Terms of reference for an independent international expert panel's investigation of Milena Penkowa's research
1. Preface

At the beginning of February 2011, the University of Copenhagen reported Milena Penkowa to Copenhagen Police for forgery regarding the documentation for rat experiments indicated to have been carried out in Spain. The documentation for the rat experiments forms part of the basis for an article published in the journal Glia.

Furthermore, in November 2010 and April 2011 the University of Copenhagen reported Milena Penkowa’s research to the Danish Committees on Scientific Dishonesty (DCSD).

The University of Copenhagen cannot accept if scientific dishonesty occurs at the University. The well-founded suspicion underlying the above-mentioned reports may raise doubts about the honesty of other scientific work conducted by Milena Penkowa. Consequently, the University of Copenhagen finds it necessary to organise an investigation into the honesty of the research forming the basis of all Milena Penkowa’s published scientific articles. According to current information, this concerns approximately 100 scientific articles. Due to the nature of the investigation, DCSD has indicated that the Committees do not find themselves able to carry out the investigation.

In agreement with the Ministry of Science, Technology and Innovation and on the basis of specific advice from the Danish Council for Independent Research (DFF), the University of Copenhagen will appoint a panel of 5-6 internationally recognised experts within the relevant research areas (neurobiology and inflammation) to carry out the investigation. DFF has produced a list of internationally recognised researchers, from which the University of Copenhagen will select the 5-6 experts. The panel’s work will be supported by a secretariat possessing the necessary qualifications in terms of health science and administration.

The University of Copenhagen is commissioning the investigation. The University defrays the expenses pertaining to the investigation, including the panel’s/secretariat’s pay, reasonable travel costs and expenses for the submission of the scientific documentation, which the panel considers relevant for the investigation. However, when conducting their work, the panel and the secretariat are independent in relation to the University of Copenhagen, and therefore the University is not in a position to give instructions to the panel or the secretariat.

The initiation of the investigation is in accordance with the University Act, particularly § 2.

2. Purpose of the investigation

The investigation has several purposes.

The investigation will be conducted primarily to secure the sustained confidence in the University's research and its researchers, but also out of regard for Milena Penkowa’s co-authors, who may feel that their own research is subject to suspicion.
The investigation must clarify whether – and, if so, to what extent – questions about the scientific honesty of Milena Penkowa’s additional research can be raised, see section 3.3 below. The panel shall not decide on the question of scientific dishonesty, but provide the factual basis for a statement about that question to the University of Copenhagen. Following the investigation, the University will decide whether there are grounds for the University to report more of Milena Penkowa’s research to DCSD in order to obtain DCSD’s decision as to whether scientific dishonesty is present.

3. The object of the investigation

3.1 Scientific dishonesty

Since the purpose of the investigation is to investigate, inter alia, whether there are grounds for the University of Copenhagen to report additional research by Milena Penkowa to DSCD, the panel must apply the same criteria as DSCD when assessing scientific dishonesty.

These criteria are stated in § 2 in the executive order on DSCD¹, which defines scientific dishonesty as:

“Scientific dishonesty shall mean: Falsification, fabrication, plagiarism and other serious violation of good scientific practice committed wilfully or grossly negligent on planning, performance or reporting of research results. Included hereunder are:

1) Undisclosed fabrication and construction of data or substitution with fictitious data.
2) Undisclosed selective or surreptitious discarding of a person’s own undesired results.
3) Undisclosed unusual and misleading use of statistical methods.
4) Undisclosed biased or distorted interpretation of a person’s own results and conclusions.
5) Plagiarizing of other persons’ results or publications.
6) A false credit given to the author or authors, misrepresentation of title or workplace.
7) Submission of incorrect information about scientific qualifications.”

The investigation will focus exclusively on Milena Penkowa’s scientific production. Consequently, Milena Penkowa’s co-authors of published articles are not subjects of the investigation.

3.2 Obtaining documentation – cooperation with Milena Penkowa, co-authors and others

The University of Copenhagen compiles a list of published scientific articles, to which Milena Penkowa has contributed, either as principal author or as co-author. The list and copies of the articles will be made available to the panel when the investigation is initiated.

Obtaining experimental material and other documentation (e.g. histological samples, images, flow cytometric data, laboratory records and oral/written statements) is essential for the panel to complete the assignment. Submission of information and material by the parties involved

is voluntary, and the panel is not authorised to force delivery of documentary material. However, the University of Copenhagen believes that co-authors and other parties involved also will have an interest in the investigation of possible dishonesty in connection with Milena Penkowa’s published research.

On this basis, the panel must procure information and material etc. to the extent necessary in order to produce its statement to the University of Copenhagen on whether the honesty of Milena Penkowa’s research can be questioned.

Relevant information and materials etc. can be obtained from Milena Penkowa, her co-authors, the University or from other sources (e.g. journals).

3.3 Reports to the police and DCSD
It is not the duty of the panel to investigate matters that are subjects of the Copenhagen Police force’s investigation of Milena Penkowa.²

 Likewise, it is not the duty of the panel to investigate matters concerning the University’s reporting of Milena Penkowa to DCSD.³

4. The panel and the secretariat in relation to the public administration
The University of Copenhagen is a self-governing institution within the Danish public administration, see the University Act § 1, para. 2. The University is therefore governed by the Danish Public Information Act, and the Danish Public Administration Act, along with other administrative requirements for Danish public authorities.

The independent panel of internationally recognised researchers is not part of the public administration. In respect of the panel's work, it is necessary that the panel receives administrative and health scientific assistance from a secretariat. The panel as well as the secretariat should be independent of the University of Copenhagen. Thus, the secretariat is also not part of the public administration.

³ The reporting to DCSD concerns:
An unpublished article from 2010.
As a result of the panel and the secretariat not being part of the public administration, they are not governed by the regulations of the Danish Public Information Act on right of access to documents.4

Need for legal assistance may arise during the panel's work. The University of Copenhagen will make the necessary legal assistance5 available to the panel.

Before initiating the investigation, the University of Copenhagen has ensured that the appointment of the members of the panel, the secretariat and the legal experts does not give rise to any conflicts of interest in relation to Milena Penkowa or the University of Copenhagen.

5. The panel’s investigation report and the University of Copenhagen’s response to the report

The subject of the investigation is solely Milena Penkowa’s research.

The Panel’s investigation report shall indicate whether - and potentially to what extent - it has not been possible to assess the honesty of Milena Penkowa’s research, for example due to lack of access to documentation. Milena Penkowa will be given the opportunity to comment on a draft of the panel's final report.

The investigation report must include the panel’s motivated conclusion on whether it finds a well-founded suspicion of scientific dishonesty as defined in section 3.1 above - in one or more of the published scientific papers, to which Milena Penkowa has contributed with her research. If the panel finds such suspicion, the report must state which article(s), including the underlying research the suspicion concerns, and substantiate and document the suspicion.

If the panel cannot reach agreement, the members of the panel may present individual statements.

In addition to the investigation report, the University of Copenhagen must receive all additional relevant material, on which the panel has based its conclusions. The University may decide on the possible consequences that the University wishes to effect based on the conclusions of the report. The investigation report with appendices submitted to the University will be publicly accessible according to the regulations of the Danish Public Information Act. Similarly, material submitted by the University to the panel will be

4 The University has made arrangements with a private consultant company, MSc in Engineering Pia Jørnø, and on the recommendation of the Danish Council for Independent Research, with Professor Emeritus Lars Terenius from Karolinska Institutet, Stockholm, on providing secretariat assistance to the panel in the fields of administration and health science.

5 Two legal experts are affiliated to the University of Copenhagen as a part of the University, namely former President of the Supreme Court Torben Melchior and Academic Officer at the Parliamentary Ombudsman Michael Thuesen. They have both assisted the University in connection with the establishment of the investigation.
accessible for the public in accordance with the right of access to documents provided for in the Danish Public Information Act.

Based on the investigation report, the University of Copenhagen will decide on the possible consequences, which the University wishes to effect, including whether there is reason to file additional reports concerning Milena Penkowa’s research to DCSD.

6. The procedure of the Panel’s Investigation

All parties involved, including Milena Penkowa, the co-authors and relevant publishers/journals will be informed at the initiation of the investigation. DCSD will also be notified.

The panel’s investigation report and information about the University of Copenhagen’s initiatives as a result of the report will be made accessible on the University’s website, apart from specific information, which according to legislation cannot be published.

The investigation process will be arranged in accordance with the procedure proposed by DFF and is attached as appendix to the Terms of Reference.

University of Copenhagen, 1 July 2011