

@import url(../../../../css/generic.css); EUR-Lex - 61996J0336 - EL

Avis juridique important

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61996J0336

?????? ?? ?????????? ?? 12?? ???? 1998. - Robert Gilly (??? ??????? ???) ???
Directeur des services fiscaux du Bas-Rhin. - ?????? ??? ??? ?????? ??????????????
?????????: Tribunal administratif de Strasbourg - ??????. - ????? 6, 48 ??? 220 ??? ??????
?? - ?????????? ??? ?????????????? - ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? - ?????????? ??????????. - ?????? C-336/96.

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1 ??????? ?? - ????? 220, ?????? ?????????? - ????? ?????????? - ??? ??????????

(?????? ??, ????? 220)

2 ?????????? ?????????? ?? ?????????? - ?????????? - ??? ?????????? - ?????? - ???
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????? ?????? ?? ?????? ?????????? - ??????????

(?????? ??, ????? 48 ??? 220)

3 ?????????? ?????????? ?? ?????????? - ?????????? - ??? ?????????? - ?????? - ???
????????? - ?????????? ?????????? ?? ?????? ?????? ?????? ?????? ??? ?????????? ?????? ??? ?????????? ??????
????? ?????? - ?????????? ?? ?????? ?????????? ?????????? ?????? ? ?????? ?????? ?????????? ??
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(?????? ??, ????? 48)

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1 ?? ??? 220 ??? ??? ?? ??? ?? ??? ?? ??? ?? ??? ?????? ?????????? ?????? ???????,
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????? ??? ?? ?????? ?? «????? ??? ?????? ??????» . ??? ?????? ?? ?????? ?????? ?????? ??? ??
????? 220, ?????????? ?? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ????????????????

??? ?????????? ??? ?????? ?????????? ??? ????? ??? ??????????.

??????, ??????? ? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??????????
????????????? ??? ?????? ??? ?????? ??? ??????, ? ?????? ???, ??? ?????????? ??? ??
????? ???, ??? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ??
????????? ??? ?????? ??? ?????? ??????????.

??????, ?? ??? 220, ?????? ???????, ??? ?????? ??? ??? ?????? ??????????.

2 ?? ??? 48 ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????
???? ?????? ??? ?????? 13, ?????????? 5, ??????? a, 14, ?????????? 1, ?? 16 ??
????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? 21
?????? 1959 ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ?????????? ???
????????, ??? ?????????? ?? ??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
???? ??? 9 ?????? 1969 ??? ??? 28 ?????????? 1989, ?? ?????? ??????????
????????? ?????? ?????????? ???????, ??????, ??? ??? ?????? ?????????? ?????????? ???
?? ?? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????????? ???
????????? ???, ?????? ?? ?? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ???
? ?????? ??? ?????? ??? ?????? ???, ???????, ??? ??? ?????????? ??? ?????? ??? ?????? ???
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????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

? ?????????????? ??? ?????? ?? ?????????? ???, ??????? ?????? ??? ?????? ???
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??????????, ?? ?????????????? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????????? ?? ?????????? ?????? ??? ?????? ??? ?????? 220, ?????? ??????, ???
????????, ??? ??? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?? ??????????,
????????? ?? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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3 ?? ??? 48 ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? 20, ?????????? 2,
?????? a, ?????? cc, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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????? C-336/96,

??? ??? ?? ??????????? ??? tribunal administratif de Strasbourg (??????) ??? ??
??????????, ???' ?????????? ??? ?????? 177 ??? ??????? ??, ?? ??? ????? ???????, ???
?????? ??? ??????? ??? ??????? ??????? ??? ??????? ?????????? ??????????? ???

Robert Gilly (??? ??????? ???)

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Directeur des services fiscaux du Bas-Rhin,

? ?????? ??????????? ??? ??????? ?? ??? ?????? ??? ?????? 6, 48 ??? 220 ???
?????? ??,

?? ????????,

?????????? ??? ??? G. C. Rodr?guez Iglesias, ???????, M. Watheler (???????) ??? R.
Schintgen, ???????, G. F. Mancini, J. C. Moitinho de Almeida, P. J. G. Kapteyn, J. L.
Murray, J.-P. Puissochet, G. Hirsch, L. Sev?n ??? K. M. ???????, ???????,

?????? ??????????: D. Ruiz-Jarabo Colomer

?????????: H. A. R?hl, ?????? ?????????? ????????????,

?????????? ??? ??? ??? ?????? ??????????? ??? ??????????:

- ? A. ??? ? R. Gilly, ??????????? ??? ?????? ????,

- ? ??????? ????????, ?????????????? ??? ??? C. de Salins, ?????????????? ???
????????? ??????? ?????????? ??? ?????????? ???????????, ??? ??? G. Mignot, ??????????
????????? ??????? ??? ??? ???????????,

- ? ??????? ????????, ?????????????? ??? ??? J. Devadher, ?????? ??????? ???
????????? ????????, ?????????? ?????????? ??? ?????????? ??? ??? ??? ????????,

- ? ??????? ????????, ?????????????? ??? ??? P. Biering, ?????? ???????, ???????????
????????? ??? ?????????? ????????????,

- ? ??????? ????????, ?????????????? ??? ??? E. R?der, Ministerialrat ??? ???????????
????????? ??? ????????????,

- ? ??????? ????????, ?????????????? ??? ??? U. Leanza, ??????????? ???
????????? ?????????? ??? ??????? ??? ?????????? ???????????, ?????????????? ??? ??? G.
De Bellis, avvocato dello Stato,

- ? ??????? ????????, ?????????????? ??? ??? ?. Rotkirch, ??????????? ??? ???????????
????????? ?????????? ??? ?????????? ????????????,

- ? ??????? ????????, ?????????????? ??? ??? E. Brattg?rd, departmentsr?d ??? ???
????????? ?????????? ??? ?????????? ????????????,

- ? ??????? ??? ??????? ????????, ?????????????? ??? ??? J. E. Collins, Assistant
Treasury Solicitor,

- ? ?????????? ??? ?????????? ???????????, ?????????????? ??? ??? H. Michard ??? ??? E. Traversa, ??? ??? ?????? ???????,\$

?????? ????,

???? ?????? ??? ?????????? ?????????????? ??? R. Gilly, ??? ?????? ?????????????? , ?????????????? ??? G. Mignot, ??? ?????? ?????????? , ?????????????? ??? J. Molde, ??? ?????? , ?????????? , ?????????? ?????? ??? ?????????? ?????????? , ??? ?????? , ?????????? , ?????????? , ?????????? , ??? ?????? , ?????????? , ?????????? , ?????????? , ??? M. Fierstra, ??? ?????? ?????? , ??? ?????? , ??? R. Singh, ??? Treasury Solicitor's Department, ??? ??? ?????? , ?????????? , ?????????? , ??? H. Michard, ??? ?? ?????? , ??? 23?? ??????? 1997,

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? , ??? ?????? , ??? ?????? , ??? 20?? ??????? 1997,

?????? ??? ????????

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1 ?? ?????? ??? 10?? ??????? 1996, ??? ?????? ??? ?????????? ??? 11 ??????? 1996, ?? tribunal administratif de Strasbourg ???????, ???' ??????? ??? ?????? 177 ?? ??????? ??, ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 6, 48 ??? 220 ??? ?????? ???????.

2 ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? . ??? ?? R. Gilly, ??????, ??? ??? directeur des services fiscaux du Bas-Rhin, ???????, ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?? 1989, 1990, 1991, 1992 ?? 1993, ???' ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 21 ?????? 1959, ?????? ??? ?????? ?????? ?????????? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? (??? ????: ??????), ??? ?????????? ?? ??? ?????????? ?????? ??? ?????? ??? ?????? 9 ?????? 1969 ??? ??? 28 ?????????? 1989.

3 ? R. ??? ? . Gilly ??????? ??? ??????, ??? ?????? ??? ?????????? ??? . ? R. Gilly, ??????? ?????????? , ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? . ? . Gilly, ? ?????? ??? ?? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? , ??? ?????? ??? ?????? ?????? ??? ?????? .

4 ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? , ?? ?????? 13, ?????????? 1, ??? ?????????? ??? ?????? ??? ?????? ?????? ??? :

«?? ??? ?????????? ??? ?????????? ??? ?????? ??????????, ?? ?????????? ??? ?????????? ??
??? ?????????? ?????? ?????????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????. ?? ??????????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? 14.»

5 ?? ??? 13, ?????????? 5, ?????? a, ?????? ??? ?????????? ??? ?? ??? ?????? ???
????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
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«???? ?????????? ??? ??? ?????????? 1, 3 ?? 4, ?? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????»..

6 ??????, ??? ?????? ??? ?????????????? ??? ?????????? ?????? ??? ?????????? ???
????? ???, ?? ??? 14, ?????????? 1, ??? ?????? ?????? ?????? ??? ?????????? ???
???' ???, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????:

«?? ??????, ??? ??? ?????? ??? ??????, ??? ??? ?? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ??? Land ? ??? ?????? ?????? ??????
????? ??? ?????? ??? ? ?? Land ?? ?????? ?????? ??? ?????? ??? ?????? ???
?????, ??? ?????? ??? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
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????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????»..

7 ?? ??? 16 ??? ?????????? ?????????? ??? ?????? ?????? ?????? ? ?????? ?????? ??? ??
????????? ??? ?????????? ??? ?????? ?????? ?' ?? ?????? ??? ? ?????? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????:

«?? ?????? ??? ?????? ??? ?????? ?' ?? ??? ?? ?????? ?????? ?????? ??? ?? ??????,
????? ?? ?????? ?????? ?????? ?????? ??? ?????? ???' ?????? ?????? ??? ?????? ??? ??????
??????, ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ???, ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ????
????? ??? ?????? ??????»..

8 ??? ?????? ?? ?????? ?????????, ?? ??? 20, ?????????? 2, ?????? a, ?????? cc, ???
?????????, ??? ?????????? ?? ?? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? 28
????????? 1989, ??? ?? ???:

«2) ??? ?????? ??? ?????? ?????? ?????? ???, ? ??? ?????? ?????? ?????? ??? ?????? ?? ???:

a) ??? ?????? ??? ?? ?????? ??????? ??????????? ??? ??????????? ??? ??????????????
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?????????. ? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ??????????
????????????? ??? ??????. ? ?????????????? ??? ?????? ?????????? ?? ?????????? ???
????????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????????? ???
????????????? ????. ? ?????????? ?????? ??? ?????? ???:

(...)

cc) ??? ?? ?????? ??????????, ??? ?? ??? ?????? ?????? ??? ?????? ?? ?????????? ???
????????? ????. ? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ???
????????????? ??? ????? (...) 13, ?????????? 1 ??? 2, ??? 14.»

9 ??? ??? ?????? ?????? ??????????? ???, ??????? ?? ??? ?????? ??? ?????? ???
????????? «?????? ??? ?????????? ??????», ?? ??? ?? ?????????? ?????? ???
??? ??? ?? ??????? ??? ?????? ??? ?????? ?????????? ??? ?????????????? ???
????????? ?? ??? ?????????? ??? ?????????? ??? ?? ?????? ??????, ??????, ??? ??????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ???
?? ?????? ?????? ???, ??????, ??? ?????? ??? ?????????? ??? ?????? ??????????.

10 ??? ?? ?????? ??????????, ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
?????? ?? ?????????? ??? ?????? ?????? ??? ?? ?????? ?????????? ?????????? ???
??????, ??? ?? ??? ?? ?????????? ?????? ??? ?? ?????? ??? ?????? ??? ?????????? ???.
???? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
???? ?? ?? ?????? ?????? ??? ?????????? ?????? ?????? ???, ? ?????????? ?????? ???
?? ?????? ?????? ??' ?? ?? ?? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ?????? ???.

11 ?? ??????????, ?? ?????? ?????? ?????? ??? ?????? ??? ?????, ??? ?? ??? 1989, 1990,
1991, 1992 ?? 1993, ?. Gilly ?? ?????? ???????????, ??????? ?? ?? ?????? 14,
????????? 1, ?? ????????, ?? ????????, ?????? ??? ?????? ??? ?????? ???????. ??
????????? ??? ?????????????? ??? ?? ??????, ???' ?????????? ??? ?????? 20, ??????????
2, ??????? a, ?? ???????. ??????, ?????? ?? ?? ?????? cc ?? ?????????? ???
?????????, ?? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????.

12 ? A. ??? ? R. Gilly, ?? ??? ?????????? ??? ?????? ??? 8 ?????? 1992 ??? ??? 21
?????? 1995, ?????? ??? tribunal administratif de Strasbourg, ?????????? ??? ? ??????
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ? ?????? ??? ?????? ???, ?????? ???, ??? ??
????? 6 (????? ??? 7 ??? ?????? ???), 48 ??? 220 ??? ?????? ???. ?????? ???
????????? ?? ?????????? ??? ??? ?????? ?????? ?????? ??? ?? ??? ?????????? ???
????????? ?????? ??? ?????? ??? ?????' ?????? ?????????? ?????????? ???.

13 ?? tribunal administratif de Strasbourg, ?????????? ??? ? ???? ??? ?????????? ??? ????
????????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 6, 48 ??? 220 ???
????????, ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ???
????????? ?????????? ???.

«1) ?????????? ??? ?? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ???
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? ?????????? ??????? ?? ?????????? ?????? ?????????? ?????????????? ??????????????, ??? ???? ???
????????? ?? ?????? ?????????? ??????, ?????? ?????????? ??? ?????????? ?????????? ??????????
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??' ?, ??
????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?? ??????, ?? ???? ??????
?? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?? ?? ?? ? ?????? ?????? ?????? ?????? ??? ?? ???? ?????? ?????;;

2) ?????????? ?? ??? ??? ?????? ?????? ?????????? ?????????? ??? ?? ?????????? ???
????????? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ? ??????????
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ?????????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?? ???? ??????????
????????? ??? ?? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?????????? ??????
?? ?????? ??????, ? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????
????????? ??????????;

3) ?????????? ?? ?? ?????? 7 [??? ?????? ?? ?????? 6] ??? ?????? ??? ??????
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??????????????, ???
????????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?? ?? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ?????? ?????? ??????;

4) ?????????? ??? ??? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?? ??????, ?? ?????????? ?????? ??? ?????? ??? ?????? ?? ?????????? ???
????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ??????
????????? ??? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??
????? ??? ??????;

5) ?????, ?????? ?? ?????????? ? ?????? ??? ?????????? ??? ?????? ?????????? ???
????? ?? ????? 220 ??? ??????, ?????????? ??? ?????? ??? ?????????? ??? ??????????
??? ?????? ?? ?????? ??????????, ?? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????????
????????? ??????, ?????? ??? ?????? ??? ?????? ?????? ?? ?????? ??? ?????? ?????? ??????????,
??, ??????, ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????????, ???
????? ? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? 220, ? ??????????
????? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??????;

6) ??? ???? 48 ??? ?????? ??? ???? ?????? ?? ?????? ??? ?????? ??? ?????? ???, ???
????? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ??? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??????, ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???;»

??? ??? ?????? ??????????

14 ?? ?? ??????? ??????? ??, ?? ?????? ??????? ?? ??????????? ??, ?? ?????? ???????????
????? ?? ??????? ??' ??????? ??????????? ?? ??????? 220, ??????? ??????????, ??
???????.

15 ????? ???? ??????? ?? ?????????? (????????? ??? 11?? ??????? 1985 137/84, Mutsch,
????????? 1985, ?. 2681, ?????? 11), ?? ?????? 220 ??? ?????? ?? ?????? ?? ?????? ??? ?????? ?????
????????????? ?????? ???????, ???? ?????????????? ??? ?????? ??? ?????? ?????
????????????????? ??? ?? ?????????? ?????? ??? ?? ?????? ??? «?????? ??????
?????????». ???? ?????? ?? ??????? ?????????? ??? ?????? 220, ?????????????? ?? ??????
?? ?????? ??? ?????????? ?????? ?????????????? ??? ?????????? ??? ?????? ??????????
????? ??? ??????????.

16 ?????????? ? ?????????? ??? ?????? ?????????? ?????? ??? ?????????? ??????????????????
????????? ?????? ??? ?????? ??? ????????, ? ?????? ???, ??? ?????????? ??? ?? ??????
???, ?? ???? ?????? ????????, ?? ?????? ??? ?????? ?????? ?????????? ?????????? ?? ??????????
????????? ??? ?????? ????????????

17 ???????, ??? ?????? ??????? ??????? ?? ?????? ? ?????????? ??? ?? ?????? 220, ???????
?????????, ??? ??????? ?? ?????? ??????????.

???? ???? ???????, ?????????? ??? ?????????? ?????????????

18 ?? ?? ??????, ??????? ?? ???? ?????? ???????, ?? ?????? ??????????? ?????? ?? ?? ?? ?? 48
??? ??????? ?? ??? ?? ?????? ?? ?????????? ?? ???? ??????? ??????? ?? ???? ??????? ??
?????? 13, ?????????? 5, ??????? a, 14, ?????????? 1, ??? 16 ??? ???????, ?? ??????
????????? ?????????? ??????? ???????????, ???????, ??? ??? ???????????
????????? ??????? ?? ?? ?? ?????????? ????? ??????? ?? ??? ?????? ?????? ???, ???
????????? ??? ?????? ?????, ??????? ?? ?? ?? ?????? ???? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ??????? ?? ?? ?? ?????? ???? ?????????? ???, ???????,
?? ?? ???????????????, ??????? ?? ?? ?? ?????????? ??? ?????? ??? ?????????? ???, ???????,
?? ?? ?????? ?????? ?????? ??????? ?? ?? ?? ?????????? ??? ?????? ??? ?????????? ???.

?????????? ??????? ?? ?????? 48 ??? ???????

19 ???????, ???' ????, ?? ?????????? ?? ??? ?????????? ????? ?????? ??? ?????? ??
????????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ???? ??
????????? ?????????? ??? ??????????.

20 ?????? ???' ?????????????? ??????????, ? ???????? ?????????? ?????????? ????. Gilly ???
?????? ??? ?????? ?? ?????????? ??? ?????? ?????? ?? ?????? 48 ??? ???????, ???????
????????? ??? ?????? ?????????? ???, ???? ??? ???????.

21 ?????? ??????? ?? ??????? ??? ?. Gilly ???????, ?? ??? ??? ???, ?? ??????
????????? ???. ???? ???. ???? ?????????????? ?????????????? ???. ??? ???. ??????, ??? ???.
????????? ???. ??? ???. ??????. ??? ???. ?????????? ???. ?????, ?????? ???. ?????????? ???.
????????? ???. ?????? ?????? ???. ?????????? ???. ?????? ???. ?????? ???. ?????? ???.
????????? ???. ?????? ?????? ?????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???.
????????? ???. ?????? ?????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???.
????????? ???. ?????? ?????? ???. ?????, ? ??????????????, ?????? ??????????, ?????? ???.
????????? ???. ?????? ?????? ???. ?????? ???. ?????? ???. ?????? ???.
19?? ?????????? 1998, 292/86, *Gullung*, ?????? 1988, ?. 111, ????? 12).

22 ?????????????? ??????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ??????
????? ??????? ??? ????? ?????????? ??? ?????? 48 ??? ??????.

?????? ??? ?????????? ?????????? ?????? ??? ?????? 48 ??? ??????

23 ??????? ? ??????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??????????
?????????????, ??? ?????????? ??? ?? ?????? 16 ??????, ?????? ??? ?????? ???
??????, ?????????? ?????? ?????? ?????????? ??? ?????? ??????, ?????? ??? ?? ?????? ???
23? ?????? 1990, ??? ??? ?????? ??? ?????? ?????????? ?? ?????????? ?????????? ???
????? ?????????? ?????? (?? 1990, L 225, ?. 10), ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ?? ??????????
????? ??? ??? ?? ?????? ??? ?????? ?????? ??????, ?????? ??? ?????? 220 ??? ??????,
????? ?????? ?????? ?????? ??????.

24 ?? ??? ?????? ???, ?? ??????? ??? ?? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ??
????????? ???, ? ????? ???????, ?????? ?????? ?????????? ?????????? ?????????? ???
????? ???, ??? ?? ?????????? ??? ?? ?????????? ?????????? ?????????? ?????????? ???
????????? (??? ????: ???) ?????????? ?????????? ?????????? ?????????? ??? ??
????????? ??? ?? ??????????.

25 ??? ?????? ???, ? ?????????? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??
????????????? ?????????? ??? ?????? ?????? ?????????? ?????????? ?????????? ??????????
????????? ??? ?? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ??????????
????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??????.

26 ??? ??? ?????? ???, ?? ?????????? ?????? ??? ?????????? ?????????? ??? ?????? ?? ?? ??? 13,
????????? 1, ??? ???????, ??? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????????? ??? ?? ?????? ?????? ?????????? ?? ?????????? ?? ?????? 13, ?????????? 5,
????? a, ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ???.

27 ??????, ??? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ?????????? ??? ??
????, ?? ??? 14, ?????????? 1, ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????????? ???' ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????. ? ??????????
????? ?????? (??? ????: ? ??? ?? ?????? ?????????? ??? ?????? ??? ??????) ??????????
????? ??? ???????, ? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??????????,
????? ?? ??? ?????, ??? ? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ??????????
????? ?????? ??? ?????? ?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????????
????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???

28 ???????, ?? ??? 16 ??? ??????? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ?????????????? ?? ?????? ??? ?????? ?? ?????? ?????????? ??? ?????? ???
?? ?? ?????????? ??? ?????? ??? ?? ??????, ??? ?? ?????? ?????????? ?????????? ??? ??????
????????? ??? ?? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ?????? ???
????????? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???.
????????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ???

29 ??? ?? ?????? ?????????? ??? ?? ?????? 13, ?????????? 1 ??? 5, ?????????? a, 14,
????????? 1, ??? 16 ??? ??????? ?????????? ?????????? ?????????? ?????????? ??? ??????????
????? ?? ?? ?? ?????????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?? ?? ??
?? ?????? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?? ?? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???

? ?????? ???????, ??? ? ?? ????? ?????????? ??? ?????? ?????????????? ???????, ?????? ??
????? ?????????? ?????? ??? ??????, ??? ? ?? ?????????? ??? ?????????? ??? ?????????????? ???
??? ?????? ??? ?????????? ???.

30 ??????? ?? ??????? ?? ?????????? ??? ?????????? ?????????????? ??? ?????? 14, ?????????? 1,
?????? ???????, ??? ? ?? ??????? ?? ?????????? ??? ?????????? ??????????????, ???????
????????????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ?????????? ??????????
????????????? ??? ?? ?????? 48 ??? ??????. ??????????, ?? ?????????????? ??? ?????????? ??????
?????????, ??????? ?????? ?????????? ??? ?????????? ?? ?????????? ?????????? ?????? ???
????? ??? ?????? 220, ??????? ?????????, ??? ??????, ??? ??? ?????????? ??? ?????? ?????????? ???
?? ?????????? ??? ?????? ?????? ?????? ?????????, ?????????? ?? ?????????? ?? ?????? ??????????, ??
????????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ??????????.

31 ??? ?????? ?????? ??? ??????? ?? ?????????? ??? ?????????? ??????????????, ??? ?????? ??????? ??
?? ?????????? ?? ?????? ??? ?? ?????? ?????? ?????????? ??? ?????? ?? ?????????? ?????????? ???
????????? ? ??? ??? ?? ?????? ?? ?????? 19, ?????????? 1, ??????? a, ?????????? ??
????? ?? 1994, ?????????? ?? ?????????????? ??? ?????? ??? ?????????????? ??? ??????
????????? ?????? ?? ?? ?????? ??? ?? ?????? ?????, ? ??? ?????? ?????????????? ??? «????
????????? ??? ?????????? ?????????????? ??? ??? ?????????? ?????????? ??? ?????????? ???
????????» ??? «????????????? ?' ??? ??? ?????? ?????? ?????? ?????????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
?????????????».

32 ?? ??????????, ?? ??? 14, ?????????? 1, ??? ?????? ??????, ??? ?????????? ??????????
?? ?????????? ?? ?????? 19, ?????????? 1, ??????? a, ??? ?????????? ?????????????? ???
????. ? ?????? ?????? ??? ??????, ??????, ??? ?????? ??? ?????????????? ???
????? ?????? ??? ? ?????????????? ??? ??? ?????? ?????????? ??? ?????? ??????????????
????? ?????? ?? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????
?????????, ??? ?????????? ?? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ??????????
????? ?????? ??? ?????? 19, ?????????? 1, ??????? b, ??? ?????????? ??????????????, ???
??? ?????????? ??? ??? ?????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????????
????? ??? ? ?????????????? ??? ?????? ?????? ??? ?????? ??? «? ?????? i) ??? ???
????????? ??? ?????? ?????? ??? ii) ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?? ?????? ??? ??????».

33 ?? ??? ??????????, ??? ??? ?? ?????? ?? ?? ?????? ?????? ?? ?????? ?? ?????? 14, ?????????? 1,
?????? ??????, ??? ?????? ? . Gilly ?????????? ?? ??????????, ? ??????????
????????? ??? ?? ?????????? ??????????, ?????? ?? ?????? ?? ?????????? ? ??? ???
????????????? ??? ?????? ??????, ??? ?????? ?? ?????????? ??? ?????? ??? ??????????
??? ?? ?????????????? ??? ?????? ??????.

34 ???????, ??? ?????????? ?? ?????????? ??? ?????? ?????? ?? ?????????? ??? ?????????????? ???
?????? ?????? ?? ?????????? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ???
??? ??? ?????? ?????? ??????, ??? ?????? ??????, ?? ??? ?????? ?????? ???
????????????? ??? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ???
????????????? ??? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ???
????????????? ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
?????????, ??? ?????? ??? ?????? ??? ?????? ???.

35 ???????, ??? ???, ?????? ??? ?????? ?????? ?????? ?????? ?? ?????? ? ?????? ??? ??
????? 48 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ???
?????? ??? ?????? 13, ?????????? 5, ??????? a, 14, ?????????? 1, ??? 16 ??? ???????,
?? ?????? ?????????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??????????

????????????? ??????? ?? ?? ?????????? ????? ?????????? ???? ????? ??????? ???, ???
????????? ??? ?????? ?????, ??????? ?? ?? ?????? ???? ??? ????? ?????? ??? ??????
?? ?????? ?????? ? ??????? ?? ?????? ?????????? ???, ???????, ??? ??? ??????????????,
?????? ?? ?? ?? ?????????? ?? ?????? ?????? ?????????? ?????? ??? ?????? ??? ??????
????? ??? ?????????????? ?????????????? ???.

?? ?? ?????? ??????????

36 ?? ?? ?????? ???????, ?? ?????? ?????????? ?????? ?? ?? ?????? 7 ?? ?????? ???, ??
?????? ?? ?????? 6 ??? ????????, ?? ?????? ?????????? ??, ?? ?????? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? 14, ?????????? 1, ?????? ???????, ??? ??????????, ?
????? ?????????? ?????????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ??????????
?? ?????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ??? ??
????????? ??? ?????? ??????.

37 ??? ?????? ??????????, ?? ?????? 6 ??? ??????, ?? ?????? ?????????? ?? ?????? ???
?? ?????????? ??? ?????? ?????? ?????? ??????????, ?????? ?? ?????????? ?????????? ???
?? ?????????? ?????? ??? ?? ?????? ?????? ?????? ??? ?? ?????? ? ?????? ???
????????? ?????? ?????? ?????? (??., ?????? ???, ?????? ??? 25??
?????? 1997, C-131/96, Mora Romero, ?????? 1997, ?. ?-3659, ??? 10).

38 ??? ?????? ??? ?????????? ?????????? ??? ??????????, ?? ?????? ??? ?????????? ???
????????? ??? ?????? ?????? ?? ?????? ??? ?????????? ??? ?????????????? ?? ?? ?????? 48 ???
????????, ?????? ??? ?? ?????? ??? ?????????? ??? ?????? ???, ??????????, ?? ??? ??????????
(???) 1612/68 ??? ??????????, ?? 15?? ?????????? 1968 ??? ?? ?????????? ??????????
?? ?????????? ??? ?????????? ??? ?????????? (?? ????. ????. 05/001, ?. 33).

39 ??? ??? ?????? ??? ??????, ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? 48 ???
????????. ???????, ??????? ? ?????? ??? ?????? ??? ?????? 6 ??? ??????.

?? ?? ?????? ??????????

40 ?? ?? ?????? ?, ?? ?????? ?????????? ?????? ?? ?? ?????? 48 ??? ?????? ???
????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?? ?????? 20, ?????????? 2, ?????? a, ?????? cc, ??? ??????.

41 ? ?????? ??? ?????????? ??? ?????????? ?????? ??? ?????????? ?? ?? ?????? 20,
????????? 2, ?????? a, ?????? cc, ??? ??????, ?? ?????? ?????????? ??? ??????
????????? ??? ?????? ??? ?????????? ?????????? ??? ?????, ?????????? ??? ?????? ???
????? ?????????? ??? ?????? ?? ?????????? ?? ?????? ?????? ??? ?????? ?? ??????????
?? ?????????? ?????????? ??? ?????? ?? ?????? ?????????? ?????? ??? ?????? ???
?? ??? ??????.

42 ?? ?? ?????????? ??? ???????????????????, ??' ?????, ?? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ?????? ?????? ?? ?? ?????? ??????????
????????? ??? ?????, ?? ??????, ?????????? ?????? ?????, ??? ??? ?????? ???
????????? ??? ???????, ???, ?????? ??? ?? ?????????? ??? ?????????? ??? ??????????
14 ??? ???????, ??? ?? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
?? ??? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????? ??????.

43 ??? ?? ?????????? ?????????? ??? ?????? ??? ?? ?????? ? ?????????????? ???
????????? ??? A. Gilly ??? ?????? ???, ??? ?? ?????? ??? ?????? ??? ??????????

? ?????????? ????, ??? ?? ?????????? ??? ?????? ??? ???? ?????????????? ?????????? ???
???, ??? ?? ?????? ? ?????????? ??? ?????? ?????? ??? ?? ?????????? ??? ?????? ???
????????? ??? ?? ?????????? ?????????? ??? ?????????? ??? ?? ?????????? ??? ??????
????????? ?????? ??? ?????????? ???.

44 ??? ???? ??? ?????????? ??? ?????? ???, ? ?????? ?????????? ?????????? ???
?????? ?? ?????? ??? ?????? ?? ?????? ?????????? ?????????? ?????????? ??? ?????? ???
????????? ?? ?????????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????????? ?????? ??? ?????? ?????? ?? ?????? ??? ?????? ??? ??????
??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? A. Gilly ??? ?????? ??? ??????????
??? ?????? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ???
????? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ???.
????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? A.Gilly ??? ?????????? ???
????????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???.

45 ??? ???? ??? ?????????? ??? ?????? ???, ??? ?? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

46 ??????, ??? ???? ?? ????????, ??? ?? ?????? ? ?????? ?????????? ??? ?????? 66 ???
????????? ???, ??? ? ?????? ??? ?????????? ??? ? ?????? ?????????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???.

47 ??? ?????????? ??? ?? ?????????? ?????????? ??? ?????? ??? ?????? ?? ?????????? ???
????????? ??? ?????????? ?????????? ???, ? ?????? ?????????? ?? ?? ?????? ??? ?????? ???
????? ?? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ???, ??? ?????? ??? ?????????? , ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ???.

48 ??? ?????, ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

49 ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?? ?????? ???
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? (?????? ??? 14?? ?????????? 1995, C-
279/93, Schumacker, ?????? 1995, ?. ?-225, ?????? 31 ??? 32).

50 ??? ?????????? ??? A. Gilly ??????? ?? ?????????? ??? ???????, ???????
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?????????????, ?????????? ??? ??????? ??? ??????? ??? ??????? ??????? ??????????. ??????????
?? ?????????? ?????????? ??? ??????? ??? ?????????? ??? ??????? ?????????? ??? ???????, ??
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51 ?? ?????????????? ??? ?????? ?????? ?????????????? ?????? ??? ? ?????????? ??' ?????? ???
?????? 20, ?????????? 2, ??????? a, ?????? cc, ??? ??????? ?????????? ?????????? ???????
????????? ??? ???????????, ?????????? ??? ?? ?????? 48, ??????, ?? ? A. Gilly ??? ?????? ??
????????? ?????????? ??? ??? ?????? ?????????, ? ?????????? ?????????? ??? ?? ?????????? ???
?? ?????? 13, ?????????? 5, ??????? a, ??? ???????, ?? ?????? ??????? ?? ?????????? ???
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52 ??????, ?????? ?? ?????????? ??? ?? ?????? 20, ?????????? 2, ??????? a, ?????? cc,
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????? ??? ?????? ??? ?????????? ??? ?????? ???, ??? ??? ?????? ??? ?????????? ?????????? ???
???? ?????????? ??? ??? A. Gilly ??????????, ?????? ?? ??????? ?? ?? ?????? 14,
????????? 1, ??? ???????, ??????? ?? ??????? ??? ?? ??????? ?????? ?????????? ???
?????????, ?????????????????? ??? ?? ?????? ?????????? ?????????? ???????, ???
????????? ??? ??????.

53 ??? ??? ?????????? ??? ??? ??????? ??? ?????, ??????? ??? ?????? ?????????? ???????, ??
????? ??? ?????????? ??? ?????? ???????, ??? ?? ?????? ??? ?????????? ??? ??????????
??????????, ??????? ?????????? ??? ???????, ?????????? ?? ??????? ??? ??????????
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54 ??????? ?? ???????????, ??? ??? ?????? ?????? ??? ?????? ?? ??????? ? ??????? ??? ?? ??????
48 ??? ??????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ??????? ?????????? ??????????
????? ??? ?????? ??? ??????? ??? ?????????? ?? ?? ?????? 20, ?????????? 2, ??????? a, ?????? cc,
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55 ?? ??? ?????? ??? ?????? ?????????? ?? ?????????? ??? ???????, ??? ???????, ??? ???????,
??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????,
????????? ???????, ?????? ??? ??????? ??? ?????????? ??? ?????????? ??????????, ??? ??????????
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tribunal administratif de Strasbourg, ???????????:

1) ?? ??? 220, ??????? ??????????, ??? ??????? ?? ??? ??? ??? ????? ???????????.

2) ?? ??? 48 ??? ??????? ?? ??? ??? ??????? ??? ??? ??????????? ?? ??? ??????????
?????????? ??? ?????????? ??? ??????? 13, ?????????? 5, ?????????? a, 14, ?????????? 1, ??? 16
??? ??????????? ??? 21 ??????? 1959 ??? ?????? ?????????, ??? ?????????? ??? ???????
?????????? ??? ?????? ??? ??????? ?????????? ??? ??? ?????????????? ??????????? ??? ???????????
??????????, ??? ?????????????? ?? ??? ?????????????? ??????????? ??? ??????????? ???
?????????? 9 ??????? 1969 ??? ??? 28 ?????????? 1989, ?? ?????? ??????????
?????????? ???????, ??? ?????, ??? ??? ?????????????? ??????????? ??? ???????????
?? ?? ?? ?????????? ??? ??????? ? ??? ?????? ?????? ???, ??? ?????????? ???
????????? ???, ??? ?????? ?? ?? ??? ?????? ??? ????? ?????????? ??? ??????? ??? ?????? ???
? ??????? ??? ??? ?????????? ???, ??? ?????, ??? ??? ?????????????? ??? ??????? ?? ?? ??
????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ??????? ??? ?????? ???
?????????? ?????????????? ???.

3) ?? ??? 48 ??? ??????? ??? ??? ??????? ??? ??? ??????????? ?? ??? ??????????
?????????? ?????????? ??? ?????? ??? ?????????? ??? ??????????? ?? ?? ?????? 20, ?????????? 2,
????????? a, ?????? cc, ??? ???????.