

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

?????? ??? ?????????? (????? ??????? ??????????)

??? 16?? ??? 2017 (\*)

«????????????? ?????????? – ?????? 2011/16/? – ?????????? ?????????? ?????? ??? ?????? ???  
????????? – ??? 1, ?????????? 1 – ??? 5 – ?????? ?????? ?????????? ?? ??????????  
????? – ?????? ?????????? – ?????? – ?????? ??? “????????????? ??????????” ???  
????????? ?????????? – ?????????? ??? ? ?????????? ??? ?????? – ??????????  
????? – ?????? – ?????? ??? ?????????? ?????????? ??? ?????????? ?????? – ?????? 51  
– ??? ?? ?????? ??? ?????? – ?????? 47 – ?????? ?????????? ?????? ?????????? ??????????  
????????? – ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????????  
??? ?????? ? ?????? ???»

???? ?????? C?682/15,

?? ?????????? ?????? ?????????????? ?????????? ?????? 267 ????, ???  
?????? ?? Cour administrative (????????? ??????, ??????????) ?? ??????? ?? 17??  
????????? 2015, ? ??? ?????? ?????? ??? ?????????? ??? 18 ?????????? 2015, ??? ??????  
?? ????

### **Berlioz Investment Fund SA**

????

#### **Directeur de l'administration des contributions directes,**

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

????????? ??? ??? K. Lenaerts, ???????, A. Tizzano, ??????????, M. Ileši?, L. Bay Larsen,  
T. von Danwitz, M. Berger ??? A. Prechal, ?????????? ????????, A. Arabadjiev, C. Toader, M.  
Safjan, D. Šváby, E. Jaraši?nas, C. G. Fernlund (?????????), C. Vajda ??? S. Rodin, ????????,

?????? ??????????: M. Wathelet

?????????: V. Giacobbo-Peyronnel, ?????????? ??????????,

?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??' ?????????? ?????????? ???  
8?? ??????? 2016,

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

- ? Berlioz Investment Fund SA, ?????????????? ??? ??? J.?P. Drescher, avocat,
- ? ?????????????? ????????, ?????????????? ??? ??? A. Germeaux ??? ??? D.  
Holderer, ?????????????? ??? ??? P.?E. Partsch ??? T. Evans, avocats,
- ? ??????? ????????, ?????????????? ??? ??? J.-C. Halleux ??? ??? M. Jacobs,
- ? ??????? ????????, ?????????????? ??? ??? T. Henze,

– ? ??????? ??????????, ?????????????? ?????? ??? ?? S. Ghiandoni, ??? ???????  
??? ?? E. de Moustier,

– ? ??????? ??????????, ?????????????? ??? ?? G. Palmieri, ?????????????? ??? ?? P.  
Garofoli, avvocato dello Stato,

– ? ??????? ??????????, ?????????????? ??? ?? B. Majczyna,

– ? ?????????? ??????????, ?????????????? ??? ?? S. Hartikainen,

– ? ?????????? ??????????, ?????????????? ??? ?? R. Lyal, J.?F. Brakeland, H. Krämer  
??? W. Roels,

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??????????  
??? 10?? ?????????? 2017,

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

??????

1 ? ?????? ?????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? 1, ?????????? 1,  
??? ?? ?????? 5 ??? ?????? ??? ?????? 2011/?? ?? ???????????, ??? 15??  
?????????? 2011, ?????? ?? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ???  
?? ??? ?????????? ??? ?????? 77/799/?? (?? 2011, L 64, ?. 1), ?????? ??? ?? ?????? 47 ???  
????? ??? ?????????? ?????????? ??? ?????????? ?????? (?? ????: ??????).

2 ? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? Berlioz  
Investment Fund SA (???: Berlioz) ??? ?? ?????? ??? administration des contributions  
directes (????????? ??? ?????? ???????????, ??????????????) ?? ??????????? ?? ?????????? ??????  
?? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?? ?????????? ??? ?????? ???????????,  
?? ?????? ??? ?????????? ?????????? ?? ?? ?????? ??? ?????????? ???????????.

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

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

? ??????

3 ?? ??? 47 ??? ??, ?? ??? «????????? ?????????? ?????????? ??? ?? ?????????? ???  
?????????», ?????? ?? ???:

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

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

[...]»

? ?????? 2011/16

4 ?? ??????????? ???? 1, 2, 6 ??? 9 ??? 19 ??? ?????? 2011/16 ?????? ?? ????:

«(1) [...] ?????????????? ??? ?????????? ?????????????? ?????????? ??? ?????????????? ???  
?????????????????, ??? ?????? ??? ?????????????? ?????????? ??? ?????????????? ???  
????????????????? ???, ?????? ?? ?????? ?????? ?????? ?????? ??? ?? ?????? ??? ?? ???  
????????????? ??? ?????????????? ??????. ? ?????????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? [...]»

(2) [...] ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?????? ??? ??????????,,  
????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?????????? ?????? ??? ??????????,,  
????????? ??? ?????? ??????. ?????? ?????????? ? ?????????? ?????? ??? ?? ?????????? ??  
????????????? ?????????? ?????? ??? ?????? ?????, ?????????? ?????? ??? ?????? ?????? ???,  
??? ?????? ?????????? ??? ?? ??? ?????? ?????? ??? ??? ?? ?????? ???.

[...]

(6) [...] ??? ??? ?????? ?????, ?????????? ??? ??? ??? ?????? ?????? ?? ?????????? ??  
??? ?????????????? ?????????? ??????????.

(7) ? ?????? ?????? ?????? ?? ?????????? ??? ?????????? ??? ?????? 77/799/??? [???  
?????????,, ??? 19?? ?????????? 1977, ??? ??? ?????????? ?????????? ??? ?????????? ???  
?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? (?? ???.. ???.. 09/001, ?. 86], ?????????? ???  
????????????? ??? ?????????????? ?????? ??? ?? ?????? ?? ?????????? ??? ?????????? ??????????  
????? ?????? ??? ?????? ?????? ?????????? ?????? ?????? ?????????? ?? ?????????? ???  
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???.  
[...]

(8) [...] [?]? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?????? ???  
????? ??? ?????????? ??? ?? ?????? ? ?????? ?????? ?????????????? ??? ?????? ????. [...]

(9) ?? ?????? ??? ?????? ?? ?????? ?? ?????????????? ?????????? ??? ?????? ?? ??????????????  
????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ??? “????????? ??? ??????????”  
????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? “????? ?????? ???” ? ?? ?????? ???  
????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? 20 ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ?????? ??? ?????? ??? ?????? ???  
????? ?? ?????? ??? ?????? ???, ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ???.

[...]

(19) ?? ?????????? ??? ??? ??????-????? ?????? ?? ?????? ?? ?????? ?? ?????????? ???  
????????? ??? ?? ?????? ??? ?????? ?? ?????? ?? ?????????????? ??? ?? ?????????? ???  
????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???  
????????? ???, ?????? ?? ??? ??? ?????? ?????? ??? ?????? ???.

5 ?? ?????? 1, ?????????? 1, ??? ?????? 2011/16 ?????? ?? ????:

«? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ?????????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???, ??? ????

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

6      ?? ?????? 5 ??? ??????? ?????? ??????????? ?? ????????:

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

7      ?? ?????? 16, ??????????? 1, ??? ?? ???? ?????? ?????? ?? ????:

[...] »

8      ?? ?????? 17 ??? ?????? ????????, ?? ?????? «?????», ??????? ?? ????:

3. ?????????? ???? ????? ??????? ?????? ?? ?????? ?????????????? ??? ?????? ????????

4. ?????? ?????????? ?????????? ?????????? ?? ?????????? ??? ?? ?????????? ??  
????????? ??, ?????????? ? ?????????????? ?????? ?????????? ?????? ? ??  
????????? ?????? ? ?? ?????????????? ??? ?????? ? ?????????? ?? ?? ?????????? ??  
?? ?????? ???.

9 ?? ?????? 18 ??? ?????? ????????, ?? ?????? «?????????????», ??? ? ? ?????;

«1. ??? ?????????? ?????????? ??? ??? ??? ?????? ?????? ?????? ?????? ?? ??? ??? ?????? ??????, ??  
?????? ?????-????????? ?????????? ?? ??? ??? ?? ?????? ?????? ?????? ??? ?? ??????????  
???????????, ?????????? ?? ??? ??? ??? ?????????? ????????????, ?????? ??? ?? ??? ??  
????? ??? ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????  
?????. ? ?????????? ??? ?????? ?? ??? ?????????? ??? ?????????? 2, 3 ??? 4 ??? ??????  
17, ? ?????????? ??? ?????? ??? ??????, ?? ??? ?????? ??????????, ?? ?????????? ??? ?????????? ??  
??? ?????? ??? ??? ?? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??  
?? ??? ?????? ??? ??? ?? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??

2. ?? ?????? ?????????? ?? ??? 17 ?????????? 2 ??? 4 ??? ???????? ??? ?????????? ??  
????????? ??? ?????? ?????? ?????? ?? ??????? ??? ?????? ?????????? ?????????? ??????????  
??? ?????? ?????? ?????? ??? ?????????? ?????? ?????? ??????, ??? ??????????????????  
??????, ?????????????? ?????? ?????????? ? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ? ??? ?????????? ? ?????? ?? ?????????? ?????? ?????? ?????????? ?????????? ??????  
?????????.

[...]»

10 ?? ?????? 20, ?????????? 1, ??? ?????? 2011/16 ??????????, ??? ?????? ?? ??????  
????????? ?????????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????? 5 ???  
????????? ????, ?? ?????, ??? ?????? ??? ??????, ?????? ??? ?????? ?????????? ? ??????????  
? ?????????? 2 ??? ?? ??? ?????? 20 ??? ?? ???:

«?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? 1 ?????????? ??? ?????????? ???  
????????? ??????????, ??? ?????? ?????? ?? ?????? ? ?????? ??? ?????? ???:

?) ?? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ?????????? ?  
?????????

?) ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?? ??????????.

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

11 ?? ?????? 22 ??? ?????? 2011/16 ??????????, ??? ?????? 1, ?????????? ??, ?? ???:

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

[...]

?) ?? ?????????? ??? ?????? ?????????? ??? ?????????? ?????? ?????????? ?????????? ???  
????? ?????????? ? ?????? ????.»

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

? ?????? ??? 29?? ?????? 2013

12 ? ?????? 2011/16 ?????????? ??? ?????????? ?????? ?? ??? ?????? ?? 29??  
????????? 2013 ??? ?? ?????? ??? ?????? 2011/16 ??? ?????? ??? 1) ???  
????????? ??? ?????? ?????? ????, 2) ??? ?????? ??? ?????? ??? ?????? ??? ??????  
??? 15?? ?????? 1979 ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? (Mémorial A 2013, ?. 756, ??? ????: ??? 29?? ?????? 2013).

13 ?? ?????? 6 ??? ?????? ??? 29?? ?????? 2013 ?????????? ?? ??????????:

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

14 ?? ????? 8, ?????????? 1, ??? ?????? ??? 29? ?????? 2013 ?????? ?? ???:

«? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? 6  
????????? ?? ?????????? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? . ??????, ??? ? ?????????? ??? ?????? ??? ?????????? ?????? ???  
????????? ?????????? , ?? ?????????? ?????? ?????????????? ?????? ??? ?????? ???  
????????? ?????? ????.»

? ?????? ??? 25? ?????????? 2014

15 ? ?????? ??? 25? ?????????? 2014, ??????? ?? ? ?????????? ??? ?????????? ???  
??? ??????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ??? ???  
????????? ??? ?????? ??? 31? ?????? 2010 ??? ??? ?????? ??? ?????????? ??????????  
??? ??? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? ??????????  
????????? (*Mémorial A* 2014, ?. 4170, ??? ????: ?????? ??? 25? ?????????? 2014), ???????  
??? ?????????? ??????????.

16 ?? ????? 1, ?????????? 1, ??? ?????? ??? 25? ?????????? 2014 ?????? ?? ???:

«??? ?? ??? ?? ???, ? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??????????  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??? ?????? ???  
????????? ?????? ????:

[...]

4) ??? [????? ??? 29? ?????? 2013] ?????? ?? ? ?????????? ?????????? ??? ???  
??? ??????????

[...]».

17 ?? ????? 2 ??? ?????? ??? 25? ?????????? 2014 ?????????? ?? ??????:

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

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

[...]»

18 ?? ????? 3 ??? ?????? ??? 25? ?????????? 2014 ?????? ?? ???:

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

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

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

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

[...]

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

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

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

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

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

4. ?? ?????? ??????????? ??????????? ??? ?????????? ?? ?????????????? ?? ?????????????? . ? ????????

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

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

[...]»

19 ?? ????? 5, ?????????? 1, ??? ????? ?? 25?? ?????????? 2014 ?????? ?? ????:

«?? ??? ??????????? ?? ?????????? ??????????? ??? ?????? ?? ?????????? ??? ?????? ??? ???

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

?????????? ?????????? ?????????? ??????? ??? ?????? ?? 250 000 ????. ?? ??? ???

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

????????????? ??? ??? ?????? ??????»

20 ?? ????? 6 ??? ????? ?? 25?? ?????????? 2014 ???? ?? ????:

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

??? ?????????? ??? ??? 3, ?????????? 1 ??? 3, ??? ?????? ??????.

2. ??? ??? ?????????? ??? ?????? 5 ?????? ?? ?????? ?????????? ?????????? ??? tribunal  
administratif [?????????? ??????????] ??? ??? ?????? ??? ???????????. ? ?????????? ???

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

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

?? ?????????? ??? tribunal administratif [?????????? ??????????] ??????? ?? ???????????

?? ?????? ?????? ??? Cour administrative [?????????? ??????]. ? ?????? ?????????? ???

15 ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???

????????? [...] ?? Cour administrative [?????????? ??????] ?????????? ??? ??????

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

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

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

21 ? Berlioz ??? ?????? ?????? ?????????? ?????????????? ???????, ? ?????? ??????????

????????? ??? ??? ?????? ? ?????????? ???, Cofima, ?????????? ?????? ?????? ??????

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

22 ??? 3 ?????????? 2014, ? ?????? ?????????? ???????, ?????? ?????????? ??  
????? ? ? ? ?????? ??? ?????? ?????? Cofima ?????? ?? ?????????? ???  
????????? ??????, ?????? ??? ?????????????? ?????? ?????? ?????? ??????  
????????? ?????? ??? Berlioz ??????, ?????? ???, ??? ?????? 2011/16.

23 ?????? ??? ?????????? ????, ? ?????????? ??? administration des contributions  
directes (????????? ??? ?????? ??????????) ??? 16 ?????? 2015 ?????? ?? ??? ???  
????????? ??? ? ?????? ?????????? ?????? ?????? ?????? ?? ?????????? ?????????? ???  
Cofima ??? ?????????? ?????????? ?????? ?????? ?? ?????????? ?? ?? ?????????? ???  
????????? ? Cofima ??? Berlioz ?????????? ?????? ??? ?? ?????????? ??????. ?? ???  
????????? ???, ? ??????????, ??? ?? ?????? 2, ?????????? 2, ??? ?????? ??? 25??  
????????? 2014, ?????? ??? Berlioz ??? ?????? ?? ??? ?????? ?????? ??????  
????????? ??? ??????????:

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

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

- ?? ? Berlioz ?????? ?? ?????? ?????????? ??? ??????????

- ?? ?????? ?????? ??? ?????? ??? Berlioz ??? ??? Cofima ???, ?????? ??????  
????? ??????, ?????? ??? ?????????? ???

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

- ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? Berlioz, ?????? ??? ??  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????????????? ? ?????? ???  
??? ??? ?????? ??? ??????, ???

- ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? Cofima ???  
????????? ??? Berlioz ??? ?? ?????? ?????? ??? Cofima ??? ??? ?????? 2012, ???  
??? ?????? ?? ?? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Cofima ??? ??????????  
??? Berlioz ??? ??? ?????? ??? 5?? ?????????? 2002, ??? ?????? ??? 31?? ??????????  
2003 ??? ??? ?????? ??? 2?? ?????????? 2007.

24 ??? 21 ?????? 2015, ? Berlioz ?????? ??? ?????????? ??? ?? ?????? ???  
????????? ??? 16?? ?????? 2015, ??? ?? ??? ?????????? ?? ?????? ??? ??  
????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
2011/16, ?? ?? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ??????  
????? ??? ?????????? ?? ?? ? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ??  
????????? ??? ?????????? ??? ?? ?? ? ?????? ??? ?????? ??? ?? ?????? ??? ??

25 ?? ??????? ?? 18?? ???? 2015, ? ?????????? ??? administration des contributions directes (????????? ?? ?????? ??????????) ??????? ??? Berlioz, ????? ??? ?????? 5, ?????????? 1, ??? ????? ?? 25?? ?????????? 2014, ?????????? ?????????? ?????? 250 000 ???, ??? ?? ?????????? ??? ?? ?????????? ??? ?????????? ??????????????.

26 ???? 18 ??????? 2015, ? Berlioz ?????? ??????? ??? tribunal administratif (?????????? ???????????, ???????????) ??????? ??? ?????????? ??? ?????????? ??? administration des contributions directes ?? ??? ??????? ???????, ??????? ?? ??? ??????? ? ??????? ??????? ??? ??????? ??? ??????? ??? 16?? ??????? 2015.

27 ?? ??????? ?? 13?? ?????????? 2015, ?? tribunal administratif (???????????)  
????????????) ??????? ?? ????? ??????? ??? ?????????? ??? ??????? ?? ?????????? ?? 150 000  
????, ??? ?? ?????????? ??? ?? ????? ??? ?????? ??? ??? ?????????? ?? ?????????? ?? ?????????? ??  
??? ?????????? ?????????? ?????????? ??????????.

28 ?? ?????????? ?? 31?? ?????????? 2015, ? Berlioz ?????? ?????? ??????? ??? Cour administrative (?????????? ???????, ??????????????) ?????????????? ??? ? ??????????? ??? ?????? 6, ?????????? 1, ??? ????? ?? 25?? ?????????? 2014 ?????? ??? tribunal administratif (?????????? ??????????) ?? ??????? ??? ?????????? ?????????? ??? ??????? ?????????? ??????? ?????????? ??? 16?? ??????? 2015 ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ?????? ???????, ??? ?????????? ?? ?? ?????? 6, ?????????? 1, ??? ?????????? ?????????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??? ?????????? ???).  
29

29 ?? Cour administrative (???????????) ?????? ??? ??????????? ?? ???  
????????? ?? ?????? ??????, ?????? ?????, ?? ????? 47 ??? ?????? ?? ????? ??????????? ??  
????? 6, ?????????? 1, ??? ???, ??? ?????? ??? ?????????? ??? ?????? ?????? ???  
????????? ?????? ??? ?????????? ???.

30      ?? ??????????? ????, ??????????? ?? ???????????, ????, ? Berlioz, ?????????? ????  
????????? ??????????? ?????? ?????????? ?????? ?????? ???, ???, ???, ???? ?????? ??  
????????? ???, ???, ???, ???????????????, ?????? ???, ?????? ???, ?????? ???, ?????? ???,  
????????? ???, ???, ???, ?????? ???, ???, ?????? ???, ???, ?????? ???, ???, ?????? ???.  
????????? ???, ???, ?????? ???, ???, ?????? ???, ???, ?????? ???, ???, ?????? ???, ???, ?????.  
????????? ???, ???, ?????? ???, ???, ?????? ???, ???, ?????? ???, ???, ?????? ???, ???, ?????.  
????????? » ???, ??????????? ???????????, ???, ?????? ???????????, ???, ?????? 1,  
????????? 1, ???, ??????? 2011/16, ???, ???, ???, ???, ?????? ???, ?????? ???, ?????? ???, ???, ?????.  
?????? ??????? ?? ???????????, ???, ?????? ???, ???, ???????????, ???, ?????? ???, ?????? ???, ???, ?????.  
????? ?? ???????????, ???, ?????? ???, ???, ?????? ???, ???, ?????? ???, ???, ?????? ???, ???, ?????.

31     ???, ???, ?????????? ??????, ?? Cour administrative (???????????? ??????) ?????????? ??  
????????????? ?? ?????????? ?? ???? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????????:

«1) ?????? ?? ???????? ?? ?????? ??? ??????, ?? ?????????? ?? ?????????? ?????????????? ??  
?? ? ??????, ??? ? ????? 51, ?????????? 1, ????, ?????? ?????? ?? ?????, ?? ??????????  
????? ? ?????????? ?????? ?????????? ?????????? ?????? ?? ?????????? ?????? ??  
????????? ?????????? ?? ?????? ??? ?????? ?????????? ?????????? ?????? ?? ?????????? ??  
????? ?????????? ?? ?????? ?????? ?????? ?????? ?????????? ?????? ?? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????????? ?? ?????? ?????????? ?????? ?? ?????? ?????? ??  
????????? ?????? ?? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? 2011/16 ?????? ?? ??? ?????????? ?????????? ?????? ?????? ?????? ?????? ??????;»

2) ?? ?????????? ?? ?????????? ?????????????? ?? ?????? ??? ?????? ?????????? ? ??????, ??  
? ?????????? ?? ?????????? ?? ?????????? ?? ?????? 47 ?? ?????? ?? ?????? ?? ?????? ??  
????????? ?????? ?? ?????? ?????????? ?? ?????????? ?? ?????? ?????????? ?????????? ??  
????? ?? ?????? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????;»

3) ?? ?????????? ?? ?????????? ?????????????? ?? ?????? ??? ?????? ?????????? ? ??????, ??  
????????? ?????????? ?? ?????????? ?? ?????????? ?????? ?????????? ?? ?????? ??????????????  
?? ?????? 47 ?? ?????, ?????????, ?????? ?? ?????? ?????????? ?? ?????? ?? ?????? 52,  
????????? 1, ??? ?????, ? ?????? ?????? ?????? ?????? ?? ?????? ?????????? ?? ?????? ??  
????????? ?? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
2011/16, ??? ?????? ?????????? ?? ?????? ?????? ? ?????? ?????? ?????? ?????? ?????? ??  
?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????;»

4) ?? ?????????? ?? ?????????? ?????????????? ?? ?????? ??? ?????? ?????????? ? ??????, [??  
?????] 1, ?????????? 1, ??? [?? ?????] 5 ??? 2011/16, ??? ?? ?????, ??????, ???  
????????? ?? ??? ?????? ??? ?????????? ?????? ?????? ?? ?????? ?? ?????? ??  
????????? ??? [?????????] ?? ?????? ?????? ?????? ?????? ?????? (????)] ???  
????????? ?????? ?????? ??? ?????? ???, ???????, ??? ?????? ??? ?????? ?????? ??  
????????? ??? ?????? ?????? ??? ?????? 4 ???, ??? ?????? ??? ?????? ?????? ??? ?????? ??  
2011/16, ?????? ??? ?????? ??? ? ?????????? ?????? ?? ?????? ?? ?????? ??  
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?????? ??????;»

5) ?? ?????????? ?? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ?????????? ??  
????????? [?? ?????] 1, ?????????? 1, ??? [?? ?????] 5 ??? 2011/16, ??? ??  
[?????] 47 ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?? ?????? ??? ??????;»

???????????? ??????? ?????? ? ?????? ?????????????? ?????? ?????? ?????? ??? ?????? ??? ????  
????????? ?????? ???, ??? ??????? ?? ???? ??? ?????????????? ??????, ??? ??????  
?????????? ?????? ?????????? ?????????????? ?? ???? ??? ?????? ?????? ?????????? ??? ????  
?????????? ?????? ?????? ??????, ??? ?????? ?????????? ?????? ?????? ?????? ??? ?????????????? ???  
????? ??????? ??????, ??? ?????????? ?? ?????? ??? ?????? ?????? ? ?????????? ???  
????????????? ?????????? ??? ?????????????? ??? ?????????? ???, ??? ?????? ??? ?????? ??? ????  
????????????? ?????????? ??????????????, ??? ?????????????? ?????????? ?????? ??? ????  
??? ?????? 17 ??? ?????? 2011/16;

6) ?? ?????????? ??? ??????? ?????????????? ??? ?????? ?????????? ?????? ?????????? ???? , ??  
????? 47, [????????? ??????], ??? ?????? ?????????????? ?? ?????????? ??? ?????? ?????????? ??????????  
????????? ?????? ??? ?????? ?????? ?????????????? ?? ?????????? ??? ?????? ?????? ?????????? ???  
????????????? ???????, ??? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ???????, ?? ?????? ?????? ?????????? ?????????????? ??? ?????? ?????????? ???? ??????  
????? ?????? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ???  
????????? ?????? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ???  
????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????;»

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

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

32 ?? ?? ??? ?????? ??????? ???, ?? ?????? ?????????? ???, ???' ??????, ??  
????????????? ?? ?? ??? 51, ?????????? 1, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?? ??????? ?? ?????? ??? ??????, ??? ?????? ??? ?????? ??? ?? ??? ?????? ??? ?????? ???  
????????? ?? ?????????? ?????????? ? ??????, ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???  
????? ??? ?????? ??? ?????? 2011/16.

33 ??? ?? ??? 51 ?????????? 1, ??? ?????, ?? ?????????? ??? ?????????????? ??? ??????  
????? ??? ?????? ??? ?????? ?????????? ?? ?????? ??? ??????. ??????, ?????? ?? ?????????? ??  
????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ??  
????? ??? ?????.

34 ?????????????? ??????? ??? ? ?????? 2011/16 ?????????? ?????????? ?????????????? ???  
????? ????. ??????????, ?? ?????? 5 ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ?????? ??? ?????? ???.

35 ??????, ??? ?? ??? 18 ??? ?????? 2011/16, ?? ?????? ?????? ??? ?????  
«?????????», ?? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????? ?????? ?????? ??? ?? ?????????? ???  
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????.

36 ??????, ??? ?? ??? 22, ?????????? 1, ?????? ??, ??? ?????? 2011/16, ??  
????? ??? ?????? ?? ?????????? ?? ?????????? ?????? ?????? ?????????? ?? ?????? ?????? ???  
????? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
?????.

37 ??????, ? ?????? 2011/16 ?????????? ??? ?? ?????? ?????? ?????? ??? ???

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

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

39    ?? ?????? ??? ? ?????? 2011/16 ??? ?????????? ?????? ??? ?????????? ??????????  
????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??????????  
??? ?????? ???, ?? ?? ??????, ??? ?????? ?????????? ??? ?????? ??? ??????.  
?????????, ?? ?????? «????? ??? ???? ?????????? ??????????», ??? ???? ???? 18 ??? ??  
???? ??????, ??? «????????? ?????? ??? ???? ?????????? ??? ?????? ?????????? ??? ??????????  
????????? ??????», ??? ???? ???? 22, ?????????? 1, ??? ?????? ??????, ???  
????????? ?? ?????????? ?????? ??????.

40    ??' ?????? ??? ????????, ?? ?????? ??? ???? ???? ?????? ??? ?????????? ??? ?????? ???  
??? ?????? ?????????? ????????, ??? ???? ???? ???? ?????????? ??? Berlioz ??????,  
????????? ?? ??? ???? ???? ???? ?????? ??? ???? ???? ???? 2011/16 ??  
????????? ???, ?????????? ??????, ?????????? ??? ???? ???? ???? ???? ???? ???? ???? ????  
????? ?????????? ??? ?????????? ??? ?????????? ?? ??? ?????? ??? (??., ??' ??? ???? ??? ??????,  
????? ??? 26?? ?????????? 2013, Åkerberg Fransson, C?617/10, EU:C:2013:105, ??? 28).

41    ??? ????????, ??? ???? ???? ?????? ??? ?????? ??? ???? ???? ?????? ??? ???? ???? ????  
????? ??? ?????? ???, ? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??  
????????? ?? ??? ???? ???? ?????? ??? ???? ???? ?????? ???, ?????????? ??  
????????? ?? ??? ???? ???? ?????????? ??? ???? ???? 2011/16 ?????????? ???, ???  
?? ?????? ??? ???? ???? ??????.

42    ????????, ??? ?????? ??????? ?????? ?? ?????? ???? ?????? ??? ???? ???? 51,  
????????? 1, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ????  
??? ??????, ??? ???? ?????? ??? ???? ?????? ????????, ?? ?????? ??? ???? ???? ???? ????  
????????? ???? ??????, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ????  
????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ????  
????????? ?????? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ???? ????  
2011/16.

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

43    ?? ?? ?????? ?????? ???, ?? ?????? ?????????? ???, ???' ??????, ??  
????????? ?? ?? ?????? 47 ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ????  
??? ?????????? ?????????? ??? ???? ???? ?????? ?????? ??? ?????????? ??? ?????? ?????????? ??? ????  
????? ?????????? ?????????? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ?????????? ??????????  
????? ?????? ?????????? ?????????? ?????? ?????? 2011/16 ??? ?????????? ??  
????????? ?? ?????????? ??? ???? ??????.

?? ???? ?????????? ?????????? ?????? ??? ?????? 47 ??? ??????

44    ??? ?? ?????? 47 ??? ??????, ?? ?????? ?????????? «????????? ?????????? ???

?????????? ??? ?????????? ??????????», ??? ?????? ??? ?????? ?????? ??????????????? ??  
????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ???  
????????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? 19, ?????????? 1, ??????  
?????, ??? ?? ?????????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??  
????????????? ? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????? ??? ??????

45    ?????????? ?????????? ?????????? ???, ?? ?????????? ??? ?????? ??? ?????? ???  
?????? ????, ??? ?????????? ?????????? ??? «????????????? ??? ?? ?????? ??? ??????»,  
???? ?? ?????? ??? ?????? 47 ??? ?????, ?????? ? ?????? 2011/16 ??? ?????? ??????  
????????? ?????? ??????. ??? ?? ?????????? ?????, ? ?? ??? ?????? ??????, ??? ?? ??? ? ??????  
77/799 ? ?????? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? 22? ?????? 2013,  
Sabou (C?276/12, EU:C:2013:678), ?????? ?????????? ??? ?????????? ?????????? ??????  
????????????? ?????????? ??? ?????? ?????????? ??? ?' ?????. ?? ?? ?????,  
?????????????, ??? ? Berlioz, ??? ?? ?????????? ?? ??????????, ?? ?????? ?? ?????? 47 ???  
????, ??? ?????? ?????? ??????.

46    ?? ?????????? ?????? ??????, ??? ?????? 30 ??? 36 ??? ?????????? ???????, ???  
?????? 77/799, ? ?????? ??? ?? ?????? ?? ?????????? ?? ?????????? ??????? ??? ??????????  
????? ??? ?????? ????, ?????????? ?? ?????????? ?????????? ??????? ?????? ?????????? ???  
????????????? ?????????? ?????????? ??? ?????? ???, ?????? ??? ?? ??????  
????????????? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ??? ??  
????????????? ?????????? ?????????? ??? ?????? ??? ?? ?????? ?????. ??????????, ? ?? ???  
????? ??? ?????????? ??? ?? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ??????????????.

47    ??? ?????? ??? ?????? 2011/16, ? ?????????? ??? ?????? 7 ???????? ??? ? ??????  
???? ?????????? ?? ?????????? ??? ?????? 77/799 ?????????? ?????? ?????????? ???  
????????????? ??? ?????? ??? ?? ?????????? ?????????? ?????? ?????? ?????, ??? ??  
????????????? ??? ?????????? ?????? ??? ?? ?????????? ????. ?????????????? ?????? ???, ???'  
????? ??? ?????, ? ?????? 2011/16 ?????????? ?????? ?????? ??? ?????? ??? ??????  
77/799 ??? ?????? ??????????.

48    ??????????, ??? ?? ?????????? ??? ?? ?????????? ??? ?????????? ??? ??????????  
???? ?????????? ??? Berlioz ??? ?? ?????? ??? ??????????, ?????? ?? ?? ?????? 47 ??? ?????? ???  
????????? ??????????, ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
????? 2011/16.

49    ????????, ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??????????  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ? ??  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???  
????????????? ?? ??? ?????? (??., ??' ??? ?? ?????, ?????????? ??? 26? ??????????  
2013, Åkerberg Fransson, C?617/10, EU:C:2013:105, ?????? 19 ??? 21, ?????? ??? 26?  
????????? 2013, Texdata Software, C?418/11, EU:C:2013:588, ?????? 72 ??? 73).

50    ?? ??????????, ? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????? ?????????? ??  
????????? ??? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? ??? ?? ?????? ??????????  
?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
2011/16. ?????????? ??? ? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????, ??? ??????  
????????? ??? ?? ?????? ??? ?????? ?????? ??????, ?????? ?? ?????????? ?? ?????? ??? ??????  
????? ??? ?????? ??? ?????? 51, ?????????? 1, ??? ?????, ?? ?????????? ??? ?????, ?????? ??

?????? 47, ????? ?????????????? ????. ???????? ???. ??????. ?????? (??., ??' ????. ????. ??????, ??????? ???. 26?? ??????????? 2013, Texdata Software, C?418/11, EU:C:2013:588, ??????? 74 ??? 77).

51      ????? ??????, ???????????, ??? ??????? ?? ?????????? ?????????? ??? ??????????????  
??? ?? ?????? ??? ??????, ??? ?? ?????? ??? ?????? 47 ??? ?????, ?????? ?? ??????????  
???, ???? ?????? ??????????, ? ?????????? ?????? ?????????? ??? ?????????? ?????????? ??  
?????? ??? ?????????? ??? ?????? ?????? ??????, ??????? ? ??????, ??? ?????? ?????????? ?  
????????? ?????? ?????? ?????? ?????? ??? ?????? ?????? (????????? ??? 21??  
????????? 1989, Hoechst ??? ???????, 46/87 ??? 227/88, EU:C:1989:337, ??? 19, ???  
??? 22?? ???????? 2002, Roquette Frères, C?94/00, EU:C:2002:603, ??? 27, ??? ??  
?????? ??? 17?? ???????? 2005, Minoan Lines ??? ????????, C?121/04 P, ??  
???????????????, EU:C:2005:695, ??? 30).

52      ????????, ????????????, ??? ? Berlioz, ??????? ?? ????????????, ??? ?? ??  
???????, ?????? ??????? ???????, ??' ????, ?????, ??? ?? ?????? ?? ???????, ??? ?? ??  
??????, ?????? ???????, ???????, ???????, ???????, ??? ?? ???????, ?????? ???????, ???????,  
??????, ?????? ?? ???????, ???????, ???????, ???????, ???????, ??? ?? ???????, ??? ?? ??,  
??? ?? ???????, ??? ?? ?? 47 ??? ??, ?? ?? ???????, ??? ?? ???????, ???????, ???????, ???????.

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

53      ?????? ?????? ??? ????????, ???????, ?? ?????????? ?? ? ?????? ??????????  
????????? ??? ?????? ??? ????????, ????, ????? ?????????? ?????? ??? ??? ?????? ???  
????????? ??? ?????? ??? ????????, ?????? ??? ?? ?????????? ??? ?????????????? ??  
?????????? ?? ??????? ?? ?????????? ??? ???????, ??? ?? ???????, ???, ? ?????????? ?????? ?? ?????????? ??  
????????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ??  
????????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????

54 ???????, ?????? ?? ?????????? ??? ? ??? ???? ??? ?????????????????? ???????????  
?????????? ??????? ?????? ??? ?????? ??? ?????? ??? ??????, ? ??? ????? ?????????????? ??????  
?? ?? ????? 47 ??? ??????. ?? ?? ????? ?????? 47 ???????????, ?? ??????? ??????? ???  
??????, ??? ?????????? ??? ??????? ?? ?????? 6, ?????????? 1, ??? ?? ????? 13 ??? ????.  
????????, ??????? ??????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? (??., ??' ??? ???.  
??????, ??????? ??? 6?? ?????????? 2012, Otis ?.??., C?199/11, EU:C:2012:684, ??????? 46  
??? 47).

55    ?? ?????? 47, ??????? ???????, ??? ????? ?????????? ??? ??? ????? ??????? ??? ?????  
?? ??????? ? ??????? ??? ?????????? ??? ??????????. ??? ??  
?????????? ? ??????? ??? ?????????? ???, ?????? ?????????? ??? ??  
??????, ??? ???????, ??? ?????????? ?????? ?????????? ??? ?????????? ??? ??  
????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?? ????? ???, ???  
??????, ?? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ??????.

56      ????????????, ????. ?????????? ? ??????? ?????????????? ??? ?????? 80 ??? ??????????  
???, ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? 47 ??? ??????, ?? ??????  
????????? ??????? ?? ?????? ?????????????? ??? ?????? ?????? ?????????? ??? ???  
????????? ??????? ?????????? ????????, ??? ?? ?????????? ??? ?? ?????????????? ??? ???  
?????? ??????? ?????????? ????????, ??? ?? ?????? ?? ?????????? ?? ?????????? ?? ??????????  
?? ???????.

57 ? ?????????? ??????????? ?? ?????? ?????? ??? ????? ?????? ?????? ?????? ?????????????? ?????????????? ??????????????  
????? ??? ?? ??? ?????? ?????????? ?? ?????????????? ?? ?????????????? ?????????????? ?????????????? ??????????????  
????????????? ??' ??? ??? ??? ?????????????? . ??? ??? ??? ??? ?????????? ??? ?????????? ??  
????? 40 ??? ?????????? ?? 22? 2013, Sabou (C?276/12, EU:C:2013:678),  
????????? ?? ?? ?????? ?????? ?????????? ?? ?????????? ?????????????? ?? ?????????? ?????????????? ??  
????????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????????? ?????????? ?????????? ??  
????? ??? ?????????????? ?????? ??? ?????? ?????? ?????? ?? ?????? ?????? ?????????? ?????? ??  
?????????.

58 ??????????, ?? ?????????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ?????????? ??  
??? ?????????? ?? ?? ??? ?????? ?????????? ?? ?????? ?? 22? 2013, Sabou  
(C?276/12, EU:C:2013:678). ??????????, ?? ?????? ?????? ?????? ?????????? ?????????? ??????????  
????????? ?? ?? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?????? ?????? ?????? ?????? ?????? ??, ?? ?????????? ?????? ?? ?????????? ??  
????????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ?? ?????????? ?? ?? ?????? ?????? ?? ?? ?????? ?????? ?????? ?????? ?????? . ? ?????????????? ??  
????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
Berlioz ??? ?????? ?? ?????? ??????. ??????????, ?? ?????? ?? ?? ?? ?????? ?????? ?????? ??????  
? ?????? ??, ?? ?????????? ?? ?????? ?? ?? ?????? ?? ? ?????????? ?? ?? ?????? ??  
????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????? ?????????? ?????? ?? ?????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??  
?????????, ?? ? ?????????? ??, ?????? ?? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??  
????????? ?????? ?????? ?? ?? ?????? ?????? ?? ?? ?????? ?????? ?????? ?? ?? ?????? ?????? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

59 ??????, ??? ?????? ?????? ?????? ?? ?????? ?? ?????? ? ?????? ?? ?? 47 ???  
????? ??? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??????  
????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ??????  
????????? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????????? ?????????? ?? ?????? ?????? 2011/16 ??? ?????? ?????? ?? ?????????? ??  
????????? ??? ?????? ??????.

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

60 ?? ?? ?????? ?????? ??, ?? ?????? ?????? ?? ?????? ?? ?????????? ?? ?? ?? ?? ??  
??????, ?? ?????? ?????????? ??, ??' ??????, ?? ?????????? ?? ?? ?? ?? ?? 1,  
????????? 1, ?? ?? ?? ?????? 5 ?? 2011/16 ??? ?????? ?? ?????? ?? ? «?????????»  
????????? » ?? ?????????? ?? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??????  
????????? ?? ?????? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??  
????? ??, ?? ?? ??????, ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ??  
????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ??  
?????????.

61 ?????? ?? ?????? 1, ?????????? 1, ?? ?????? 2011/16, ?? ?????? ?????? ??  
????????? ?? ?????? ??, ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
?? ?????????? ?? ?????? «?????????» ?? ?????? ?????? ?????? ??  
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??

62 ?? ?????? 5 ?? 2011/16 ??? ?????? ?? ?? ?? ?????????? ??

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

???? ?????? ?????? ??? ?????????????????? ??? ?????? 1, ?????????? 1, ?????????? ???

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

???????. ????????, ?? ????? 5 ?????????? ?????????? ?????????? ??? ?????????? ???.

63      ????? ?????????? ?? ?????? ?? ??????? ???? ?????????? ?????, ?? ??? ?? «????????????  
????????» ??????? ?? ??????? ?????????????????? ?? ????? ?? ????? ?? ?????? ?? ??????????  
?????????????. ? ?????????? ?? ?????? ? ?????????? ????? ?? ?????? 5 ?? ??????  
2011/16 ?? ?????????????? ?? ??? ?????? ?? ?????????????? ????? ?? ??????????????  
????????????? ?? ??? ?????? ?? ?????????????? ?????.

65 ??????? ??????? ?? ?????????? ?????? ??? ?? ?????????? ?? ??????? ??????????????  
????? ??? ?? ? ?????????????? ??? ????? ?????????? ? ?????????? ??? ??????? ?? ?????? ??? ?? ?????? ???  
????????????? ??? ????? ? ???????? ??? ?????? ?? ?????????? ??? ?? ?????????? ??? ?? ??????????  
????????????? ??? ?????? ?? ?????????????? ???.

66 ?? ??????? ???????? ?? ?????? ?????? ??? ?????????????????? ??????? 9 ??? ?????? 2011/16,  
????? ??? ?????? ?????? ??? ?????????????? ??? «????????????? ??????????» ??? ?? ??????  
?????? ??? ?????????? ?????????????? ??? ?????????????? ?????????? ??? ?????? ?????????? ???  
????? ??? ?????????? ?? ?????????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????????? ??  
????????? ?????????? ??? «????????? ??????????» ? ?? ?????? ?????????? ??? ??????  
?????? ?? ?????? ?????????? ?????????? ?????????? ?????????? ??????????????????.

67 ????? ?????????????? ?????????? ?????????????? ??? ? ??????????, ? ??????? ????? ???  
????????????? ?????????? ??????? ??? ?????? ??? ?????????????? ??? ?????? 26 ???  
????????????? ?????????? ?????????? ??? ???, ??? ?????? ??? ?????????? ???  
????????????? ??? ??? ??? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ?  
????????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? COM(2009) 29 ??????, ??? 2??  
????????? 2009, ??????? ?? ?? ?????????? ?????????? ??? ?????? ??? ??????????,  
????? ??? ?????? ?????? ? ?????? 2011/16. ??????? ?? ?? ?????????? ?????? ??? ???  
?? ??? ??????, ??? ?????????? ??? ?? ?????????? ??? ?????? 17 ?????? 2012, ???  
????????? ??? ?????????? ?????? «?? ?????? ??????????» ? ?? ?????? ??????????  
??? ?????? ?????? ?????? ?? ?????? ?????? ??? ?? ?????????? ??? ??????????  
????????? ?????? ?????????? ??????????. ???????, ?????? ?? ?????? ?????? ?????? ??????????  
?? ?????????? ?????????? ?? ?????????? ??? ?????????? ??????.

68 ????????, ? ?????? ??? ??????? ??? ?????????????? ??????????, ??? ????? ??????????  
??? ??? ??????????? ??? 9 ??? ?????? 2011/16, ??? ?? ?????????? ??? ????? ??????? ???  
? ??????????? ?? ?????? ??????????? ?????????? ?????? ??????????????? ?????????? ???  
??? ?????? ???, ??? ?????? ?? ??? ?????????? ?? ?????????? ?????? ??? ?????????? ??  
?????? ?????? ???, ??? ?????? ?? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ???.

69 ????????, ? ??????? ?? ???????, ??? ??????? ?? ??????? ???, ?? ??????? ??  
?????????? ?? ???? ?????????? ?? ??????? ?? ?????????? ?????? ?? ??????? ?? ??????? ??,  
????, ??????? ?? ??????? ?? ?????????? ?????? 1 ??? ??????? 2011/16, ?? ??????? ?? ???????  
????????????? ?? ??????? ?? ??????? ?????????? ?????? ?? ??????? ?? ?????????? ??????.

70     ?? ?? ??????, ? ????, ?? ?????? ??????????? ?? ?????? ?? ?? ?????? ??  
?????? ??????????? ?? ?????? ?????? ???????????, ???? ?????? ?? ????????, ??????  
?? ??? ??????????? ?? ??????? ??????????? ?? ?????????? ?????????? ?? ????????

???? ???? ??????? ???? ?????????????? ?? ???? ?????? ??? ?????? ??? ?????????????? ???, ??????? ??  
?? ?????????? ?? ???? 17, ?????????? 1, ??? ?????? 2011/16, ??? ?????????? ??  
?????? ???? ?????????????? ?? ???? ?? ?????????? ?? ??????????????.

71      ?????????? ? ??????? ?????? ?????? ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ?????????? ,  
????????? ?????? ??? ??????? ?? ?????? ?????????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??  
????????? ??????.

72 ????????, ??? ?????? ?????? ??? ?? ??? ????? ?????? ??? ?? ?????? 1 ??? 5 ??? ??????  
2011/16.

73      ????? ?????? ??? ??????????????, ????. ????? ?????????? ??? ? ?????????????? ????. ????? ??????????  
????? ?????? ?? ?????? ???????????, ???????????, ?????? ??? ?????? ?? ?????? ?? ?????? ??  
?????????? ?? ?? ?????? ?????????? ??? ???????????, ????. ???? ??? ?????????? ?? ?????? ??  
??? ??????? ??????? ?????????? ??? ?????? ??????????? ?????? ?????? ?? ?????????????? ??  
????????? ?? ?????????? ??????? ??????????? ??? ?????? ?????? ?? ?????????????????? ?? ??????????  
????????? ??????????? ??? ?? ?????? 5 ??? ?????? 2011/16 ??? ?????? ?????????? ??????????  
??? ??????????? ??????? ??????? ?????????? ??? ?????? ?????????? ???.

74 ????????, ??? ??????? ??????? ??????? ?? ?????? ? ?????????? ??? ?? ?????? 1,  
?????????? 1, ??? ?? ????? 5 ??? ?????? 2011/16 ?????? ??? ?????? ??? ? «??????????  
?????????» ??? ??????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????  
?????????? ??? ?????? ?????? ?? ??????? ?? ?????? ?????????? ?????????? ?????????? ??  
????????????? ? ?????????? ??? ?????????? ?????? ?????? ?? ?????????? ?????? ??? ??????????  
???? ???, ?? ?? ??????, ??????? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ?? ??  
????? ?? ?????? ?????? ??? ?????????? ?????? ?????????? ?????? ?????????? ?? ?????????? ??????????  
?????????? ??? ??? ??? ?????????? ??? ??? ?????????? ?? ?????? ?????????? ?? ?????????? ??? ?????????? ???  
???? ??? ??????? ???.

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

76      ????? ??????, ??????, ??? ?????? ??? ?????????? ? ?????????? ????, ??? ?????? 70  
??? 71 ??? ?????? ?????? ?????????? ?????????? ??? ? ?????? ??? ?????? ?????? ??????  
????????? ?????????? ??? ? ?????????? ??? ? ?????????? ?????? ??? ?????????? ??? ????  
????? ??? ? ?????????? ???, ?? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ?  
????????? ??? ? ?????????? ??????.

77 ???????, ?????????? ??? ????? ???? ?????????? ?? ??? ?????? 2011/16 ??????????  
????????? ?????? ?????????? ?????, ? ??????, ??? ?????????? ??? ??? ??????????  
????????? 2, 6 ??? 8 ??? ?????? 2011/16, ?????????? ?? ?????? ??? ?????????? ???  
????????? ?????? ?????????? ??? ?????? ??? ?????, ?????????? ??? ?????? ???  
????????? ?????? ??? ?????? ??????????, ? ?????????? ??? ?????? ?????? ?????? ??  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
18). ?? ??? ??????????, ? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?? ?? ??? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???  
????????? ??? ??????????.

78 ??????, ??? ?? ???????, ? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ??? ??  
????????? ?????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ??? ??  
????? ??? ?????? ??? ?????? ???.

79 ??????, ??? ?????????? ??? ??? ?????????? ??? ?????? 9 ??? ?????? 2011/16, ??????  
?? ?????? ??? ?? ?????? 20, ?????????? 2, ??? ??????, ?? ?????? ?????????? ?? ??????  
??? ?????? ?????? ??? ?????? ????. ??? ?????????? ??? ???????????????, ??????, ??  
????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ?????? ??? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ??? ?????? ?????????? ?? ?????? ?????????? ???, ??????, ??? ?????? ???, ??  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ???????????, ?????? ??? ?????? ?????????? ??? ?????? ?? ?????????? ?? ??????????  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

80 ?????????? ?? ??????? ??? ?????????? ??? ?????????? ?? ?????? ?? ?????????? ?? ??????  
????????? ??????????, ? ?????? ??? ?????? ?? ?????? ?????? ?????????? ?????????? ???  
????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???  
????????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

81 ?????? ???????, ? ?????????? ??? ?????? ??? ??????, ??? ?????? ??????? ???  
????????? ???, ?? ?????? ??? ??? ?????? ???, ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ?????????? ? ?????? 2011/16 ??? ?????? ??? ??????????, ?????? ??  
????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ???  
?? ??? ??? ???????, ?? ?????????? ?? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 78 ??? 79 ???  
????????? ??? ??????.

82 ??????, ? ?????? ??? ?????? ??? ?????????? ? ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?? ?????????? ?? ?????????? ??? ?? ?????? ?????? ?????????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ???.

83 ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ??? ?????? ???

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

84 ???????, ? ?????????????????????? ??? ????????????? ?????????? ??? ????? ?????????????? ??  
????? 47 ??? ????? ?????????? ? ?????????? ??? ?????????? ? ?????????? ? ?????? ?? ?????? ??  
????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??  
????????? (??., ??' ??? ?? ???? ?, ?????????? ??? 4?? ??????? 2013, ZZ, C?300/11,  
EU:C:2013:363, ??? 53, ??? ?? 23?? ??????? 2014, Unitrading, C?437/13,  
EU:C:2014:2318, ??? 20).

85 ?????????????? ?????? ??? ??????????? ????? ??????? 70 ??? 71 ??? ?????????? ??????????  
????????? ?? ?? ?????????? ?????????? ??? ?????????? ? ??????? ?????, ?????? ?? ?????? ?????  
??? ?? ??? ?????? ??? ?????? ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ???????.

87     ?? ?????? ??????????? ?????? ?????? ?? ?????????????????? ?? ?????????????? ??  
?????????? ?????? ?? ?????? ?? ?????? ? ?????? ?? ?????? ?? ?????????? ?? ?????? 17 ?? ??????  
2011/16, ?? ????? ?????????? ?????????????? ?? ????? ?????????? ?? ?????????????? ?? ?????? ??  
????? ?????? ??????.

88 ?????????????? ??????? ?? ?????????? ?????, ?????????? ?? ??? ?????? ??  
????????? ?? ??????? ?????? ??? ?? ?????????? ??? ?????????? ?????????? ??????  
????????????? ?? ??????? ?????? ??????????????, ??? ?????? ?????????? ??? ??? ?????? ???  
????????????? ?????????? ??? ?????????? ?????. ??????, ??? ?????????? ??? ??? ??????  
????????????? ?????????? ??? ??? ??? ?????? ??? ?????????? ?????????????? ??? Berlioz, ?  
????? ??? ?????????? ?? ??????? ?????????? ?????????? ??? ??? ??????????  
????????? ??? ??? ??? ?????????? ?????? ?????????? ?????????? ??? ??????????  
?????, ??? ??? ??? ?????? «?????????», ??? ??? ?????? ??? ?????? 17 ???  
?????? 2011/16.

???? ?????? ??????? ??????? ?????????? ??? ?????????? ?????? ??? ?????? ?????????? ??????????????  
?????? ??? ??????? 2011/16, ????, ????, ??? ?????? ?? ?????????? ?? ?????????????? ???  
????????????? ????, ??? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ????.  
???? ?????? ?? ?????????? ??? ???? ?????????? ?? ?????? ?????????? ??? ?????????? ?????????? ???  
????????? ?????????? , ???? ?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ????.  
????????? ?????????? ??????????.

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

90    ?? ?? ??? ?????? ??????? ???, ?? ?????? ?????????? ????, ???' ??????, ?? ??????????????  
?? ?? ??? 47, ??????? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ???  
????????????? ????, ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ,  
?????? ?? ?????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??  
?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ??  
????????????? ??? ?????????????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??  
??????, ??? ? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? , ? ?? ? ?????????? ????.  
?????? ?? ?????????? ??? ?????? ??????????????.

91    ?????????????? ??????? ??? ? ?????? ??? ?????? ?????? ?????????? ?????????? ??????????????  
????????? ??? ?????????? ?????????? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ??  
????????? ??????.

92    ?????????? , ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??????  
?????? ? ?????????? ?? ?????? ??? ?????? ??? ?????? , ?? ?????????? ??? ?????? ?? ??????  
?? ?????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? , ?? ?????????? ??? ?????? , ??????  
?????? ?????? ??? ?????? ?????? ?????? . ?????? , ?? ?????????? ??? ?????? , ?????? , ??????  
????? ?????? ?????? , ?? ?????? ??? ?? ?????????? ??? ?????? ?? ?????? ?????? ?????? ???  
????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??????  
????? ?????? ??? ?????? ??? ?????????? , ??? ?????? ??? ?????? ??? ?????? ?????? , ??  
????????? ?? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ??????????.

93    ??? ?????? ?? ?????? ?? ? ?????????? ??? ?????? ?????? ?????????? ??? ??????  
????????? ?????????? , ?? ?????? ?? ?????? ?????? ???? ? ?????????? ?????????? ??? ?????? ?? ??  
????? ?????? ?????? ?? ???? 16 ??? ?????? 2011/16.

94    ? ?????????? ??? ?????? ?????????? ?????????? ??? ? ?????????????? ??? ?????? ??????  
????????? ?? ?????????? ? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??? ??????  
????? ?????? ?????? ?? ?????? ??? ?????? ?????? , ??? ?? ??? ?????????? ???  
????????????? ??? ?????? ???.

95    ? ?????????? ?????????? ??? ?????? ?????? ?????? ?????????? ?????? ?? ??????????  
?? ?????????? ??? ?????? ???.

96    ?????????????? ???, ??? ?????? ?????? ?????? ?????? , ? ??? ???? ?????? ??? ??????,  
??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? , ?????????? ???  
????????? ?? ?????????? ?? ?????? ?????? ??? ?????? ?????? ? ?????? ?????????? ?? ??????  
??? ?????? ???, ?????????????? ??? ?????? ?????? ?????? ?????? , ??? ?????? ??? ??? ????  
????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ?????? (????????? ??? 6?? ??????????  
2012, Otis ???., C?199/11, EU:C:2012:684, ??? 71).

97    ?? ?????????? ??? ?????? ?????? ??? ? ?????? ?????? ?????? ??? ?????????? ??? ??????????  
????????????? ??? ??? ?????????? ?????? ?????? , ?????? ??? ?????? ?? ?????????? ??  
????????? ?? ??? ?????? ?????? ?????? ??? ?????? ?????? , ?????? ?? ??? ??? ???.

????????? ???????, ?? ??????? ?????? ??? ?????? ??? ?????? ????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (??.. ?????????? ??? 18?? ?????? 2013, ????????. ????. ??? Kadi, C?584/10 P, C?593/10 P ??? C?595/10 P, EU:C:2013:518, ?????? 102, ?????? ??? ??? 10?? ??????????? 2013, G. ??? R., C?383/13 PPU, EU:C:2013:533, ??????? 32 ??? 34).

98     ???. ?? ??????? ???. ??????? ???. ????????????, ??????? ?? ??????????? ???. ???????????????, ????.  
? Berlioz, ? ??????? ???. ??????? ???. ?? ??????????? ???. ??????? ???. ??????? ???. ??????? ???.  
????????????? ???. ??????? ???. ??????? ???. ??????? ???. ??????????? ???. ??????????? ???. ??????? ???.  
????? ???. ??????? ???. ??????? ???. ??????? ???. ??????????? ???. ??????? ???. ??????? ???.  
?????????? ???. ???. ??????????? ???. ??????? ???. ??????????? ???. ??????????????? ???. ???.  
?????????? ???.

99 ???????, ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?? ?????? ??????, ???  
??? ??????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??????????  
????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??????????  
??? ??? ??? ??????? ??? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?? ??? ?? ??????,  
????? ??????? ??? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ?????????? ??????????  
??? ??????? ? ?????? ??? ?????????? ??? ?????????? ?? ?? ?????????? ???????, ???  
?????????? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ?????????? ??? ???  
?????????? ??? ??? ??????????.

100 ???? ??????, ??????????? ? ?????? ??? ?? ?????????? ??? ????? ?????? ?????? ?????? ?????  
?? ?????? ??? ?????????? ???????, ??? ?????? ?????????? ? ?????????????? ?????? ?????? ??????  
????????????? ?? ??? ????? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ?????? . ?????? ??  
???? ??????? ??? ?????????? ?????????? ??? ?????????? ?????? ?????????? ?????? 20, ?????????? 2,  
??? ?????? 2011/16 ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ??????????????  
????????????? ??? ????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ?? ??????????  
?????????. ??????????, ?? ?? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ??????????  
??? ?? ?? ??? ????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?? ?????? ??? ??  
????????? ??? ?????????????? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? 92  
??? ??????? ???????, ?? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ?? ?????? ??  
????????? ??? ?????? ??? ?????????? ?????? ?????????? , ?????????? ?????? ?????? ??? ??????  
????????? ??? ?????? ??? ??????????.

101 ????????, ??? ??? ?????? ??????? ?? ?????? ? ?????????? ??? ?? ??? ?????? 47, ???????  
??????, ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?????????? ??? ??????? ???????,  
??? ??????? ??? ??????? ??? ?????????? ??? ?????????, ??????? ?? ?????? ?? ?????? ?? ???  
????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ?????????? ?? ?????? ?????? ?????? ???  
????????? ?????? ?????.. ?????????, ? ?????????????? ?????????? ??? ?????? ??? ?????? ??????????  
????????? ??? ?????? ??? ?? ??? ?????? ?????????? ??????? ???????????, ?? ??????  
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 16 ??? ?????? 2011/16.  
????????? ?? ?????? ?? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ?? ??? ?? ?????? ?? ??????  
??? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ?, ??????, ?????????? ?, ?  
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? 20,  
????????? 2. ??? ?????? ?????.

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

102 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ????? ?????????? ??? ?????? ???  
??? ?????????? ?????????????? ??? ??????? ??????? ??? ?????? ?????????? ?????????? ,? ???  
????????? ?? ??????? ??? ?????????? ??????.. ?? ????? ??? ????? ??????????  
???? ?????????? ?????????????? ??? ?????????? , ??? ??? ?? ??? ?????????? , ??? ??????????.

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

1) ?? ????? 51, ?????????? 1, ?? ?????? ?? ?????????? ?????????????? ???  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?? ?????????? ??  
????? ??? ??????, ???? ??? ?????? ??? ?? ??? ?????? ??????????, ?? ?????????? ??  
????????? ?????????? ?????????? ?? ??????, ???? ?????????? ??? ?????????? ??  
????? ??? ?? ?????????? ?? ?????? ?????? ?? ?????? ?????????? ?? ?????? ??????  
????????? ?????????? ?????????? ?????? ?????? ?????????? ?????? ??????????????, ????, ????  
?? ?????????? ?? ?????? 2011/16/?? ??? ??????????, ??? 15?? ?????????? 2011,  
????? ?? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?? ?? ??  
????????? ??? ?????? 77/799/???.

2) ?? ????? 47 ??? ?????? ??? ?????????? ?????????????? ??? ?????????? ???  
????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ?????????? ???  
????? ?? ?????????????? ??? ?????? ?????????? ?????? ??? ?? ?????????? ??  
????????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ?????????? ???  
????????? ?????????? ?????????? ?????????? ??? ?????? 2011/16 ??? ?????? ???  
????????? ?? ?????????? ??? ?????????? ??? ?????? ?????.

3) ?? ????? 1, ?????????? 1, ?? ?? ?????? 5 ??? ?????? 2011/16 ?????? ??? ??????  
?? «????????? ??????» ??? ?????????? ??? ?????? ?????? ?????? ??? ??????  
????? ??? ?????? ?????????? ?????????? ??? ?????? ?????? ?? ?????? ?? ?????? ???  
????????? ?????? ?????????? ?? ?????????? ?????? ?????? ?????? ??? ??????????  
????????? ?????? ?? ?????????? ??? ?????? ?????? ???, ?? ?? ??????, ??????  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ???  
????????? ??? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ???  
????? ?????????? ??? ?????????? ?????????? ?? ?????? ?????? ??? ?????????? ???  
????? ?????????? ??? ?????? ??? ?????????? ?? ?????? ?????? ??? ?????????? ???  
????? ?????? ??? ?????? ??? ?????????? ?? ?????? ?????? ??? ?????????? ???  
????? ?????? ???.

4) ?? ????? 1, ?????????? 1, ?? ?? ?????? 5 ??? ?????? 2011/16 ?????? ??? ??????  
?? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ???, ?????? ??????????  
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ???  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??  
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? 2011/16 ??? ?? ???  
47 ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??????????, ??? ?????? ??????  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? 2011/16, ???, ????  
?? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???  
????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???,  
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ???.

5) ?? ????? 47, ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?? ??????????  
?? ?????????? ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???  
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ????. ????????, ?  
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????? ?????????? ??????? ??????????????, ?? ?????? ?????????????? ?? ?????????  
????????? ??????? ??????? ?? ?? ????? 16 ??? ?????? 2011/16. ??????????? ??  
?????? ?? ?????????????? ?????????????????? ??? ?????? ??? ?? ??? ?? ?????? ?? ?????? ???  
????????????? ?????????? ??? ?????????? ??????????????, ????, ????, ????, ?  
????????????? ?????? ?? ?????? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ??????  
20, ?????????? 2, ??? ?????? ?????.

(???????????)

\* ??????? ??????????????: ? ???????.