Downloaded via the EU tax law app / web

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Avis juridique important

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61997J0429

??????? ??? ??????????? (???? ?????) ??? 25?? ?????????? 2001. - ???????? ??? ?????????? ?????????? ???? ???????? ???????????. - ???????? ??????? ?????? - ??? - ????? ?????? - ????????? ??? ????????????? ?? ???? ?????? ????? ??? - ???? ?????? - ????? ??????? ????????? - ????????? ????????, ???????? ????????? ??? ????????? ?????????. - ??????? C-429/97.

??????? ??? ?????????? ??? ??????????? 2001 ?????? I-00637

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??????????? ????????? - Ev???????? ??? ?????????? - ????? ?????? ???????? - ????? ??????? ????? ????????????? ????? - ?????? ????????? - ?????????? ??? ????? ??? ???????????? ??????? - ??????? ?????? ???? ????? ??? ????????? ????????? - ????????? ????? ????? ???????????? ???? ???? ??? ??? ????? ????????????? ??? ????????? ??? ????? - ?????? ?????????? ?? ????????? ????????? ??? ???????????? ???? ???? ??? ??? ????? ????????????? ?? ????????? ??? ????? ??? ????? ???????? ????? ???????, ?? ?????????? ???? ???? ??? ????? ????????????? ??? ????????? ??? ?????, ?????? ??? ???????? ??? ??? ?????? ???? ???????????? ? ??????? - ??? ???????????

(??????? ??? ?????????? 77/388, ????? 9 § 1, ??? 79/1072, ????? 2)

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$$? ???????, ?????? ??? ????????? ??? ????? ???????????? ?????, ???? ???????? ??????? ??? ?????? ???, ???? ????? ????????? ??? ?????? 9 ??? ????? ??????? 77/388 ???? ???????????? ??? ?????????? ??? ?????? ?????, ??? ???????? ?? ???? ?????? ?????? ????????, ???? ?? ????? ?? ????? ??????? ????????? ????????? ? ???? ??? ?????????? ????????????? ??? ?????????? ??? ????????? ? ??? ??????? ???????????? ??? ? ???? ????????? 2, ???????? ?_, ??????? ????????? ??? ?? ???? ??????, ???? ??? ????? ? ????? ??????? ????????? ?? ?????????? ???????? ??? ????????? ??????? ?????? ????? ? ????? ???? ?????????? ?????? ?? ??????? ?????, ?????? ?? ?????? ?? ?????????? ??? ????????? ????????? ???.

???? ???? ? ?????????? ?? ??? ????? ??????? ????? ?????? ?? ?????????? ??????? ?????? ???? ????? ??? ????????? ??? ????????? ???? ??? ???? ??? ?????????? ??? ????????????? ? ?????? ?????????? ?? ???? ?? ?????? ?????, ? ?????? ??? ???????????? ????????? ???????? ?' ???? ?? ?????? ?????, ????? ??? ?? ???????? ?? ??????????, ?????????? ???? ???????? ??? ????? ???????????? ????? ?? ???? ?????? ?????, ??? ???? ?????????? ??????? ??? ????????? ??? ?????????? ??? ?????????? ???? ????????????? ?????. ????????? ??? ?? ???????????? ??? ????? ? ????? ?????? 79/1072 ???? ???????????? ??? ?????????? ??? ?????? ????? ??? ???????? ?? ???? ?????? ?????? ???????? - ?????? ?????????? ??? ????? ????????????? ????? ????? ??????????? ???? ???? ?? ?????? ??? ????? ????????????? ??? ????????? ??? ????? ?????????? ??? ??? ????????? ??? ????? ???????????? ????? ?????????? ???' ????? ??? ?????, ? ?????????? ?? ??? ????? ??????? ????? ??????? ??????? ??? ????????, ??????? ?? ?? ????? 2 ??? ?????? ???????, ??? ????????? ??? ????? ???????????? ????? ??? ?????????? ??? ???? ?????? ?????.

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

(??. ??????? 40, 53-54, ???????. 1)

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???? ??????? C-429/97,

???????? ??? ?????????? ??????????, ????????????? ??? ??? ?. Michard ??? ??? E. Traversa, ?? ???? ????????? ??? ???????????,

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???????? ???????????, ?????????????? ??????? ??? ??? K. Rispal-Bellanger ??? ??? G. Mignot, ??????? ??? ??? K. Rispal-Bellanger ??? ??? S. Sujiro Seam, ?? ???? ????????? ??? ???????????,

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??? ???? ?? ??????????? ?? ???????????? ??? ? ??????? ??????????, ????????? ?? ?????????? ??? ???? ????????????? ????? ????? ???????????? ???? ???? ??? ??? ????? ????????????? ??? ???? ???? ???? ?? ?? ???? ??????????? ???? ???? ????????? ?? ??????????? ????? ??? ????? ???? ?? ?????????? ???? ???? ???????????? ??? ??????, ?????? ??? ??????????? ??? ?????? ??? ??? ????? ?????? 79/1072/??? ??? ??????????, ??? 6?? ?????????? 1979, ???? ???????????? ??? ?????????? ??? ?????? ????? ??? ???????? ?? ???? ?????? ?????? ???????? - ?????? ?????????? ??? ????? ???????????? ????? ????? ???????????? ???? ???? ?? ?????? ??? ????? ????????????? ??? ????????? ??? ????? (?? ???. ???. 09/001, ?. 111), ???, ??????????, ??? ?? ????? 2 ??? ?? ???? ???????,

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?????????? ??? ???? C. Gulmann, ??????? ????????, ?. ?????? (????????) ??? J.-P. Puissochet, ????????,

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

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

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1 ?? ????????? ??? ???????? ??? ?????????? ??? ??????????? ???? 18 ?????????? 1997, ? ???????? ??? ?????????? ?????????? ??????, ??????? ??? ?????? 169 ??? ???????? ?? (??? ?????? 226 ??), ???????? ?? ??? ????? ????? ?? ???????????? ??? ? ??????? ??????????, ????????? ?? ?????????? ??? ???? ????????????? ????? (??? ????: ??) ????? ???????????? ???? ???? ??? ??? ????? ????????????? ??? ???? ???? ???? ?? ?? ???? ??????????? ???? ???? ????????? ?? ??????????? ????? ??? ????? ???? ?? ?????????? ???? ???? ????????????? ??? ??????, ?????? ??? ??????????? ??? ?????? ??? ??? ????? ?????? 79/1072/??? ??? ??????????, ??? 6?? ?????????? 1979, ???? ???????????? ??? ?????????? ??? ?????? ????? ??? ???????? ?? ???? ?????? ?????? ???????? - ?????? ?????????? ??? ????? ????????????? ????? ????? ???????????? ???? ???? ?? ?????? ??? ????? ????????????? ??? ????????? ??? ????? (?? ???. ???. 09/001, ?. 111, ??? ????: ????? ??????), ???, ??????????, ??? ?? ????? 2 ??? ?? ???? ???????.

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2 ??????? ?? ?? ??????? ??????????? ????? ???, ? ????? ?????? ???? ?? ????? ?? ??????????? ?? ?? ????????? ???????? ???? ??????????? ???? ????, ????????????? ??? ????????? ???? ??????? ??????, ??? ???? ??? ??? ????????????? ?? ???? ?????? ?????

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

3 ?? ????? 1 ??? ?????? ??????? ??????:

«??? ??? ???????? ??? ???????? ???????, ????????? ?? ??????????? ???? ???? ?? ????????????? ??? ????????? ??? ????? ? ??????????? ? ???????????? ??? ????? 4, ?????????? 1, ??? ??????? 77/388/???, ? ?????? ??? ???????? ??? ???????? ??? ???????????? ??? ????? 7, ?????????? 1, ????? ??????, ????? ??? ??????? ?????????, ??? ???? ??? ???? ???? ???? ??? ???? ??? ??? ??????????? ??? ????????????? ???? ??? ?????? ??????????? ?????????? ??? ????????????? ????, ???????? ???? ??????? ????? ? ???? ??????? ?????????????, ??? ???????? ? ?? ?????? ??????? ??? ??? ? ?????? ??? ???????? ??? ????? ???????? ??? ?????? ?? ???????? ?????? ? ?? ?????? ????????? ??? ????????? ?? ???????? ??? ???? ???? (...).»

4 ?? ????? 2 ??? ?????? ??????? ?????????:

«???? ?????? ????? ?????????? ?? ???? ?????????? ???? ???? ? ?????? ??? ????? ????????????? ??? ????????? ??? ????? ???? ????????????? ?? ??? ???? ?????? ?????, ??? ???? ????? ??? ??????????? ????????, ??? ???? ????????????? ????? ??? ????????? ????????? ?? ?????? ??? ???????????? ? ?????? ??? ??? ?????????? ??? ????????? ??? ????? ??? ?????? ???????????? ???? ????, ? ??? ????????? ??? ???????? ?????? ??? ????, ?????? ?? ????? ???? ??? ?? ????????? ???????????????? ??? ??? ??????? ??? ???????????? ??? ????? 17 ??? ?????????? 3, ?????????? ?_ ??? ?_, ??? ??????? 77/388/??? ? ??? ??????? ????????? ??? ???????????? ??? ????? 1, ????????? ?_.»

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5 ?? ????? 9, ?????????? 1, ??? ????? ??????? 77/388/??? ??? ??????????, ??? 17?? ??_?? 1977, ???? ???????????? ??? ?????????? ??? ?????? ?????, ??? ???????? ?? ???? ?????? ?????? ???????? - ????? ??????? ????? ????????????? ?????: ?????????? ?????????? ???? (?? ???. ???. 09/001, ?. 49, ??? ????: ???? ??????), ??????:

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

6 ?? ????? 9, ?????????? 2, ??? ????? ??????? ?????? ?? ????:

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7 ?? ????? 9, ?????????? 2, ???????? ?_, ??????? ?????????, ??? ????? ??????? ?????????? ??? ?????? ?? ?? ????? 259 ? 4° ??? code général des impôts (??????? ?????????? ??????). ? ??????? ????, ???? ?? ?????????? ?????????? ????????? ???,

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«???? ?????????? ??? ????????? ??? ?????? 259, ? ????? ??????? ??? ????????? ????????? ????????? ??? ????????? ??? ??????:

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4° ?? ?????? ???????, ???? ??????????? ?????? ??? ??????:

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8 ??? ?? ?????????? ????????? ??? ? ??????? ???????? ??????????? ?????????? ???????? ?? ???? ??? ??????? ????????? ??? ????? ????????? ??? ??? ???????? ??? ?? ??????? ?? ??????????? ?? ?????????? ???? ??????? ????????? ????????? ??? ?????? ??? ???? ???????? ????????? ????????? ????????? ???????. ??? ??????? ???? ??????????, ?????? ?????, ??? «?? ???????? ????????? ????????? ??? ????? 259 ? 4° ??? Code général des impôts ??? ????????? ??? ??????? ?????? ?? ????? 9, ?????????? 2, ???????? ?_, ??? ????? ??????? [... ???] ??????????? ???? ?? ????? ??? ??????? ???? ? ????? ???? ???????? ????????????????? ??? ???? ????. ?? ????????? ????? ??????????? ???? ???????? ??? ????????????????? ??? ???? ????????????, ? ?????? ????????? ???? ???? ???????? ??? ????????. ??????????? ?????? ???? ??????? ??? ??????????? ?? ??? ????? ??????? ????? ?? ??????????? ?? ??????? ??????????? ????? ??????? ???, ?????? ? ?????????? ???? ???? ??????? ?? ?? ???????? ?????? ??? ???????, ?? ???????? ???????? ??? ?????? ?????????? ??? ?????? ??? ?????? ? ???????????????? ??? ???? ??????????????. ?? ??????? ??? ? ????? ?????????? ??? ??????? ? ???? ??? ???????? ?????????, ???? ??? ???????? ?? ???? ??????????, ??? ????? ??????? ???? ???????? ??? ????????? ????? (...)».

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

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

10 ?? ??????? ???????? ??? ????? ??????? ????? ?? ??????????? ?? ??????? ??? ??????? ??? ????????? ????? ???????, ??????? ??? ?????? 9, ?????????? 1, ??? ????? ??????? ???? ??????? ???? ??? ????????? ??? ????????? ????? ?? ??? ?? ??? ??????? ?????? ???????????? ??? ??? ??????? ??? ?????????. ????????, ????????? ??? ??????? ?? ??? ???? ??????? ?? ????????????? ??? ?????? ???????????.

11 ??? ????????, ???? ??????? ??? ????????? ??? ???' ????? ??? ????? ???????????? ??, ???????????? ??? ?????? ??? ???????? ??????????, ??? ??? ???? ???, ??????? ??? ?????? 259 ? 4° ??? code général des impôts, ???? ????? ??????????? ??? ??? ?????????, ????????? ??? ????? ?????? ?? ????? ???? ?????? ??? ??????? ??? ????????? ???? ??????? ?? ?? ???????? ??? ??????, ?????? ? ??????? ?????, ??? ??????? ?? ???????? ??? ??????????? ???????? ??? ??????? ????? ????????? ??? ??? ????????? ???, ????? ??? ??????· ???????, ? ????? ?????? ??? ?????? ?? ??????????.

12 ?? ?? ???? ??????????? ???????? ???? ?? ??????? ?????? ??? ???????? ????????? ????????? ?????????? ????????????? ????????????? ?? ??? ???????? ??? ????????????? ?? ??????? ??? ?????????? ????????????? ??? ?????? ??.

13 ?? ????????? ??? ????????? ??????? ??? ??? ???????? ?????, ?? ??????? ??? 23?? ?????????? ??? ??? 22?? ?????????? 1992, ?? ???? ????????? ????????????? ??? ??? ????????????? ??? ??????????, ????? ??? ?????? ?????????? ??? ?? ????????? ??? ?????? ??????? ??? ??????? ?? ??????????? ?? ??????????. ???????????? ??? ?? ?????? ????????? ????? ??? ????? ??? ????? ????????? ??? ?????????, ?????? ????? ?? ????????? ???????? ??? ?????????? ?? ??? ??????????? ?? ???????? ????????, ???? ?????? ???????? ????????????? ????????????? ?? ??????????? ????? ????.

14 ??? ???????? ????????? ??? 17?? ????????? 1992 ?????? ??? ????????? ??? ????????? ??? ??? ???????? ?????, ????? ??? ?? ??????? ??? 5?? ?????????? 1993, ?? ?????????? ????????????? ??? ????? ???? ??? ??? ?? ???? ?????????.

15 ? ????????, ?????????? ??? ? ?????? ?????????? ??? ???????? ?? ??????? ???????? ??? ?????? ???????, ?????? ?? ?????????? ??? ????????? ?? ????? 169 ??? ???????? ??? ?? ??????? ???????? ??? 8?? ??????? 1993 ?????? ??? ?? ??????? ????????? ?? ???????? ??? ???????????? ??? ????? ?????????? ??? ????? ??? ??? ???????? ??? ???????? ?????.

16 ? ???????? ???????????, ??? ??????? ????, ?????? ?????, ???, ?????? ????????? ??? ????? ????????????? ?????? ???????, ???? ? ???????, ??????? ??? ??????? ??? ?????????, ??????????? ? ???????? ??? ??????? ?????? ??? ?????? 9, ?????????? 1, ??? ????? ??????? ??? ????????? ?? ?????????? ??? ?????? ????? ???????????? ??? ??????????? ???? ????· ????????, ? ??????? ????? ????????? ?? ?????????? ??????????? ?????????? ??? ??????? ??? ??????? ??? ??????? ? ?????? ??????? ????????? ???? ?????? ???. ??????, ??? ????? ??? ??? ??? ????? ??? ???????, ?????? ? ??????? ??? ?????????, ????????? ?? «??????? ??? ????????? ??????? ??????» ??? ??? ?????? ??? ?????? 9, ?????????? 2, ???????? ?_, ??? ????? ??????? ??? ??? ? ?????? ???? ????? ?? ?????? ??????????? ???????????? ???????? ??? ???????????? ??? ????????? ?? ??? ????? ??????? ?????, ?????? ?? ????????? ???? ?? ??? ??????? ?????? ???? ?????????? ??????, ??????, ???? ?????????? ????????, ??? ??????. ?? ? ???????? ??? ???????? ?? ????????????? ???' ????? ??? ?????, ? ???????? ?????????? ??? ??????? ?? ??????? ?????? ?????? ?? ???? ?????????? ?? ???????? ??? ????????? ??? ????? ??? ??????, ??????? ?? ??? ????? ??????.

17 ?? ???????? ????? ????????? ??? ??????? ???????? ?? ??????? ??? 6?? ????????? 1993, ?? ?? ????? ????????? ???? ????? ???? ??? ???????????? ??? ?? ??????????? ???????? ??? ??????? ? ???????? ?????????? ????????? ??? ????? ????? ????????? ?????????, ??? ???????????????? ??? ????????? ?????? ??? ???????????? ??? ??? ? ?????????? ??? ????????? ?????? ??? ????????? ???????????? ??? ??? ???????? ???????????? ???????????? ??? ?????????? ?? ???? ??? ??????? ??? ??? ????? «?????????? ????» ????? ????????? ??? ????? ??? ? ????? ??? ??? ??????? ??? ???????? ? ???????? ??????? ?????? ?? ?????????? ??? ????? ?????????.

18 ???? 10 ???????? 1996, ? ???????? ???????? ??? ??????? ????????? ????????????? ????? ?? ??? ????? ???????? ??? ???? ??? ??? ??? ?????? ?? ?????????? ?? ??? ???????? ??? ?????? 9, ?????????? 2, ???????? ?_, ??????? ?????????, ??? ????? ??????? ???? ????? ????????? ???? ?? ?????? ????? ??? ?? ?????? ?? ????? ?? ???????? ????? ???? ?????????? ??? ?? ??? ?? ???? ???????????? ????? ????? ?????????? ??? ????? ??? ??? ????????????? ???.

19 ?? ???????? ????? ??? ????????????? ?? ??? ???????????? ?????, ???? ????????? ???? ????????, ?? ??????? ??? 12?? ??????? 1996, ????????????? ?? ???? ????.

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

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

22 ?????, ? ???????? ????? ?????????? ??????? ???? ?? ??????????? ??????? ???????? ??? ???????? ?? ?? ??????? ??? ?????????, ??? ????? ??? ??? ?????????? ?? ????? ??????????? ??????? ???? ??? ???????? ???????????. ???????, ??????? ?????????? ???? ???????? ?? ?????????? ??? ?????? ???????? ??? ????? ?????????? ? ???????? ??? ?? ????????? ??? ????????? ?????? ???????? ??? ??????????? ??? ??? ????? ?????? ??????????? ??? ?? ???? ??????? ??????, ?? ??????????? ??????????? ??? ??????? ??? ???????? ?? ?? ??????? ??? ?????????.

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

24 ? ???????? ???????????? ??? ?????????? ??? ????????? ??????????????, ??????, ??? ? ???????? ??? ???????? ?????, ???? ??????????? ???? ????????? ??? ???????? ????????? ?????????, ????? ?? ?????? ??????, ??? ???????? ??? ?????? ?????, ??? ????????? ??? ????????? ??? ?????? 9 ??? ????? ??????? ??? ??????? ???????? ????????, ???? ??????????? ?????????????? ?? ?????? ????? ??????? ??????? ??? ????????? ?? ??? ????? ??????? ????? ??????? ??? ?????????? ????? ????? ??? ???????? ??? ??? ???????? ???????. ????????, ?? ???????? ?????? ??? ???????? ??????????? ??? ???????, ????? ???? ????????? ???? ???????? ??? ????????? ?????? ???? ?? ???????? ??? ???????????.

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

26 ???????, ? ??????? ??????????? ??? ???????? ??????????? ?????? ?? ????????? ?? ??? ????? ??? ?????????.

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27 ? ???????? ????????? ??? ??????? ?????????? ???????? ??? ??????????? ??? ?????? ??? ??? ????? ??????, ??? ?????????? ??? ?? ????? 2, ??????? ???????? ?? ?????????? ??? ?? ????? ???????????? ?????, ??? ??????, ???????????? ???? ???? ??? ??? ????? ????????????? ??? ???? ????, ???? ?? ?? ???? ??????????? ???? ???? ????????

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

28 ??? ?? ????? 1 ??? 2 ??? ?????? ??????? ????????? ??? ???? ?????????? ???? ???? ???? ???????? ?????????? ??? ?? ??? ???????? ?? ???? ?????? ?????, ?? ??? ???? ??? ???? ??? ?????????? ??? ????????????? ? ?? ?????? ?????????? ??? ??? ?????? ???? ??? ??? ????????????? ????????? ?????? ? ?????? ????????.

29 ????????? ?? ?????????, ??? ???????????, ?? ??? ?????? ????????? ???????? ???? ?? ???????? ?????? ?????, ?????????? ?? ????????? ?? ????? 9 ??? ????? ???????.

30 ???? ??? ????????? 1 ??? ????????? ?????, ?? ????? ??????? ????????? ????????? ? ???? ??? ?????????? ????????????? ??? ????????? ??? ????????? ? ??? ??????? ???????????? ???.

31 ? ?????????? 2 ??? ????? ?????? ???????????? ????? ??????? ?????????? ????????? ??? ????????? ?????????? ??????? ????????. ????, ? ??????? ???? ??????, ??? ???????? ?_, ??????? ?????????, ??? ? ????? ??????? ????????? ?? ?????????? ???????? ??? ????????? ??????? ?????? ????? ? ????? ???? ?????????? ?????? ?? ??????? ?????.

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

33 ???? ??? ????????, ????????? ??? ?? ????? 9, ?????????? 2, ??? ????? ??????? ??? ???????? ?????? ?????? ??????? ?????????? ????????? ??? ??? ?????? ??????? ?????? ????????, ? ????? ?????????? ???? ??????? ??????? ?????? ?? ????? ? ???????????? ???? ????????? 1 ??? ?? ???? ????????, ?????? ? ????? ???? ? ?????????? ?? ??? ????? ??????? ????? ???? ??? ???? ??? ?????????? ????????????? ???.

34 ? ???????? ??????????, ???????, ??? ??? ?????? ??????? ?????? ??????????? ??? ?????? ??????????? ??? ?????????? ????????, ??? ??? ?????? ????????? ???? ????????? «???????? ??? ????????? ??????? ??????» ??? ??? ?????? ??? ?????? 9, ?????????? 2, ???????? ?_, ??????? ?????????, ??? ????? ???????, ???????? ??? ????????? ???? ??? ?????????? ????????? ??? ?????????. ???? ? ?????????? ?? ?? ??????? ???? ????????? ??? ????????? ??????? ?????????? ?????? ??? ??????? ??? ??? ?? ???????? ?? ???????? ????, ? ?? ???? ??????? ?????????? ??? ?????? ??? ???????? ?????. ?? ??????? ??? ? ?????????? ?? ??? ????? ??????? ????? ?????????? ???????? ??? ???????? ?? ?????????? ????? ??????? ?????? ??? ???????? ?????? ??? ????????, ??? ?????????? ???? ???????? ??????? ??? ????????? ??? ????????? ???? ??? ??? ???????? ??????????? ???????? - ???? ? ???????, ? ???????, ? ??????????? ??? ? ?????????? -, ??? ?????? ?? ?????????? ???? ??????? ???? ????? ??????? ??? ?????????, ???? ????????? ??? ????? 9 ??? ????? ???????.

35 ?????????, ??? ?????? ?? ????????, ???? ????????? ??? ?? ??????? ?????????, ??? ??? ??? ???????? ??? ??????????? ??? ???????????? ?? ?????? ????? ??????? ??????? ??? ??????????? ?? ??? ????? ??????? ????? ???????????, ??? ??? ???? ??? ? ??????? ????, ? ???? ?????????? ??????? ??? ?????????, ????? ??????????? ??? ??? ??????,

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

36 ?????????, ? ??????? ????????? ??????????? ??? ? ?????? ??? ??????????? ?? ??? ????? ??????? ????? ???????????? ???? ?????? ??? ????????? ????????? ??? ???' ???????? ??? ????????, ???? ?????????????, ??? ?????? ?? ????? ????????? ?? ??? ???????? ??? ?????? ?????? «???????????? ??? ?????????». ????????? ???????, ?????? ?????, ???? ?????? ??? ??????? ??? «???????????? ??? ?????????» ??? ?????? 1, ???????? ?_, ??? ??????? 75/442/??? ??? ??????????, ??? 15?? ??????? 1975, ???? ??? ??????? ????????? (?? ???. ???. 15/001, ?. 86), ???? ????????????? ?? ??? ?????? 91/156/??? ??? ??????????, ??? 18?? ??????? 1991 (?? L 78, ?. 32), ???? ??? ????? ?? ?????????? ??????? «? ???????, ? ????????, ? ?????????? ??? ? ??????? ??? ?????????, ?????????????????? ??? ????????? ??? ???????? ?????, ????? ??? ??? ????????? ??? ????? ????????? ???? ?? ???????? ?????».

37 ??????????, ????????, ???, ???? ?? ????????? (??. ??? ????????? «??????? ???????????? ?????????», ????? ??? ??????? ??? 17?? ????????? 1993, C-68/92, ???????? ???? ???????, ??????? 1993, ?. ?-5881, ??????? 18 ??? 19), ? ???????????? ????? ??? ??????? ????????? ?????? ?? ????????? ?????? ??? ?????? ??? ????????, ??????, ?? ??????????, ??? ????????? ? ??? ??????????? ??? ????????? ??? ??????? ? ???????, ??? ????????? ???????? ??? ????????? ??????? ??????. ????????, ? ?? ???? ?????? ????????? ?????? ?? ???????????? «?????? ????????? ??? ???? ?? ?????????? ???????? ??? ????????? ??????? ??????», ??? ??? ?????? ??? ?????? 9, ?????????? 2, ???????? ?_, ??????? ????????, ??? ????? ???????, ???, ?? ?? ??????, ?????? ?? ???????????? ???? ???? ???? ????? ? ????? ??? ?????????.

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

39 ???? ????????, ????? ??? ?? ? ??????? ?????????? ??? ????????? ?????????? ?? ?????? ??? ??????? ??? ?????????? ? ?????????? ?? ??? ????? ??????? ?????, ? ???????? ??? ????? ??????? ???? ?????? ??? ?????? ?? ???????? ?? ???????????????? ??? ??????, ?????? ? ???? ?????????? ??????? ??? ????????? ??????? ????, ??????? ??? ????????? ??? ???????? ?????????? ??? ???? ??? ??? ??????????? ??? ????????? ?? ????? 1 ??? ?????? ??????? ???, ?? ?? ??????, ??? ????????? ??? ?? ??? ?????????? ??? ??????. ?? ??????? ??? ? ?????????? ?? ??? ????? ??????? ????? ???????? ??? ????? ???????? ????? ?? ?????????? ??????? ?????? ?? ?????????? ?????????? ?? ???? ??? ?????? ??? ????? ??????? ??? ????????? ??? ??? ?????????? ?? ??? ????? ??????? ?????.

40 ?????????? ?? ????????, ??????, ??? ?????????? ??? ??? ??????????? ???? ???????? ??????? ??? ?????? ???, ?????? ??? ????????? ??? ??, ???? ????????? ??? ???????? ?????????, ? ??????? ??? ??? ????? 9, ?????????? 1, ? ?????????? 2, ???????? ?_, ??????? ?????????, ??? ????? ??????? ?????? ?? ?????? ?? ?????????? ??? ?????????? ??? ????????? ????????? ???.

41 ????? ?? ??????????, ????????, ???, ???? ????? ?? ????? ?????? ??? ?????????? 1 ??? 2 ??? ?????? 9 ??? ????? ???????, ?? ?????????? ???? ??? ??????????? ??? ? ?????????? 2 ??? ?????? 9 ????????? ??? ????? ????????????? ?????????? ?????????, ??? ? ?????????? 1 ?????, ???????, ?????? ??????? ??????. ?????? ??? ?? ???? ????????? ????? ? ???????, ?????? ???, ??? ?????????? ??????????? ??? ??????? ?? ????????? ?? ????? ????????, ???????? ??, ??? ?? ??????????? ??????, ???? ????????? ???? ????????? 3 ??? ?????? 9, ???? ??? ????? ??? ??????? ??????????. ?? ?????? ??? ??????? ?? ???? ??????????? ????????? ?????????? ??? ?? ? ????????? ?????????? ??? ??? ??? ??? ???????????? ??? ????? 9, ?????????? 2, ??????????· ??????????, ???????? ???? ????????? 1 (??. ??????? ??? 26?? ??????????? 1996, C-327/94, Dudda, ??????? 1996, ?. ?-

4595, ??????? 20 ??? 21).

42 ????????, ??????????? ?? ????????? ?? ? ??????? ?????? ??? ??? ????? ????????? ?? ?????????? ????????, ???? ??????????? ? ??????? ?????????, ??????? ??? ?? ????? 9, ?????????? 2, ???????? ?_, ??????? ?????????, ??? ????? ???????, ??????? ?? ??? ?????? ????????? ??? ????? ?? ??????????? ???????? ??? ????????? ??????? ??????. ????????, ??????????? ?? ??????? ????? ??? ?? ???????? ??? ????????????? ??? ?? ???? ??????.

43 ????, ??? ?? ?????????? ????????? ??? ? ????????? ?????????????? ??? ??????????? ??? ???????????, ????? ????????? ?? ??????????? ??????? ?????????????, ???????????? ???????????? ??? ????????? ? ?????????? ???????????, ?? ???????, ?? ???????, ?? ???????? ????? ??? ?? ??????? ??? ????????? ????? ??? ??? ???????? ???????????. ??????????, ??? ??????? ??? ????????? ?????, ?? ??????????? ??????? ????????? ???????????? ?? ??????????? ?????? ??? ?? ???????, ??? ??????? ??? ??????? ??????????, ??? ???????? ??? ????????? ??? ????????? ??? ?????????, ??? ?????????? ????, ??? ???????? ???????? ????????, ??? ??????? ??? ?????? ????????? ??? ??????????? ?????????, ?? ???????? ??? ???????????? ????? ????????? ????? ????????? ?????? ????????? ??? ?????????? ?????? ?????, ??? ?????????? ????????? ???, ???????????, ??? ????????? ???????? ????????? ????????? ?? ????? ???????????, ??? ???????????, ?????? ?????, ??? ??????? ????????? ????? ?????????.

44 ??? ?? ?????????? ?????????, ??????, ??? ?? ??????????? ?? ??? ????? ??????? ????? ???????????? ????? ?????????????? ?? ?????? ????? ??????? ??? ???????? ???????????. ?? ???? ????????? ??? ?? ???? ??????? ????. ????????, ?? ???????? ?? ??????? ????????? ????? ?????????, ? ????? ?????????? ???????????? ?? ???????????? ???????????? ????????????? ??? ??????, ???? ?? ??????? ??????? ??? ????????? ?? ??????? ?????? ????????? ??????????? ??? ????? ?????? ?????. ??? ?????? ????? ????, ?? ??????????? ?? ??? ????? ??????? ????? ???????????? ?????????? ???? ???????? ??? ????? ??? ????????? ??? ???????????? ?? ??????????? ???? ??? ?? ?????????? ??? ?????? ??????? ??? ????????? ????.

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

46 ?????? ??? ????????? ?????, ?? ?? ???????? ??? ??? ?????? ??????? ?????? ???????? ??? ????? 9, ?????????? 2, ???????? ?_, ??????? ?????????, ??? ????? ??????? ?? ??????????? ?? ??? ??????? ???, ???? ????? ??? ???????? ??? ??, ??? ????????? ??? ??????? ?????? ???? ??????????? ??????. ???????????? ????? ??? ???????? ????????? ??? ??????? ?????, ? ???????? ???? ??????? ?????????? ????????? ?? ???????? ?? ??????????? ???? ????? ?? ??????? ??? ?? ??? ? ??????????? ?? ??? ????? ??????? ????? ?????? ?? ??????? ???? ??????? ???, ?????? ??? ? ???????????? ??? ??? ??????? ??? ????????? ?? ??????? ?????? ?????????? ?? ?????? ????? ??????? ??????? ???? ????? ????????????? ? ??????????? ?? ??? ????? ??????? ?????.

47 ??? ??? ???? ????, ? ???????? ??? ?? ???? ?????????? ????????? ?????? ?? ??????????? ??????????? ???????????? ?????? ??? ?????? ?????, ??????? ??? ?????????? ???? ????? ??? ?????? 9 ??? ????? ???????, ??????????????????, ????????, ??? ?????????? 2, ???????? ?_, ??????? ?????????, ??? ????????? ?????.

48 ????????, ??? ?????? ?????? ????????? ??? ?????? ?? ???????? ??? ?? ????? 9, ?????????? 2, ???????? ?_, ??????? ?????????, ??? ????? ???????, ??? ????? ?????????? ??? ????????? ?? ? ???? ?????????? ??????? ??? ????????? ??????? ??????? ???

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

49 ?????????, ? ??????? ??????? ??? ????? ?? ????? 9, ?????????? 1, ??? ????? ??????? ??????????? ??? ???????? ??????, ???? ??? ?????????? ???? ??????? ????? ??? ?????? ??????? ?????????, ?????? ?????? ??? ????? ???? ? ?????? ??????? ??? ????????? ???? ??? ???? ??? ??????????? ????????????? ??? ? ?????? ?????????? ??? ??? ????? ??????? ??? ?????????. ?????? ??? ????????? ??? ???????????? ???? ??????? 43 ??? 45 ??? ???????? ?????????, ? ??????? ???? ?????? ?? ??????????? ??? ?????????? ??? ???????? ????????? ??? ???????? ??????? ??? ?????? ??? ??? ??? ??????? ??????????? ??????????? ?????? ??? ?????? ?????.

50 ????????, ? ?? ???? ??????? ?????? ???????? ??? ????? 9, ?????????? 1, ??? ????? ???????.

51 ? ??????? ????????? ?????????? ??? ??? ?????? ???????? ?????? ?? ????????? ?? ?? ?????????? ?? ????????? ???????????. ????, ???? ? ??????????? ?? ??? ????? ??????? ????? ????? ????????????? ????? ??? ??????????, ? ???????? ??? ????????? ??? ??????? ??? ????????? ????? ??? ?????? ?? ?????????? ??????????? ??????????? ????? ??? ??????????, ????? ??? ?? ? ????? ???????? ??? ??????? ??????? ??? ?????????? ??? ? ???????? ???????????? ???? ????????????? ????? ?????, ?????? ? ??????? ? ? ?????????? ??? ????????? ???????, ???? ?????????????, ????? ??? ??????????.

52 ? ???????????????? ??? ???????? ??????????? ??? ?????? ?? ???????????? ?? ?????????? ??? ????? ??? ????? 50 ??? ???????? ?????????. ???????, ? ????????? ??? ???????????? ? ????????? ???? ????? ??? ?????????? ??? ??? ???????? ???? ??? ????? ??????????? ????????? ??? ?????????? ?????????? ???? ????? ??? ?? ??? ??? ??????, ??? ??? ???? ????, ?? ????????? ??? ???????? ??? ?????? 9 ??? ????? ???????.

53 ??? ?? ??????? ????????? ???, ???? ? ??????????? ?? ??? ????? ??????? ????? ?????? ?? ??????????? ??????? ?????? ???? ????? ??? ????????? ??? ????????? ???? ??? ???? ??? ??????????? ??? ????????????? ? ?????? ??????????? ?? ?????? ????? ??????? ??? ???????? ???????????, ? ?????? ??? ???????????? ????????? ???????? ??? ????? ?????? ?????, ????? ??? ?? ???????? ?? ??????????, ?????????? ???? ???????? ??? ?? ??? ??????, ??? ???? ?????????? ??????? ??? ????????? ??? ?????????? ??? ?????????? ??. ????????? ??? ?? ??????????? ??? ????? ? ????? ?????? ??????????? ??? ??? ????????? ??? ?? ?????????? ???' ????? ??? ?????, ? ??????????? ?? ??? ????? ??????? ????? ??????? ??????? ??? ????????, ??????? ?? ?? ????? 2 ??? ?????? ???????, ??? ????????? ??? ?? ??? ??????????? ??? ??????.

54 ????????, ??????????? ? ?????????? ??? ? ??????? ??????????, ????????? ?? ?????????? ????? ??????????? ???? ????, ??? ????? ????????????? ?? ???? ?????? ????? ??? ?????????? ?? ??? ????? ??????? ????? ?????? ?? ??????????? ??????? ?????? ????????? ???? ????? ??? ????????? ??? ?????????, ??? ?? ??? ????????? ??? ??????? ?????? ???? ??? ??????? ???????????? ?????? ??? ????? ???? ?? ?????????? ???? ???? ???????????? ??? ??????, ?????? ??? ??????????? ??? ?????? ??? ??? ????? ?????? ???, ??????????, ??? ?? ????? ??? 2.

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

56 ???????, ??? ?? ????????? ????????? ??? ? ???????? ????????? ???? ????? ?????? ?? ???????? ??? ????????????? ?????? ??? ???????? ???? ???????? ????? ??? ??? ????????? ?? ????????? ???? ??? ???????? ??? ????????? ???. ?????????, ??????????? ?? ???????? ???, ???? ???? ?? ???????? ??? ??? ??? ???????? ??? ????????? ???????????

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

57 ????????, ? ???????? ?????? ?? ?????????? ???? ?? ?????.

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58 ???? ?? ????? 69, ?????????? 2, ??? ?????????? ???????????, ? ???????? ???????? ????????????? ??? ????????? ?????, ?????? ?????? ??????? ??????. ????????? ??? ? ???????? ????????? ??????? ?????? ??? ? ??????? ?????????? ????????, ???????????? ?? ???????????? ??? ????????? ?????.

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1) ? ??????? ??????????, ????????? ?? ?????????? ????? ???????????? ???? ????, ??? ????? ????????????? ?? ???? ?????? ????? ??? ?????????? ?? ??? ????? ??????? ????? ?????? ?? ???????????? ??????? ?????? ????????? ???? ????? ??? ????????? ??? ?????????, ??? ?? ??? ????????? ??? ??????? ?????? ???? ??? ??????? ???????????? ?????? ??? ????? ???? ?? ?????????? ???? ???? ???????????? ??? ??????, ?????? ??? ???????????? ??? ?????? ??? ??? ????? ?????? 79/1072/??? ??? ??????????, ??? 6?? ?????????? 1979, ???? ???????????? ??? ?????????? ??? ?????? ????? ??? ???????? ?? ???? ?????? ?????? ???????? - ?????? ?????????? ??? ????? ???????????? ????? ????? ???????????? ???? ???? ?? ?????? ??? ????? ????????????? ??? ????????? ??? ?????, ??? ??????????, ??? ?? ????? ??? 2.

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

3) ??????????? ?? ??????? ?????????? ??? ????????? ?????.