

@import url(../../../../css/generic.css); EUR-Lex - 61996J0390 - EL

Avis juridique important

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61996J0390

?????? ?? ?????????? (????? ?????) ??? 7?? ????? 1998. - Lease Plan Luxembourg SA
???? Belgische Staat. - ?????? ??? ??? ?????? ?????????????? ??????????: Rechtbank van
eerste aanleg Brussel - ??????. - ??? ?????? ??? - ?????????????? ?????? ?????????? ?????????? -
????????? ?????????? - ?????????????? ?????????? ??? ??? ?????? ?? ?????????????? -
????? ??? ?????? ?????????? ??? - ??? ??? ?????????? ??? ?????? - ??? ?????? -
????? C-390/96.

?????? ?? ?????????? ??? ?????????? 1998 ?????? I-02553

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1 ?????????? ?????? - ?????????? ??? ?????????? - ????? ?????? ?????? - ?????
?????? ?????? ?????????? ????? - ?????? ?????? - ?????????? ?????? ??? ?????
????????? ?????? - «????? ??????» ??? ??? ??? ?????? - ?????? - ??????????
????????? ?? ?????? ? ?????????????? ?????? ?????????? ?? ??????
????????????? ?????? ?????? ?????? ??????

(????? 77/388 ??? ????????, ??? 9 §§ 1 ??? 2, ?????. ??)

2 ??????? ?????? ?????? - ??? ??? ?????????? ??? ?????????? - ??????????
????????? - ?????????? ??? ?????? ?????????? ?????? ??? ?????????? ?????? ??? ??????
??? ??? ?????? ?????? ??? - ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ???
????????? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? ??? ?? ??? ??????
????????? ?????? ?????? ??? ?? ?????? ?????? ?????? ??? ?? ??? ?????? ??????
????????? ??? ??? ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ??? ??????
????????? ??? ??? ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ??? ??????
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(?????? ?, ??? 59. ?????? 79/1072 ??? ????????)

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1 ? ??? «?????? ??????????????» ??? ?????? 9, ??????????? 1, ??? ????? ??????? 77/388, ???
????????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ??????
???????, ???? ??? ?????? ??? ? ?????????????? ?????? ?????? ?????? ?????? ???????????, ?
????? ?????????? ?? ?????? ? ?????????????? ?????? (leasing) ???????? ??????
?????????? ?? ?????? ?????????????? ?????? ?????? ?????? ?????? ??????, ??? ??????? ??
????? ??? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ??????.

??????????, ???? ??? ?????? leasing ??? ??????? ?' ??? ?????? ?????? ??? ?????? ?????
????? ???? ?? ?????? ???? ???? ???? ?? ?????? ???? ?????? ??? ?????????? ?????????? ? ??
????? ?????????? ?????? ???? ?? ??????????, ?????? ??? ?????? ???? ?? ??????????
????? ? ?????????? ?????? ???? ?? ?????? ??????, ??? ?????? ?? ?????? ???? ?? ??????????
????? ?????????? ??? ?????? ???.

???????, ??? ???? ?? ?????? ??? ??? ??? ??? ?????? ??? ?????? 9, ??????????? 1 ??? 2,
????????? ??, ??? ????? ?????? ?????? ??? ??? ?? ?????????? ??? ?????????????? ??????????
??? ??? ? ????? ?????? ?????????? ?? ???????, ??? ?????? ?????????? leasing, ??? ?
????? ?????????????? ??? ?????????? ?????? ?? ?????????? ?? ???????, ??? ???
????????? ?????? ?????????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ??????? ??
????????? ??? ?????? ?????? ??????????.

2 ?? ?????? 59 ??? ??????? ?????????? ??? ?????? ?????? ?????? ? ?????? ?????????? ??
????????? ?????? ?????? ?? ?????????????????? ?????? ?????? ?????? ?????????? ?????? ???
?? ?????? ??????, ??????? ?? ??? ????? ?????? 79/1072 ??? ?????????????? ???
????????? ??? ?????? ?????? ??? ??????? ?? ?????? ?????? ?????? ?????????, ??????????
????? ?????????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ?????????? ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ?????? ??? ??????????
????????? ?? ?????????????? ??? ?????? ?????? ??? ?????????? ?? ?????? ?????? ?????? ??? ??????????
??? ??? ?????? ??? ?????? ?????????? ??????.

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???? ??????? C-390/96,

??? ??? ?? ??????????? ?????? ??? Rechtbank van eerste aanleg te Brussel ??? ??
??????????, ???' ??????? ?? 177 ??? ??????? ??, ?? ??? ????? ???????, ???
?????? ?? ??????? ?? ??????? ??????? ?? ??????? ?? ??????? ??????? ??

Lease Plan Luxembourg SA

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? ?????? ?????????????? ?????????? ?? ??? ???? ?????????? ??? ?????? 9, ?????????? 1, ???
????? ??????? 77/388/??? ??? ??????????, ??? 17?? ??? 1977, ??? ?????????? ???
????????? ??? ?????? ?????, ??? ?????????? ?? ??? ????? ?????? ?????? ?????? - ???
?????? ??? ????? ?????????????? ????: ?????????? ?????????? ??? (?? ??. ??. 09/001, ?. 49), ????

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

?????????? ??? ??? C. Gulmann, ??????? ????????, M. Wathélet, J. C. Moitinho de Almeida
(??????), D. A. O. Edward ??? J.-P. Puissochet, ???????,

?????? ??????????: N. Fennelly

?????????: D. Louterman-Hubau, ????? ??????? ????????????,

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

- ? Lease Plan Luxembourg SA, ??????????????? ??? ??? L. De Broe ??? L. Vandenberghe,
?????????? ????????,

- ? ??????? ????????, ??????????????? ??? ??? Jan Devadder, ?????? ??????? ???
????????? ????????, ?????????? ??????? ??? ??????????? ??? ??? ????????,
????????????? ??? ??? A. Destrycker, ??????? ????????,

- ? ?????????? ??? ????????????, ??????????????? ??? ??? R. Heinen, ??????? ???
????????? ??? ?????????? ????????????,

- ? ?????????? ??? ????????????, ??????????????? ??? ??? B. J. Drijber, ?????? ???
????????? ??? ????????,

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

???? ?? ?????? ??? ?????????? ?????????????? ??? Lease Plan Luxembourg SA, ??? ???????
?????????? ??? ??? ????????, ??? ?? ?????????? ??? 6?? ??????? 1997,

???? ?? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??????? ?? ??????????
??? 18?? ??????? 1997,

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1 ?? ??????? ??? 26?? ??????? 1996, ? ?????? ??????? ??? ?????????? ???
?????????? 1996, ?? Rechtbank van eerste aanleg te Brussel ???????, ??????? ??? ?????
177 ??? ??????? ??, ??? ?????????????? ?????????? ?? ??? ??? ??????? ??? ??????? 9,
?????????? 1, ??? ?????? ??????? 77/388/??? ??? ???????????, ??? 17?? ??? 1977, ???
????????????? ??? ?????????? ??? ??????? ???, ??? ?????????? ?? ??? ?????? ??????? ??????
????????? - ??? ?????? ??????? ??? ?????????????? ?????: ?????????? ?????????? ??? (??
???. ??? 09/001, ?. 49, ??? ????: ??? ?????), ????? ??? ??? ????? 6 ?? 59 ??? ???????
??.

2 ?? ?????????? ??? ??????? ??? ??????? ?????????? ??? ?????? ??? Lease Plan Luxembourg SA
(?? ????: Lease Plan), ?? ??? ?? ???????????, ??? ??? ??????? ??????? ??? ??????? ??
?? ?????????? ??? ??? ?????????????? ????? (?? ????: ???) ??? ??????? ? ???????
???? ??? ??? ????? ?????????? ??? ??????? ????? ??? ??? ??????? ??? ??? ??? ??????? ??? ??

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3 ?? ??? 9, ?????????? 1, ??? ??? ????? ??????:

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

4 ?? ??? 9, ?????????? 2, ??? ??? ?????, ??? ?????? ?????????? ?? ?? ??? ??????
?????? 84/386/??? ??? ??????????, ??? 31?? ?????? 1984, ??? ??? ?????????? ???
????????? ??? ?????? ?????? ??? ?????? ?? ??? ?????? ?????? ?????? ???????, ? ???
????????? ??? ?????? 77/388/??? - ?????? ??? ?????? ?????????????? ?????? ???
????????? ?????????? ?????? (EE L 208, ?. 58, ??? ????: ?????? ??????), ??????:

«?? ??????:

(...)

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

(...)

- ? ?????? ?????????? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ????.»

5 ?? ??? 17, ?????????? 3, ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ???????
????????? ? ?????????? ??? ?????????? ?? ?????????? ???.

6 ?? ??? 17, ?????????? 4, ??? ????, ??? ??? ?????? ?????? ??????:

«?? ?????????? ?? ?????????? ?????????? ?? ?????? ?????????? ??? ??? 31?? ??????????
1977, ??????? ??? ??????????, ??? ?????????? ?????? ???????, ??? ??? ??? ?????? ??
????????? ?? ?????????? ?????? ?? ??? ?????????? 3, ?? ?????????? ??? ?????? ??
????????????? ??? ?????? ??? ?????? ???.

7 ?????? ?? ?? ?????? ???, ?? ?????????? ??????, ??? 6 ?????????? 1979, ??? ???
????? 79/1072/??? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ???
??? ?????? ?? ??? ?????? ?????? ?????? - ?????? ?????????? ??? ?????? ??
????????????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????
??? ?????????? ??? ?????? (?? ????. ??? 09/001, ?. 111, ??? ????: ?????? ??????), ??? ??????
?? ??? 7, ?????????? 4, ????:

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

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

8 ? Lease Plan ????? ?????? ?????????????? ??????????, ??? ?????? ? ????
????????????? ?????????? ??? ?????????? ?????????? ?????????? ??? ??????
????????? ?????????? ?????? (leasing).

9 ? Lease Plan ??? ?????? ?? ?????????????? ?????????? ?? ?? ?????????? ??????????????????
?? ???????????. ?? ?????????????? ?' ?????? ?????????? ?? ?????? ?? ?????????? ??
????????? ?????????? ?? ?????????? ?????? ?????????? ?? ?????????? ?? ?????????? ??????????
?? ?????????? ?? ?????????? ?? ?????????? ?????? ?????????? ?? ?????????? ?? ?????? ??
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????????? ?????????? ?? ?????????? ?????? ?????????? ?? ?????????? ?? ?????????? ??
????????? ?????? ?? ?????????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
????????? ?????? ?? ?????????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
????????? ?????? ?? ?????????? Lease Plan ? ????? ?????????? ?? ??? ??.

10 ? Lease Plan ?????????? ?????? ?? ?????????????? ?????? ?? ?????????? ?? ?????? ???????????,
?? ?????? ?????? ?? ??????, ?? ?????? ?????????????? ?? ?????? ?? ??????. ?? ?????????? ??
????????? ?? ?? Lease Plan ??? ?????? ??, ?????????? ?? ?? ?????????? ??
????????????? ?? ?????????????? ?????? ?????? ?? ?????????? ?? ?????? ?? ?????????? ??
?????????, ?? ?????????? ?? ?????????? ?????? ?????????? ?? ?????????? ?? ?????????? ??
?? ?????????? ?? ?????? ?? ?????? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ??
????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ??.

11 ? Lease Plan ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ??
????????? ?? ?????? ?????????????? ?? ?????????????? ?? ?????????? ?? ??????????
????????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ??
????????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??
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12 ? ?????? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ??
?? ?????????? ?? ?????? ?? ?????????? ?????????????? ?? ?????? ?? ?????? ?? ?????? ??
????????? ?? ?????????? ?? . ?????? ?????????? ?? ??? ?? ?????????? ?? ?????? ??
????????? ?????????? ?? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????????? ??
????????? ?? ?????? ?????????????? ?? ?????? ?????????? ?? ?????? ?? ?????????? ??
????????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ??
????????? ?? ?????? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? 1?
????????? 1993 ??, ? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ??
????????? ?????????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ??
????????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ??
????????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ??
?? ?????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ??
????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
?? 1? ?????????? 1993 (?? ?????: ??????).

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

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

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

14 ?? ???? 21, ?????????? 1 ??? 2, ??? ?????? ??????:

«????? ?????? ?????? ?????????????? ??? ??????, ??? ???? ?????? ??? ?????????? ???
?????????, ?????? ?? ??? ?????????? 2 ??? 4, ?????????? ??? ??????.

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

15 ?????? ?? ???? ?????? ?????????? ???, ? Lease Plan ??????, ?????? ?????????? ???
????? ?? ?????? ??? ?????? ?????? ???, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ??? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ??? ?????? ???
????????? ??? ?????? ?? ??? ?????? ?????????? ?????? ???.

16 ??? ???? ?????? ??? ?????????? ??? ?????????? ?????????????? ???, ? Lease Plan ??????
????? ??? Rechtbank van eerste aanleg te Brussel ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? 7 669 095 ?????? (BFR) ?????? ?????? ???.

17 ??????, ? Lease Plan ?????????? ??? ??????????, ?? ?????????? ?????????????? ???
????????? ??? ???, ?????? ?? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ?????????? ??? ?????? ??? ?????? 76, ?????????? 1, ??? ??????
????????? ?????????, ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? 76, ?????????? 1, ?????? ?????????? ???, ? ?????????????? ??? ??????
????????? ??? ?????? ?????? ?????????, ?????? ??? ?????? 91, ?????????? 3, ??? ??????
?????, ??? ?? ?????? ?????? 0,8 % ??? ?? ?????? ??? ?????? ??? ?????????? ???.

18 ????????, ?? ?????????? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ???
????? ?????????? ??? ??????, ?? ?????? 91, ?????????? 4, ??? ?????? ?????? ???
??? ?? ?????? ?????????? ??? ?????? ?????????? «????????? ?? ??? ???? ?? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? 31 ?????????? 1996
????? ?????? ?????? ?????? ?????? 8 % ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? 7, ?????????? 4, ??? ?????? ?????? ?????? ??? ?????? ???.

19 ? Lease Plan ??? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ?? ???? ??
????????? ??? ?????? ?? ?????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ?????? ??
?? ?????? 7, ?????????? 4, ??? ?????? ??????, ?????? ?????????? ??? ?????? ?????????????? ???
????? 91, ?????????? 3, ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????????????? ???
??? ?????? ?????????? ??? ?????? ?????? ?? ? Lease Plan, ? ?????? ??? ??????
????????? ?? ?????????? ??? ???, ?? ?????????? ?????????? ??? ?? ?????????????? ???
????? ??? ?????? ?????????? ??? ???, ? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ???.

20 ?????? ??? ?????????? ?? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???

Lease Plan ??? ??????????? ??? ?????? ??????? ?? ???????? ??????? ?????????? ?????????? ??? ???
?????? ??? ?????? ??????? ??? ?????? ??? ?????????? ?????? ??????? ?????? ??? ?????? ??? ??????
??? ??? ?????? ??? ??? ?????? ?????????? ? ??????????, ?? Rechtbank ?????????? ??
?????????? ?? ?????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ?? ?????????? ??????????
?????????:

«1) ?????? ? ?????? ??? "?????? ??????????????" ? ?????? ?????????? ??? ?????? 9,
????????? 1, ??? ?????? ??????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????????? ?? ?????? ?????, ? ?????? ?????????? ?? ?????? ?????????? ? ?????????? ??????????
????????? ?????? ?????????? ?? ?????? ?????????? ?????????? ??? ?????? ?????? ?????, ???, ???
????? ??? ??????????, ?????? ?????????? ??? ?????? ?????? ?????;

2) ?? ?????????? ?????????? ?????????? ??? ?????????? ?????? ??????????, ?????? ?? ?????? 9,
????????? 1, ??? ?????? ??????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?? ??????????
??? ?????????? ?????? ?????????? ?????????? ?????? ?? ?????????? ??? ?????????? ???
????????????? ??? ?????? ?????????? ??? ?????? ?????????, ??? ?????? ??? ?????? ??? ??????????
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ??????????, ??? ?? ?????????? ?????????? ??? ?????? ??? ??????????
????????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? (?????)
????? ?????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????;»

3) ?????? ?? ??? 6 ??? 59 ??? ?????? ??? ?? ?????????? ??? ?????? ?????? ???
????????? ?? ?????????? ?? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??????????
??? ?????? ??? ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ???
????? ?????? ??? ?????????? ??? ?????? ?? ?????????? ?????????? ?????????? ??????????, ??
????? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???
????? ?????? ?? ?????? ??? ??????, ??? ?? ?????????? ?????????? ?????????? ?????????? ?????
????? ?????? ?? ?????????? ??? ?????? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????;»

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

21 ??????? ?????? ?? ?????? ???, ??? ?????? ?????? ??? 17? 1997, C-190/95,
ARO Lease (????? 1997, ?. ?-4383), ?? ?????? ??? ?????? ?????? ?????????? ??? ??
????????? ?????????? ??? ? Lease Plan ??? ???, ??? ?? ?????? ??? ?????? ??? ?????? ??? ??
????? ?????? ??? ?????????? ??? ??, ?????? ?????????? ??? ?????? ??? ?????? ??? ??
????? ?????? ??? ??????.

22 ?????????? ?????? ?? ?????????? ???, ??? ?????? ?????? ?? ?????????? ??? ?????? 12 ??
????????? ?????? ?????? ARO Lease, ? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
??, «(...) ??? ?????? ?? ?????? ?????????? ???, ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?? ?????? 9, ?????????? 1 [?? ?????? ??????] ??? ?? ?????????? ??
????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?????????? ??? ?? ?????? 9, ?????????? 2, ?????????? ??, ??? ?????? ??????,
????? ??? ?????????? ?? ?? ?????? ??????.

23 ???????????, ??? ?? ?????????? ??? ?????? ?????? ??? ?????? 14 ?? ?????? ???????,
????? ?? ?????????? ??? ?????? ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??
??? ??????, ?? ?????????? ? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??
????? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ????.
????? ?, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

? ?????????????? ??? ??????? ?? ???? ?????? ???, ??? ??? ?????? ??? ? ?????????? ??? ?????????? ??? ????
????????????? ??? ??? ??? ?????????? ??? ?????????????? ??? (????????? ??? 15?? ????
1989, 51/88, Hamann, ??????? 1989, ?. 767, ??????? 17 ??? 18).

24 ??? ?? ?????? 15 ??? ?????????????? ?????????? ARO Lease, ?? ?????????? ??????????
?????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ???? ??
????????????? ??? ?????????????? ?????? ??? ?????????? ??? ?????????????? ??? ???? ?????? ??????????, ???
??? ?????? ??? ?? ???? ?????????? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ?
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?
????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??????????
????????????? ?? ??? ?????? ??????. ?????????, ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????
16 ??? ?????? ??????????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??
????????????? ??? ?????????? ??? ??? ???, ??? ?????? ??? ???? ?????????? ??? ?????? ?????????? ??? ?????
????? ?????? ?? ?????????? ??? ?????? ??? ??? ?????? ??? ?????? ??????????, ??? ?????? ?????? ??????????
??? ?????????? ??????????, ??? ?? ?????????? ?????? ??? ?????? ?????????? ?????? ?????????? ???
????????????? ??????????.

25 ???????, ??? ?????????? ?? ?????????? ??? ?????? 18 ??? ?????????????? ??????????
ARO Lease, ?? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????????? ?????????? ??????????
????????????? ?????? ??? ??????????????, ??? ??????????, ??? ?????????? ??? ??? ??????
?????????, ??? ??? ??? ??? ?????? ??? ?????????? ?????? ?????????? ?????? ?????? ??????, ?? ???
????????? ??? ?????????? ??? ?????? leasing.

26 ??? ?????? 19 ??? ?????? ?????????? ?? ?????????? ?????????? ???, ??? ?????? ??? ??????
leasing ??? ?????????? ?? ??? ?????? ?????? ??? ?????????? ??? ?????????? ?? ?????? ??? ?????? ??????
???? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ?????? ?????? ?????????? ??????
????? ?? ??????????, ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?????? ?????? ?????????? ??????
??? ?? ??? ?????? ??????????, ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??????
????? ???.

27 ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????, ??? ???? ? Lease Plan ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

28 ???????, ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? 20 ??? ?????????????? ?????????? ARO
Lease, ??? ??? ?? ?????? ??? ??? ??? ?????? ??? ?????? ??? ?????? 9, ?????????? 1 ??? 2,
????????? ??, ??? ?????? ??????, ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ??? ????
????????????? ?????? Hamann, ?????????? ??? ??? ???? ???? ?????? ?????? ?????????? ??? ??????
??????, ??? ?????? ?????????? leasing, ??? ???? ?????? ?????????????? ??? ?????? ??????????
????? ?? ?????????? ?? ???????, ??? ??? ?????????? ?????? ?????? ?????????? ?????????????? ???
????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ?????????????? ???.

29 ???????, ??? ?????? ?????? ?????? ?? ?????? ???? ?????? ??? ???? «?????»
????????? » ??? ?????? 9, ?????????? 1, ??? ?????? ?????? ??? ???? ?????? ??? ???? ???? ?
????????? ?????? ?????? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
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30 ?????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ???? ?????? ??? ??????
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31 ?? ?? ???? ?????? ???, ?? ?????? ??????????? ?????? ?? ?????????????? ?? ?? ???? 6
??? 59 ??? ??????? ??????????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??????
????? ?? ?????????????? ?????? ??? ?????? ?????? ?????? ?????????? ??? ???, ?? ??????
?????? ?? ??? ?????? ?????? ?????? ?????? ?????? ???, ?????? ?????? ?????? ?????? ???
?????? ?????? ??? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?? ??? ???
????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

32 ?????????? ? ?????????? ??? ? ?????? ?????? ??? ?????? ?????? ?????? ??????????, ???
?? ?????? ??? ?????? ?????? ??????????, ??? ?????? ?????? ?????? ?????? ??? ??
????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ??????.

33 ?????? ?????? ?????? ?, ???? ?????? ?????????? ?????? ?????? ?????? ?????? ??????????????
????? ??? ?????? ?? ?? ???? ?????? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ???
?????, ??? ?????? ?? ?????? ?????????? ??? ?? ??? 59 ??? ?????? ??? ?????? ???
?????.

34 ????????, ??? ?????? ????????, ?????? ?????? ?????? ??? ?????? ?? ?????????? ???
????? ????????, ?????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ?????? ?? ?????????? ?????? (??., ?????? ???, ??? ?????? ??? 14??
????????? 1995, C-279/93, Schumacker, ?????? 1995, ?. ?-225, ????? 30).

35 ????????, ? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? . ? ?????? ?????? ?????? ???
????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?? ?????? 91, ?????????? 3, ???
?????. ?????????? ?, ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???, ?? ??
?????, ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???, ???
????? ?????? ?? ?? ?????????? ??? ?????? 91, ?????????? 4, ??? ?????? ?????? ???
??????. ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????, ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
?????????????, ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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36 ??????, ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ???, ?
????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ???.

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37 ??????????????, ? ?????????? ?????? ?? ?????, ?? ??? ? ?????????? ??? ??????????????????
????? ??? ?? ??????? ?????? ??? ?? ????? ?????????????? ???, ?? ??? ??????????
????????????????? ??? ????? ?? ?????? ?????? ?????? ?????????????? ??? ???, ? ??????, ???
? Lease Plan, ??? ?????? ?????????? ?????? ??? ?????????? ?????????????? ??? ???,
??? ?????? ??? ?????????????? ???, ?????????? ??? ?????????? ?????????????? ???.

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

39 ?????????? ??? ??? ????? ?????????? ?????? ??? ?????? ??? ?????????????? ???
????????? ??????????, ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?? ????? 59 ??? ??????, ?????? ?????????? ?? ?????????? ???
????? ?? ?????????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????????????? ???
???? ?????? ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ?????????? ???
??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? ?????????????? ?? ?????????????? ???
??? ?????????? ??? ?????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ???
?????????.

40 ?????????? ??? ??? ?????? ??? ? ?????? ??? ?????? ??? ?????? ?????????? ??? ???
????????? ??? ?????? 59 ??? ??????, ??? ?????????? ?? ?????????? ?? ?????????? ???
?? ????? 6 ??? ??????.

41 ???????, ??? ????? ?????? ?????? ?? ?????? ? ?????????? ??? ?? ?????? 59 ??? ??????
????????? ?????? ?????? ?????????? ?????????? ?? ?????????? ??? ?????? ?? ??????????????
????? ?????? ?????? ?????????? ??? ?????? ?? ?????? ??????, ?????? ?? ??? ??????
?????, ?????????? ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ??
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
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42 ?? ??? ?????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ??? ?? ??????????????
????? ??? ? ?????? ??? ?????????? ??? ??????????, ??? ?????? ??? ?????????? ???
?????????, ??? ??????????. ?????? ??? ? ?????? ?????? ?????????? ??? ?? ??? ??? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ???
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(?????? ????),

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Rechtbank van eerste aanleg te Brussel, ???????????:

1) ? ??? «?????? ??????????» ??? ?????? 9, ?????????? 1, ??? ????? ?????? 77/388/???
??? ??????????, ??? 17?? ??? 1977, ??? ?????????? ??? ?????????? ??? ??????? ??? ?????? ???,
??? ??????? ?? ??? ?????? ?????? ??????? - ????? ?????? ?????? ?????? ??????????????
?????: ?????????? ?????????? ???, ??? ??? ?????? ??? ? ?????????????? ??? ?????? ??????
?????? ??????????, ? ????? ?????????? ?? ?????? ?????????????? ?????? ?????? ?????? ??????
?????? ?????????? ?? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ??????, ??
?????? ?? ??? ?????? ??? ?????????? ?????? ?????? ?????????????? ?????? ??? ?????? ??????
??????.

2) ?? ??? 59 ??? ??????? ?????????? ?????? ?????? ?????????? ?? ?????????? ???
????? ?? ?????????????? ?????? ?????? ?????? ?????????? ?????? ??? ?? ??????
??????, ??????? ?? ??? ?????? 79/1072/??? ??? ??????????, ??? 6?? ??????????
1979, ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?? ??? ??????
?????? ??????? - ?????? ?????????? ??? ?????? ?????????????? ?????? ??????
????????? ??? ??? ?? ?????? ??? ?????? ?????????????? ??? ?????? ?????? ??? ?? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?? ??????
????????? ??? ?????? ??? ?????????? ?? ?????? ?????? ?????? ??? ?????? ?????????? ??? ??
?? ??? ?????? ??? ?????? ?????????? ?????? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ??