were less strict on men; such personal statements were much more frequently made to women than to men."

115 A second one stated:

"[Women] had it a little harder. She has also said frankly that women must work twice as hard, be twice as good as men to progress, and therefore they must be even tougher and work more."

116 This statement was confirmed by Prof. NN. She says that it corresponds to reality and the experiences she had had herself.

117 One interviewee then said:

"She was showing completely different behavior to the male students. She requested a lot of things of both. But it was at least like treating them in front of other people, this was completely different. She was more demanding on the women. She was saying they have to do more to prove themselves, I think. But we were always saying, if we are planning to get pregnant it was like the end of the career to her. She showed that she was supportive for the males to get farther. But not for the females, if you were a PhD student of her it was the end of your career, in her opinion. She was really hard. There was a completely different way of treating male and female students. Even male students could see that."

118 Prof. NN decisively rejected this accusation as a false allegation both on the occasion of the interview and in her written statement.

119 One of her former secretaries did not notice any difference in treatment, but also said that Prof. NN considered pregnancy to be the end of a career for her co-workers.

120 One of the interviewees finally stated:

"At that time I was the only female student with her, therefore I cannot report on other students' experiences. I think the relationship was different. In a way, she might have felt closer or more responsible for women. She always thought she could be a promoter of women in science. Whether the way she was doing it was always productive, I'm not sure. As I said, some people cope well with pressure, some don't. This extra pressure on women to really be outperforming and become a successful scientist, could be too much in some cases. I'm basically talking about my own experience, as I said [...]. I found that the fact that she cared a lot that we would become as successful as men would turn out in extra pressure. That was not always helpful to making you really productive. "

3. Exertion of pressure

121 Some of the interviewees stated that Prof. NN had threatened not to extend their employment contract, which was limited to one year in each case, although they had not yet completed their doctoral theses. In some cases, they had also been left in the dark for a very long time as to whether the contract would be extended at all. This put them under enormous pressure, not least because they did not know whether they could continue to stay in Switzerland. The former PhD student F said that Prof. NN had several times made the extension dependent on the achievement of certain goals. Word for word, he said:

"She also used contracts of employment as a means of pressure and then said that if so-and-so didn't happen by such-and-such a date, she couldn't go on with me."

122 Someone else put it on record:

"She used that as an instrument to a certain extent to spur people on. But she also kept her people at it, which led to contracts being extended."

123 One of her administrative assistants explained:

"She wanted to withhold contract renewals that were pending to see how things developed."

124 Another administrative employee said:

"The students [assumed] that, for example, their contracts would be extended in October, but they were then told in September that they would no longer be extended. [...] She often then extended it for another year after all. I don't remember her putting anyone who didn't have another job out on the street. For those affected, it was very unpleasant to have to be under this psychological pressure, and that was the case for postdocs and doctoral students."

125 Prof. NN denied having put pressure on her employees in connection with contract extensions. In particular, she says that the employment of the PhD student F for six and a half years, instead of the usual maximum duration of six years, shows her great patience. After F's doctoral examination, she was also apparently asked by the current head of the department, D-PHYS, not to bring weak students to the examination any more, but to end their working and supervision relationship beforehand. He advised her to conduct staff interviews, which she did.

E. Research Plans

126 Pursuant to Art. 11 of the Ordinance on Doctoral Studies ETH Zurich¹⁹, candidates provisionally admitted to a doctorate must draw up a research plan.

¹⁹ Ordinance on Doctoral Studies at the Swiss Federal Institute of Technology Zurich (Ordinance on Doctoral Studies ETH Zurich) (SR 414.133.1).

This formulates the objectives and the scheduling of the doctoral thesis as well as the duties of the doctoral students. The research plan must be submitted within twelve months of provisional admission. Extensions of this period must be approved by the Doctoral Committee. According to Art. 12 Para. 1 of the Ordinance on Doctoral Studies ETH Zurich, definitive admission to the doctoral procedure is only granted once the research plan has been approved.

127 These guidelines were not observed in the NN research group. For example, one of the respondents stated that, as a rule, no research plans were submitted. In many cases, these were only prepared and approved shortly before registration for the doctoral examination. An evaluation carried out by the D-PHYS confirms this. Numerous research plans were only approved shortly before taking the doctoral examination and only years after the doctoral candidate had started working in the NN research group. The only exceptions are two former PhD students. Their research plans were approved 14 and 19 months respectively after joining ETH Zurich. In two other cases, the research plans were approved one year and two years respectively before the doctoral examination, both on the same day. In the latter two cases, according to the doctoral student F, the research plans were taken in hand after he had complained that he had no research plan.

128 According to the Ordinance on Doctoral Studies ETH Zurich, any co-examiner must be appointed no later than three years after provisional admission²⁰. This did not happen, at least not in the case of PhD student F. In his case, the co-examiner was only appointed shortly before his doctoral thesis was accepted.

129 Prof. NN admitted in her interview that she had not adhered to these guidelines as much as was necessary. In her written statement, she added that it had been she who had requested a research plan from PhD student F in January 2010, after he had never submitted anything for years. The research plan could only be approved, after several revisions, in May 2011.

²⁰ Art. 15 para. 2 Doctorate Ordinance ETH Zurich.

With the appointment of Prof. K as co-examiner, she wanted to ensure a benevolent evaluation of F's dissertation.

V. Reactions

A. Professors at the Institute of Astronomy

130 Of the six professors of the former Institute of Astronomy interviewed during the administrative investigation, four, namely Professors K, M, T and Y, agreed on record that they knew that there were problems in the NN research group; they said they had also been asked for advice by Prof. NN's scientific staff. Prof. X said that there were better and worse times in the research group NN, which is normal. Prof. O explained that he only learned about the accusations against Prof. NN from the press.

131 Prof. Y, who used to work at ETH Zurich, explained:

"[I]t is fair to say it was very clear to me that the people did not feel supported, they felt that they were always under a threat somehow to behave and act in a certain way. The standards by which they would be judged could also be changed and complicated in a way that they did not understand. I think it is also fair to say that some of them felt that they were not going to get full credit for the work they were doing. I think something that surprised me was, it seemed like people within the group were discouraged from collaborating with each other. I found that very disturbing."

132 Prof. T explained that in one case he had been contacted by a researcher from the NN research group. The person in question had come to him to discuss their problems with Prof. NN. He had offered his help and then contacted the personnel office; at the express request of the employee, he had not taken any additional steps and had not involved any other persons.

133 Prof. M said the following in response to the question whether he had had knowledge of problems in the research group of Prof. NN:

"Yes, I did. I didn't realize how bad they were. I knew there were people with problems. I've talked to some of them, too. I knew it wasn't too easy getting along with her. [...] Except [the former doctoral student] F, everyone said that somehow or other it was possible to work with her. F did have serious problems, I can't remember if I referred him to HR, but I'm sure I asked him to talk to Prof. NN. After two years, [he] told me that she had put him under pressure and threatened him with dismissal. After four years he had not finished, and we had a longer discussion. She continued to support him so that he could complete his PhD and finish the work."

134 Prof. K also said that several people from the NN research group had approached him with their problems and asked him for advice. He recommended to each of them that a lawyer be called in.

135 The four professors K, M, T and Y considered the accusations made against Prof. NN to be credible. In this regard, Prof. Y said:

"It was my feeling that the things that were communicated to me consisted with my profile, my experiences within the Institute. I believed them. But I also did not encourage them to get into very great specifics about a specific act of co-authorship or collaboration. I did not encourage them to detail very specific incidents. But it was clear to me that they were afraid, they were afraid of retribution if they sought protection or help. Many of them felt like their only option was to leave the field, because things had gone bad in their working environment. And they felt like – for reasons they partly understood and partly they did not understand – they were not going to be supported to move on in their career. And I guess, my feeling is the most of the time this happens, this is a bad problem."

136 The aforementioned professors of the former Institute of Astronomy tried in their own way to support the people asking for help. They did not talk to Prof. NN, nor did they contact the head of the D-PHYS department or the Ombudsperson. Prof. Y explained in the interview that he had instead compiled an information sheet with all the contact points within ETH Zurich to which doctoral students and postdocs could have turned in the event of problems with their professor. It had originally been planned to distribute the list at the Institute of Astronomy. Since this procedure did not win the approval of the management of the Institute for Astronomy, he sent the list to the heads of the individual research groups at the Institute for Astronomy and to a member of the department management. Since the latter did not know the reason for drawing up the list, he was probably not able to do much with it. In retrospect, he regrets very much that he did not put the then head of the D-PHYS in the picture.

137 Prof. NN does not comment on these disclosures in her statement. She merely states that Prof. K was biased because he probably calculated that he would have a chance of obtaining unlimited tenure if he succeeded in forcing her out of office; with regard to the statements of the other professors, she argues that at best their knowledge came from hearsay. The latter obviously is not the case, as Professors K, M, T and Y all unanimously declared that they spoke to people from the NN research group seeking help.

B. Ombudspersons

138 Since taking up their duties at ETH Zurich, several scientific (and occasionally administrative) employees of Prof. NN have approached the two ombudspersons at the Ombudsperson service. In 2005, the then doctoral student E contacted the Ombudsperson service because she had to give up her doctoral thesis after her supervisor had apparently been dismissed due to disagreements with Prof. NN. In addition, she had not been informed about it by either Prof. NN or Prof. X. When she asked the then Ombudspersons for advice, she was told that "one knew about the history, knew the problem, but nothing could be done about it". According to E, two other persons had contacted the Ombudspersons at the time because of problems with Prof. NN. E subsequently moved to the University of Zurich. In her statement, Prof. NN states that it was not simply differences of opinion that led to the departure of E's supervisor; she states that the problems were much more profound. It was to be assumed that the Ombudspersons had been aware of these problems and that that was why they had taken no action.

139 In March 2009, the doctoral student F asked the then Ombudsperson for an appointment to talk to him about procedures and problems in the Institute of Astronomy that would affect both him personally and also other employees. The meeting took place on 25 March 2009. The Ombudsperson recommended that he contact the then Vice Rector for Doctoral Studies. Otherwise, the Ombudsperson could not help him. The doctoral student F explained this on the occasion of his interview:

"At the time it was just that it was said that this was an isolated case, that nothing could be done now. He said that it was bad, of course, and that I'd have to see to it that I got out of there as quickly as possible. That was the answer I had."

He went on to say:

"The ombudspersons are always changing. Not everyone goes to the ombudsperson. The inhibition threshold was very high, because you always had reservations: if Prof. NN were to find out, you would have lost. She never should have found out. The ombudspersons always suggested that the discussion could be carried out together in order to improve the situation and find a solution. That wouldn't have been possible with her. She would certainly have been very obliging to the ombudsperson, but once alone with her one would have been a lost cause. It was always like that with her, you had to trust her, and she would have seen it as a breach of trust."

140 Prof. NN stated in her statement that the reasons given for the Ombudsperson's inactivity were not very credible; that a conversation with her would have had no chance from the word "go" was an assumption without any basis.

141 In April 2013, F, together with two postdocs, D and G, again turned to the then Ombudsperson. D, who established contact with the Ombudsperson, wrote the following in his e-mail to the ombudsperson:

"Hello Prof. [...]"

I am a postdoc in D-PHYS and am writing because myself and several of my colleagues have been having a number of issues with our supervisor. Although each of us has specific grievances, we are more concerned with what we see as a long-term pattern of poor management, arbitrary decisions, lack of feedback, etc. which we feel has severely limited our productivity and left us very frustrated and demoralized."

142 For the discussion with the Ombudsperson, the three of them compiled a list of their most important criticisms, which was submitted to the Ombudsperson. The criticisms, many of which have already been discussed above²¹, already included at that time:

“1. Deficient science project manager

- Generally an obstacle, not a facilitator of the scientific process
- Poor management of timeline for PhD: duration, defence date, committee, science
- No clearly defined projects for some PhD Students
- Not possible to succeed without the strong influence of an external collaborator
- More focus on presentation than on content
- Over-committed, no time for students
- Papers are delayed due to lack of feedback or micro-management
- Mostly negative feedback in general, no encouragement
- Students not allowed to choose courses freely
- No recommendation letters to go to certain institutions
- Uses job contracts to put pressure on students
- Forces students to read papers for discussion in general, more so when visitors come
- Controlling, does not allow for independence or for collaborations with other students or postdocs in the institute
- Students many times not allowed to go to conferences
- Postdocs denied collaborations
- Deadlines always changed according to her needs, no respect for the student's time
- No written agreements, only verbal, many times not fulfilled
- Forces students to do extra work (e.g. organize events) during the final stages of their thesis writing process
- We are expected to work on weekends (e.g. meetings on Friday, work due Monday; getting a laptop is no excuse not to work on weekends; emails expected to be answered in an hour even during weekends; phone calls on weekends).
- Says that it's OK to work at home, but controls attendance through secretary. At times, absence days marked as holidays. Does not count overtime.

²¹ In this regard, see earlier reference 70 ff.

- Members of the group treated unequally
- Rarely positive towards science articles written by others

2. Inefficient communicator, negative work environment

- Generally difficult to communicate with her, even when she is around
- Does not respect others or consider their opinions
- Micromanagement and lack of trust
- Puts students and postdocs against each other
- Meetings to set up meetings, meetings to talk about meetings
- Very negative inside the group
- Reputation of the institute abroad is very bad

3. Unprofessionalism, erratic behaviour

- Creates insecure job environment: fires postdocs, and then hires them back
- Encourages independence on postdocs, then becomes enraged if want to submit proposal as PI.
- Poking my head with her fingers (“keep this in your mind”), “I work so hard that I don’t even go to the toilet when I need”
- Was offended when asked to write letters of recommendations to Swiss fellowships because they are not as prestigious as American ones
- Explosive behaviour when a scientific paper about women in science was discussed
- Inappropriate comments about private life in front of colloquium speakers at dinner
- Shares confidential scientific information and asks to verify results with her data
- Asked to not take the accumulated 75 days of holidays
- Generally emotional and overreacting, has reacted angrily to what she interpreted as a bad attitude based on my <body language>.”

143 The contact with the Ombudsperson ultimately had no consequences. According to statements by G, they received the information that nothing could be done. F noted that although the Ombudsperson had offered to talk to Prof. NN along with them, he could not do much for the postdocs. In order to ensure that he, F, did not end up without a doctorate, the Ombudsperson contacted the then head of the Institute of Astronomy, Prof. Y. Prof. Y promised to help him. The postdocs, on the other hand, received the answer from Prof. Y “There is nothing we can do”. Prof. Y explained on the occasion of the interview that he did not think he had used these words, but noted:

“I probably would have said something that meant that, but I would have used kind of a different

language. As a collegial Institute's head, I am not sure what authority I would have to talk to colleague in this way. And as I said, I regret not having gone to [...] which I think would have been the right next step."

144 In her statement, Prof. NN argues that there could not have been too much for doctoral student F to complain about in March 2013, as she had just at that very time extended his employment by half a year. Therefore, the list that he had apparently drawn up was just as unreliable as the assertions of the other doctoral students. The fact that this list existed was not proof that the points it contained were correct. Moreover, the alleged reaction of the then Ombudsperson appeared to be hardly credible. Prof. NN said that it was necessary to conclude that nothing was done on the grounds that the complaints submitted were unfounded.

145 In January 2016, an administrative employee went to the Ombudsperson due to her problems with Prof. NN, without any action being taken.

146 On 5 January 2017, doctoral candidate A finally turned to the Ombudsperson. The Ombudsperson's intervention with the ETH Board led to the present administrative investigation.

C. HR Department

147 In the course of the interviews, the former secretaries of Prof. NN in particular repeatedly emphasized that the Human Resources department must have been aware of the difficulties in the NN research group.

- 148 Prof. NN's long-time secretary said that HR had known that Prof. NN was rather difficult to deal with. When she started working for Prof. NN, bets were apparently placed on whether she would stay with Prof. NN for longer than one to two years, after her predecessors had changed jobs on average after only four to six months. The HR and Executive Board must also have been aware that doctoral students were leaving.
- 149 The administrative employee I confirms that the HR department must have been in the picture. She had been told that the problems were known, but that nothing could be done.
- 150 The administrative employee J, who worked for Prof. NN from October 2016 to January 2017, said that the responsible human resources manager P had confirmed to her during her exit interview on 19 January 2017 that there were problems and that not everything was running smoothly at the Institute for Astronomy. This is confirmed by P, who has been working in the Human Resources Department of ETH Zurich since August 2016 and is responsible for D-PHYS. However, he added in the interview for this investigation that at the time of the exit interview he had already received additional information from doctoral student A, who had contacted him in mid-January 2017 after Prof. NN had refused to renew the employment contract with her. J's remarks had confirmed the picture he had gained from doctoral student A.
- 151 What exactly HR knew must be left open. The long-time former Head of Personnel Consulting, who was also responsible for the D-PHYS, put on record that none of the secretaries had visited him because of problems with Prof. NN, with the exception of employee I. In the case of I, it was the case that even Prof. NN had not wanted to continue working together; there had obviously been reservations on both sides. Subsequently, an agreement had been reached on a mutual dissolution of the employment relationship. Prof. NN's goodwill in this matter had been exemplary. He was not aware of any other problems.

152 In her statement, Prof. NN only comments on the statement of the former Head of Personnel Consulting by more or less repeating the remarks in reference 151. There are no comments on the statements made by her former administrative colleagues. The reason given for this is the lack of the time necessary to also be able to work through this "sideshow" in detail.

D. Staff

153 In April 2013, an employee survey was carried out at the Institute for Astronomy on the initiative of the Academic Staff (Mittelbau). The 21 participants of the three research groups were asked a total of 25 questions about the scientific environment and its future prospects, the workload, and the research group concerned, as well as about supervision and support. The average values of all research groups were presented to the institute's management, but not the results of the individual research groups. These were given only to the heads of the respective research groups.

154 The results in the NN research group were poor. When asked whether doctoral students and postdocs were encouraged by Prof. NN to collaborate with ETH internal or external research groups, three of the eight participants in the NN research group answered "as expected", three answered "less than expected" and two "much less than expected". When asked whether they were sufficiently trained and cared for, only one participant answered "as expected", six participants answered "less than expected", and one "much less than expected". When asked whether they were satisfied with the scientific supervision in the group, one responded "don't know", five "not really" and two "no, not at all". The question of how they would assess the scientific discussions within the group for their professional and personal development was answered "OK" by two respondents, not useful by five and "waste of time" by one. The question of whether they were treated respectfully was answered "yes" by four and "I don't know" by four. In the other research groups, on the other hand, all participants felt treated with respect. The question of whether they felt obliged to work at weekends was answered "very often" by three participants, "sometimes" by two, "not really" by two and "normally not" by one. In the other research groups, none of the participants replied that they "very often" had to work at the weekend.

155 The hope of the initiators of the employee survey that Prof. NN would introduce improvements in view of the sometimes questionable feedback was not fulfilled. Instead, Prof. NN tried to find out which doctoral students and postdocs had given her

poor ratings. One of the respondents said that once the results of the survey were available, they had to go individually to Prof. NN and explain themselves. In the course of the discussion, remarks were made to the effect that there were "stinkers" with whom she did not wish to work; that she concentrated on the "makers".

156 In her statement, Prof. NN does not comment on the results of this employee survey conducted by the Academic Staff. Her statement merely refers to the evaluation report of 10 June 2013, written by international experts, in which the following is explained:

"Our interviews with the professors and the representatives of the students, postdocs, ‹Mittelbau› and secretarial staff showed a very good collaborative spirit. The institute functions well as a unity with respect to strategic planning and, e.g., pooling of resources for access to surveys. Also, scientific collaborations across group boundaries are common (e.g., within the framework of the COSMOS survey). The weekly astro-lunch of the PhD students is a good example for how to bring students from different groups together on a regular basis."

157 The results of the employee survey were not intended for the international expert group, but for the heads of the individual research groups; the international expert group therefore did not even know the results. For this reason, contrary to Prof. NN, it cannot be concluded that the findings cited in the evaluation report would not have been made if there had been major grievances.

158 There was another employee survey in 2016. Since there is only one evaluation for the entire Institute of Astronomy and not for the individual research groups, the results are difficult to evaluate. In the evaluation report for the personal comments of June 2016 on the D-PHYS, however, there are some individual very critical voices that are likely to concern Prof. NN. They say things like:

"I'm satisfied with my supervisor/professor. He/she treats me with respect and I also see that funds are being used wisely and that a leadership/strategy of the group is in place. But I also see other things: In the close research environment where I am employed there is at least one research group where the research manager/professorship treats the employees like slaves, makes threats that violate the labour law and ETH internal guidelines, has no leadership qualities and wastes money on meaningless things. The doctoral students in this group struggle for a long time under great stress with meaningless and inefficient projects. All of this is also known in this environment among other group divisions in the same institute - and everyone is looking the other way. The internal controls do not function. Every professor has his or her own "kingdom", which must be protected, and they do not want to get mixed up in others' affairs. Employees are often in a very dependent relationship with a single professorship. I cannot recommend anyone at ETH Zurich to join this research group. In fact, there have been some early departures in recent years (voluntary, semi-voluntary, dismissed) and the group in question is unable to recruit the best people. If you have a good boss, it's good at ETH. If you don't, you're on your own. This is not about freedom of research, but about structures that also create inefficiency and untenable circumstances. Professors are 'gods', but they are also only

paid out of public funds. There is a need for clearer hierarchical structures at the level of group management."

159 In September 2016, the management of D-PHYS rejected P's proposal to examine the results of the personnel survey more closely. P is responsible for HR in D-PHYS. The D-PHYS management informed P that it "assessed the majority of the results positively and did not identify any urgent need for action in D-PHYS". Prof. NN does not comment on the 2016 employee survey.

VI. Appraisal

A. Leadership behaviour of Prof. NN

160 Prof. NN demanded a high level of dedication and motivation from her scientific staff because she wanted to prepare them for a scientific career. It goes without saying that this expectation could lead to pressure among employees. At ETH Zurich, one of the world's leading universities, high performance can be expected from scientific staff, and there can be no talk of unacceptable pressure when performance is demanded and work results critically reviewed. The question is where the limit is, and how to deal with employees who do not live up to their performance expectations.

161 The range of accusations made against Prof. NN is very broad. They range from non-compliance with the specifications with regard to the research plans to poor leadership behaviour, which is characterised by the lack of objectives, sudden changes of direction, tight (and probably exaggerated) controls, a lack of discussion culture and a focus on details, to the disrespectful and harassing treatment of her employees.

162 Those employees who were able to meet the requirements of Prof. NN were unlikely to have had any problems with her. Many of them have successfully embarked on an academic career (partly with the support of Prof. NN). From their side there were hardly any or only sporadic accusations against Prof. NN.

163 The situation is different for those who were unable to meet her performance expectations. Especially among them (but not exclusively), the result was a very tense employment relationship and apparently sometimes considerable criticism on the part of Prof. NN, which, according to the interviewees, also went into the personal sphere. This may have been the case with the former doctoral students A, C and F in particular. However, accusations were also made by several postdoctoral students.

- 164 One of the management tasks of a professor is to treat all employees with respect, regardless of their performance and gender. Respectful interaction with one another is central to ETH Zurich²². Prof. NN - according to the impression given in the interviews - is not able to do this. If a person spoiled their relationship with her, they could - as a long-time administrative employee reported - not do anything right any more; one had - according to a former postdoc - become a "persona non grata".
- 165 With regard to the central question of whether Prof. NN behaved abusively towards some of her colleagues by scolding, insulting or otherwise degrading them so that they burst into tears, the (concurring) statements of numerous respondents and Prof. NN's statement are diametrically opposed. Prof. NN sees herself as part of a plot, a character assassination campaign, with which failed doctoral students wanted to discredit her. Behind this campaign was supposedly doctoral student A, who wanted to take revenge for her dismissal. It was A that set the whole process in motion with the collection of testimonials. The (former) Ombudsperson was also behind the campaign. The latter demanded her dismissal without verifying the truth of the allegations made against her. Similarly, the current head of the department, D-PHYS, and the Vice Rector for Doctoral Studies were biased against her; they too had uncritically accepted the accusations made against her.
- 166 The conspiracy theory put forward by Prof. NN is not convincing. If the accusations were made solely by doctoral student A, the revenge argument could still perhaps carry some weight. With reference to B and H, which Prof. NN counts as a "group" around doctoral student A, who is supported by another doctoral student, the revenge theory is unable to provide conclusive answers. According to Prof. NN, she had a good relationship with these people, so that it is not clear what they should have taken revenge for. It should also not be forgotten that B and H (who continue to work at ETH Zurich) run the considerable risk of prematurely ending their careers with their statements.

²² Cf. earlier reference 67.

167 The accusations made against the Ombudsperson, the Head of the D-PHYS department and the Vice Rector for Doctoral Studies are inappropriate and testify to a "for or against me" attitude. All those who believe in the statements of doctoral students and postdocs are against Prof. NN and therefore biased. If the Ombudsperson supported the dismissal of Prof. NN, he did so because he had come to the conclusion, on the basis of the files available to him and the statements made by numerous persons which he found to be conclusive, that her conduct was not worthy of ETH Zurich. It is therefore wrong for Prof. NN to portray herself as a victim of a campaign that started with the Ombudsperson.

168 As shown above, there have always been problems in the NN research group, and various doctoral students and postdocs have turned to colleagues of Prof. NN or to the Ombudsperson's office at different times. The list of criticisms copied out in reference 142, which was submitted back in 2013 to one of the ombudspersons at the time, is particularly revealing, as are several of the criticisms listed in section IV. (reference 70 et seq.) against Prof. NN. The employee survey conducted in 2013 also showed that a large number of employees felt that Prof. NN did not treat them respectfully, that the supervision and opportunities for cooperation between the research groups were considered inadequate and that they were expected to work over the weekend²³.

169 When Prof. NN asserts that former doctoral and postdoctoral students have been mobilised with the clear goal of making them appear in the worst possible light, and that they are therefore not independent sources, she still owes an explanation for this claim. So it remains unclear whether she also accuses the persons mentioned of wanting to take revenge on her, and whether she also attributes them to the "group" around the doctoral student A. In general, it is not clear from the entire statement who exactly supposedly belongs to this "group".

170 The former doctoral student E explains her motivation for contacting the Ombudsperson again in 2017 as follows:

¹ Cf. earlier reference 154.

"I didn't see any chance in all the years before to be able to do anything here alone, because I didn't believe that someone would take me seriously because of the great power gap (this also corresponded to my previous experiences with the ombudsperson and in other cases, but also otherwise in astronomy).

So it only made sense for me to do it when there was a large enough group of people who wanted to write down their experiences. But I had also sometimes wondered beforehand whether one should not do something here, and felt bad at the thought that new doctoral students would have to experience the same thing again.

Furthermore, I left the field in 2013 and no longer had to fear any disadvantages to my career. I probably wouldn't have made a statement before."

171 This explanation is easily understandable, which is why there are no reasons to doubt their statements. The other doctoral and postdoctoral students, such as F or G, may have had similar motivations.

172 According to what has been said, it cannot be assumed that the accusations made against Prof. NN are unfounded accusations, behind which stand exclusively one doctoral student who has been dismissed. The misconduct of Prof. NN goes back much further and has now come to light due to the efforts of a doctoral student.

173 Of course, it is difficult to judge whether everything has happened exactly as it has been said, and whether all the accusations made are true in each individual case, since many things only happened in one-to-one situations. All in all, the accusations raised, namely those relating to degrading and disrespectful behaviour, appear valid, and the interviewees credible. The statements of the interviewees who have incriminated Prof. NN are consistent in themselves, come from different sources and extend over quite a long period of time. Incriminating statements then also come from doctoral students who have successfully completed their doctorate under Prof. NN. For example, one of her former doctoral students, who now holds a professorship, said that monitoring should have been carried out earlier. Finally, Prof. NN is incriminated by her fellow professors at the former Institute of Astronomy, in particular by Prof. Y, whose statements Prof. NN does not comment on.

The explanations given give a cohesive picture of the leadership behaviour of Prof. NN and the deficits in this regard. The theory of a plot or a smear campaign therefore seems unlikely. Based on the interviews and the available documents, it is much more likely that Prof. NN's leadership behaviour and her dealings with her employees were inappropriate and not characterised by mutual respect, and therefore did not meet the requirements that ETH Zurich expects, and may or must expect, from its managers.

B. Behaviour of professors, Ombudspersons and the Human Resources department

174 Four of the *professors* at the former Institute of Astronomy knew about the problems in the NN research group to different extents, but kept their knowledge to themselves. They did not address the topic among themselves either, or only marginally. There may have been several reasons for this. One reason may have been that the persons requesting help wished it to be so, in order not to come under further pressure²⁴. Many feared that their situation would worsen if Prof. NN learned that they had complained about her²⁵. Another reason might also be the unspoken rule:

"Every professor has his own kingdom, and one does not interfere with another kingdom..." In his interview, Prof. Y stressed several times that they were all professors with equal rights and that he himself, as head of the institute, would not have been able to tell Prof. NN what to do. In the case of SNSF assistant professors and titular professors, the existence of a certain dependence on full professors may also have been one reason for their inactivity. The professors therefore preferred not to interfere in the affairs of their colleague and did not want to know the details either; they did not want to expose themselves to the suspicion of blackening a colleague's name. There was no conversation on this matter with Prof. NN, nor was any contact made

²⁴ Cf. earlier reference 132.

²⁵ Cf. earlier reference 139.

with the D-PHYS or the Ombudsperson. A little more moral courage would have been a good idea for Prof. NN's colleagues. Prof. Y also regrets not having done more²⁶.

175 Over the years, the Ombudsperson received various reports from employees on conflicts with Prof. NN. As the reports were made five to ten years ago or even more, the former Ombudspersons who were no longer in office were not questioned, as it is unlikely that they would be able to make a significant contribution to clarifying the facts. The fact that the reports were made to the Ombudspersons is clear from the files available. What exactly they said to the scientific (and administrative) staff of Prof. NN and what suggestions they made must, however, be left open. From today's perspective and for the subject of the investigation, however, this is not of central importance. What is more important in this context is that the various approaches from staff were only reflected in the files of the respective Ombudspersons. In the absence of a business administration system, these approaches were not known to the later Ombudspersons. So they did not know that employees of Prof. NN had already visited the Ombudsperson's office because they had problems with their superiors. Each case is therefore new for the Ombudspersons. If, in the course of time, different people complain about the same superior, the Ombudspersons are not aware of this or are at most vaguely aware of it. The system has - as one of the respondents put it succinctly - no memory. However, such a memory is necessary, because only in this way can repetitive conflicts be recognised and conspicuous features become visible.

176 How much the *Human Resources department* knew about the incidents in the NN research group could not be fully clarified during the interviews. That the HR department didn't know anything at all seems unlikely, at least in light of the statements made by Prof. NN's former administrative staff. The HR department did not take any measures either.

²⁶ In this regard, see earlier reference 136.

177 In summary, it can be concluded that various offices within the ETH may have had at least an inkling of the problems in the NN research group. The staff surveys of 2013 and 2016 also point to the problems. For a variety of reasons, however, little or nothing was done. One of the respondents summarised the situation as follows:

“This system has no memory; they do not have an integrated system. When the situation cannot be solved earlier it grows into a nightmare for everyone. The problems of the last 10 / 15 years are not tackled earlier. That has to be changed. It is a tragic weight for everyone; there should not be a situation this critical and then explode finally.”

VII. Statement by Prof. NN

A. Criticism of the content of the report

178 On August 21, 2018, Prof. NN submitted a comprehensive statement on the draft final report of May 22, 2018. Her explanations of content were set out and her criticism, namely her conspiracy theory, had already been investigated.

B. Criticism of the conduct of investigations

179 Prof. NN is of the opinion that the administrative investigation was conducted in an extraordinarily one-sided manner. The investigation was carried out without her participation. It had not been possible for her to ask questions of the people interviewed. She had only received access to the files on 22 May 2018, almost one and a half years after doctoral student A had contacted the Ombudsperson for the first time. The persons interviewed were then selected unilaterally. Intentionally, in her view, only those postdocs had been written to, from whom it could be expected that their statements would be to her disadvantage. Independent observers, although requested, were not interviewed. An examination of the conditions of earlier years could not be carried out solely by interviewing persons whose interest would clearly be to blacken her name. More postdocs from that time should have been questioned, not only those who were biased towards her. All of those persons subsequently interviewed in July 2018 in response to her request did not confirm the negative statements of the "group" around doctoral student A, which proved, Prof. NN claimed, that the selection had been extremely biased. Finally, she expressed the criticism that leading questions were asked during the interviews.

180 These objections are incorrect. Prof. NN had - as provided for in Art. 27g para. 4 RVOV

- the opportunity to inspect the files concerning her and to comment on them. She was questioned orally on 4 May 2018; on 18 May 2018 the complete files were sent to her; she had three months to prepare her statement on the draft final report thanks to generously granted requests for extensions of time. Then - as Prof. X has done - she would have had the opportunity to submit a written submission beforehand, after having been provided (on request) with parts of the investigation files on February 1 and March 5, 2018. The fact that Prof. NN was not granted access to files by ETH Zurich at an earlier date is not part of these proceedings. It should then be pointed out that in the context of her statement of 21 August 2018 she would have been able to ask the persons already interviewed concrete, supplementary questions related to the subject of the investigation, as she did in her submission of 21 June 2018 with regard to doctoral candidate E. In the statement of 21 August 2018, there are no such concrete supplementary questions with reference to individually designated persons. Moreover, it is not clear to what extent further evidence gathered from the already interviewed persons with regard to "personal relationships", possible "agreements" and "contacts with representatives of the ETH" could contribute to further clarifying the facts of the case and change the evaluation of the conduct of Prof. NN²⁷. Consequently, it is out of the question that the administrative investigation was carried out without her participation. Finally, the accusation that the interviews were steered by leading questions does not apply. It is noticeable that this accusation appears regularly when the interviewee makes a statement that incriminates Prof. NN, but not when another person's answer is in favour of Prof. NN, although both were asked the same question.

²⁷ Cf. the conspiracy theory already mentioned above, reference 166.

181 As mentioned earlier in reference 4, a total of 20 (current and former) doctoral and postdoctoral students were interviewed. The interviews focused on doctoral students, as the power gap between them and professors is much greater than it is for postdoctoral students who already have a doctorate and can change jobs more easily. Of Prof. NN's total of 18 doctoral students, 13 were interviewed; two other doctoral students were working in other groups. A selection had to be made among the postdocs. Initially, three postdoctoral students were interviewed; at the request of Prof. NN's legal representative on 21 June 2018, two further postdoctoral students were then interviewed in July 2018. If Prof. NN is of the opinion that the selection made was still one-sided, it would be - as she did in her letter of 21 June 2018 - up to her to give the names of other postdocs to be interviewed and to indicate what they were to be interviewed about and/or what they could give information about. However, there was no such request; in the whole 90-page statement, no postdoctoral researcher was named who she would have liked to be interviewed in addition. Moreover, it is incorrect that the two postdoctoral students subsequently questioned did not make any statements that were incriminating to Prof. NN. In fact, one of the postdoctoral students explained that Prof. NN had yelled at her and wanted to dismiss her²⁸. The accusation of one-sided selection of the interviewees is therefore rejected as unfounded.

C. Requests for further evidence

182 In the second part of Prof. NN's statement, a 50-page overview of the most important employment relationships is given. Prof. NN demands that "the doctoral candidates and postdocs questioned be confronted with the main points and the evidence presented by us in this statement". The opinion may well be that the eight persons concerned should be presented with the comments that are relevant to them from the second part, and asked for their reaction to them.

²⁸ Cf. in this regard earlier reference 84.

- 183 Apart from the fact that the second part of the opinion largely contains statements which are not relevant to the present report and have therefore not been taken into account, such an approach would merely lead to an unnecessary extension of the procedure, without it being clear what would be gained as regards the outcome of the present investigation. It can easily be assumed that the "confronted" persons would stick to their version of the facts and reject the accusations made against them (such as that they lied). This does not lead to a clarification of the facts. It is therefore not necessary to present to the doctoral and postdoctoral students mentioned in the statement the extracts from the statement of Prof. NN which concern them.
- 184 Prof. NN then requested that various professors at ETH Zurich be questioned as to which contacts they had with doctoral students or postdocs filing complaints and what assurances they had given and when. For example, she wrote that it would have to be clarified whether the Vice Rector of Doctoral Studies for Doctoral Candidate A had given assurances with regard to the Dark Energy Survey data; furthermore, the Ombudsperson would have to provide information on "to what extent he had played an active role in collecting complaints", and it would have to be investigated whether he had influenced students or postdocs. Finally, an interview with the Director of Studies is requested.
- 185 Those requests for evidence must be dismissed. The object of the investigation is to clarify the allegations made against Prof. NN. The course of events since the delivery of the testimonials in January 2017, on the other hand, is not the focus of the present investigation, so that there is no need for further evidence to be taken. The same applies to the behaviour of other ETH professors, whom Prof. NN accuses of being biased or of working with the "group" around Doctoral Candidate A in a common cause or to have driven Prof. NN out. No evidence to this effect was found in the course of the investigation.
- 186 The reasons why the former Ombudspersons were not questioned, contrary to Prof. NN's request, have already been explained²⁹. In addition, we will not be interviewing

²⁹ Cf. earlier reference 175.

the two former directors of studies at D-PHYS. Prof. NN does not explain at all in her statement what these two people should be asked about and to what extent their statements could contribute to clarifying the facts.

187 Finally, Prof. NN demands the disclosure of the testimonials and passages in the files that have been covered. The interview records would show that the investigator had the testimonials in front of him when he conducted the interview. The assertion that the testimonials did not play a role in the investigation is thus refuted.

188 The legal representative of Prof. NN had already been informed in a letter dated 29 March 2018 that the report on the administrative investigation would not be based on the testimonials declared to be confidential, but on what had been said in the interviews. This does not rule out the possibility that some of the questions asked in the interviews were about facts that had been addressed in the testimonials. The procedure chosen to formally question the authors of the testimonials was intended to take into account the interests of both Prof. NN and of the authors of the testimonials. In this way, Prof. NN was able to comment on the allegations and the testimonial writers were aware that Prof. NN would have access to the interview records, and that they could not claim confidentiality. Since the Ombudsperson has assured the testimonial writers that the testimonials would not be issued to Prof. NN, and since two of the testimonials come from persons who did not wish to participate in the administrative investigation, they will not be issued. The author of this report considers himself bound by the Ombudsperson's assurance. Since the report is not based on the testimonials, there is no need for them to be issued due to the lack of obvious interests of Prof. NN. The assertion that the testimonials were therefore not disclosed simply to prevent proof that the parties had colluded, and how, is in no way true.

VIII. Recommendations

A. Termination of employment

189 Pursuant to Art. 17 para. 2 ETH Law, employment relationships are governed by the Federal Personnel Act (BPG) - with no relevant exceptions - and this also covers those of ETH professors. Pursuant to Art. 13 para. 1 of the ETH Professors' Ordinance, the ETH Board may terminate the employment relationship of professors at the request of the President of the ETH within the meaning of Art. 10 para. 3 BPG by giving six months' notice. The ordinary termination of an indefinite employment relationship is possible for objectively sufficient reasons. Art. 10 para. 3 BPG contains a catalogue with various grounds for termination, which is not exhaustive ("in particular"). The employment relationship may be terminated by the employer in particular due to breach of important statutory or contractual obligations (subpara. a) and due to deficiencies in performance or conduct (subpara. b).

190 The boundaries between the violation of important legal or contractual obligations and poor conduct are fluid. Disrespectful and improper conduct towards employees constitutes a breach of duty pursuant to Art. 10 para. 3 subpara. a BPG. The conduct complained of must be such as to disrupt the course of business or to shatter the relationship of trust between employer and employee³⁰. In principle, a formal warning must be issued before the notice of termination is issued. However, this only makes sense if it is in principle capable of bringing about a change in behaviour³¹.

191 The Ombudspersons have presented the following conclusion to the Executive Board and the ETH Board:

"The Ombudspersons are of the opinion that NN lacks the character and leadership skills to exercise the function of a professor at ETH Zurich. Due to the events of recent years, NN should be denied permission to continue to supervise doctoral and postdoctoral students within or outside the research group at ETH Zurich. Since the

³⁰ BVGer, A-6111/2016, E. 4.1, and A-6898/2015, E. 3.2.2.

³¹ See BVGE 2016/11, E. 7.3 with notes.

education and technical training of young adults is a core task of a professor at ETH Zurich, this would mean that NN cannot remain a professor at ETH Zurich."

192 The opinion of the ombudspersons must be followed. On the basis of the interviews and the documents available, it must be assumed that Prof. NN has repeatedly behaved in a manner that violates the personality of its employees. Such a thing is unacceptable and precludes her from continuing her professorship at ETH Zurich. This is also required by ETH Zurich's duty of care towards future doctoral students and postdocs employed at ETH Zurich. As an employer, ETH Zurich cannot and must not run the risk of further similar incidents in violation of personal rights.

193 A prior warning can be dispensed with, since it cannot be assumed that such a warning is likely to effect a change in the behaviour of Prof. NN and restore the strongly shaken trust placed in her. The misconduct she is accused of is very grave. Even after she had been confronted by representatives of the D-PHYS, the Ombudsperson's office and later by members of the Executive Board in February and March 2017 with the accusations made against her³², she did not hesitate to make unjustified accusations against a doctoral student at the end of June 2017 that he had boycotted a project. On 11 July 2017, this incorrect conduct led to a formal warning from the President of the ETHZ, combined with a threat of dismissal in the case of a recurrence. This incident shows Prof. NN's attitude and lack of awareness of her own behaviour. Even in her statement of 21 August 2018 there is nothing that could indicate a change in her attitude; she sees herself exclusively as the victim of a plot in which the "group" around doctoral student A, as well as the Ombudsperson, is involved. Self-critical questions, such as whether she could have done anything wrong herself, are not asked. Only for the use of the insulting Italian

³² In this regard, see earlier reference 30 ff.

expression "Salutiasoreta" has she apologised, as she had no choice but to do so³³.

194 Against this background, the measures originally planned for March 2017, such as coaching, etc.³⁴, appear to be less likely to be effective, and no longer relevant. The current state of knowledge following the administrative investigation is no longer the same as it was in August 2017, when the Executive Board still spoke out against dismissal; it is therefore in no way bound by its assessment at the time. For the reasons stated above, it is recommended that a dismissal procedure be initiated in accordance with Art. 13 para. 2 of the ETH Professors' Ordinance. The committee appointed by the President of the ETH must decide on the appropriateness of the dismissal.

B. Creation of a central contact point

195 Many people knew something was wrong, but an overall picture was missing. "The system has failed", as one of the respondents rightly put it. This is probably partly due to the fact that the ombudspersons usually only perform their duties for four years and do not pass on their knowledge (or at most only part of it) when they change office. In the case of repeated conflicts, the ombudspersons lack the knowledge that a professor has already given rise to complaints in the past. This needs to be changed. On the one hand, this could be achieved by extending the term of office of the ombudspersons from four to six years with the possibility of re-election; staggered terms of office of the two ombudspersons (e.g. 2016-2020 and 2018-2022) would also be conceivable. On the other hand, continuity could be enhanced by dispensing with the current practice of electing an emeritus professor from the ETH as ombudsperson.

196 It is also central that the ombudspersons record their knowledge and pass it on in an appropriate form in the event of a change of office so that repeat cases can be identified. This requires a business management system that allows the identification

³³ In this regard, see earlier reference 103 f.

³⁴ In this regard, see earlier reference 36.

of contiguous cases. The Canton of Zurich's Ombudsperson service, for example, has such a business management system in place.

197 The Ombudsperson's office should also be transformed into a central contact point to which not only doctoral candidates and scientific, administrative and technical staff, but also members of the teaching staff, can turn if they learn of conflicts in other research groups, without exposing themselves to the suspicion of wanting to denounce their colleagues. Such a professionalised Ombudsperson should be developed into an early warning system. The extension of the tasks of the Ombudsperson should be accompanied by a strengthening of its independence. The members of the Ombudsperson's office should not be elected by the Executive Board as is the case today, but (on the suggestion of the Executive Board) by the University Assembly or by the ETH Board for a term of office of at least four years.

198 With the establishment of a central point of contact, rules of procedure should also be created to regulate the precise handling of cases such as the present one, as well as the procedure in detail.

C. Increasing the protection of doctoral students

1. Additional supervisors

199 The doctoral thesis of a doctoral candidate is generally supervised by only one person. Art. 15 para. 1 of the Doctorate Ordinance ETH Zurich provides that the lead supervisor of the doctoral thesis may appoint additional supervisors if required. However, the supervision of a doctoral thesis by several persons - by a committee or a jury - should always be the rule. Their tasks should also include the examination of the research plan and ensuring compliance with the research plan. A periodic review of the research plan enables the progress of doctoral students to be determined and any problems to be identified in good time.

200 The fact that the support of a single person is not sufficient is particularly evident in the case of difficulties or differences of opinion between the lead supervisor and the

the doctoral student. If the doctoral student in such a situation can contact one (or more) other supervisor(s), they will be much better protected. The prerequisite, however, is that the other supervisors are not dependent on the lead supervisor of the doctoral thesis. Postdocs or senior scientists are therefore not very suitable for these tasks. If possible, one of the other supervisors should not belong to ETH Zurich.

201 The appointment of additional supervisors serves not only to protect doctoral students, but also to protect the lead supervisor of the doctoral thesis from any later accusations by the doctoral students. In the present case, some of Prof. NN's former doctoral students believe that their situation would have been better if an external supervisor had been available.

202 The appointment of a mentor for all doctoral students was also called for by the ombudspersons in their most recent activity report for 2017. Consideration should be given to whether a support system should also be introduced for postdocs.

2. Advance notice of termination of the employment relationship

203 Both doctoral students and postdocs are hired on a temporary basis. The employment relationship is terminated upon expiry of the agreed term without any notice of termination being required. If a professor is considering not continuing their employment and not renewing their employment contract, they must inform the person concerned in writing in good time. In their most recent activity report for 2017, the Ombudspersons correctly propose that the non-renewal of a temporary post of a doctoral candidate after one or two years should be notified in writing to the doctoral candidate at least three months before the end of the employment relationship, together with the reasons for the non-renewal. A period of three to six months (depending on the length of the employment so far) is recommended for postdocs.

204 If the employment of a doctoral candidate has already lasted three years, the employment relationship should generally no longer be extended annually, but should be extended to the maximum permissible period of six years. The employment relationship could be terminated after taking the doctoral examination (or, if applicable, at the time of the examination) by giving three months' notice.

IX. Concluding remarks

205 The surveys conducted revealed a leadership style and behaviour of Prof. NN that clearly contradicted Art. 5 para. 3 of the ETH Professors' Ordinance and Art. 9 of the ETH Domain Personnel Ordinance as well as the leadership and behaviour rules of the Compliance Guide. Prof. NN did not exercise her responsibility in the sense that would have been expected of a professor at ETH Zurich. On the basis of the interviews, her leadership is characterised by high pressure to perform, the expectation of constant availability, tight (and probably exaggerated) controls, sudden changes of direction, a lack of discussion culture as well as an excessive focus on details. She lacked the necessary respect when dealing with her employees. Based on the interviews, it must be assumed that she treated employees whose work she was dissatisfied with condescendingly, and sometimes criticised them so harshly that they burst into tears. She has made higher demands on her female employees - probably based on her own experience - and some of them may have failed to meet these. By postponing the extension of employment contracts, she exerted additional pressure on already insecure employees.

206 Prof. NN's objection that the things she was accused of were unfounded accusations backed by a dismissed doctoral student, and that she was the victim of a plot, cannot be accepted. In the research group NN there were problems again and again, and various doctoral students and postdocs turned to colleagues of Prof. NN or to the Ombudsperson at different times; occasionally administrative staff also went to the HR department.

- 207 There are several reasons why Prof. NN's misconduct did not become known sooner. The strong position of the X/NN couple in the management functions of the former Institute for Astronomy, on the other hand, was probably not the reason, or only slightly so. On the one hand, Prof. NN's fellow professors kept their knowledge to themselves, although they were aware of the problems in the NN research group and considered the accusations against their colleague to be credible. On the other hand, the Ombudsperson's office, which had received various reports over the years, lacked the necessary overview. The ombudspersons considered each new incident as an individual case without being aware that there had already been problems in the research group in the past. How much the HR department knew about the events in the NN research group could not be completely clarified in the course of the interviews. That the HR department didn't know anything at all seems unlikely, at least in light of the statements made by Prof. NN's former administrative staff.
- 208 In summary, it emerges that various positions within ETH Zurich may have had an inkling of the problems in the NN research group. For various reasons, however, nothing or very little was done, which led to the problems accumulating over the years and the more senior bodies (departmental management and the Executive Board) not being involved.
- 209 In order to avoid similar situations in the future, a central contact point should be set up; the Ombudsperson could take on this role. The establishment of a centralised entity should also create a standardised procedure which would govern in detail the precise handling of cases such as this one. In addition, the protection of doctoral candidates should be improved through multiple supervision and timely notification in the event that fixed-term employment contracts are not renewed.

Markus Rüssli