

**Scope of this Expert Report:**

On 16 July 2016 the family members of co-pilot Andreas Lubitz (†) asked the author of this report to conduct research into events related to Germanwings flight 4U9525. On the one hand, the author was retained to examine media coverage following the crash of flight 4U9525 on 24 March 2015 near Prads-Haute-Bléone in the French Alps. Specifically, the author was requested to verify and assess the claims circulated in mass media in relation to available information. On the other hand, the author was tasked with critically examining public statements made by the Düsseldorf police, Düsseldorf public prosecutor, the French courts, and by the French and German authorities for investigating aviation accidents (namely, the *Bureau d'Enquêtes et d'Analyses* and the *Bundesstelle für Flugunfalluntersuchung*).

A key source of information was the investigative file maintained by the Düsseldorf public prosecutor under file number JS 906/15, which comprises 39 volumes and 16,086 pages. The author also examined approximately 2,000 pages of news articles.

The goals for this research were as follows:

- To clarify questions surrounding the presumed guilt of Andreas Günter Lubitz (†) in causing the crash of flight 4U9525 while also illuminating potentially exculpatory facts;
- To identify potential errors of procedure or substance committed as part of the investigations conducted by the French and German aviation accident authorities and/or associated organizations against the backdrop of relevant European directives concerning accident investigations as well as ICAO Appendix 13; and
- To critically assess media coverage with a view to potential reporting errors.

In pursuing these goals, the author sought to highlight and document potentially exculpatory details that could exonerate Andreas Lubitz. To this end, the commissioner of this report, Günter Lubitz, provided the author with access to additional family members and individuals who could provide supplementary and relevant information concerning Andreas Lubitz and the events prior to 24 March 2015.

With a view to the findings of this research, an additional aim was to provide legal authorities and aviation associations in Germany and other countries with information and/or insights concerning the causes of the crash and its subsequent investigation. Accordingly, the author of this report has worked closely with legal experts retained by Günter Lubitz.

Excerpts of the final version of this report, which was originally drafted in German, were presented at a press conference in Berlin on 24 March 2017 in order to submit the report's findings to public discussion.

For the purpose of promoting public awareness, the author also received approval from Günter Lubitz to respond to questions posed by media representatives, government authorities and other parties. The author was expressly authorized to answer such questions in accordance with his true and full understanding of the facts.

While sharing information about the report, the author is committed to protecting the identity of anonymous sources to whom a pledge of confidentiality was provided. In this connection, the author of this report would like to expressly clarify that no criminal or illegal activities were undertaken in order to obtain information from third parties. Sensitive information obtained from third parties will only be shared by the author with legal authorities responsible for conducting investigations into the crash.

## 2. Summary of Events:

The crash of Germanwings flight 4U9525 on 24 March 2015 was the immediate subject of extensive national and international news coverage.

Due to a lack of discretion with confidential information for which the French legal authorities bear responsibility, a partial raw recording from the final minute of the flight that was captured by the cockpit voice recorder ended up on the hands of journalists on 25 March 2015. The *New York Times* promptly published an article that hypothesized on the implications of this voice recording.

As a result of hastily drawn conclusions concerning the cause of the accident that were subsequently circulated not only in the tabloid press, but also among more serious news agencies, the investigations into the accident conducted by the police, state prosecutors, and aviation authorities were **irreparably contaminated by a preformed narrative**.

A "**confirmation bias**" took root among investigators, victims' families, legal authorities, and the broader public.<sup>1</sup> This fundamentally crippled the possibility for an objective investigation into the accident that considered all relevant information prior to drawing conclusions.

Various events clearly show that investigators assessed information related to the case in a highly tendentious and one-sided manner.<sup>2</sup>

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<sup>1</sup> The term "confirmation bias" denotes the tendency for individuals to select and interpret information in a way that confirms their preexisting expectations. In this connection, information that contradicts or complicates preexisting expectations may be ignored or rejected in order to avoid cognitive dissonance. Cognitive bias is a well-established phenomenon in neuroscience and it has been shown in various contexts to produce perceptions that are not compatible with empirical reality.

<sup>2</sup> Under normal circumstances, investigations into aviation accidents seek to take all possible causes into account. Evidence gathered as part of the investigation is then systematically assessed in order to rule out certain causes and narrow down the field of possible explanations. At the end of this evidence gathering and assessment process, investigators seek to identify the specific cause or causal chain that led to the accident. This process, i.e. the gradual exclusion of possible causes based on the gathering of empirical fact, is extremely time-consuming, which explains why accident investigations can take several years. Investigators typically seek to release a first report on interim findings after one year.

With a view to Germanwings flight 4U9525, however, the investigation immediately focused exclusively on the person of Andreas Lubitz. Other factors that may have caused or contributed to the accident were ignored and never examined as part of the investigation.

**In the history of aviation accidents since 1948, the investigations into Germanwings flight 4U9525 constitute a unique negative example.** They demonstrate on numerous levels how an accident investigation should not be conducted, and vividly illustrate how preconceived notions can lead to a flawed investigation, and, by extension, questionable findings.

Indeed, closer examination of the investigations reveals massive failures and lapses in procedure and substance on the part of the police and legal authorities. These errors are at least partially attributable to a failure to consult and collaborate with appropriately qualified aviation experts. Deficiencies in the investigation are particularly evident on the part of the activities conducted by the Düsseldorf public prosecutor and the Düsseldorf criminal police special commission known as "Alpen" under file number **10 UJs 906/15** in the weeks immediately following the accident up to the summer of 2016.

The Düsseldorf public prosecutor is responsible for disseminating clearly incorrect conclusions and objectively false facts that led to the court-ordered search and seizure of property belonging to the Lubitz family. As a result, various rights protected by German law were violated, including the right to patient confidentiality. The dissemination of false information also led media outlets to entertain theories, assumptions, and rumors that were not supported by evidence, and heavily influenced the French criminal and aviation investigations. **These factual errors have not been corrected to date, and the individuals and authorities responsible for their dissemination have not attempted to set the record straight.**

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The circulation of unfounded hypotheses later led to arrest warrants being issued for individuals who had no involvement in the accident, including family members of co-pilot Andreas Lubitz and his doctors. The criminal prosecutions launched by the Düsseldorf public prosecutor were ultimately abandoned, as it was recognized they had no chance of success.

In this context, a series of questionable lawsuits were filed in the US by attorneys representing the relatives of accident victims. These claims were particularly questionable as the legal principle of "forum non conveniens", which applies in this case, would preclude their adjudication when another legal venue is more suitable. The German attorneys representing the relatives of the victims must have known that this aspect of US law would make it exceedingly difficult for claims to be pursued in the United States.

Furthermore, even if a judge in the US would agree to hear such a case – for example, pursued by the relatives of victims against the Lufthansa flight school in Phoenix – according to US case law, German law would have to be applied in the proceedings.

An additional issue that must be addressed is the Düsseldorf public prosecutor's **deliberate sharing of the contents of the investigative files** with the relatives of victims and with journalists. A wide range of sensitive material was shared, including photos taken by the Düsseldorf police on 26 March 2015 as part of the search they conducted of the private residence of Andreas Lubitz and his girlfriend as well as the Lubitz family home in Montabaur. Among the shared photos were images of the interior of the Lubitz family home, for which no search warrant had been issued.

In the view of the author, the sharing of material from the investigative files by the Düsseldorf public prosecutor while the investigation was ongoing is highly illustrative of the deficient nature of the investigation. Furthermore, it is disconcerting that the official complaint that was lodged by the Lubitz family concerning this unauthorized sharing of sensitive information fell on deaf ears and failed to trigger an internal investigation.

As part of the sensationalistic and biased media reporting, images of the private burial site of the Lubitz family were published. According to the Berlin higher court, this constituted a violation of privacy law.<sup>3</sup> Furthermore, it is likely to have caused vandalism to the burial site of Andreas Lubitz (in the form of arson), which represented an illegal desecration of a final resting place.

The negative media coverage, including the ongoing circulation of preconceived and biased opinion, also led to the stigmatization of the family members of the "assumed perpetrator."

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<sup>3</sup> See decision of the Kammergericht Berlin of 30.01.2017, AZ 10 U 192/15.

According to Article 6 of the European Convention on Human Rights (ECHR), which has the status of law in Germany, **individuals have a right to a fair trial, and must be presumed innocent until proven guilty by a court of law.**

**Furthermore, the preliminary findings or opinions of investigators are not a substitute for an official court judgment.<sup>4</sup>**

Specifically in the case, the final report issued by the French authority for investigating aviation accidents (BEA) is completely inappropriate for rendering judgment concerning responsibility, as the purpose and aim of such a report is not to establish legal culpability or liability for an accident.<sup>5</sup> This particular fact is often neglected in reporting concerning aviation accidents, despite the fact that established and accepted professional guidelines for the work of journalists clearly encourage discretion and the careful handling of sensitive matters, particularly as they relate to privacy and the presumption of innocence. Guidelines for professional practice and German Press Law were violated on numerous occasions in news reporting on Andreas Lubitz and his family. Specifically, the principle that an individual must be presumed innocent until otherwise determined by a court of law was disregarded countless times.<sup>6</sup>

The guidelines for journalistic work of 11 March 2015 issued by the German Press Council (*Deutscher Presserat*) were contravened numerous times in German news reporting. These specific sections violated include:

- a) Preamble
- b) Section 1, Truthfulness and Respecting Human Dignity
- c) Section 2, Due Care

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<sup>4</sup> Specifically, the presumption of innocence must be maintained in the absence of a court ruling of guilt. According to the German Constitutional Court, this principle is a fundamental aspect of the rule of law, as enshrined in Article 20, para. 3 of the German Constitution. See BVerfG 19, 342 <347>; 35, 311 <320>; 74, 358 <371>

<sup>5</sup> See additional remarks concerning "Definition."

<sup>6</sup> The principle of "presumption of innocence" is set forth by Article 103, para. 2 of the German Constitution, Article 6, para. 2 of the European Convention on Human Rights, and Article 261 of the German Code of Criminal Procedure (StPO).

- d) Section 4, Limits to Research, Guidelines 4.1 and 4.2
- e) Section 8, Protecting Privacy, Guidelines 8.1, 8.2, 8.4., 8.6, 8.7, 8.8
- f) Section 9, Protecting Personal Honor
- g) Section 11, Sensationalistic Reporting, Protecting Youth, Guidelines 11.1 and 11.3
- h) Section 13, Presumption of Innocence, Guideline 13.2

As Andreas Lubitz was killed in the crash, a criminal case cannot be brought against him to determine his guilt. At least according to German law, such a case is not possible, as the capability of a person to stand trial ends with their death.<sup>7</sup> This conclusion has been reached by various legal experts, including the Düsseldorf public prosecutor in its closing statement (10 UJs 906/15 of 15.12.2016).<sup>8</sup>

However, aspects of the alleged crime and responsibility for associated damages could play a role in a civil case launched by the relatives of the victims. Such a case could provide a venue for clarifying circumstances surrounding the accident. However, such a case has not yet been litigated in Germany, France, or the US.

Accordingly, there is no basis for using the word "perpetrator," much less for the term "murderer," as a court has not issued a judgment to this effect.

On the one hand, according to the legal judgments handed down by Germany's higher courts, the presumption of innocence protects the individual from disadvantages of a nature comparable to a guilty verdict or punitive measure when the individual's culpability has not yet been demonstrated under criminal law.<sup>9</sup> This does not preclude a situation of suspicion from being described or assessed.<sup>10</sup> Furthermore, the presumption of innocence applies to relations between private individuals and is therefore not directly applicable to the relationship between the press and an individual suspected of a crime.

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<sup>7</sup> Cf. § 1 of the German Civil Code (BGB) in connection with § 1922

<sup>8</sup> Cf. closing statement State Prosecutor Christoph Kumpa of 15.12.2017, p. 4. Dd)

<sup>9</sup> Cf. BVerfGE 74, 358, 371; 82, 106, 114 f., 117, 119 f.

<sup>10</sup> Cf. BVerfGE 82, 106, 117; BVerfG, NJW 1991, 1530, 1532; StV 2008, 368, 369; BGH, decision of 30 October 2012 – VI ZR 4/12 –, juris).



Under German Press Law, news organizations are permitted in general to present accusations of criminality, even if they have not yet been affirmed by a court of law.<sup>11</sup> Indeed, if such journalistic activity were not permitted, then the press would not be able to fulfill its societal role of observing and reporting on events and possible abuses or illegality.<sup>12</sup>

However, the principle that the accused must be presumed innocent until proven guilty takes on particular importance when news agencies engage in a form of investigative journalism in which individuals are accused of crimes before the eyes of the public.<sup>13</sup> In the opinion of Germany's higher courts, the media is permitted to report on an individual in a manner that casts suspicion that dishonorable acts were committed insofar as an issue of public concern is at stake and a minimum level of evidence suggesting criminal behavior is available, such that it appears possible that the assumptions concerning the accused could prove to be true.<sup>14</sup> **However, the uncertainty that prevails concerning the situation must be clearly presented to the reader or viewer.**

In this regard, the media outlet conducting the reporting must be convinced that there is reason to suspect criminality based on its reading of the situation while exercising due journalistic care. In this connection, the need to exercise due care becomes more pressing in relation to the severity of the accusations,<sup>15</sup> and media outlets have the right to cite reliable, trustworthy sources to justify their reporting, including in particular representations made by government authorities to the media.<sup>16</sup>

The investigations that have been undertaken to date by government authorities are in

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<sup>11</sup> Cf. Soehring/Seelmann-Eggebert, NJW 2000, 2466; BGH, Urteil von 12.05.1987 – VI ZR 195/86 – NJW 1987, 222

<sup>12</sup> Cf. BGH, Urteil von 03.05.1977 – VI ZR 36/74 – BGHZ 68, 331

<sup>13</sup> Cf. RixE. in: MünchKommBGB, 6. Aufl. 2012, Anhang zu § 12, Rdn. 163

<sup>14</sup> Cf. BGH, Urteil von 03.05.1977 – VI ZR 36/74 – BGHZ 68, 331

<sup>15</sup> vgl. BGH, Urt. v. 03.05.1977 – VI ZR 36/74 – BGHZ 68, 331; BGH, Urt. v. 12.05.1987 – VI ZR 195/86 – NJW 1987, 222

<sup>16</sup> Löffler/Steffen, Presserecht, 6. Aufl. 2015, § 6 LPG Rdn. 169 ff.; Saarländisches Oberlandesgericht Saarbrücken, Urteil vom 27. Januar 2016 – 5 U 5/15 –, juris

no way comparable to a court decision rendered in a criminal case. At the same time, the official information and statements available to the press from relevant authorities furnish grounds for reporting that casts suspicion of criminality, as the sources in this instance (i.e. aviation investigation authorities and the public prosecutor) are "unimpeachable" in terms of their reliability.

However, in numerous cases media outlets did not restrict themselves to reporting on the incident in a manner that hewed closely to the parameters of the assertions made by relevant authorities, but instead freely interpreted these assertions in a way that no longer corresponded with their actual substance. Space restrictions prevent the numerous examples of exaggeration, misrepresentation, and downright error that appeared in the media to be cited within the scope of this report. In the eyes of the author, who has over 25 years of experience as a journalist, it is particularly remarkable that the Düsseldorf public prosecutor elected not to intervene or set the record straight when objectively incorrect information was spread in the media.

Based on the available information, it cannot be asserted that Andreas Lubitz was suffering from depression. The Düsseldorf public prosecutor obtained no evidence for making such an assertion during its investigation. In the order that was issued in December 2016 to close the investigation, the following was asserted:

***"There is not basis to assert that the physical ailments [suffered by A. Lubitz] were connected to an undiagnosed depressive condition."<sup>17</sup>***

***"None of the doctors treating A. Lubitz in 2014 or 2015 – including psychiatrists or other physicians – diagnosed a depressive condition [...] No doctor or therapist concluded that A. Lubitz had suicidal thoughts."<sup>18</sup>***

It must be noted that the Düsseldorf public prosecutor obtained warrants to search and

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<sup>17</sup> Abschlussvermerk Staatsanwaltschaft Düsseldorf 10 UJs 906/15, S. 7

<sup>18</sup> Abschlussvermerk Staatsanwaltschaft Düsseldorf 10 UJs 906/15, S. 8

seize property based on objectively false assertions. Furthermore, one piece of evidence obtained by investigators – namely, an iPad with an allegedly incriminating search history containing the keywords "cockpit door" and "suicide" – was falsely recorded as property seized during the search of Andreas Lubitz's apartment. This iPad was not seized in the apartment, but was rather given to police by a third party on 26 March 2015.<sup>19</sup> Furthermore, the conclusions drawn based on the allegedly incriminating browser history are incorrect and not consistent with the actual facts.

In the view of the author of this report, severe errors were also committed in the accident investigation that was conducted by the French *Bureau d'Enquetes des Analyse* (BEA). Specifically, the BEA failed to adhere to the requirements of ICAO Annex 13 or to the relevant guidelines and instructions for handling "human factors" in an accident investigation.<sup>20</sup> All of the individuals involved in the investigation were engineers; "human factor experts" did not participate in the German or French investigations. This is particularly surprising, as an extremely experienced aviation psychologist and human factor expert was available on the German side, and the French failed to draw on the expertise of an experienced forensic physician to whom they had access.

The lead investigator on the German side, Johann Reuss (BFU), committed clear errors when analyzing and interpreting medical data. The dissemination of his flawed findings to the Düsseldorf public prosecutor and to the French legal and aviation authorities led to objectively incorrect conclusions being drawn concerning Andreas Lubitz's mental health at the time of the accident. These incorrect conclusions heavily influenced the media reporting concerning the crash. Although the Lubitz family has asked Mr. Reuss on multiple occasion to revise his assertions, he has refused to this date to issue an acknowledgment that errors were made. Mr. Reuss has also refused to listen to the tape of the cockpit voice recorder in the presence of the aforementioned human factor

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<sup>19</sup> vgl. HA 09801, Vernehmung [REDACTED] vom 26.03.2015

<sup>20</sup> vgl. ICAO Manual of Aircraft Accident Investigation (Doc 9756) sowie Human Factors Digest No. 7 (ICAO Circular 240-AN/144)

specialist or BFU psychologists, without giving any account of the reasons for his refusal.

Based on the available information and evidence, it is not possible for the author draw conclusions that would clearly exonerate Andreas Lubitz from suspicion of guilt. At the same time, following the author's critical review of the available evidence – including the investigative files assembled by the Düsseldorf public prosecutor and the findings released to date in the investigation being conducted by the BEA – it has not been proven beyond reasonable doubt that Andreas Lubitz intentionally caused Germanwings flight 4U9525 to crash as a result of a conscious or planned act of suicide.

In the opinion of the author, there is considerable reason to doubt the assumption that Andreas Lubitz is responsible for having caused the crash, both in a causal sense and with a view to criminal liability. More robust conclusions concerning this issue cannot be drawn until the following things take place:

- a) The contradictions that are illuminated in this report need to be explained and resolved;**
- b) The complete tapes of the cockpit voice recorder need to be provided for inspection (for both the outbound and inbound flights); and**
- c) The records of the flight data recorder need to be released for inspection so that they can be independently assessed by a team of experts that includes aircraft engineers, aviation experts, and experienced physicians.**
- d) All flight and radio records maintained by the military air traffic control center in Orange, France, should be released;**
- e) All radar data (including military radar data and ADS-B data) should be**

released;

- f) **All radio transmissions from other aircraft in the same airspace between 7 am and 11:30 am CET on 24 March 2015 should be released.**
  
- g) **A post-mortem analysis should be conducted of the tissue samples of Andreas Lubitz that are in the possession of French forensic physicians in order to determine if Andreas Lubitz potentially suffered from other physical ailments at the time of the accident.**

To be sure, there are other explanations for why flight 4U9525 crashed, including the possibility that Andreas Lubitz was physically incapacitated in the minutes before the accident. Various causes of incapacitation are possible, including a stroke, heart attack, comatose condition, or the inhalation of toxic fumes. The possibility that toxic fumes entered the cabin air and incapacitated Andreas Lubitz is particularly relevant as a potential proximate cause considering the number of Germanwings aircraft with a history of so-called "fume events," in which the bleed air used to pressurize the cabin becomes contaminated with hazardous chemicals.

With the scope of the author's research, an initial step was to reconstruct Andreas Lubitz's flight log.<sup>21</sup> To this end, the author assembled information provided by Germanwings<sup>22</sup> concerning all flights made by Andreas Lubitz since obtaining his pilot's license (MPL) on 11 Feb. 2014. This information was then verified by examining data on actual aircraft movements on relevant days and comparing the registration numbers of the aircraft.

The next step in this research was to compare the registration numbers of the aircraft with recorded "fume/smell events" and other incidents relevant to aircraft safety. A key

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<sup>21</sup> Each pilot maintains his own flight log, which typically records the date and route of each flight as well as the type and registration number of the aircraft. One purpose of the flight log is to track the number of hours actually flown. Andreas Lubitz did not keep a digital flight book, and his flight log on paper was presumably destroyed during the crash. In any event, there is no mention of it in the investigative files.

<sup>22</sup> Cf. HA 09726 ff

insight generated by this analysis was that Andreas Lubitz was primarily assigned to Germanwings aircraft that had experienced reported safety incidents, including fume/smell events.

In a further analytical step, the aircraft flown by Andreas Lubitz were compared with records contained in Lufthansa's AMOS (Aircraft Maintenance and Operation Software). Analysis of these records revealed that the manufacturer Airbus often failed to conduct required maintenance after such events occurred<sup>23</sup> (e.g. including cleaning the environmental control system and air ducts). Although Andreas Lubitz was apparently not directly involved in a recorded fume/smell event while in the cockpit as co-pilot, it is conspicuous that he regularly flew in aircraft that were involved in such incidents, either before or after his deployment.

Following consultations with external experts, including the Dutch aviation physician Dr. Michel Mulder, due attention should be given to the possibility that Andreas Lubitz's health was impaired by inhalation of contaminated cabin air. According to the current state of medical knowledge, multiple instances of low-level exposure to contaminated cabin air can have a cumulative effect. Considering the frequency with which Andreas Lubitz was assigned to aircraft with cabin air problems, there is thus a plausible basis for considering the possibility that cumulative exposure to airborne toxins led to changes in Andreas Lubitz's health, including his eyesight and mental condition, and may have precipitated a sudden incapacitation.<sup>24</sup>

Against this backdrop, an attempt was made to determine if the Lubitz family belongs to the risk group that is genetically predisposed to suffering ill effects from the airborne contaminants that are involved in fume events.<sup>25</sup> According to Dr. Mulder, he has treated

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<sup>23</sup> See also: "APU maintenance guidelines to avoid smell in cabins," p.4 ff in Flight Airworthiness Support Technology (FAST), Airbus Technical Magazine 52, August 2013, ISSN 1293-5476 and "21-00-00-810-801-A-Oil in the Air Conditioning System", Airbus TSM, Type A318/A319/A320/A321.

<sup>24</sup> Cf. section III.6.2. of this report, "Pilot Incapacitation"

<sup>25</sup> Dr. Mulder has developed a three-group categorization system to classify the ability of individuals to break down and expel the neurotoxic chemicals associated with fume events. Several genes are responsible for the enzyme required to break down such toxins (specifically: CYP2B6\*4, CYP2C 19\*2, CYP2C19\*3, PON1\_M55L

a number of patients – including patients who are quite young (25 years old) – who developed severe symptoms over short time period. The severity of these symptoms was correlated with the type of aircraft flown, their maintenance condition, and the number of daily flights.<sup>26</sup>

Against this backdrop, DNA analysis was conducted of blood from both parents of Andreas Lubitz as well as his brother. The DNA analysis determined that Andreas Lubitz's father belonged to the group of "mid-level metabolizers," while the mother belonged to the group of "poor metabolizers." The brother landed somewhere between these two groups. To determine the extent to which Andreas Lubitz may have been physiologically predisposed to suffering ill effects from the contaminants to which cabin crews are exposed in "fume events," additional analysis should be conducted of the muscle samples taken from the remains of Andreas Lubitz by the French investigative authorities.

If, by contrast, the hypothesis tendered by investigators is to be accepted – namely, that Andreas Lubitz deliberately caused the plane to crash in an act of suicide – then a truly plausible motive must be found and demonstrated in a convincing fashion. All of the suppositions voiced by investigators regarding Andreas Lubitz's ostensible motives are not convincing and do not withstand critical scrutiny. The Düsseldorf public prosecutor has admitted the problems related to issues of motive, noting, for example, there is no evidence that Andreas Lubitz may have acted for fear of financial difficulties.<sup>27</sup>

In the view of the author, the sole potential source of adversity that may have triggered an act of suicide pertains to the relationship Andreas Lubitz had with his girlfriend ██████████. However, there is no evidence that the relationship was troubled. On the contrary, ██████████ had provided considerable support to

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and PON1 Q192R). The DNA test was used to identify the presence of these genes and to classify the Lubitz family in relation to other examined individuals.

<sup>26</sup> See e-mail from Dr. Michel Mulder of 21.02.2017.

<sup>27</sup> Cf. HA 00036, Staatsanwaltschaft Düsseldorf vom 08.04.2015

Andreas Lubitz during his depressive episode in 2008/09. The relationship between the two became stronger in subsequent years. As the accident occurred, there were definite plans to get married and have a child. Andreas Lubitz discussed these plans for the future on numerous occasions, including just one week before the accident with his brother during a several-day visit in Düsseldorf.

In light of the foregoing, the author of this report believes that petitions should be submitted to obtain all evidence currently being held by French aviation investigation authorities so that circumstances surrounding the crash can be subjected to renewed expert evaluation. In the opinion of the French attorney retained by the Lubitz family, it should be possible to obtain this evidence by submitting a petition as part of the legal investigation that is still ongoing. A petition to this effect was previously submitted to the court of jurisdiction in Marseille, but was rejected on 7 March 2017. This decision has been appealed and is now being reviewed by the next higher court.

Berlin, 30 March 2017

