

@import url(../../../../css/generic.css); EUR-Lex - 61991J0276 - EL

Avis juridique important

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61991J0276

????????? ??? ??????????? ?? 2?? ?????????? 1993. - ?????????? ??? ??????????? ???????????
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???????????. - ??????? C-276/91.

????????? ??? ??????????? ?? ??????????? 1993 ?????? I-04413

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????????? ?????? ?????????????? ????? * ?????? ?????? ?????????? ?????? ??? ?????????????? *
????????????? ?????? ?????????? ??? ?????????? ?????????????? * ?????????????? * ??????????
* '????????? ?????????? ?????? ?????? ??? ??????????

(????????? ???, ???? 95 ?????? 77/388 ??? ??????????)

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?????????? ? ? ? ?????????? ?? ???? ?????? ?????????? ?????? ?? ???? ?????? ?????? ?? ???? ??
????????? ? ? ? ? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?????? ?? ???? ??
????????????????? ?? ???? ?????????? ?? ???? ?????? ??????????, ??????? ?? ? ? ? ??????????
????????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ?????? ??????, ? ??? ? ? ? ?????? ? ???? ??
?????? ? ??????? ? ?????????? ?? ???? ?????????? ?? ???? ?????? ?? ???? ?????????? ??????
????????? ?????????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ?????? ?????????? ?? ???? ??????????
?? ? ? ? ? ? ?????????? ?? . ??????? ???? ?????? ??????????, ?? ? ? ??????? ???? ??????????
?? ? ?????????? ?? ???? ?????????? ?? ???? ?? ???? 95 ?? ???? ??????, ??????? ?? ???? ?????????? ??
????????????? ?? ???? ?? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?? ???? ?????????? ?? ???? ??
?????? ? ? ? ??????? ? ? ???? ?????????? ?? ???? ?? ???? ?????? ?????? ?? ???? ?????? ?? ???? ??
?? ? ? ???? ??????????, ?? ? ? ???? ?????? ?? ???? ?????????? ?? ???? ?????????? ?? ? ? ???? ??????????
?? ???? ?????? ?? ???? ?????? ?????? ?????? ?????? ?????? ?? ? ? ???? ?? ???? ?? ???? ?? ? ? ? ? ?
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???? ??????? C-276/91,

????????? ??? ??????????? ???????????, ??????????????? ??? ??? Johannes Foens Buhl,
?????? ???????, ?? ??????? ??? ??????????? ??? Nicola Annecchino, ????? ??
?????? ???????, Centre Wagner, Kirchberg,

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Philippe Pouzoulet, Jean-Louis Falconi, 9, boulevard du Prince Henri,

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????????? ?? ??????????? ?? ??????????? ?? ???? ? ??????? ???????????, ??????????? ??
?????????? ?? ??????? ?? ?????? 414 ??? ??????? ??????????? ??????? ???????????,
?????????? ?? ??????????? ?? ???????, ?? ??????? ??????? ?? ??????????? ??
?????????? ?? ??????? ?? ??????? ?? ??????????? ?? ??????? ?? ??????? ??
?????????? ?? ??????? ?? ??????? ?? ??????????? ?? ??????????? ?? ??????????? ??
???? ?? ?? ??????????? ?? ??????????????????? ?? ??????????? ?? ??????????? ??
??????????, ??????? ?? ??????????? ?? ??????? ?? ??????? ?? ??????? 95 ?? ??????? ??
?????????? ?? ??????????? ?? ??????????? ?? ???????????,

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

?????????? ??? ??? G. C. Rodriguez Iglesias, ????????????, M. Zuleeg ??? J. L. Murray,
????????? ????????, G. F. Mancini, R. Joliet, F. A. Schockweiler, J. C. Moitinho de Almeida, F.
Grevisse ??? D. A. O. Edward, ????????

????????? ??????????????: C. O. Lenz

?????????: D. Louterman-Hubeau, ????? ??????? ??????????,
?????? ??? ????? ?? ?????? ???????????,
???? ?????? ??? ?????????? ?????????? ??? 13?? ?????????? 1993,
???? ?????? ??? ?????????? ??? 17?? ?????????? 1993,
?????? ??? ????????

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1 ?? ?????????? ??? ???????? ??? ?????????? ??? ?????????? ??? 25 ?????????? 1991, ?
????????? ??? ?????????? ?????????? ???????, ??????? ??? ?????? 169 ??? ??????? ???,
????????? ?? ??? ????? ?? ?????? ?????? ?? ?????????? ??? ? ??????? ??????????, ??????????? ???
????????????? ??? ???? 414 ??? ??????? ?????????? ?????? ?????? ???????????,
????????????? ? ?????????? ???????, ?? ?????? ?????????? ??? ??????????? ???
????????????? ??? ??? ?????????? ??? ??? ?????????? ??? ??? ?????????? ??? ??? ?????? ???
????????????? ?? ??? ??? ??? ?????????? ??? ??? ?????????? ??? ??? ?????????????????? ???
????????????? ??? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??? ?????? ??? 95 ???
?????????.

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

3 ?? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ???????, ? ??? 87-
502 ??? 8?? ?????? 1987, ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????? (JORF ??? 9?? ?????? 1987, ?. 7470, ??? ????: ?????? ??? 8?? ?????? 1987),
?????????, ??? ?????? 2, ?????????? 2, ?????????? ?????? ???? ?????? ?????????? ??
????????? ??? ?? 10 % ??? ?????????? ???, ? ??? ?????? ?????????? ?? 40 % ??? ??
????? ?????? ??? ?? 80 % ??? ?? ??????. ?? ?????? 1741 ??? 1750 ??? ??????
????????? ?????? ??????????, ??????, ?????? ??????: ?????? ??? 5 000 ???
250 000 ?????? ?????? (FF), ?????? ??? ??? ?????? ?????? ???, ???????????,
????????? ?????? ??? ?????? ?????????? ?????? ??? ???.

4 ??? ?????? ??? ??????????? ?? ???? ?????????????? ??? ?????????????? ??? ?????? ??? ?????????? ?????????????? ???
????????????? ?? ??? ?????? ???????????, ??? ???????????, ??? ?????? ??? ?????? ??? ?????????? ?? ????
?????????????, ?? ?? ???????????, ?? ?????? ?????????? ?? ?????????? ?? ?????????? ?? 33,33 %, ?? ???
414 ??? ??????????? ?? ?????? ?????????? ?????????? ?????????? ?????????, ??? ?????? ??? ?????????? ?????????? ??
????? ?????????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?? ?????? ??? ?????????? ?? ????
??????, ?????????? ?? ?????????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? . ???????, ???'
????????? ??? ??????? 2, ??? II, ??? ?????? ??? 8?? ??????? 1987, ??????? ??????????
?????? ?? ??????????? ?? ??????????? ?????????????? ??????????? ?? ??? ?????? ??? ?????? ?????????? ?? ????
????? ???????????????, ??? 5 % ??? ?? ??????????????? ???, ??????? ? ?????? ?????????????? ??
?????????? ?? ??? ?????? ?????? ??????? ???, ??? ?? 80 %, ?????? ? ?????? ?????????????? ??
?????????? ?? ?????????? ??? ??????? ???.

5 ? ??????? ??????? ??????? ??????? ??????? ??? ??????? ??????? ??? ?????? Patron,
???????, ????, ??? ?? ??????? ??????????? ???????, ?? ??????? ??????????? ???
Patron ??? ??????????? ??? ??????? ?? ??????????? ??? ??????? ??? ??????? ???
??????????, ????? ?? ?????????? ???, ??????, ??? ?? ?????? ???, ??? ?? ??????? ???
??? ?? ??????. ?????? ? Patron ??????? ??? ??????????? ??? ??? ??????? ???
?????????? ??? ??????? ??? ??????? ??????????? ??? ??????? ??? ??????? ???
??? ??????? ??????????? ??? ??????? ?? ?????? ???????????????, ?? ??????????? ?? ??? ??
??????, ??? ?? ??????? ??????????? ??? ??????? ?? ??? ??????? ??? ???????????, ???????????
?? 22 000 FF ??? ??????? ??? ? ??????? ??? ??????? ??? ???????.

7 ??????? ???. ???? ?????? ?????? ?????????? ??? ?????????? ??????????????, ? ?????????? ???
?????????????, ??? 26 ??????? 1990, ?????????????? ?????? ?? ??? ?????? ?????? ?????????? ???
????????? ??? ?????????? ?? ??????? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ??????????
????? ?????????????? ?? ?????????????? ?? ??? ?????????????? ?????? ?????? ?????? ??? ??????.

9 ????? ??????? ??????????? ?????????? ?????????? ? ??????? ?????? ????????, ?
??????? ??? ???????????, ????? ??? ?? ?????????? ??? ?? ??????????? ??? ????????. ??
????????? ??? ?? ??????????? ??? ?????????????? ??????? ??????? ?????? ??????
?????????? ??? ?? ??????????? ??? ???????????.

10 ??????? ??? ???????????? ??? ?????????? ??? ??????????, ??????? ?? ?????????? ??? ?? ???
????????? ??????? ??????? ?? ?????????????? ??? ? ??????? ??????????, ?????????????? ???
?????????????, ?? ?? ?????? 414 ??? ??????????? ???????, ??????? ?????????? ?? ??
?????????? ??? ?????????? ??? ??? ??? ??????????? ??? ??? ??? ?????????? ??????????????,
?? ??? ??? ????? ?????????? ??? ?? ??? ??????? ??? ??????????? ??? ??? ??? ?????????? ???
????????? ??? ??? ??? ??????????? ??? ?? ??? ??????? ??? ?????????? ??????? ?????????? ???

?????????? ??? ?????, ?????? ??? ?????????????? ??? ?????? ??? ?? ?????? 95 ??? ????????

11 ? ??????? ?????????? ?????????? ?????????? ???, ???? ?? ??????? ?????????? ??????????
???????????, ? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ?? ?????? ??????????
???????, ??????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?? ?????? ??????????
?????????? ?????? ??? ?????? ??? ?????? ??? ?????? 414 ??? ?????????? ??????. ???????,
?????????? ??? ????? 11 ??? ????? 91-716 ??? 26?? ?????? 1991, ?? ?????? ????????
????????? ??? ??????? ?????????? ??? ?????? ?????????? ??? ??? 1?? ?????????? 1993.

12 ??? ?????????? ??? ?????? ?? ?????? ? ??????? ???, ???? ?????? ?????????? ???
??????????, ?? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????? 169
????????????? ??? ??? ?????????? ?????? ??? ?????????? ??? ???, ?????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ?????, ?????????? ?? ?????????? ?????? ?????? ?????? ???
????????? ??? ?????? (?. ?????? ??? 7?? ?????????? 1973 ??? ?????? 39/72, ???????
???? ??????, ?????? 1972-1973, ?. 375, ????? 9).

13 ?? ??? ??????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????????? ??? ???????,
?????? ?????????? ?????????? ???, ???' ?????????? ??? ?????? 95 ??? ???????,
???? ?????????? ?? ??? ?????????? ?????? Drexl, ?? ?????? ??? ?????? ??? ??????????
?? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???
??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ?????? ?????? ?????????? ?? ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?? ?????????? ?? ?????????? ???
????, ??? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ?, ?????????? ???
????????? ?????? ?? ??? ?????? ??? ?????? ??' ?????? ??? ?????? ?????? ?? ?????????? ??? ?????? ???
??? ?? ?????????? ??? ?????????? ??? ?????? ??? ??????.

14 ???????, ?????? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ?? ??????????
?????? ??????? ?? ??? ??? ?????????? ??????????, ?????? ??? ?????? ??
????????????? ?? ??? ??? ??????.

15 ???????, ??? ?????????? ?? ?????????? ??? ?????????? ?????? ?????????????? ?????? Drexl, ?
????? ?? ?????? ? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ??
????????????? ?? ??? ?????? ?????????? ?????? ?? ?????? ??? ?????????? ??? ?????? ??
??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??????.

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

17 ???????, ? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ?????????? ?? ??????
1741 ??? 1750 ??? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???
??? ??? ?????????? ??? ?????? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ??????
????? ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? 414 ??? ??????????
????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????.

18 ? ?????????????????? ???? ??? ?????? ?? ?????? ??????.

19 ? ???? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ???????, ??? ??????, ???? ?? ?????????? ?? ?????????? ??? ?????? ??
????, ??????????, ?? ?????? ??????????, ??? ?? ?????? 414 ??? ?????????? ???, ??

? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????,
????????? ??? ?????????? ??? ?????? ??? ?????? ??? . ? ?????? ??? ?????? ??? ??????
????????? "????? ?????? (...) ?????? ??? ?????? ??? ??????????".

20 ??????????, ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????, ?
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????
????????? ??? ?????????? ??? ?????? ??? 10 % ??? ?????????? ??? ?????, ?? ? 40 % ???
??? ?????? ??? ? ? 80 % ??? ? ?????? ??? ??????. ?????? ?????? ? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??
????????? ??? 5 000 ??? 250 000 FF, ?????? ??? ??? ?????? ??? ??? ???, ?????? ??? 1741 ??? 1750
??? ?????? ??? ?????????? ???.

21 ????????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ???.

22 ??? ??????, ?????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
414 ??? ?????????? ???, ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ???, ?? ???
????????? ??? ?????? ??? ?????? ??? 8?? ?????? 1987, ?? ?????? ??? ?????? ???
????????? ??? ?????? ???.

23 A?? ?? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????? ?? ?????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???, ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ???.

24 ?? ??? ?? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??????
?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ??? 350 ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ???.

25 ??????, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?? ?????? 414 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (??, ?????? ???)
?? ?????????? 1986 ??? ?????? 239/85, ?????? ??? ?????? 1986, ?. 3645,
?? ?? 21?? ?????? 1988 ??? ?????? 257/86, ?????? ??? ?????? 1988, ?. 3249).

26 ?????, ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.
????????? ??? ?????? 6, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 95 ?????? ???,
??????, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 414 ??? ?????? ???
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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28 ?????????????? ?????? ??? ??????? ????????, ?????????????? ??? ? ??????? ??????????,
????????? ??? ????????????, ?????? ??? ?????? 414 ??? ??????? ?????????? ??????,
?????? ?????????? ??? ??? ?????????? ??? ?????????? ??? ??? ??? ?????????? ??? ???
????????? ??? ??? ?????? ??????, ?? ?????? ????? ?????????? ??? ?? ?????????? ???
??? ?????????? ??? ?????????? ??? ??? ??? ?????? ??? ?????????????????? ???
????????? ??? ????? ??????????, ?????? ??? ?????????? ??? ?????? ??? ?????? 95 ???
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29 ????? ?? ?????? 69, ??????????? 2, ??? ?????????? ????????????, ? ??????? ???????
?????????????? ?? ?????????? ??????. ?????? ? ??????? ?????????? ???????, ?????? ??
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1) ? ??????? ???????????, ??????????? ??? ???????????????, ????? ??? ?????? 414 ???
????????? ?????????????? ??????, ??????? ?????????? ??? ??? ?????????? ??? ?????????? ???
??? ??? ?????????? ??? ??? ??? ??????? ??? ??? ?????? ??????, ?? ??? ??? ???
?????????? ??? ?? ?????????????? ??? ??? ??????????? ??? ??? ?????????? ??? ??? ???
?????????? ??? ??? ?????????????????? ??? ?????? ??? ??????? ??? ??? ???????????, ??????
??? ?????????? ??? ??? ??????? ??? ??? ?????? 95 ??? ???????.

2) ??????????? ?? ?????? ??????????? ??? ?????????? ????.