

?????? C-204/03

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«????????? ??????? ?????—????? 17 ??? 19 ??? ????? ?????? ???—?????????—
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????????? ??? ?????????? M. Poares Maduro ??? 10?? ?????? 2005

????????? ??? ?????????? (????? ?????) ??? 6?? ?????????? 2005

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????????????? ??????????—????????????? ??? ??????????—????? ?????? ??????—?????
?????? ?????? ?????????????? ?????—?????? ??? ?????? ??????—????????????? ???
????????????? ??????????—?????????????—????? ?????????? ?????? ??????????????
????????? ?????????? ??? ?????? ??? ?????? ?????? ????? ?????????????? ?????? ??? ?? ??????
????????????? ?????????????? ?? ?????????? ?????? ?????? ?????? ?????? ??? ?????????????? ??
????????????? ?????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????????????? ??
????????????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????????????—?? ??????????????

(????? 77/388 ??? ??????????, ????? 1 §§ 2 ??? 5 ??? 19)

????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ?????? ???, ?????, ??? ?? ???
17, ?????????? 2 ??? 5, ??? 19 ??? ?????? ?????? ??? ?????????????? ??? ?????????????? ???
????? ?????, ??? ?????? ?? ??? ?????? ?????? ?????? ??????, ?????? ?????? ?? ?????
????????? ?????????? ?????????? ??? ??? ??? ?????? ?????? ?????? ?????????????? ?????? ???
????? ?????????? ?????????????? ?? ?????????? ?????? ?????? ?????? ?????? ??? ??????????
????? ?????? ?????????????? ?? ?????????? ?????? ?????? ??? ??? ??? ?????? ??? ??????
????? ? ?????????? ??? ?????????????? ?? ?????????? ?????? ?????? ??? ?????????? ??? ?????.

(?. ????? 31 ??? ??????.)

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

??? 6?? ?????????? 2005 (*)

«????????? ??????? ?????—????? 17 ??? 19 ??? ????? ?????? ???—?????????—
????????? ??? ?????????? ?????»

???? ?????? C-204/03,

? ?????????? ?????? ??? ?????? 226 ?? ??? ???????????, ?????????? ??? 14 ????

2003,

????????? ??? ?????????? ??????????, ?????????????? ??? ?? E. Traversa ??? ?? L. Lozano Palacios, ?? ??? ?????????? ??? ????????????,

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

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????????? ??? ????????, ?????????????? ??? ?? N. Díaz Abad, ?? ??? ????????,
???????????,

?????,

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

????????? ??? ??? A. Rosas, ??????? ????????, J.-P. Puissochet, S. von Bahr (?????????),
J. Malenovský ??? U. Löhmus, ????????,

??????? ??????????: M. Poiares Maduro

?????????: R. Grass

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

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?? ??????????
??? 10?? ?????? 2005,

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1 ?? ?? ?????????? ??? ??????????, ? ??????? ??? ?????????? ?????????????? ??????? ?? ??
????????? ?? ?????????? ??? ?? ????????, ??? ?????????? ?????????????? ?? ??????????
????????? ??? ?????? ?????????????? ??? (?? ????: ???) ??? ?????????? ??? ?????? ???
????????? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ???, ?????? ???
????????? ??? ?????? ??? ?? ?????????? ?????? ???, ?????????? ??? ?? ?? ?????? 17,
????????? 2 ??? 5, ??? 19 ??? ?????? ?????? 77/388/??? ??? ??????????, ??? 17?? ???
1977, ??? ?????????? ??? ?????????? ??? ?????? ???, ??? ?????????? ?? ??? ?????? ???
????? ?????? – ??? ?????? ?????? ??? ?????????????? ????: ?????????? ??????????
???? (?? ????. ????. 09/001, ?. 42), ??? ?????????? ?? ??? ?????? 95/7/?? ???
???????????, ??? 10?? ?????? 1995 (?? L 102, ?. 18, ??? ????: ??? ??????).

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

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

2 ?? ????? 11, A, ?????????? 1, ??????? ??, ??? ??? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ??????:

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

3 ?? ????? 17, ?????????? 2, ???????? ??, ??? ?? ??? ????? ??????, ?? ?? ?????????? ???
????? ??? ?? ????? 28 ??? ?? ????? ??????, ?????? ???, «????? ?????? ??? ?? ?????? ??? ??
????????? ?????????????? ??? ??? ?????????? ??? ?????????? ?????? ???, ?
????????? ??? ????? ?????????? ?? ?????????? ??? ??? ?????????? ??? ?????? [...] ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????????? ?????? ??? ??
????? ??? ?? ?????????? ?? ?????????? ?? ??? ?????????? ??? ?????? ??? ?????????? ??? ??
????????? ??? ?????????? ?? ??? ?????????? ??? ?????? ??? ?????????? ??? ??».

4 ??? ?????????? 5 ??? ????? ?????? ?????????? ???:

«????? ?????? ?? ?????? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ??
?? ??? ?????????? ?????????????? ??? ?????? ?????????? ??? ?????????? 2 ???
3, ?? ?????? ?????????? ?????????? ??? ??????????, ??? ?? ?????? ???, ?? ?????? ??? ??????
????????? ??? ?????? ?, ?? ?????? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??????????????
?????, ?? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????????????
? ?????????? ??? ?????????????? ??? ?? ?????? ??? ?????????? ??? ?????????????????? ??? ??
????????? ??? ?????? ???, ?????????? ?? ?? ?????? 19.

[...]»

5 ?? ????? 19, ?????????? 1, ??? ?????? ??????, ??? ?? ?????? «????????????? ???
????????? ??? ??????????», ?????? ???:

«? ?????????? ?????????? ??? ?????????? ??? ?? ?????? 17, ?????????? 5, ?????? ???,
????????? ??? ?? ?????? ??? ???????????:

– ??? ???????, ?? ??????? ??? ?????? ??? ?????? ?????? ?????? ???????, ??? ??
????????????? ???, ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ?????????? ???
??????, ??????? ?? ?? ????? 17, ?????????? 2 ??? 3,

– ??? ??????????, ?? ??????? ??? ?????? ??? ?????? ?????? ?????? ???????, ??? ??
????????????? ???, ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ?????????? ???
????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? . ?? ?????? ??? ??????
?? ??????? ?? ?????????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ?????????? ???
????????????? ??? ?? ?????? 11, ??? ?, ?????????? 1, ?????????? ??.

[...]»

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

6 ?? ????? 102 ??? ????? 37/1992, ??? 28? ?????????? 1992, ??? ?????
????????????? ??? (BOE 312, ??? 29? ?????????? 1992, ?. 44247), ??? ??????????????
?? ??? ??? 66/1997, ??? 30? ?????????? 1997 (BOE 313, ??? 31? ?????????? 1997, ?.
38517, ??? ????: ????? 37/1992), ?????? ??? ?????? ??? ?????????? ?????????? ???
?????. ??? ?????? ?????????? ??? ?? ?????? ?????? ???:

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

? ??????? ??? ???????? ???????????, ??????, ??? ??????????? ??? ????? ??? ?????? ?
?????????? ??? ?????? ?????? ??????????? ?? ??????, ??????? ?? ?? ?????? 78,
?????????? 2, ?????? 3, ??? ?????? ?????, ??? ??????????????? ??? ????? ?????????? ???
????, ?????? ?????? ??????????? ??? ?? ?????????????? ?????????? ?????????? ? ??????????????
????????????? ??? ?????????? ??? ??????»

7 ?? ??? 104 ??? ????? ?????? ??????????? ??? ?????? ??????????. ??? ?????????? 2,
?????? 2, ??????? ??????, ??? ?? ??? ?????? ?????? ??????? ???:

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

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

8 ? ??????? ??? ?????? ?? ?????????? ??????????? ??? ?????????? ??? ?? ??? 226 ??
??????????, ??? 20 ??????? 2001, ??????? ??????? ??? ?????????? ??? ?????????? ???
????? ?????????? ??? ?? ??? 102 ?? 104, ?????????? 2, ?????? 2, ??????? ??????, ???
????? 37/1992 ???????????, ??? ??????? ??? ?????? 17, ?????????? 2 ?? 5, ??? 19 ???
????? ???????, ?? ??????? ?????????? ??? ???.

9 ?? ??????? ??? ???????, ?????????? ??? ?????? ?????????? ???????, ?????????? ???
?????????? ??? ?? ??????? ??? 28?? 2001.

10 ??? ? ??????? ??? ??????? ??? ?????? ??? ???????????, ? ??????? ???????, ??? 27 ??????
2002, ??????????? ??? ?? ??? ?????? ?????? ?? ?? ??? ?????? ?????? ??? ?????? ?? ?????? ??
????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??? ??????????????
?? ?????????????? ???.

11 ?? ??????? ??? 20?? ?????????? 2002, ?? ??????? ??? ?????? ?????????? ???
????????????? ??? ?????? ?????????? ??? ?????? ??? ??? ?????? ??? ??????????.

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

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12 ??? ?????????? ?? ??????? ??? ?? ?????????? ??? ?????? 37/1992 ??? ?????????? ???
?????? 6 ??? 7 ??? ??????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????.

13 ??? ?????? ??? ?????? ??????, ??? ?????????? ??? ?? ?????? 102 ??? ?? ??? ?????, ??
????????? ?? ??? ?????? ?????? ??? ?????????? ??? ?????? 104 ??? ?????? ???, ??
????????? ??? ?????? 7 ??? ?????? ??????, ?? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ? ?????????? ?????????? ?????????? ??? ?????????? ???, ???

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

14 ? ?????????? ?????????? ?????????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ???
104 ??? ?????? 37/1992, ??? ?????????????? ??? ?????? 7 ??? ?????????? ??????????. ??????
????? ??? ??????, ?? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????????? ???
????? ?????????? ?????? ? ?????????? ??? ?????? ?????????????? ?????????????? ???
?? ?????????????? ??? ??? ??? ?????? ?????????? ?????????????? ??? ?????? ??????????
??? ??? ??? ?????? ??? ?????????? ? ??? ?????? ?????????? ??? ?????? ?????????? ???, ??? ??
????????? ?????? ??? ?????? ?????????? ??? ?????????????? ????. ????????, ?? ?????????? ??..
????????? ?????????? ??? 20 % ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????????? ?????????? ??? ??? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? 20 %.

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15 ? ?????????? ?????????????? ??? ?? ??? ?????? ?????? ??? ?????? ? ?????? 37/1992
????????? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????? ??? ??????
17, ?????????? 5, ?? ?????????? ?? ?? ?????? 19 ??? ?????? ??????, ??????? ??????????
????? ??? ?????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?????????????? ????. ?????? ??????????, ? ?????? ?????? ?????? ??? ?????????? ???
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16 ? ?????????? ?????????? ?????????????? ??? ? ?????????? ?????? ??? ??? ??????????
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????????? ???, ????, ??? ?????? ??? ?????????????? ??? ???.

17 ??? ??? ?? ??? ?????????, ?? ?????? 19 ??? ?????? ?????? ??? ?????? ??? ??????
????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? 17, ?????????? 5, ??? ?? ????
??????, ?????????????? ??? ??????????, ??? ?????????? ??? ?????? ?????????? ????
????, ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??????????
?????????, ?? ?????? ?? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????
????????? ??? ?????? ????. ?? ?? ?????? ??? ?????? 19, ??? ?????? ??? ?????? ?? ?????? ????
????????? ?? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????
????????? ??? ?????? ??? ?????? 11, A, ?????????? 1, ?????????? ??, ??? ?? ????
????????? ??? ?????? ??? ??????, ? ?????????? ?????? ?????? ??? ?????? ??? ?????? ????
????? 17, ?????????? 5, ? ?????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ???.

18 ? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? 19 ??? ?????? ??????
????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????????????? ??? ?????????? ???

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

19 ? ?????????? ?????????? ?????????? ??? ? ??????? ?????????? ??? ?????? ? ?????? 37/1992
????????? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ??????????
??? ??? ?????????? ??? ?????? 19 ??? ?????? ??????, ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
??? ??? ?????? ?????????????? ?? ?????? ? ??? ?????????? ? ?????? ??? ?????? ??? ??????
????????????? ?? ?? ??? ??? ??? ?????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ???
??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???.

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

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

21 ?? ??? 17, ?????????? 2, ??? ??? ?????? ?????? ??? ??? ??? ??? ?????????? ??? ?????????? ???
????????? ??? ??.. ?? ?????????? ??? ?????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????????? ? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??????.

22 ??? ?????????? ??? ? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ???
??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ???
??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? 17, ?????????? 5, ??? ??????
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ??? ??? ?????? ??? ??????
???? ??? ?????????? ??? ??????. ? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ??????
??? ?????? 19 ??? ?? ??? ??????.

23 ??? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ??? ?????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????? (??., ?????? ????, ??? ?????????? ??? 21?? ?????????? 1988, 50/87, ??????)
???? ??????, ?????? 1988, ?. 4797, ??? 17, ??? 6?? ?????? 1995, C?62/93, BP
Soupergaz, ?????? 1995, ?. I?1883, ??? 18, ??? ??? 8?? ?????????? 2002, C?409/99,
Metropol ??? Stadler, ?????? 2002, ?. I?81, ??? 42).

24 ?????????? ??? ?????????? ?? ?????????? ??? ?? ?????? 19 ??? ??? ?????? ???????, ??? ?????? ???
????? «????????? ??? ?????????? ??? ??????????», ?????????? ?????? ??? ?????? 17,
????????? 5, ??? ?????? ?????? ?? ?? ?????? ?????????? ???.

25 ??????, ?? ?????????? ??? ?? ??? ?????? 19, ?????????? 1, ?????? ?????????? ???
????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? 11, A, ?????????? 1,

????????? ??, ??? ?????? ????????, ?????? ??? ?????????????? ?? ?????? ??? ??????????????????
???? ???? ??? ?????????????? ?????? ?? ??? ?????????????? ?????????? ???, ????????, ???
????????????????? ??? ??? ????? ?????????? ??? ???, ?????? ?? ?????????????? ??? ?? ??????
??? ?????? 17, ?????????? 5. ????, ????, ?? ????, ??? ????? ?????? ??? ?? ??????
???, ???? ??? ?????? ??? ?????????? ??? ?????? ?????????????? ??? ????. ????????, ?????? ???
????????? ??????? ?????????? ?? ??????? ??? ?????? ??? ????? ?????? ??? ??? ?????? ??????
????????????? ??? ???, ?? ?? ??? ????? 19, ?????????? 1, ?????? ??????????, ?????????? ???
????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??????????, ?????????? ???
????? ?? ?????? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ???.

26 ????????????, ?? ?????????????? ????. ???? 37/1992 ??????? ????????, ?????????????? ????.
???????????, ?? ?????????????? ????????, ?? ????????, ???????, ?????????????? ????.
???????????, ?? ?????????????? ????. ???? ???????, ???????, ????. ???? ?????? ?????????????? ??, ????. 17,
???????????, ?? 5, ?? 19 ???. ???? ???????, ???. ???? ???????, ???. ???? ???????, ???. ???? ???????, ???.

28 ??? ??????????? ??? ?????????? ??????????????, ??? ? ?????????????? ??? ?????? ?????????
??? ??????? 19 ??? ????? ??????? ??????? ?? ?????????? ?????????? ?????????? ?????????? ???
?????????? ??? ?????? ??? ?????????????? ???, ??? ?????????? ?????????? ?????????? ??? ?????? ???
????????????? ??? ???, ??? ??????????. ????????, ?? ?????? ??? ?????????????? ??
????????? ??? ??? ??????, ??? ??? ?? ?????????? ??? ?????????????? ??????????. ???
????????? ??? ??? ?????? 8?? ?????????? 2001, C338/98, ?????????? ??? ??????,
?????? 2001, ?. I?8265, ??????? 55 ??? 56, ?????? ??? ?????? ? ?????????????? ??? ??????????
????? ??? ?????????? ??????? ?? ?????????? ?????????????????? ??????????????
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29 ????? ?????? ??? ??????????? ??????????? ??? ?????????????? ??? ?????????? ???
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30 ?????????? ????????, ??? ?????????????? ? ?????? ?????????????? ?? ?????? 24 ???
????????? ???, ?? ?????????? ??? ???? ?????? ?????? ?????? ?????????????? ??? ??????
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??????, ??? ?????????????? ??? ?????????? ?????? ?????????? ?? ??? ?????? ?? ?????? ???
????????????? ?????????? ?????????? (??., ???????, ?????? ??? 12?? ?????????? 2000,
C?359/97, ??????? ??? ?????????? ??????????, ??????? 2000, ?. !?6355, ????? 92). ??
?????????, ???, ??? ?????????? ?????? ??????????. ???????, ??? ?????????? ??????
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31 ??????? ?? ??????? ???????, ??????????? ? ??????????? ?? ?? ??????? ??
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32 ???? ?? ?????? 69, ??????????? 2, ??? ?????????? ????????????, ? ?????????? ??????????
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1) ?????????????? ?????????? ?????????? ??? ??? ???? ?????????? ??? ?????????????? ?????
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????????? ????????????, ?? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?? ?????????? ?????? ???, ????, ????, ??? ?? ?????? 17, ?????????? 2 ??? 5,
??? 19 ??? ????? ?????? 77/388/??? ??? ?????????? , ??? 17?? ?????? 1977, ???
????????????? ??? ?????????? ??? ?????? ?????? ?????? , ??? ?????????? ?? ??? ??? ??????
????????? ?????????? – ?????? ?????????? ?????? ?????????????? ?????? ?????: ??????????
????????????? ???, ??? ?????????????? ?? ??? ?????? 95/7/? ?? ??? ?????????? , ???
10?? ?????????? 1995.

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

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

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