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3260th Council meeting

Justice and Home Affairs

Luxembourg, 7 and 8 October 2013

Presidents **Juozas BERNATONIS**
Minister for Justice of Lithuania
Dailis Alfonsas BARAKAUSKAS
Minister for the Interior of Lithuania

P R E S S

Rue de la Loi 175 B – 1048 BRUSSELS Tel.: +32 (0)2 281 3619 / 6319 Fax: +32 (0)2 281 8026
press.office@consilium.europa.eu <http://www.consilium.europa.eu/press>

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Main results of the Council

*On Monday, Justice ministers had an in-depth discussion on the “one-stop-shop” mechanism, which is a key issue in the proposal for a **General Data Protection Regulation**.*

*The Council agreed on a general approach on the proposal for a directive on the **protection of the euro and other currencies against counterfeiting by criminal law**.*

Ministers also held a public debate on two proposals presented by the Commission:

- on the setting up of the **European Public Prosecutor's Office**,*
- on the **European Union Agency for Criminal Justice Cooperation** (Eurojust).*

***Important items adopted without discussion** (A items) include a directive on the right of **access to a lawyer** in criminal proceedings and the **Schengen governance** legislative package.*

*On Tuesday, Home affairs ministers reached a political agreement on provisional arrangements to host the **European Police College (CEPOL)** seat in another member state after the United Kingdom indicated that it no longer wishes to host it on its territory. The Council agreed that as soon as CEPOL moves from Bramshill it will be hosted in Budapest (Hungary). A legislative act will need to follow as soon as possible.*

*The Council also took note of the interim report from the Commission on the main findings of the analysis of information provided by member states on issues related to **free movement** of citizens.*

*As regards the **Syria conflict and the protection of refugees**, the Council held an in-depth discussion on the basis of the latest developments.*

*Ministers also discussed the tragedy at sea near the Italian island of **Lampedusa** where more than 200 African migrants are confirmed to have drowned.*

*On Monday afternoon and Tuesday morning, EU Justice and Home Affairs ministers met with their **Eastern Partnership** counterparts (from Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine) to discuss cooperation and future prospects in this field. The participants adopted a joint declaration which will serve as input for the preparations for the third Eastern Partnership Summit in Vilnius, which will take place on 28 and 29 November 2013.*

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

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PARTICIPANTS

Belgium:

Ms Joëlle MILQUET

Ms Annemie TURTELBOOM

Ms Maggie DE BLOCK

Deputy Prime Minister and Minister for the Interior and Equal Opportunities

Minister for Justice

State Secretary for Asylum and Migration, Social Integration and the Fight against Poverty, attached to the Minister for Justice

Bulgaria:

Ms Zinaida ZLATANOVA

Mr Tsvetlin YOVCHEV

Deputy Prime Minister and Minister for the Justice

Deputy Prime Minister and Minister for the Interior

Czech Republic:

Mr Martin PECINA

Ms Marie BENEŠOVÁ

Deputy Prime Minister and Minister for the Interior

Minister for Justice

Denmark:

Mr Morten BØDSKOV

Minister for Justice

Germany:

Ms Sabine LEUTHEUSSER-SCHNARRENBERGER

Mr Hans-Peter FRIEDERICH

Federal Minister for Justice

Federal Minister for the Interior

Estonia:

Mr Hanno PEVKUR

Mr Ken-Marti VAHER

Minister for Social Affairs

Minister for the Interior

Ireland:

Mr Alan SHATTER

Mr Declan KELLEHER

Minister for Justice and Equality; Minister for Defence

Permanent Representative

Greece:

Mr Charalambos ATHANASIOU

Mr Patroklos GEORGIADIS

Minister for Justice, Transparency and Human Rights

Ministry of Public Order and Protection of the Citizen - General Secretary for Protection Policy

Spain:

Mr Jorge FERNÁNDEZ DIAZ

Mr Alfonso DASTIS QUECEDO

Minister for the Interior

Permanent Representative

France:

Ms Christiane TAUBIRA

Mr Manuel VALLS

Keeper of the Seals, Minister for Justice

Minister for the Interior

Croatia:

Mr Orsat MILJENIĆ

Mr Ranko OSTOJIĆ

Minister for Justice

Minister for Internal Affairs

Italy:

Mr Angelino ALFANO

Ms Annamaria CANCELLIERI

Deputy Prime Minister and Minister for the Interior

Minister for Justice

Cyprus:

Mr Ionas NICOLAOU

Mr Socrates HASIKOS

Minister for Justice and Public Order

Minister for the Interior

Latvia:

Mr Jānis BORDĀNS

Mr Rihards KOZLOVSKIS

Minister for Justice

Minister for the Interior

Lithuania:

Mr Juozas BERNATONIS

Mr Dailis Alfonsas BARAKAUSKAS

Mr Paulius GRICIŪNAS

Mr Elvinas JANKEVICIUS

Minister for Justice

Minister for the Interior

Vice-Minister for Justice

Deputy Minister for the Interior

Luxembourg:

Ms Octavie MODERT

Mr Jean-Marie HALSDORF

Mr Nicolas SCHMIT

Hungary:

Mr Tibor NAVRACSICS

Mr Sándor PINTÉR

Malta:

Mr Emanuel MALLIA

Mr Owen BONNICI

Netherlands:

Mr Ivo OPSTELTEN

Mr Fred TEEVEN

Austria:

Ms Johanna MIKL-LEITNER

Ms Beatrix KARL

Poland:

Mr Michał BONI

Mr Piotr STACHAŃCZYK

Portugal:

Mr Fernando ALEXANDRE

Mr Domingos FEZAS VITAL

Romania:

Mr Robert Marius CAZANCIUC

Mr Bogdan TOHĂNEANU

Slovenia:

Mr Senko PLIČANIČ

Mr Boštjan ŠEFIC

Slovakia:

Mr Tomáš BOREC

Mr Ivan KORČOK

Finland:

Ms Anna-Maja HENRIKSSON

Ms Päivi RÄSÄNEN

Sweden:

Ms Beatrice ASK

Mr Tobias BILLSTRÖM

United Kingdom:

Mr Chris GRAYLING

Mr James BROKENSHIRE

Minister for Justice, Minister for Culture, Minister for the Civil Service and Administrative Reform, Minister for Administrative Simplification attached to the Prime Minister

Minister for Home Affairs and the Greater Region, Minister for Defence

Minister for Labour, Employment and Immigration

Deputy Prime Minister and Minister for Public Administration and Justice

Minister for the Interior

Minister for Home Affairs and National Security
Parliamentary Secretary for Justice within the Ministry for Home Affairs and National Security

Minister for Justice and Security

State Secretary for Security and Justice

Federal Minister for Interior

Federal Minister for Justice

Minister for Administration and Digitalisation

State Secretary, Ministry of the Interior and Administration

State Secretary attached to the Minister for the Interior
Permanent Representative

Minister for Justice

State Secretary, Ministry of Internal Affairs

Minister for Justice

State Secretary, Ministry of the Interior and Public Administration

Minister for Justice

Permanent Representative

Minister for Justice

Minister for Interior

Minister for Justice

Minister for Migration

Secretary of State for Justice

Permanent Under Secretary of State for Crime and Security

Commission:

Ms Viviane REDING

Ms Cecilia MALMSTRÖM

Vice President

Member

ITEMS DEBATED

JUSTICE

Data protection

The Council held an in-depth discussion on the proposal for a regulation setting out a general EU framework for data protection with the aim of providing guidance for further work at expert level on the "one-stop-shop" mechanism laid down in the Commission proposal.

The "one-stop-shop" principle, together with the consistency mechanism, is one of the central pillars of the Commission proposal. According to this principle, when the processing of personal data takes place in more than one member state, one single supervisory authority should be responsible for monitoring the activities of the controller or processor throughout the Union and taking the related decisions. The proposal states that the authority acting as such a one-stop-shop should be the supervisory authority of the member state in which the controller or processor has its main establishment.

The Council expressed its support for the principle that, in important transnational cases, the regulation should establish a "one-stop-shop" mechanism in order to arrive at a single supervisory decision, which should be fast, ensure consistent application, provide legal certainty and reduce the administrative burden. This is an important factor to enhance the cost-efficiency of the data protection rules for international business, thus contributing to the growth of the digital economy.

The discussion focused on how to arrive at such a single decision. A majority of the member states indicated that further expert work should continue based on a model in which a single supervisory decision is taken by the "main establishment" supervisory authority, while the exclusive jurisdiction of that authority might be limited to the exercise of certain powers. Some member states expressed their preference for the codecision mechanism, while others preferred to avoid taking any position on this point, at this stage.

The Council indicated that the experts should explore methods for enhancing the "proximity" between individuals and the decision-making supervisory authority by involving the local supervisory authorities in the decision-making process. This proximity is an important aspect of the protection of individual rights.

Another important element for increasing the consistency of the application of EU data protection rules will be to explore which powers and what role could be assigned to the European Data Protection Board (EDPB).

In January 2012, in the light of rapid technological developments and globalisation, the European Commission presented a legislative package to update and modernise the principles enshrined in the 1995 Data Protection Directive (Directive 95/46/EC), in order to guarantee data protection rights in the future. The package includes a policy communication setting out the Commission's objectives ([5852/12](#)), and two legislative proposals: a regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) ([5853/12](#)) and a directive on protecting personal data processed for the purposes of prevention, detection, investigation or prosecution of criminal offences and related judicial activities ([5833/12](#)).

These proposals are aimed at building a stronger and more coherent data protection framework in the EU, backed by strong enforcement that will allow the digital economy to develop across the internal market, put individuals in control of their own data and reinforce legal and practical certainty for economic operators and public authorities.

Protection of the euro against counterfeiting

The Council agreed on a general approach on the proposal for a directive on the protection of the euro and other currencies against counterfeiting by criminal law ([14085/1/13 REV1](#)). This general approach will constitute the basis for negotiations with the European Parliament in order to agree the final text of the directive.

The proposed directive was tabled by the Commission on 5 February 2013 ([6152/13](#)) and will replace Framework Decision 2000/383/JHA. It aims at establishing minimum rules concerning the definition of criminal offences and sanctions in the area of counterfeiting of the euro and other currencies. It also introduces common provisions to strengthen the fight against those offences and to improve their investigation.

Since the introduction of the euro, counterfeiting has caused financial loss of at least 500 million euros, according to data published by the European Central Bank. The euro continues to be a target of organised crime groups involved in counterfeiting money. In its January 2013 biannual information on euro banknote counterfeiting, the ECB noted that a total of 280 000 counterfeit euro banknotes, representing 0.002% of the average 14.9 billion euros in circulation during the second half of 2012, were withdrawn from circulation in that period. As indicated in the title of the Directive, it also covers other currencies circulating in the European Union.

Ireland has decided to take part in the adoption of the directive. The United Kingdom and Denmark will not participate.

European Public Prosecutor's Office - Eurojust

The Council heard a presentation by the Commission on its proposals regarding the setting up of a European Public Prosecutor's Office ([12558/13](#)) as well as the European Union Agency for Criminal Justice Cooperation (Eurojust) ([12566/13](#)) and asked its preparatory bodies to continue working in parallel on these proposals.

Both proposals were presented by the Commission on 17 July 2013 and are closely linked, since certain administrative functions will be shared between the two bodies.

The European Public Prosecutor's Office (EPPO) will, according to the Commission proposal, be a decentralised prosecution office of the European Union with exclusive competence for investigating, prosecuting and bringing to judgment the perpetrators of, and accomplices in offences against the EU's financial interests. The proposal envisages that it will have uniform investigation powers throughout the Union based on and integrated into the national law systems of the member states.

At the same time, the proposal to reform Eurojust assures the European Public Prosecutor's Office, once the latter has been established, of Eurojust's support in the fight against fraud against the EU.

While maintaining those elements that have proved efficient in the management and operation of Eurojust, this new regulation streamlines Eurojust's functioning and structure in line with the Lisbon Treaty. It also increases the democratic legitimacy of Eurojust: the European Parliament and national Parliaments will in future be more involved in the evaluation of Eurojust's activities.

HOME AFFAIRS

CEPOL

The Council reached a political agreement on provisional arrangements to host the European Police College (CEPOL) seat in another member state. The Council agreed that as soon as CEPOL moves from Bramshill (United Kingdom) it will be hosted in Budapest (Hungary). A legislative act will need to follow as soon as possible.

The United Kingdom informed CEPOL in writing that it no longer wishes to host the seat on its territory. In order to remain operational, a provisional arrangement is needed, pending the negotiations on the Commission proposal for a new Regulation on Europol and CEPOL.

The European Police College (CEPOL) is a European Union Agency, established in 2005¹. CEPOL's mission is to bring together senior police officers from police forces in Europe - essentially to support the development of a network - and encourage cross-border cooperation in the fight against crime, public security and law and order by organising training activities and research.

Issues related to the free movement of persons

The Council took note of the interim report provided by the Commission on the main findings of the analysis of information provided by member states on issues related to free movement of citizens and invited the Commission, in close cooperation with member states, to continue its evidence and data collection.

The Commission informed the Council that, according to the provisional data transmitted, there is no factual evidence of widespread abuse of the right of free movement and no evidence of large numbers of EU citizens claiming social benefits and social assistance in other member states. Most EU citizens move to another member state for the purposes of working there.

The Commission proposed that instances of abuse, where they occur, should be addressed on a case-by-case basis and within the existing legal framework. It also proposed set of actions to enhance the existing tools:

- Combating marriages of convenience (preparation of a handbook)
- Clarifying the concept of "habitual residence" (preparation of guidelines)

¹ [Council Decision 2005/681/JHA of 20 September 2005](#)

- As from 1/1/2014, 20% of the European Social Fund (ESF) will be assigned to social inclusion
- Getting the money where it is needed (holding a workshop with member states on the use of ESF funding)
- Addressing local authorities' needs (holding a conference with mayors in Spring 2014 on the development of free movement rights and development of an online tool on free movement rights)

All member states agreed that the free movement of persons is a fundamental right of all EU citizens that should be upheld and supported. They also agreed that abuse has to be combated.

In April 2013 the ministers of the interior of Austria, Germany, the Netherlands and the United Kingdom sent a letter to the Presidency raising some concerns as regards the free movement of EU citizens within the Union.

In June 2013 the Council discussed these issues and invited the Commission to look at the implementation of free movement rules, including guidance on fighting abuse of these rules, and to present an interim report to the Justice and Home Affairs Council by October 2013 and a final report by December 2013.

Syria: Protection of refugees, latest developments

The Council held an in-depth discussion on Syria with particular reference to the protection of refugees.

The High Representative and representatives of the Commission, EASO and FRONTEX updated Ministers on the latest developments. Given the deterioration of the situation in Syria, the Council recalled the strong EU commitment to step up assistance to the concerned populations in Syria and the neighbouring countries.

The Council welcomed the progress being made towards the establishment of a Regional Protection Programme and invited the Commission to continue its important work.

The Council also took note of the report on the results of the fact-finding mission, organised by the Commission in cooperation with EASO and FRONTEX, which visited Bulgaria, Cyprus and Greece, with the objective of monitoring the situation in these member states in terms of current and potential migratory pressures coming, in particular, from Syria.

The Council will return to this issue at the next meeting.

Recent events in Lampedusa

The Council took note of the information provided by the Italian minister on the tragic accident which occurred off the coast of the island of Lampedusa and expressed its sincere condolences to the families of the victims.

Ministers held an exchange of views on the actions that are needed to avoid such tragedies. As proposed by Italy, a task-force will be convened with the Commission at short notice to identify the tools which the EU has at its disposal and which could be used in a more effective way.

First Annual Relocation Forum

The Council took note of the information provided by the Commission on the results of the First Annual Relocation Forum, which took place in Brussels on 25 September 2013.

Other business

The Council was informed of the state of play regarding a number of legislative proposals, including:

- the European investigation order;
- the directive on confiscation of the proceeds of crime;
- the multiannual financial framework (MFF) as regards the Rights, Equality and Citizenship Programme and the Justice Programme (2014-2020);

The High Representative of the Union for Foreign Affairs and Security Policy briefed ministers on civilian crisis management and on the links between internal and external security, with a view to the discussion on security and defence at the upcoming December European Council.

The Finnish and Polish delegations presented the outcome of the informal meeting of Home Affairs Ministers of Schengen States with External Land Borders, held in Finland on 12-13 September 2013.

The Greek delegation provided information on the implementation of Greece's Revised National Action Plan on Asylum Reform and Migration Management.

* * *

Eastern Partnership Justice and Home Affairs Ministerial Meeting

On Monday afternoon and Tuesday morning, EU Justice and Home Affairs ministers met with their Eastern Partnership counterparts to discuss cooperation and future prospects in this field.

On Monday, Justice Ministers discussed issues relating to justice reform, judicial cooperation and recent legislative and policy developments in the area of justice. On Tuesday, Home Affairs ministers discussed issues relating to the fight against corruption, the fight against organised and transnational crime, cybercrime and migration and mobility.

The meeting resulted in the adoption of a joint declaration highlighting the main results of current cooperation and future prospects in the area of Justice and Home Affairs ([14558/13](#)). This joint declaration will serve as input for the preparations for the third Eastern Partnership Summit in Vilnius, which will take place on 28 and 29 November 2013.

The Eastern Partnership was launched by the Union at a Summit with the Eastern European partners on 7 May 2009 in Prague. It set out an ambitious path for deeper bilateral and multilateral relations with Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine.

OTHER ITEMS APPROVED

JUSTICE AND HOME AFFAIRS

Right of access to a lawyer

The Council adopted a directive on the right of access to a lawyer in criminal proceedings ([PE-CONS 40/13](#))

For more information see [14440/13](#).

Schengen Governance

The Council adopted the Schengen governance legislative proposals, namely a regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis ([10597/13](#)) and an amendment to the Schengen Borders Code as regards the rules for the temporary reintroduction of border controls at internal borders in exceptional circumstances ([PE-CONS 30/13](#)).

For more information see [14441/13](#).

Control of new psychoactive substances

The Council adopted a decision on subjecting 5-(2-aminopropyl) indole to control measures ([13590/13](#)), in conformity with decision 2005/387/JHA on the information exchange, risk assessment and control of new psychoactive substances ¹. The Council has also ordered the publication of the decision in the Official Journal.

See also: European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) website (<http://www.emcdda.europa.eu>)

EJN and e-Justice - Council conclusions

The Council adopted conclusions on the cooperation between the website of the European Judicial Network (EJN) in criminal matters and e-Justice ([13407/13](#)).

¹ OJ L 127, 20.5.2005.

Cape Verde - readmission and visa facilitation agreements

The Council adopted a decision on the conclusion of the Agreement between the European Union and Cape Verde on readmission of persons residing without authorisation ([13569/13](#))

The main objective of this agreement is to establish, on the basis of reciprocity, rapid and effective procedures for the identification and safe and orderly return of those persons.

The readmission agreement was signed by the European Union and Cape Verde in Brussels on 18 April 2013. On 11 September 2013, the European Parliament gave its consent to the conclusion of the Agreement.

In parallel to the readmission agreement, a Council Decision concerning the conclusion of a visa facilitation agreement with Cape Verde was also adopted by the Council ([13594/13](#)).

The agreement makes it easier and cheaper for citizens of Cape Verde, in particular those who travel most, to acquire short-stay visas allowing them to travel to and freely throughout the EU.

The visa facilitation agreement was signed on 26 October 2012. On 11 September 2013, the European Parliament gave its consent to the conclusion of the Agreement.

Readmission agreements go usually hand-in-hand with visa facilitation agreements. They will enter into force on the same day (on the first day of the second month following the date on which the two parties notify each other that the internal procedures have been completed), most likely before the end of 2013.

BUDGETS

Increase in the European Social Fund for France, Italy and Spain*

The Council adopted its position on draft amending budget no 7 for 2013 approving an increase of EUR 150 million in the European Social Fund, in commitments for the benefit of France, Italy and Spain ([14052/13](#)). The additional amount is aimed at helping the three member states to tackle youth unemployment, poverty and social exclusion. It had been agreed as part of the negotiations on the EU's multiannual financial framework (MFF) for 2014-2020 in the margin of the European Council of 27-28 June 2013.

The Council also approved a draft decision to mobilise the flexibility instrument for an amount of EUR 134 million; the remaining EUR 16 million will be financed within the margin under the MFF ceiling.

ECONOMIC AND FINANCIAL AFFAIRS

VAT rules - Place of supply

The Council adopted a regulation amending VAT rules as regards the place of supply of telecommunications, broadcasting and electronic services, real estate services and the distribution of tickets for entry to cultural, artistic, sporting, scientific, educational, entertainment and similar events ([11543/13](#)).

TRADE POLICY

WTO waiver: Moldova

The Council adopted a decision setting out the EU's position within the General Council of the World Trade Organization (WTO) as in favour of extending, until 31 December 2015, the WTO waiver on autonomous trade preferences granted by the EU to Moldova for products originating in the country.

EUROPEAN ECONOMIC AREA

Financial contributions to economic and social cohesion - Iceland, Liechtenstein and Norway

The Council authorised the Commission to open negotiations on an international agreement on the future financial contributions of the EEA EFTA States (Iceland, Liechtenstein and Norway) to economic and social cohesion in the European Economic Area ([12239/13](#)).

CUSTOMS UNION

EU / San Marino customs cooperation agreement - Accession of Croatia to the EU

The Council authorised the signing and provisional application of a protocol to the EU/San Marino agreement on cooperation and customs union in order to take account of Croatia's accession to the EU on 1 July 2013 ([13243/13](#)).

AGRICULTURE

Farm Accountancy Data Network

The Council adopted an amendment to regulation 1217/2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the EU ([32/13](#)).

The main aim of this amendment is to align the Commission implementing powers in the current regulation 1217/2009 on the Farm Accountancy Data Network (FADN) with the differentiation between delegated and implementing powers of the Commission introduced by Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFUE).

The FADN is an instrument for evaluating the income of agricultural holdings and the impacts of the Common Agricultural Policy (CAP). The concept of the FADN was launched in 1965. It consists of an annual survey carried out by the member states. The services responsible for the operation of the FADN collect accountancy data annually from a sample of the agricultural holdings in the EU. Derived from national surveys, the FADN is the only source of microeconomic data that is harmonised, i.e. the bookkeeping principles are the same in all member states. Holdings are selected to take part in the survey on the basis of sampling plans established at the level of each region in the EU. The survey does not cover all the agricultural holdings in the EU but only those which, in view of their size, can be considered to be commercial. The methodology applied aims to provide representative data in three dimensions: region, economic size and type of farming. Aggregated data from FADN can be found in the Standard Results database published by the Commission.

FISHERIES

Partnership between EU and São Tomé - Negotiations for agreement and protocol

The Council adopted a decision authorising the Commission to open negotiations on behalf of the EU for a renewal of the protocol to the fisheries partnership agreement (FPA) with the Democratic Republic of São Tomé and Príncipe.

The current protocol will expire on 12 May 2014. The new protocol between the EU and São Tomé and Príncipe should be in line with the 19 March 2012 Council conclusions on the Commission communication of 13 July 2011 on the external dimension of the Common Fisheries Policy.

HEALTH

Cross-border health threats*

The Council adopted a decision aimed at strengthening EU capacities and structures for effectively responding to serious cross-border health threats ([29/13](#) + [14035/13 ADD 1 REV 1](#)). This follows a first-reading agreement with the European Parliament.

The decision covers serious cross-border threats to health, such as those of biological origin (e.g. communicable diseases, for instance the H1N1 pandemic in 2009, or biotoxins, for example the outbreak of E. coli in 2011) or of chemical, unknown or environmental origin (such as the volcanic ash cloud in 2010).

For details see ([9610/13](#)).
