

@import url(../../../../css/generic.css); EUR-Lex - 61999J0294 - EL

Avis juridique important

/

61999J0294

?????? ??? ?????????? (?????? ?????) ??? 4?? ?????????? 2001. - Athinaïki Zythopoiia AE
???? Elleniko Dimosio. - ?????? ??? ??? ?????? ?????????????? ??????????: Dioikitiko
Protodikeio Athinon - ?????. - ????? ??? ??? ?????? ??? ????????? - ?????????? ??? ??????????
????????? - ?????? 90/435/??? - ?????? ??? ?????????????? ?????? ??? - ?????? C-
294/99.

?????? ??? ?????????? ??? ?????????? 2001 ?????? I-06797

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????????? ??? ?????????? - ????? ?????????? ?????????? ??? ?????? ??? ??? ?????????? ???
????????? ?????? ?????????? ?????????? ?????? - ?????? 90/435 - ????????, ??? ??????
????? ??? ??????????, ??? ??? ?????????? ??? ?????? ??? ?????? ??? ??? ?????? ???
????????? ??? ?????? ?????? - ?????????? ??? ????? - ?????? - ?????? - ????????????

(????? 90/435 ??? ????????, ??? 5 § 1)

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\$\$\$\$?????? ??????????? ?????? ????, ???? ??? ?????? ??? ?????? 5, ??????????? 1, ???
?????? 90/435 ??????? ?? ???? ????? ??????????? ??????? ?? ????? ?????? ??? ??
?????? ??? ?? ??????????? ??????? ??????????? ?????? ????, ?? ????? ???????????
?????? ??? ?? ??????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ???????????
?????? ??????????? ??? ?? ??????? ??? ?????? ???????, ?????? ? ???????????
?????????? ??? 25 % ??????????? ??? ??????? ??? ???????????, ? ??????????? ??? ???????
?????? ??????????? ???, ?? ??????????? ??????? ??? ??????????? (?????? ???????
? ???????????) ??? ?? ??????? ???, ??? ?? ??????????? ??? ??????????? ?????? ???
?????????? ??????????? ??? ?? ??????? ?????? ?????? ?????, ???????????????????
??? ?????? ??? ?? ????? ??????????? ??? ?????? ?????? ?? ??????????? ??? ???????????
?????????? ???, ?????, ??? ??????????? ???, ??? ?? ??? ?????? ???????, ??? ?? ??? ?????? ???????????
????? ??? ?? ???????????, ?? ??? ??? ?????? ???????, ??? ??????????? ???, ??? ??????????? ???
?????????? ??? ?? ??????????? ??? ???????.

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

(?? . ??????? 28, 33 ??? ??????.)

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???? ?????? C-294/99,

?? ?? ?? ?? ??????????? ??? ?????? ?? ??????????? ??????????? ?????? (?????) ??? ??
??????????, ???' ??????????? ?? ?????? 234 ??, ?? ??? ?????? ???????, ??? ??????? ??
????????? ?? ?????????? ??????? ??? ?????????? ??????????? ????????

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

? ?????? ??????????? ??? ?????? ?? ?????? ??? ??????? ??? ?????? 5, ??????????? 1, ???
?????? 90/435/?? ?? ???????, ??? 23?? ?????? 1990, ??????? ?? ?? ??
?????????? ??????? ?? ?????? ?????? ??? ?????????? ??? ?????? ??????????? ???????
?????????? ?????? ?????? (?? L 225, ?. 6),

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

?????????? ??? ??? A. La Pergola, ??????? ???????, ?. Wathelot (?????????), D. A. O.
Edward, P. Jann ?? L. Sevón, ???????,

?????? ??????????: S. Alber

?????????: L. Hewlett, ??????? ??????????,

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

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

- ? ?????????? ??????????, ?????????????? ??? ??? ?. ??????? ??? ?. ??????????,
- ? ?????????? ??? ?????????? ??????????, ?????????????? ??? ??? H. Michard ??? ?. ??????,
?????? ??? ??? ?????? ?????? ??????????,
????? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ?,
????????????? ??? ??? ?. ?????????? ??? ?. ???????, ??? ?????????? ??????????,
????????????? ??? ?? ?. ??????? ??? ??? ?. ?????????? ??? ?, ??? ??? ??????,
????????????? ??? ??? H. Michard ??? ?. ??????, ??? ?? ?????????? ??? 28? ??????
2001,
????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
??? 10?? ??_?? 2001,
?????? ??? ???????

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

1 ?? ??????? ??? 26?? ??????? 1999, ??? ??????? ??? ?????????? ??? 5 ?????????? 1999,
?? ?????????? ?????????? ??????, ??????, ???' ?????????? ??? ?????? 234 ??,
????????????? ??????? ?? ??? ??? ?????? ??? ?????? 5, ?????????? 1, ??? ??????
90/435/??? ??? ??????????, ??? 23?? ??????? 1990, ??????? ?? ?? ?????? ??????????
????????? ?? ?????? ?????? ??? ??? ?????????? ??? ??? ?????????? ?????????? ??????????
????????? ?????? (?? L 225, ?. 6, ??? ????: ??????).

2 ?? ??????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??, ?????????????? ??? ?????? ?????, ??? ??? ?????????? ?????????? ?? ??????
?? ?????????????? ??? ?????????? ?????????? ?????????? ?????????? ??????????
????????????? ?????????? ?????? ??? ?????????? ??? ?????????? ? ?????????? ??? ?????? ???
????????? ??? ?????????? ???.

? ??????

3 ? ?????? ??????? ??? ?? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? 23 ??????
1990 ?? ?????? ??? ?????????? ?????????? ?????????? ?????? ?????? ?????? ??????
????????????? ?????? ????. ?? ??? ??? ?????? ??? ? ?????? 90/434/???, ??? ??????????,
?????? ?? ?? ?????? ?????????? ?????????? ??? ??? ?????????? ??????, ??????????, ??????????
????????????? ??? ?????????? ?????? ??? ?????? ?????????? ?????????? ?????????? ??????
(?? L 225, ?. 1), ??? ? ?????? 90/436/???, ??? ??? ?????? ??? ?????? ?????????? ??
????????? ?????????? ??? ?????? ?????????? ?????????? (?? L 225, ?. 10).

4 ??????? ?? ?? ?????? ?????????? ???, ?????? ??? ?????? ?????? ??? ?????? ???
????????? ?? ??? ?????? ?????????? ?????? ?????????? «????? ?? ?????????? ??
????????????? ?? ?????????? ??? ?? ?????????? ??? ?????? ?????? ??????, ?? ?????????? ???
????????????? ??? ?? ?????? ?????? ??? ?????? ??????, ??????????, ??? ?????? ?????? ???
????? ?????????? ???, ? ?????? ??????, ??????????, ??? ?????? ???, ??? ?????? ???
????????? ?????????? ??? ?????? ?????? ?????? ?????????? ?????????? ?????? ???, ??
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????, ??

5 ? ?????????????? ?? ??????? ?????????? ?? ?? ????? ?????????? ?? ?? ????? ?????? ??
????????? ?? ?????? ??????? ?????????? ?????????????? ?? ?? ?????? ??????? ??.

6 ?? ??? ?????????? ??????? ?????????? ?? ?????? ?????????? ?? ?? ?????? ??? ?????? ?????? ??????????
????? ??????? ?? ??????? ??????????, ?? ??? ?????? ?????????? ?????????? ??????? ??
????????????? ?? ?? ??? ?????? ??? ?????? ?????? ?????????????? ?? ??????????, ?? ??????????
??? ?? ?????????? ?? ?? ??????????????, ?? ??? ?????? ?????????????? ??? ??????????
?????????, ?? ?????????? ?? ?? ??????????.

7 ??? ?????????? ?? ?????????????? ?? ?????????? ?? ?????????? ?? ?? ?????? ??? ??
?????????, ?? ??? ?????? ?????????? ?????? ??? ?????? ?? ?????????????? ?? ?? ?????? ???
????. ??? ?????????? ???, ? ??????? ??? ?????????? ?????? ?????????? ?????? ?? ?????????? ???
????? ???, ?? ?????? ?????????? ??? ?????????? ?????? ??????. ?? ??? ??? ?????????? ???
????? ??? ?????? ??? ?????????????? ??? ?????????? ?????????? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ?????????????? ?? ?????????? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ?????????????? ?? ?????????? ??? ?????? ?????? ???
????????? ?????????? ??? ?????????????? ??? ?????????? ?? ?????? ??? ?????? ?????????? ???
????? ??? ?????? ??? ?????? ?????? ?????????????? ?? ?????????? ??? ?????? ?????? ???
????? ??? ?????? ??? ?????? ?????? ?????????????? ?? ?????????? ??? ?????? ?????? ???
????? ??? ?????? ??? ?????? ?????? ?????????????? ?? ?????????? ??? ?????? ?????? ???.

8 ?? ????? 1, ?????????? 1, ??? ?????? ?????? ?? ????:

«????? ?????? ?????? ?????? ?????????? ?? ?????? ??????:

- ??? ?????? ?????? ?? ?????? ?????????????????? ?? ?????? ?????? ?????? ?? ?????? ???
??? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????,

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

9 ?? ????? 5, ?????????? 1, ??? ??????, ??? ?????? ?? ?????? ?????? ?????? ?? ??? ??
????????? ??? ?????? ??? ?????? ?????, ?????? ?? ????:

«?? ?????? ?? ?????? ? ?????? ?????? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ??
????????????? ??? ?? ?????? ?????? ??? ?????? ???, ?????? ?? ?????? ?? ?????? ??
????????? ??? 25 % ?????????? ??? ?????? ??? ??????????.

10 ?? ????? 7, ?????????? 1, ??? ?????? ?????????? ?? ??? ?? ?????????? ?? ???
????????? ??? «????????????? ??? ????:

«? ??? "????????? ????", ??? ?????????????? ?? ?????? ?????? ???, ??
????????????? ??? ?????????? (precomte) ??? ?????? ??? ?????? ?????? ??? ?????? ???
??? ?????? ?????????? ? ??????????, ? ?????? ?????????? ?????????????? ?? ?????? ???
?? ?? ?????? ??? ?????? ??? ?????? ???.

11 ?? ????? 4, ?????????? 1, ??? ?????? ?????? ?? ????:

«????? ?????? ??????, ??? ?? ?????? ??? ?? ?????? ?? ?????? ?? ?????????? ?????? ???,
????????? ??? ?????? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???
?????????, ?? ?????? ??? ?????? ?????? ??? ?????? ???.

- ??? ?????? ???,

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

????? ???, ????????????, ?? ??? ???? ?????????????? ???? ??? ???? ?????????????? ?? ??? ??????
????? ??? ???? ?????????????? ? ?????????? ?????? ???' ?????????? ??? ??????????
????????????? ??? ?????? 5, ?????? ??? ?????? ??? ?????????????? ?????? ?????? ?????..»

12 ?? ?????? 7, ?????????? 2, ??? ?????? ?????????? ?? ????:

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

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

13 ?? ????? 99, ?????????? 1, ??? ?????????? ?????? 2238/94, ??? ?????? ??????????
????????? (?? ?????: ?????? ?????????? ??????????), ?????? ?? ????:

«????????? ??? ?????? ?????:

) ?? ??????? ?????? ?????????? ???????? [...], ?? ??????? ?????? ?????????? ? ?????? ??
????????? ??? ?????????? ? ????????. ?? ?????????? ?????? ?????????????? ??? ?? ??????????
??? ??????, ??? ?????????? ??? ?????? ?????? ?????????????? ??? ?????? ?????????? [...].

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

[...]»

14 ?? ????? 106 ??? ?????? ?????????? ??????????, ??? ?????? ?? ?????????? 2 ??? 3
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???, ????:

«1. ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? 1 ??? ?????? 101 ???
????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ?? ?????? ??? ?????? ?????????? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ???
????? 10, ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ??? ??????, ??? ?????????? ??? ?????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 2 ??? 3 ???
????????? ??? ?????? ??? ?????? [?????] ?? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ???.

2. ?? ??? ?????? ????, ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???, ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???

? ????????????, ?????????????????? ??? ???? ????????????, ??? ??? ?????????????? ???
????????? ??? ???? ?????? ?????? ?????? ?????????? ?? ??? ?? ??? ???? ???
????????? ??? ???? ?, ??? ?????? ??? ?????? ?????? ?????? ?? ?????? ?????? ?????? ???
??? ?????? ??? ?????????????? ??? ?????? ??? ?? ??? ?????? ??? ?? ??? ?????? ???
????????? ??? ???? ??? [...] .

3. ?? ?????????? ??? ?????????????? ?????????? ?????????? ?????? ??? ??? ??????????
????? ??? ?????? ?????????? ?????????? ??????, ?????? ?????? ?????? ??????, ???
????????? ??? ?????????? ??? ???? ?????????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ???? .»

15 ??? ? ? ???? 99 ??? 106 ??? ?????? ?????????? ?????????? ?????????? ???, ??? ? ?
????????? ??? ???? ?????? ?????????? ??? ?????? ?????????? ??????, ?????? ??? ?????????? ??????, ???
????????? ??? ?????????? ? ?????????? ??? ?????????? ?? ?????? ?????????? ??????, ?????? ??
????????? ?????????? , ?????????? ??????, ?? ?????? ??? ?????????? ??? ?????????? ???' ??
????????? ??? ?? ?? ??? ?????? ??????????. ??? ?????????? , ??? ?? ?????????? ? ??????????
????, ?? ?????????? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ?? ?????? ??????????
????????????? ???' ?????? ??? ?????????? ???, ??? ?????????? ??? ?? ?????? ???.

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

16 ? ?????????? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???, ??? 16
????????? 1981, ??? ?????? ??? ?? ?????? ??? ?????? ?????????? ?? ?????? 10,
????????? 1 ??? 2, ??? ?????? ??? ?????? ?? ???:

«1. ?????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?? ?????????? ?? ?? ?????? ?????? ??????.

2. ?? ???????, ?????? ?????? ?????? ?? ?????? ?????????? ?? ?????????? ??? ?? ?????? ??? ??????
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ??? ??????
????????? ?????? , ???' ??? ? ?????? ?????? ?????? ?????????? ??? ?????????? , ?? ???
????????????? ?????? ??? ?? ?? ??????????:

?) [...]

?) ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ??? ?????: 35 ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? .»

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

17 ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ? ??????
????????? ??? ?????? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? . ? ?????????? ?????? Amstel
International ?????????? ??? ?????? ?????? ??? ?????? ?????? ?? ?????? 92,17 %.

18 ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? , ??? ????
????? ??? ??? ?? ?????? ??? 1996, ?????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?? ???
?? 7 026 210 797 ?? . To ??? ?????? ?????? ??? 794 291 553 ??., ??
????????? ?? ?????? ?????? ??? ?????? ?????? ???' ?????? ?????? ?????? ?????? , ??'
????????? ??? ?????? 106, ?????? 2 ??? 3, ??? ?????? ?????? ?????? ??????.

19 ??? ??? ?????? ?????? ?????? ?????? ?????? 794 291 553 ??., ? ?????????? ???
????? ??? ?????? ??? ?????? 738 384 406 ?? . ?? ?????? ??? ?????? ?????? ?????? , ?
????????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? 106,
????????? 2 ??? 3, ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

? ???????, ??? ? ? ??????? ?? ???? ?????? ??? ??????????? ?? ?? ??????? ???????, ????????
«?????????? ?? ???? ?????? ??? ??» ??? ??????????? ?? ?? ?????? 5, ?????????? 1, ???
??????.

20 ?????????? ??? ? ??????????? ?? ???? ?????? ??????????? ?? ?????????? ?????????? ??????????
????????? ??????????? ?????? ?????? ??? ?????????? ?????? ??? ?????????? ?????????? ???
????? ????, ? ??????? ?????? ?????? ?? ??????? ?????????? ??? ?????????? ???????????.

21 ??? ???????, ? ??????????? ?? ???? ?????? ?????? ?????? ?????? ?????? ??? ???????????
?????????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ??????????
??? ??? ?? ??? ?????????? ??? ?? 738 384 406 ???.

22 ??? ??? ??????? ??????, ?? ?????????? ?????????? ?????????? ?????? ?????????? ??? ??????? ???
????????? ??? ??????? ??? ?????????? ?? ?????????? ?????????? ?????????? ??? ??????:

«?????? "?????????? ?? ???? ??????" ??? ?????? ?????? ??? ?????? 5, ?????????? 1, ???
?????? 90/435/??? ??? ???????, ??? 23?? ?????? 1990, ? ??????? ??? ??? ??????
????????? ???, ?? ??????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
?????? ???, ??? ??? ?????????? ??? ?????????? ?????? ?????? ??? ?????????? ?????? ?????? ??????
????? ?? ??????? ?????? ???, ?????????????????? ??? ?????? ??? ?????? ??? ?? ??????
????????????? ??? ?????? ??? ?? ?????? ??? ?????????? ??? ?????????? ?????? ?????? ???,
??????, ??? ?????????? ???, ??? ?? ??? ?????? ?????????? ??? ?????????? ?????? ??? ??
?????????????, ?? ??? ??? ??? ?????? ???????, ??? ?????????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ??????;»

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

23 ? ??????? ?????????? ?????????? ??? ???? ?????? ?????????? ?????????????? ??? ???????
??? ?????? ??????????. ? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? 4 ???
????????? ???????????, ???????, ?????????? ??? ?????????? ??? ?????? 5, ?????????? 1,
??? ?????? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??????.

24 ???????, ? ??????? ?????????? ?????????? ??? ???? ?????? ?????????? ??? ??????? ??? ??????
????? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????????? ?? ?????? ??? ?????? ?????? . ? ?????? ?????????? ??? ?????????? ???
????? ??? ?????????? ??? ?????? 106, ?????????? 2 ??? 3, ??? ?????? ??????????
????????? ??? ?????? ???, ??? ?????????? ???, ?? ??? ?????????? ?????? ??? ??????
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

25 ?????????? ?? ??????? ??? ???? ??????, ?????? ?????????? ?????? ?????? ??? ???
????? ?????????? ??? ??????, ?????? ??? ?????? ??????, ?? ?? ?????? ??? ??????
????????? ??????, ??? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ??????
????????? ?????????? ?????? ??? ?????? ?? ?????? ?? ?????????? ?????? ??? ?????????? ???
????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? 5, ?????????? 1, ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? (?????? ??? 17?? ??????? 1996, C-283/94, C-
291/94 ??? C-292/94, Denkavit ???, ?????? 1996, ?. ?-5063, ?????? 22).

26 ??? ? ? ??????? ?? ???? ??? ?????????? ?????? ?????????? ?????? ?????? ??? ??????? ???
?????? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ?????? 5, ?????????? 1, ???
??????, ??????, ??????, ?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???

?? ??????????? ?? ? ?????????? ?' ????? ????? «????????????? ??? ?????» ???
????????????? ?? ???????? ??? ?????????????? ?????? ?????????????? (??. ??? ??????
?? 8?? ??????? 2000, C-375/98, *Epson Europe*, ??????? 2000, ?. ?-4243, ??? 22).

27 ???????, ?????? ?? ??????? ???, ??? ????? ??????????, ? ??????????????, ???
?????? ?????????? ???????, ??? ?????, ??? ??????????????, ??? ?????? ? ???
?????? ??????? ?????? ????? ?????????? ??? ?????????? ?????? ??? ??????????????
????????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????????????? ???
?? ?????? ?????? (??., ?????? ???, ??? ?????? ??? 13?? ?????????? 1996, C-197/94 ??
C-252/94, *Bautiaa* ?? Société française maritime, ??????? 1996, ?. ?-505, ??? 39).

28 ??? ?? ??????? ?????????? ??? ??? ?????????????? ??? ?????????????? ???' ??????????
?? ?????? 20 ??? ?????????? ?? ??? ?????????? ?????????? ??? ?????? ??? ??????
?? ?????? ????? ??????????, ? ????? ?????????? ??? ?????? 13 ?? 15 ?? ??????
?????????, ??? ?? ?????????? ??? ?????? ??? ?????????? ??????????. ???????, ? ??????????
????????? ??? ?? ??? ?????? ??? ?????????????? ???????.

29 ??????? ?? ?????? ?????? ?????????????? ??? ?????????? ??????????????, ? ??????????? ???
?????? ?? ?????????? ??? ?????????? (precomte) ??? ?????? ??? ??? ?????????? ???
?????? ?????? ??? ????? ?????????????? ??? ??????????, ? ????? ??????????
????????????? ?? ?????????? ?? ?????????? ??? ?????? ??? ?????????? ???????, ??? ???
?????? ??? ?????? 7, ?????????? 1, ??? ??????. ? ?????????? ??? ?????? ??? ?????? ??????????
????, ???????, ?? ?????????? ??? ??? ?????????????? ??? ?????? ?? ?????????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????????????? ??????????. ?????????? ??? ??????
????? ???, ??? ?????????????? ? ?????????????? ??? ?????????? ??? ?????? ??? ? ??????????, ?
????????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ? ??????
?????????, ??????? ?? ?? ?????? 106, ?????????? 2 ??? 3, ??? ?????? ??????????
?????????, ??? ?? ?????? ??? ?????? ?? ?????????? ?????????? ?????????????? ??????????????
????, ??????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ??????
?? ?????? ?????????? ??? ?????? ???????.

30 ? ??????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????, ??? ?? ?????????????? ?? ??????????
?? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ?????????? ?????????? ??
????????? ??????. ??? ??? ?????? ??? ??????, ??? ?????? ?????? ?????????? ??????????
????? ??? ?????? 7, ?????????? 2, ??? ??????.

31 ????? ?? ??????? ??????? ???, ? ??????? ?????? ??? ?????????? ?????????????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?? ?????? ??????????
?? ??????????, ??????? ?? ?? ?????????? ??? ?????? ??? ?????? ?? ?????? 7, ?????????? 2, ??
??????, ??? ?????????? ??? ?? ??? ?????? ??? ?????? ????????. ??????, ?? ?????? 10, ?????????? 1,
?? ?????????? ??? ?????? ?????? ?????????? ?? ?????? ?????????? ??? ?????? ?? ?????????? ??
????????? ??? ?????? ?? ?????? ?? ?????????? ?????????? ?? ?????? ?? ?????????? ??
????????? ??? ?????? ?? ?????? ?? ?????????? ?????????? ?? 35 % ??? ?????? ?? ?????????? ??
????????? ??? ?????? ?????? ?????? ?? ?????????? ?????? ?? ?????? ??? ?????? ?????????? ??
????? ???.

32 ????? ?? ??????, ??? ? ?????????? ??? ?????? 7, ?????????? 2, ??? ?????? ??? ???
???????, ?? ?????????? ??? ?????????? ??? ??? ????? ?????????? ??? ?? ??? ?????? 5,
????????? 1, ??? ?????? ??? ?????????????? ??? ??? ?????? ?????? ??? ?????? ??
????? ??? ?????? ??? ?? ?????????? ?????? ??? ?????? ?? ?????? ?? ?????? ??? ??????
(??., ??? ??? ?????? ???, ??? ?????? ??? 28?? ?????????? 1986, 270/83, ???????? ???
??????, ?????? 1986, ?. 273, ????? 26).

33 ?????? ??? ??????? ??? ?????????????? ???????, ??? ?????? ?????????? ??????? ?? ???
? ??????? ??? ?????? ?????????? ??????? ???, ??? ??? ?????? ??? ?????? 5,
????????? 1, ??? ??????, ? ?????? ??? ?????? ?????? ?????? ???, ?? ??????????
????????? ?????? ??? ?????????? (?????? ?????? ? ??????????) ??? ?? ?????? ???, ??
?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ??
????????? ?????? ???, ?????????????????? ??? ?????? ??? ?????? ??? ?? ???
????????????? ??? ?????? ???, ??? ?? ??? ?????? ?????????? ?????????? ??? ??
??????, ??? ?????????? ???, ??? ?? ??? ?????? ?????????? ?????? ??? ??
?????????????, ?? ??? ??? ??? ?????? ???????, ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ??????.

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

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

35 ??????, ?????? ?? ?????????? ???, ??? ?????? ??????????, ? ?????????? ??? ??????????
?? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ?? ?????????? ??? ?? ?????? ???
????????? ??? ?????? ?????????? ???, ??? ?????? ??? ?? ?????????? ??? ??????????
????????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ???
?? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???' ????
?? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??????
????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ???
????????? ?????????, ?????? ??????????, ??? ?? ???, ?? ?????????? ??? ??????????
?? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ?????? (?. ?? ?????? ??? 27?? ?????? 1980, 61/79, *Denkavit italiana*, ??????
????? 1980/?, ?. 605, ??? 16, ??? *Bautiaa* ??? *Société française maritime*, ???????????,
????? 47).

36 ?????? ??? ?????? ??????, ? ??????????? ??? ?????????????? ??? ?????? ?????????? ??????????
????? ?? ??????????? ??? ?? ??????????? ?????? ?????????????? ??????????????. ??????????????, ?? ??????????
????? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ?????????????? ??????????????. ??????????
????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?????????? ??????
????? ?????????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?????????? ??????
????? ??? ?????????? ??????????, ??? ?????? ??? ?????? ?? ?????????????? ?????????? ?????????? ??????
????????????? ?? ??? ?? ?????????????? ??? ?????? ?????? ?????????????? ??????????, ?????????????? ???
????? ?????? ?????????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ???
????????? (??., ?????????????? ?????? Bautiaa ??? Société française maritime,
?????????????, ??? 48).

37 ??? ?????? ????????, ??? ?????????? ?????? ?????? ?????????? ?????? ?? ??????????????
????????? ??? ?? ??? ?????? ?? ?????????????? ??? ?????? ?????????? ?????????? ?????????? ?????????? ???
????????? ?????? ?????? ??? ?????????????? ?????? ?????? ?????? ?????????? ?????? ?????? ?????? ?????.

38 ?????, ? ???????? ?????????? ??? ?????????? ???, ??? ?????? ?????? ??? ?????????? ??
????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???
????????? ?? ?????????? ?????? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ???
????????? ???.

39 ????????, ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????????? ?????? ??? ??
????????? ? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????. ?? ?????????????? ??????????
??? ?? ?????????? ?? ??? ??? ?????????? ?????????? ? ?????????? ?????????? ??? ?????? ?????? ??????????
?????????????, ??? ?????? ???, ??? ?????????? ??? ?????????????? ?????????????? ?????????? ???
?????????????. ??????, ??? ?????????? ??????????, ?? ?????????? ?????????? ?????????? ??
????????????????? ??????????????, ?????? ?????? ?????? ?? ?????????? ??? ?????? ?????? ???
????? ??? ?????????? ?????????????? ?????????? ??? ?? ?????? ??? (???. ??? ?????? ???
11?? ?????????? 1995, C-367/93 ??? C-377/93, Roders ??., ?????? 1995, ?. ?-2229, ???
48). ?????? ???, ? ?????????? ??? ?????????????? ??? ?????? ?????????? ??? ?????? ???
????????????? ??? ?????? ?? ?????? ??? ?????????? ?? ?????????? ?????? ??? ?????????? ?????? ???
??? ?????????? ?? ??? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????????? ?????? ???
????????? (???. ??? ?????????????? ?????? Bautiaa ??? Société française maritime, ???
55).

40 ??? ??? ????????, ??? ?????????? ?????? ?? ?????????????? ?????????????? ??
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41 ?? ??? ?????? ??? ?????? ?????????????? ? ?????????? ?????????? ??? ? ?????????? ??? ??????????
????????????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ? ?????????? ?????????? ???
?? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????????????? ??? ??????
????????? ??? ?????? ?????????? ??????????, ?' ??? ?????????????? ?? ?????????? ??? ??? ??????????
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??? ??? ?????? ??????,
?? ?????????? (?????? ?????),
????????? ??? ??? ?????????? ??? ??? ?????? ?? ?????? ??? 26?? ?????? 1999 ??
????????? ?????????? ??????, ??????????
????????? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? 5, ?????????? 1, ???
?????? 90/435/?? ??? ??????????, ??? 23?? ?????? 1990, ??????? ?? ?? ???
????????? ?????? ?? ?????? ?????? ??? ??? ?????? ??? ?????? ?????? ?????????? ??????
????????? ?????? ???, ? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???, ??
????????? ?????? ??? ?????? ??? ?????? (?????? ?????? ? ?????? ? ??????) ??? ??
?????? ???, ??? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??????????
????? ?? ?????? ??? ?????? ???, ?????????????????? ??? ?????? ??? ?????? ??? ?? ???
????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????????? ?????????? ???,
??????, ??? ?????????? ???, ??? ?? ??? ????? ?????????? ?????? ??? ?????? ??? ??
????????? ???, ?? ??? ??? ??? ?????? ??????, ??? ?????????? ??? ?????????? ??? ?????? ??? ??
????????? ??? ?????? ??????.