

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

??? 21?? ??????????? 2016 (\*)

????????? ??????? ?????? – ????? 21, 45 ??? 49 ??? – ????? 28 ??? 31 ??? ?????????? ???  
??? ?????????? ?????????? ??? – ?????????? ?????????? ??? ?????????? – ??????????  
????????? ??? ?????????? – ?????????? ?????????? – ?????????? ?????????? ??????????  
??? ??? ?????????? ??? ?????????? ??? ??? ?????????? ?????????? ?????????? – ??????????  
????????? ?????????? ??? ??? ?????????? ??? ?????????? ??? ??? ?????????? ?????????? ???  
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??? ?????????? ?????????? ???  
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??? ?????????? ??? ??? ?????????? –  
????? ?????????? ??? ?????? – ?????????? ?????????? ??????, ??????, ??? ??????  
????????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ???, ???????, ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????? ? ???  
????????? ?????????? ??? – ?????????? ?????????? ?????????? ??????, ??????, ??? ??????????  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ??????  
????????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ??????  
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ??????  
????????? ?????? – ??????????»

???? ?????? C?503/14,

??. ?????????? ?????? 258 ??? ?????? ???????????, ??? ?????? ??? 11  
????????? 2014,

????????? ???????, ?????????????? ??? ??? G. Braga da Cruz ??? W. Roels,

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

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????????? ???????, ?????????????? ??? ??? L. Inez Fernandes, ??? M. Rebelo  
??? ??? J. Martins da Silva,

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

??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??? ??? T. Henze ???  
??? K. Petersen,

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

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

????????? ??? ??? T. von Danwitz, ?????? ???????, E. Levits, C. Vajda (?????????), K.  
Jürimäe ??? ?. ???????, ???????,

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

?????????: M. Ferreira, ????? ?????????? ????????????,

????????? ?????? ??? ??????? ???????????? ??? ?????????? ??? ??' ?????????????? ?????????????? ???  
16?? ??????? 2016,

???? ??????? ??? ??????? ???????????? ??? ??????? ??? ?????????? ??? ??????? ??? ??????? ??? 12?? ???? 2016,

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| - ?? ??????? ?????????

? - ? - ? ?????????? ???

2 ?? ?????? 28 ??? ?????????? ??? ?????? ?? ????:

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

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

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

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

5. ?? ??????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??  
????????????????? ??? ?????????? V.»

3      ?? ?????? 31 ??? ?????????? ??? ?????? ?? ????:

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

2. ?? ??????? ?????????? ??? ????? ?? ?????? ?????????????? ?????????????????? ?? ?????????????? ??  
????????????? VIII ?? XI.»

? - ? - ?? ?????????????? ??????

4 ????? ?? ?????? 10 ??? CIRS, ?? ?????? ?????????????????? «?????????»:

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

a) ?? ??????????? ?? ??????? ?????? ??????????????? ??????????????? ?? ??????????? ??  
?????????????? ?? ??????????????? ?? ??????????? ?? ??????????? ?? ??????????????? ??  
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[...]

3.    ??? ?????? ??????????? ??? ?????????????????? ??? ??? ?????? ??? ?????????????? ??? ?????  
??? ?????????????? ??? ?????????? 1 [...]

[...]

4.      ?? ??????? ?? ?????????? ?? ????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ???:

a) ?? ??????? ?????? ?? ?????? ?????????? ?? ?????? ?? ?????? ???????, ??????? ???????????,  
????? ??????????, ??? ?????? ?? ??????????????? ?? ?????????? ?? ?????????, ???  
?????????? ?? ?????????????? ?? ?????? a, b ?? c ?? ?????????? 1?

[...]

8.    ?? ?????????? ??????????? ?????????? ?????????? ?????? ??? ?????? ??? ?????? 73,  
?????????? 5, ??? 77, ??????????? 2, ??? ?????? ?????????? ?????????? ??????????  
?????????, ? ??? ??? ?????????? ?????? ?????? ?????? ?????? ?????????? ??? ??????????????  
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ??????????  
????????? ?????????? ?? ??? ?????? ???, ?? ?????? ?????????? ?? ?????????? ??? ??????????, ???  
????????????? ???????, ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????. ? ???  
??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???????, ?? ??? ?????? ??? ??????.  
????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???????.

9.      ??? ???? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????;.

a) A? ? ??????? ??????? ?? ????? ?????????? ??????????????, ?????? ?? ?????????? ?????? ??  
?? ????? ?? ????? ?????? ?????? ?? ?????????? ?? ??????????, ?? ?????????? ?????????? ?? ???  
?? ?????, ??????? ?? ??????????? 8, ??? ?????????????? ?? ??????? ?? ?????????? ?? ??? ??????????  
????????? ?? ?? ????? ??????????? ?? ?????? ?? ?????? ?? ?????????????? ?? ??? ??  
????????? ?????????? ?????????? ?? ??? ?? ????? ?????? ?? ??????????, ? ????

b) ?? ??????? ?? 73, ?? ?????? 10, ?? ?????? ?????????? ??????????  
?????? ??????? ?? ???? ?????? ??????.

10.    ?? ?????????? ?? ?????????? 8 ?? 9 ????? ??????? ?????????? ?? ?? ?? ?? ??????

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

????? ?????????? ?? ?? 74 ?? ?????? ?????????? ?????????? ?????????? ?????????? ??????????.

[...]»

5      ?? ?????? 38 ??? CIRS, ?? ?????? ????, ???, ????, «????????? ????????????, ???, ???,  
???????????, ??????????, ??????????», ?????? ??, ????:

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

a) ? ?????? ?? ???? ?????? ?????????????????? ?? ???? ?????????? ?????????? ?? ???? ??????

b) ?? ?????? ??????? ?? ?????????? ?? ??????????? ?? ??????????? ?? ??????????? ?? ??????????? ?? 50 % ??  
?????????? ?? ?? ?????????? ?? ? ?????????? ?? ?? ?????????? ?? ?? ?????????? ?? ?? ??????????????? ?? ??, ??'  
?????? ?? ?? ?? ??????????????? ?? ?? ?????????? ?? ??????????

c) ?? ???? ??? ?????????????????? ?????????? ?????????????? ??? ?????????? ??????????

??????, ?????? ?? ???? ??????????????, ? ???? ??? ??? ????? ?????????????? ??? ?????????? ?????? ?  
????????? ?? ???? ?????? ???????, ???? ? ???? ??? ?????????? ???' ?????????? ??? ??????????  
??? ??????? ?? ???? ? ??? ??? ?????????????? ??? ?????????????? ??? ??????  
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d) ? ????? ?? ?????????? ??? ?????????? ??? ?????????????? ?? ?????????????? ??? ??  
?????????? ???????????, ?????? ??? ?????????????? ??? ?????? ? ??? ?????? ??? ?? ?????  
?????????????? ???????????, ??? ?????? ??? ?????????????? ?????????? ???????????  
????????????? ??? ???????????, ? ?????? ?????????? ??? ?????? ?? ?? ??????????? ??????

e) ? ??????? ???. ???? a ???????????, ??? ????????, ?? ????. ??? ?????? ???. ??? ?????????? ???.  
?????? 77 ??? ?????? ?????????? ?????????? ?????????? ?????? ?????????? ? ?????? ?????? ???.  
????????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ???.  
????? ???. ??? ?????? ?????????? ?????? ? ??????????.

2.    ?? ?????????? ?? ?????????????? ?? ?????????? ?? ?????????????? ?? ???? ??  
????????????????? ?? ?????????? ?? ?????????????????? ?? ?????????? ?? ?? ?? ?????? ?? ?????? ?? ?????? ?? ????  
????????????? ?? ?? ?????? ?? ?? ?????? ?? ?? ?????? ?? ?? ?????? 10, ?????????? 3, ?????? b.

3. «????????? ???? ?????????? ?????????????? ??? ?????????????? ?? ?????????? ?????? ?????????????? ???  
????????? ??? ?????????? ?????????? ??? ?????????????? ?? ?????????? ?????? ??? ?? ?????????? ???  
????????? 1 ??????????????????, ??? ?????????? ?????? ??? ??? ?????????? ???  
?????????????, ?? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ?????????????? ???  
????????? ?? ?????? ?????????? ?????????? ?. ??? ?? ?????????? ??? ?????????? ???  
????????? ? ?????????? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??????????  
????????? ??????????, ??????? ?? ?????? ?????????? ??? ?????????????? ??? ?????????????? ???  
??? ?????? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????????????? ??? 15 % ??? ??? ???  
????? ?????? ??? ?????? ?????? ?????? ?????????????? ? ?????? ?????????? ??? ?????????? ??? ???  
??? ?????? ?????? ??????????, ?????????? ?? ??? ?????? ??? ?????? ??? ??? ???  
????????????? ?? ?? ??? ?????? ??????»

6      ????. ?? ?????? 77, ??????????? 1, ??? ?????? ??????????? ??????????? ???????  
?????????:

«????? ????. ??????? ?? ?????. ????. ????. ?? ?????. 38, ??????? 1, ??? [CIRS], ???. ????????. ????????. ????????. ????????. ????????. ????. ????????. ????????. ????????. ????. ????????. ????????. ????. ????????. ????. ????????. ????. ????????. ????. ????????. 1, ??????? c, ??? ? ????????. ????. ????????. ????????. ????????. ????. ????????:

a) ?? ?????????????? ?? ??????? ?? ?????????? ?? ?????????????????? ?? ??????????  
????????????? ?? ?? ?? ?? ?? ?? ?????? ?????? ??????

b)    ?? ?????????????? ?? ???? ?? ??????????? ?? ???? ?????????? ?? ???? ?????? ?? ???? ??????????

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

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

c) „????????????? ??? ?????????????????? ??????????, ??? ?????????????? ????????, ??? ??  
????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????????  
????????????? ??? ?????? ??? ??????..»

7      ??? 17 ?????????? 2008 ? ???????? ???????? ??? ?? ?????????????? ???????????  
????????????? ?????? ?? ??? ???????? ??? ?? ??? ????? ?????? ??? ?? ?????? ??? ?????? ???  
????????????? ??? ?????? ?? ??? ?? 18, 39 ??? 43 ??, ??? ??? 21, 45 ??? 49 ???  
?????????????, ??? ?? 28 ??? 31 ??? ?????????? ???, ??? ????? ?????????? ???  
????? ???????? ??? ?? ??? ?????????? ?????????? ?? ?????????? ??? ?? ?????? ???  
????? ?????????? ??? ?? ??? ?????????? ??? ?? ?????????? ?????????? ?? ?????????? ??? ??  
????? ?????????? ??? ?? ??? ?????????? ??? ?? ?????????? ?????????? ?? ?????????? ??? ??  
????? ?????????? ??? ?? ??? ?????????? ??? ?? ?????????? ?????????? ?? ?????????? ??? ??  
????? ??? ?????? ?????????????? ?? ?????????? ?????????? ??? ?? ?????????? ??? ??  
????? ?????????? ??? ?? ??? ?????? ??? ?? ?????.

8      ? ?????????? ?????? ?????????? ?????? ??? ?????? ?????????????? ?????????? ?? ???  
?? 15 ??? 2009 ???????, ?????????????? ?? ??? ??? ??? ???????.

9      ?????? ??? ?????? ?????????? ?????????????? ??? ?????????? ??? ?????????????? ??????????????, ?  
????????? ?????? ??? 3 ?????????? 2009 ?????????? ??? ?? ??? ?????? ?????????? ??? ?  
????????????? ?????????? ??? ?????? ??? ?????????? ??? ???????, ?????????????? ???  
????????????? ?? ??? ??? ?????????? ??? ??????? 10 ??? 38 ??? CIRS, ??? ?? ??? ??????  
????????????? ??? ?????? ??? ?????????? ??? ??????? ??? ?? ??? ?????? ??? ?????? ?  
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????????? ??? ?? ??? ?????? ??? ??????

10     ? ?????????? ?????? ?????????? ?????? ?? ??? ?????? ?????????????? ???,  
????????????? ??? ?? ??? ?????????? ??? ?????????? ??? ?? ??? ??????.

11     ??? 28 ?????????? 2011, ? ?????? ?????? ?????? ??? ?? ?????????????? ??????????????  
????????????? ?????? ?????????? ?????? ??? ?? ??? ?????? ??? ?????? ??? ??????  
????????????? ??? ?? 10, ?????????? 9, ??????? a, ??? CIRS, ??? ?? ??? ??????????????,  
????????????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????????? ??? ??????????????  
????????? ??? ?? ?????? ?????????????? ??? ?? ?????? ??? ?????? ???????????. ? ?????????? ??? ??????  
????? ??? ?? ??? ??? ?????? ?? ?? ?????? 38 ??? CIRS, ??? ?? ??? ?????????????? ???  
????????????? ??? ?????? ??? ?? ??? ?????????? ??? ?? ??? ?????????? ??? ?? ??? ??????.

12     ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????? ??????  
????????????? ?????? ?????????? ?????? ?? ??? ?????? ??? ?? ??? ?????? ?????? ??? ?  
????????? ?????? ??? ?? 22 ?????????? 2012 ??? ?? ??? ?????? ?????? ?????? ??????????????  
????????????? ???, ?? ??? ???, ?????, ???????, ?????????? ??? ?????? ??? ?? ??? 10 ??? 38  
?? CIRS ?????????? ??? ?? 21, 45 ??? 49 ??? ??? ?? ??? 28 ??? 31 ??? ??????????  
?? ??, ???????, ?????? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ?? ??? ?? ??  
????????????? ?????????? ??? ?? ??? ?????? ??? ?? ??? ?????? ??? ?? ???.

13     ?????? ??? ? ?????????? ?????? ???, ?? ??? ?? 23 ?????????? 2013 ???????  
??, ??????? ??? ?? ??? ?????? ??? ?????????? ??? ?????????, ? ?????????? ?????????? ??  
????? ??? ?? ??? ?????? ??????.

### III – ??? ??? ????????

? – ? – ??? ??? ?????????? ?? ?????????? ??? ?????????? ?????????????? ??? ?????????????? ??? ??????????????

#### 1. ?????????????? ??? ????????

14 ? ?????????????? ????????????, ?????????? ??? ?????????? ?????? ?????? ?????????? ?????????? ??????????????  
??? ??????????, ????????????, ?????????? ??? ?????????? ??? ?????????????? ??? ?????? ?????? ?????? ?  
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?? ? ?????????????? ???  
????????????? ??? ?????? ??? ?????? ?????????????? ?????? ?????????? ?????????? ??? ?????? ??? ??????????  
????? ??????????????, ??? ?????????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????????,  
????? ??? ?????????????? ??? ??? ?????? ?????????????? ?????? . ??????????, ??? ??? ?????????????? ??? ?????? ???  
????? ??????, ?? ?????????? ??? ?????????????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????????????? ???  
????????????? ??? ?????? ??? ?????? 10 ??? 38 ??? CIRS, ??? ?????? ??? ?????? ??? ??????????  
????? ?????? ?????????? ??? ????????, ???, ????????, ??? ?????????? ?????? ?????? ????????.

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

#### 2. ?????? ??? ????????????

16 ?????????????? ???, ??? ?????? ?????????? ??? ????????????, ?????????? ??  
????????????? ??? ?????????? ??? ?????????? ?????? ?????? 258 ??? ?????????????? ???  
??? ??? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ? ?????????? ??? ??  
?????????, ? ?????????????? ??? ????????, ? ?????????????? ?????? ??? ?????????? ??? ??  
????????? ??? ?????? ?? ?????????????? ?? ?????????????? ?????????? , ? ?????????? ??? ??? ??????  
?? ?????? ?????? ?????? ?? ?????????? ?????? ?????????? ?????????? ?????? ??? ?????? ??  
????????? ??? ?????? ????????, ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??  
?????????????. ????????????, ? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??  
????????? ??? ?????????? ??? ??? ?????? ?????????? ???, ??? ??? ?????????? ???, ??????, ???  
??? ?????????? ?? ?????????? ??? ?????? ?????? (???. ?????? ??? 21?? ?????????? 2016,  
????????? ??? ??????, C?515/14, EU:C:2016:30, ?????? 12 ??? 13 ?????? ??? ???  
????????? ??? ??????).

17 ?? ?????????? ?, ? ?????? ?????? ?????? ?? ?????????? ?????? ??? ?????? ??  
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??  
????? ?????????? ?????????? ???, ?????????? ??? ?????????? ?? ?????? ?? ?????? 10 ???  
38 ??? CIRS, ?????? ??? ?????????? ??? ?????? ??? ?????? 21, 45 ??? 49 ???, ???  
??? ??? ?? ?????? 28 ??? 31 ??? ?????????? ???.

18 ????????, ? ?????????? ??? ?????????????? ??? ?????????????? ?????? ??? ?? 10 ??? 38 ??? CIRS ?????? ???  
????????????? ?????????? ??? ?????????? ?? ??????????, ??????, ?????? ?????? ??  
????????????? ??? ?????? ??? ?????????????? ??? ?????? ?????? ?? ?? ??? ?????????????? ???  
????? ??? ?????????? ???, ????????, ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?? ???  
????? ?? ??????, ??? ?? ??? ?????? ??????? ??????, ??? ?????? ??? ?? ?????? ??? ??????.

19      ????? ??????????, ? ?????????? ????? ?????????? ????? ?????????? ?? ?????????????? ???  
?????????, ???? ???? ?????????????? ????? ???? ???? ???? ?????????? ???? ?????????? ??????????.

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

? - ? - ??? ??? ??????

21 ???????, ? ??????? ???? ?????? ???, ?????????????? ???, ?????????????? ???, ?????????????? ???  
????????????? ?? ??? ???? ?? ???? 10 ??? CIRS, ??? ???? ?? ???? ? ?????????????? ???  
????????????? ?????????? ??????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ?????? ??? ? ??  
???? ?????? ??? ?????????? ?????????? ??? (???) ??????? ?? ??????????, ??? ??????  
?? ??????? ??????????, ??? ?? ?? ?????????????? ?????????? ??? ?????????????? ??? ?????????????? ???  
????????????? ?????????????? ??? ?????? ??? ?? ????? ?????????? ??? ????? ?????????????? ??? ??????  
?????????, ??? ??? ??? ?????????? ??? ?????? ??? ?? ????? 21, 45 ??? 49 ??? ??? ??  
????? 28 ??? 31 ??? ?????????? ???.

22 ????????, ? ??????? ?????????? ??? ?? ??? ????? ?????? ????? ??, ?????????????? ??  
?????????? ?? ??? ?? ?????? 38 ??? CIRS, ??? ?? ?????? ? ?????????????? ??  
?????????? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????????? ??? ?? ?????  
????????? ?????????? ?? ?????????? ?????? ?????? ?? ?????? ?? ?????? ? ??????????  
????????? ??? ?????? ?????? ?????? ?????? ? ?????? ??? ?? ??? ?????? ?????? ??????  
????????? ??? ?????????? ??? ?? ?????? ??????, ?????? ??? ?????????? ???  
????? ??? ?? ?????? 49 ??? ?? 31 ??? ?????????? ???.

23      ?? ?????????? ?? ???? ??????? ?? ??????? ?? ???????.

1.    ??? ??? ?????????? ??? ?????????? ??? ??? ?????????? ??? ?????????? ??? ??????????

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

24      ? ?????????? ??????????? ???, ??? ???? ?? ?????????? ??? ?????????? ???  
????????? ??? ?????????? ?????????? ?????????, ?? ????? 10 ??? CIRS ?????????? ??????  
????????? ?????????? ??? ?????? ??? ?????????????? ??? ?????????????? ??  
????????? ??? ?????? ?? ??????? ?? ?????????? ??? ?????????? ?? ?????? ??? ??????  
???? ??? ??????????. ??????????, ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???  
???? ?????????? ? ?????? ?? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ???  
????????? ? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? ??? ?????? ?????? ??? ??????. ??????????, ?? ? ?????? ? ? ??????  
????????? ??? ?????? ??? ?????? ?????????, ?? ???? ??? ?????????? ??????????  
????????? ?????????? ? ??? ??? ?????????????? ?????????? ?????????. ???????, ???  
????????? ??? ?????? ?????? ?????????, ? ?????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????? ?????? ?????????, ? ?????? ??? ?????? ??? ?????????? ??? ??????????

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

25 ? ?????????? ?????? ?? ?????????????? ?? ?????????? ?? ?????????????? ??  
????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ??  
????????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ??????????  
????? ?? ?????????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ??  
????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??, ?? ?????? ?? ?????? ??  
?? ?? ?????? 21, 45 ?? 49 ?? ?????? ?? ?? ?????? 28 ?? 31 ?? ?????????? ???.

26 ? ?????????? ?????????????? ?? ?????????? ?? ?????????? ?? 11?? ?????? 2004, de Lasteyrie  
du Saillant (C?9/02, EU:C:2004:138), ?? ?? 7?? ?????????? 2006, N (C?470/04,  
EU:C:2006:525), ?? ?????? ?????? ?? ?????????? ?? ?????????? ?????????? ?? ?????? ??  
?? ???, ?? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?????? ??????. ??????????, ??  
?? ?????????, ? ?????? ?? 29?? ?????????? 2011, National Grid Indus (C?371/10,  
EU:C:2011:785), ?? ??? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????? ??  
?? ?? ?????????? ?? ?????? ?? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ??  
????????????? ?? ?????????? ?????????? ?? ?????????? ?? ?????????? ?????????? ??  
?????, ?? ?????? ?????? ?? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ??  
????????? ??????.

27 ? ?????????, ??????? ?????????????? ?? ? ?????? ?????????????? ??  
????????????????? ?? ?????????????? ?? ?????????? ?? ?????? ?????????? ?? ?????????? ??  
????????? ?? ?????? ?????? ?? ?????????????? ??, ?????????? ?? ?????? ?????? ?????? ??  
????? ?? ?? ?????? ?? ?????????????? ??, ?????????? ?? ?????? ?? ?????? ?? ?????? ??  
????????? ?? ?????? 2011/16?? ?? ?????????? ??, ?? 15?? ?????????? 2011, ??????? ??  
?? ?????????? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ??  
77/799/?? (?? 2011, L 64, ?. 1), ?? 2010/24/?? ?? ?????????? ??, ?? 16?? ?????? 2010,  
???? ?????????? ?????????? ?? ?????? ?? ?????????? ?????????? ?? ?????? ?? ?????? ??  
????? ?? (?? 2010, L 84 ?. 1, ?? ?????????? ?? 2014, L 315, ?. 51), ?????????? ??  
????????????? ?????????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ??  
????????? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ??  
??? ?????? ?????? ?? ?????? ?? ?????? ?????????? ?? ?????? ?? ?????????? ?? ?????? ??  
????????? ?????? ?? ?????? ??.

28 ???????, ? ?????????? ?????????????? ?? ?????????? ?? ?????????? ?? ?????? ??  
???? ?????????????? ?? ?????????????? ?? ?????????????? ?? ?????? ?? ?????????? ??  
????? ?????????? ?? ?????????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ??  
?? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ??, ?????????? ?? ?????????? ??  
????????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??  
?? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ??.

29 ? ?????????? ?????????? ?????????? ?? ?????? ?? 10 ?? CIRS ?? ??????????  
???? ?? ?????? 21, 45 ?? 49 ?? ?????? ?? ?????? ?? ?????? 28 ?? 31 ?? ?????????? ???. ?? ??  
????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? CIRS ?? ?????? ??????????  
?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??  
????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??  
????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??, ?? ?????? ?? ?????? ??  
??? ?????? ?????? ?? ?????? ?? 11?? ?????? 2004, de Lasteyrie du Saillant (C?9/02,  
EU:C:2004:138), ? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??  
?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??  
?????.

30 ??? ?? ?????????? ?????????? ??, ? ??? ?????? ?????????? ?? ?????? ?? ?????? ??

??? ?????????? ??? ?? ?????? 10 ??? CIRS ???????????????, ???' ????, ??? ?? ?????? ???  
????????????? ?????????? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???,  
????????? ?? ??? ??? ??? ?????????? ???????????????, ??? ?????? ?????????? ?? ??????????  
???? ?????? ??? ?? ?????? ?????? ?????? ?????? ??? 29?? ?????????? 2011, National Grid  
Indus (C?371/10, EU:C:2011:785, ??? 45). ?? ?? ??? ?????? ?????? ?????? ?????????? ??? ??  
?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ??  
????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??  
????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??  
????????? ???????, ??? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?  
????????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??  
?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??,  
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??  
2007, Rewe Zentralfinanz, C?347/04, EU:C:2007:194, ??? 42, ??? ?? 8?? ?????????? ??? 29?? ??????  
Amurta, C?379/05, EU:C:2007:655, ??? 58).

31 ? ?????????? ??? ?????????? ?????????? ??? ?????????? ?????? ?????????? ??? ?? ??????  
??? ?????????? ??????????. ??? ?? ?? ?????? ?????? ?????, ?????????? ?? ??????????  
?????? ?????????? ?????? ??? ?????????? ?????????????? ??? ?? ?????????? ??????????  
??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????  
????? ?? ?????????? ?? ?????????? ?? ?????????? ?????? ?????? ?????? ??? ?????? ?????? ???  
????????????? ??? ?? ?????? ?????? ??? ?????????? ?????? ?????? ?????? ??? ?????? ?????? ??  
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ??  
????????? ??? ??????. ??????????, ??? ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???  
????????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??  
????????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??.

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

33 ? ?????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?????????? ??? ?? ?????? ??????????  
???? ?????? ?????? ?????????? ??? ?????? ?????? ??? ?? ?????? 10 ??? CIRS ????  
????????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????  
??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
???? ?????? ?????? ?????? ??? ?????? ?????? ??? ?? ?????? ??? 29?? ?????????? 2011, National Grid  
Indus (C?371/10, EU:C:2011:785, ??? 45), ?????? ?????? ?????? ??? ?? ?????? ??? ??  
????????? ?????????? ??? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??????.

i) ?????? ??? ??????????

34 ?? ?????????? ?????? ??? ?????????? ?? ?????? 10 ??? CIRS ?????? ?? ??????????,  
???' ????, ??? ?? ?????? ??? ?????? 21, 45 ?? 49 ??? ???, ?? ???????, ??? ?? ??????  
??? ?????? 28 ??? 31 ??? ?????? ???.

i) ??? ??? ?????????? ?? ??? ?????? ?????????? ?????? ??? ?????? 21, 45 ?? 49 ???

35 ??? ?? ?????????? ??? ???????????, ?? ?????? 21 ???, ?? ?????? ???????????,  
??????, ?? ??????? ??? ?????? ??? ?????? ?? ?????????? ??? ?? ?????? ??????.

???? ?????? ??? ?????? ??????, ?????????????????????? ??? ????? 45 ???, ??? ?????? ???  
????????? ?????????? ??? ???????????, ??? ??? ????? 49 ???, ??? ?????? ??? ??????????  
????????????? (??., ??' ????, ??????? ??? 12?? ?????? 2012, ??????? ??? ??????????,  
C?269/09, EU:C:2012:439, ??? 49 ??? ?????????????? ??????????).

36    ?? ? ? ??????, ?? ?????? ?????????? ???????? ?????? ?? ?????????? ?? ?????????? ??  
????? 45 ??? 49 ???, ?? ?????? ?? ? ?????? ?? ?????? 21 ???, ??? ?????? ?? ??????  
?? ?????????? ??? ??? ?????? ?????? ?? ?????? ?? ?????? ??? ?????????? ?? ??????  
?? ?????? ??? ??? ?????????? ?? ??? ?????? ?????????? ?????????????? ??????????????.

-    ??? ??? ? ? ?????????? ?????????? ??? ?????? ??? ?????? 45 ??? 49 ???

37    ??? ? ? ?????? ?? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ??? ???? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????  
????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ??? ? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ???  
????????? ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ????  
????????? ??? 12?? ?????? 2012, ??????? ??? ??????, C?269/09, EU:C:2012:439, ???  
51 ??? ??? ?????????? ??????????).

38    ?????????? ?? ?????????? ??????, ??? ? ?????? ???, ????? ? ? ?????? ?? ??????????  
????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????  
? ?????????? ???, ?? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ???, ??  
????????, ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?? ???  
????????? ??? ??? ? ?????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?'  
????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ?????????????? (????????? ??? 12??  
????????? 2012, ??????? ??? ??????, C?269/09, EU:C:2012:439, ??? 52 ??? ???  
????????? ?????? ??????????).

39    ?????????? ??? ?????????? ? ?????? ?????????? ??? ?????? ?????? ?????? ??? ??  
????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ?????? ??? ?????? ??? ?????? ?????? (??., ??' ????, ??????????  
?? 27?? ?????????? 1988, Daily Mail and General Trust, 81/87, EU:C:1988:456, ??? 16,  
????? ??? ??? 12?? ?????? 2012, ??????? ??? ??????, C?269/09, EU:C:2012:439,  
????? 53 ??? ??? ?????????? ?????? ??????????).

40    ??? ?????? ????????, ??????, ?????? ?????? ??? ?????? ?????? ?????????? ???  
????????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???  
????????? ?????? ?????? 12?? ?????? 2012, ??????? ??? ??????, C?269/09,  
EU:C:2012:439, ??? 54 ??? ??? ?????????? ??????????).

41    ?? ??????????, ?? ??? 10, ?????????? 8, ??? CIRS ?????? ???, ?? ??????????  
????????? ?????????? ????????, ? ??? ??? ?????? ?????? ?????? ?????? ?????? ??????  
?? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???  
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???  
?? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???  
? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

42      ????? ??????????? ?? ???? ?????? ??????, ?? ?????? 10, ??????????? 9, ????????? a, ???  
CIRS ?????????? ?? ???? ?????????????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ?? ????  
?????? ?? ???? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ????  
?? ???? ?????????? ?? ???? ?? ???? ?? ???? ?? ???? ?? ???? ?????? ?????????? ?? ???? ?? ???? ??  
?????, ??????? ?? ?? ?????? 10, ?????????? 8, ??? CIRS, ??? ?????????? ?? ???? ?? ????  
?? ???? ?????? ?? ???? ?????? ???????.

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

44      ? ?? ??? ????? ?????? ?????????????? ??? ?????? ??? ?????? ?????????????? ??? ???????  
????????? ??????? ?????????? ?????????? ?????????????? ??? ?????? ??? ?????????????? ??? ???????  
?? ?????????? ??? ?????????? ??? ?????? ?????????????? ?? ?????? ?? ??? ?????????????? ??? ???????  
????????? ??? ?? ??? ??? ?????????? ??? ??? ?????? ??? ?????? ????. ????????, ??? ? ??????  
???????????, ?? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ????????, ???, ???  
????????? ??? ??? ?????????? ? ?????? ??? ?????? ??? ?????? ?????????? ???, ???, ??? ???  
???????????, ? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ???  
?????? ? ?????????? ??? ?? ??? ?????????? ?????????? (??., ???' ??????????, ??????? ??? 11??  
??????? 2004, de Lasteyrie du Saillant, C?9/02, EU:C:2004:138, ??? 46).

45      ????? ?? ??????? ?????????? ??? ??????????????, ? ???????? ????? ????? ??????????  
?????????????? ?? ?????????? ?? ?????????????? ??????????, ?????????? ?? ?????????????? ???  
????????? ?? ??????? ?????????? ??? ??????? ??????? ?????????? ???????, ??????????  
????????? ??? ?????????? ?????????????? ??? ?????????? ??????? ?????????? ???????, ??????????  
????????? ??? ?????????? ?????????????? ??? ?????????? ??? ?????????? ??? ??????? ??????????  
????????????? (??., ??' ????, ??????? ??? 12?? ??????? 2012, ??????? ??? ??????????,  
C?269/09, EU:C:2012:439, ??????? 59 ??? 61).

47      ????? ????????, ??? ????? ?? ?????????? ?????? ??? ?????? 10, ?????????? 9,  
????????? a, ??? CIRS ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??????????  
?????????, ? ?????????? ?????? ?????????? ??? ?????? ??? ?????????????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???  
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ???  
??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? 45 ???  
49 ???.

- ??? ??? ??????????????? ??? ??????????? ??? ??????????? ??? ??????????????? ??  
????? 45 ??? 49 ????

48 ?????? ?? ?????????? ?? ?????????????? ??? ?????????????? ??? ?????????????? ???????  
????????????? ? ?????????????? ??? ?? ?????? 10, ?????????? 9, ?????????? a, ??? CIRS ???  
????????????? ??? ?????????????? ??? ?????? 45 ??? 49 ????. ??????????, ??????, ???  
????????? ???, ? ?????????? ?? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ???  
????? ?? ?????????? ?????? ??? ?? ??? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ???  
(??., ????, ??????? ??? 18?? ?????????? 2007, ??????? ??? ???????, C?104/06,  
EU:C:2007:40, ??? 25, ??? ?? 29?? ?????????? 2011, National Grid Indus, C?371/10,  
EU:C:2011:785, ??? 42).

49 ??????, ??? ?????? ?????? ?????? ?????? ?????? ??????????? ?? ???????????, ??????, ???  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ???, ????????, ??? ??  
???? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????????????? (??., ??' ????, ??????? ??? 13??  
????????? 2007, ??????? ??? ???????, C?260/04, EU:C:2007:508, ??? 33 ??? ???  
????????? ???????).

50 ? ?????????? ?????????? ?????????? ?????????????? ?????????????????? ?????? ??? ???????,  
??????, ??? ?????? ?????????????? ?????????? ?????????? ??? ?????????? ?????????? ???????  
??? ?????? ???, ?????? ?? ??? ??? ??? ?????????? ???????, ????????, ??? ??????  
????????? ??? ?????? ??? ?????? ?????? ?????????? ???, ???????, ??? ??????  
????????? ??? ?????? ?????????? ?????? ??? ?????????? ?????????? ??? ?????? ??? ??????  
??? ?????????? ??? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ???  
??? ?????????? ??? ??? ??????????.

51 ??????, ??? ?????? ??? ?????????????? ??? ?????? ??? ?????? ?? ??????????? ???  
????????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ??? ?????? ???, ??????????????,,  
??????, ??? ??? ?????? ?????? ?????? ?????? ?????? ?????????????? ??? ?? ?????????? ??? ??,  
????????, ??? ?????? ?????? ???????, ?????? ?????? ?????? ?????????? ? ?????????????? ?? ???  
??? ??????, ?? ?????? ??? ?????????? ?? ?????? ?????? ?? ?????? ?????????? ??? ?????????? ?  
????????, ?? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ??????????,,  
??????, ?? ?????? ??? ?????????? (?????? ??? 16?? ??????? 2015, ???????  
???? ???????, C?591/13, EU:C:2015:230, ??? 64 ??? ??? ?????????? ??????????).

52 ???????, ? ?????? ?????? ?????????? ??? ? ?????????? ?????????? ???????  
????????? ??? ?????? ??? 29?? ??????? 2011, National Grid Indus (C?371/10,  
EU:C:2011:785), ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??????? ???  
??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????????? ?????????? ??? ??????? ???  
?????? ?????? ??? ?? ?????????? ?????? ?????? ??? ?????? ?? ?????????? ?????? ??? ??????  
????????? ??? ?? ?????????? ?????? ?????? ?? ?????????? ??? 11?? ?????? 2004, de  
Lasterie du Saillant (C?9/02, EU:C:2004:138), ??? ??? 7?? ?????????? 2006, N (C?470/04,  
EU:C:2006:525), ?? ?????? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ???????  
?? ?????????? ?????????? ??? ?????????? ??? ??? ?????? ??? ?????? ?? ???.

54      ?? ????? ?? ??????? ??, ??? ???. ?????? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ???????????  
?????????? ?????????? ???. ??????? ???. ??????? ???. ??????? ???. ??????? ???. ??????? ???. ??????? ???.  
????? ????????. ????????, ??????? ???. ??????????? ???. ??????? ??., ??????? ???. ??????? ???.  
????? ????????, ????????, ???????????, ???????????????, ??????????????????? ???. ??????????? ???.  
????? ??????? ???. ??????????? ???. ??????????????? ???. ???????????, ??? ??????????????? ???.  
?????????? ???. ??????????? (??., ??' ?????, ??????? ???. 16?? ??????? 2015, ??????? ???.  
??????????, C?591/13, EU:C:2015:230, ?????? 71).

55      ????? ?? ??????, ??????? ? ?????????? ?????????????? ?? ??????? ????? ?????? ??????????????  
???? ?????????? ?????????? ??? ?????????????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????  
?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?? ???,  
?????? ??? ?? ?????? ?????? ? ?????????????? ?? ?????? ?????? ?????? ?????????? ?????????? ???  
?? ?????????? ??? ?????????? ?? ??? ?????? ?????? ?????, ?????? ? ?????????? ??? ?? ??????????  
????? ??? ?????? ??? ? ?????? ?? ?????????????? ??? ?????????? ?????? ?????????? ??? ?? ??????  
????? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??? ??  
????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????????? ??? ?? ??? ??????  
????? ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????????????? ???  
?? ?????????? ?? ??? ?????? ??? ?????? ?????? ?????? ??????????????, ???? ??? ?????????? ??? ?? ??????  
??? (??., ???' ??????????, ?????? ??? 29?? ?????????? 2011, National Grid Indus, C?371/10,  
EU:C:2011:785, ????? 61).

58      ????? ???? ?? ??????? ?? ? ??????? ?????? ??? ??????????? ???, ??? ???? ?? ????? ??  
?????????? ??? ?????????? ??? ?????????????? ??? ??????????? ??? ??????????? ?? ??? ????? ?????, ???  
?????????? ??? ??????? ?????????? ??? ?????????? ?????????? ??????????? ??????????, ??????????? ??  
????????? ????? ?? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??????????? ??????????,  
????????????? ??? ?? ?????????? ?????? ?? ??? ?????????? ??? 29?? ?????????? 2011,  
National Grid Indus (C?371/10, EU:C:2011:785, ????? 52), ??? ?????????? ??? ????? ??

???????????????? ???? ?????? ??????? ???? ???? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????  
??? ??? ?????? ??????? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ???  
????????? ?? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ???, ??? ?????? ???  
???? ??? ?????? ??? ?? ?????? ??????????, ??? ?????? ?????? ?????? ??? ?????? ??? ?? ?????? ??? ??????  
??? ?????????? ?????????? ??' ?? ???? ?????? ?????? ??? ?????? ??? (??., ??' ????,  
????????? ??? 29?? ?????????? 2011, National Grid Indus, C?371/10, EU:C:2011:785, ??????  
73 ??? 85, ????? ??? 16?? ?????? 2015, ?????? ??? ?????? C?591/13,  
EU:C:2015:230, ????? 67 ??? ?????? ?????????? ??????????).

59    ?? ?????????? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???  
?????? ??? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???  
?? ?????????? ???????, ????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,  
??????, ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,  
????? ?????? ??????? ?? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
(??, ?????????? ?? 29?? ?????????? 2011, National Grid Indus, C?371/10, EU:C:2011:785,  
?????? 73 ??? 85, ????? ??? 16?? ?????? 2015, ?????? ??? ?????? C?591/13,  
EU:C:2015:230, ????? 67 ??? ?????? ?????????? ?????????). ???????, ?? ??????????  
?????? ??? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????, ? ?????? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? (??., ??' ????,  
????? ??? 29?? ?????????? 2011, National Grid Indus, C?371/10, EU:C:2011:785, ??? 74).

60    ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ???  
????????? ??? ?? ??? 10, ?????????? 9, ??????? a, ??? CIRS ?????? ??? ??  
????????? ??? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ?????????? ?? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??????  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? (??., ??' ???????, ?????? ??? 29?? ?????????? 2011, National Grid Indus,  
C?371/10, EU:C:2011:785, ?????? 73 ??? 74).

61    ??? ???????, ? ?????????? ??? ?? ??? 10, ?????????? 9, ??????? a, ??? CIRS  
??? ?????????? ??? ?????????? ??? 45 ??? 49 ??? ??? ?????? ??  
????????? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ???.

62    ???????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.  
?? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? (??., ??' ????, ?????? ??? 16?? ?????? 2015,  
????? ??? ?????? C?591/13, EU:C:2015:230, ??? 74 ??? ?????? ???).  
?????????).

63 ?? ???????????, ? ??????????? ??????????? ??????????? ??? ? ??????? ??????  
?????? ?????? ??????? ??? ? ??????????? ??? ??????? ?????, ?????????? ??? ??  
????????? ?????? ??????????? ??? ? ??????????? ??? ??????? ????? ???????????  
????????? ??? ? ??????????? ??? ??????? ?????? ?????, ?????? ? ???????????  
????????? ?????? ??? ? ?????? ?????? ?????? ?????????? ?????, ??? ? ???? ????  
????? ?????? ??? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???,  
????? ?????? ?????? ??? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????? ?????? ?????? ??? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????? ?????? ??? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????? ?????? ??? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???.

64 ??????????? ?? ??? ???? ???? ??? ? ??????????? ??????????? ??? ???????  
?? ?????? ?????? ?????? ?????? ??? ??????????? ?????? ??????????? ??? ???????????  
?? ???? 10, ?????????? 8, ??? CIRS ??? ??? ??????????? ??? ?????? ???????????  
????????? ?????? ?????? ?????, ?????? ??? ?????? ?????? ??????????? ???????????  
??? ?????????? ??? ???? 10, ?????????? 9, ?????? a, ??? CIRS ?? ??????????  
????????? ??? ?????? ?????? ???' ?????????? ??? ?????? 10, ?????????? 8, ??? CIRS  
????????????? ??? ?????? ?????? ?????, ?????? ??? ???? ? ?????????? ???  
????????? ??? ???? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????  
????????? ???, ?????? ??? ?????? ?? ??? ?????? ?????? ?????????? ??????????, ???  
????????? ??? ???? 10, ?????????? 8, ??? CIRS. ??? ??? ?????? ??? ?????????? ???  
????????? ??? ???? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????  
????????? ??? ???? ?? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ???  
????????? ??? ?????? ?????? ??????. ??? ?????? ?????? ???? ?????? ?????????? ??? ??????  
60 ??? ?????? ???, ?? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? 8, ??? CIRS ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????  
?? ?????????? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???.  
????? ?, ? ?????????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? (??., ??' ???????, ????)  
??? 26?? ??????? 2006, ??????? ??? ?????? ??? ??????????, C?345/05, EU:C:2006:685, ??? 27).

65 ??? ???????, ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ???????????  
?? ? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???  
????? ??? ?????? ?????? ?????? ???.

66 ??? ???, ???, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ??? ?????????? ???, ?????????? ??? ??? ? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?? ??? ??? ??? ?????? ??? ?????? ??? ?????? ???, ??? ???? ????  
????? ???.

67 ??? ???????, ? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

68 ??? ??? ??????? ???, ?????????? ??? ?? ??? ???? 10, ?????????? 9, ?????? a,  
??? CIRS ?????? ?????? ?????? ??? ?????? ??? ?? ??? ???? 45 ??? 49 ??? ??? ??  
????? ?? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??  
????? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

- ??? ??? ?????? ?? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 21 ???

69 ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??

???? ??????????? ????????????, ??? ??? ?????????? ??? ?????, ??? ??????? ?? ??? ?????  
??? ????? ?? ??? 21 ??? (??., ??' ????, ??????? ??? 12?? ?????? 2012, ??????? ??  
???????, C?269/09, EU:C:2012:439, ??? 91).

ii) ??? ???? ?????????? ?????????????? ?? ?????????? ??? ?????????? 28 ??? 31 ??? ?????????? ???

70 ?????????????? ?????? ?? ?????? ??? ?? ?????????? ??? ?????? 28 ??? 31 ??? ??????????  
??? ?????? ?????????? ??? ?????? ??? ?????? 45 ??? 49 ??? (??. ?????? ??? 12??  
?????? 2012, ??????? ??? ??????????, C?269/09, EU:C:2012:439, ??? 95).

71      ??????????, ? ??????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ???  
????????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ?????????? ?? ?????? ?????????????? ??? ?????? ???, ?????????? ? ??????  
??? ?????????? ?????? ?????????? ?? ?????? ?????????? ?????? ?????? (????????? ??? 16??  
????????? 2015, ??????? ??? ??????????, C?591/13, EU:C:2015:230, ????? 81 ??? ???  
????????? ??????????).

72    ?? ???????????, ? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??  
??? ???? ???? ???? ???? ???? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ???? ??  
????????? ??? ?????? ?? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??  
????????? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??  
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? 61, 65 ??? 66 ???  
????????? ??? ??????.

73    ??? ??? ????????, ???, ?????????????? ??? ?? ??? ???? 10, ?????????? 9, ??????? a,  
??? CIRS ??????? ?????????? ?????????????? ??? ?? ??? ???? 28 ??? 31 ??? ?????????? ???  
??? ??? ? ??????? ?? ??? ??? ???? ? ??????? ??????? ??????? ??? ?????????? ???  
?????? ?? ??? ??? ??????? ??? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??????.

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

74 ? ??????? ?????????? ??? ?? ????? 38 ??? CIRS ?????????? ??????????  
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?? ?????? ?????????  
????????? ??? ?????????? ?? ?????????? ?????????? ?????? ?????? ?? ?? ? ?  
????????? ?????? ??? ?????? ?? ?????? ? ?????????? ?????? ?????? ??? ?????????? ??? ??????  
? ??? ?????? ?? ??? ? ?????????? ?????? ?????? ??? ?????? ?????? ??????. ??????????, ???  
????? ??????????, ? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ?????????? ??? ??????????  
????? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?? ??????, ?????? ?????????? ???  
????????? ??? ?????? ??????????. ????????, ??? ?????? ?????? ?????? ?? ?????????? ???  
????????? ??? ?????? ??????. ??? ?????? ??????????, ? ?????????? ?????? ?????????? ?? ?????? ??  
????????? ??? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????????????? ?? ??????????  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ???

75    ? ?????????? ??????????? ???, ?? ?? ??????, ?? ????? 38 ??? CIRS ?????????? ??  
????? 49 ??? ?? ????? 31 ??? ?????????? ??? ???, ??? ??? ?????? ??? ?????? ??  
??? ?????? ??? ?????????? ??? ?????? ?? ????? 10 ??? CIRS, ?????? ?????? ??? ??????????  
????? ??? ?? ?????????? ??? ?????????????????? ??? ?????????? ??????????.  
??????????, ? ?????????? ?????? ?????????? ?? ?????????, ??? ?????????, ?? ?????, ?????? ??  
????????? 2011/16, ?????? ?????????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ??????????  
? ??? ? ? ?????????? ?????? ??? ?????????? ?????? ?????? ?????? ?????????? ?? ??????

????????????? ??? ???????????, ?????????????? ?? ?????????????? ?? ?? ?????????? ???  
????????????? ?? ?????? ??? ?????? ????. ????. ???? ??? ???????, ???? ?????? ??????????????  
??? ? ??????? ??? ??????????? ?? ??????? ??????? ?????????? ??? ?????????? ???  
????? ? ??????????? ??? ??????? ????????. ? ??????? ?????????? ?????????? ???  
2010/24 ? ????, ???? ??? ?????? ???, ?????? ?????? ???? ??? ?????????? ???  
???? ?????????? ? ?????? ??? ??????????.

76    ? ?????????????? ?????????????? ?????????????? ??? ?? ?????? 38 ??? CIRS ?????????? ???  
????????? ??? ?????????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??????????  
????????????? ??? ?????????? ??? ?????????????????? ??? ?????? ?????? ?????????? ?????????? ???  
????????????? ??? ?????????????? ??? ?????? ??????. ?????? ??? ?????? ?????????? ?????? ???  
?? ?????????? ??? ?????? ? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??????????  
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ??????????  
????????? ??? ??????, ??? ??? ?????????? ??? ?????????? ?????? ?????????? ?????????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????????? ???  
????????? ????, ?????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??????????,  
????? ?? ?????????? ??? ? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ?????????? .?  
????????? ?????? ?? ??? ??????????, ?????????? ??? ?????? ?????????? ???, ??? ?????????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ?????????? ?????? ?????????? ??? ?????????? ?????? ??????????  
????????? ??? ??????????, ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???  
????? ??? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????  
????? ??? ??? ?????? ??? ? ??? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

77      ???????, ??? ???? ?????????????? ???????????, ?? ??????? ?????? ?????? ??????? ?? ??  
?????????? ??, ??? ???? ?????????????? ??, ?? ?????????????? ??, ?? ???? ?????? ??????????????  
?????????? ??, ??? ???? ?????? ??, ?? ?????????? ??, ?? ??????? ??, ?? ?????? ??, ?? ?????? ??.

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

78 ?? ??????????? ???????? ?? ?????????? ?? ??? 38 ??? CIRS ?????? ?? ??????????,  
????' ?????, ??? ?? ?????? ?? ?????? 49 ??? ??, ?? ???????, ??? ?? ?????? ?? ??????  
31 ??? ??????? ??.

i)    ??? ??? ?????????? ?? ??? ????? ?????? ?????????????? ?????????? ??? ?????? 49 ????

79 ?????????????? ?????? ?? ?????? ???, ??? ???? ?????????? ??? ??????????????, ??? ?????? ?????????? ??? ?????? 49 ??? ?????????? ??? ?????? ?????????? ?????? ?????????? ?????? ?????????? ?????? ?????? ?????????? (???. ?????? ??? 18?? 2014, X, C87/13, EU:C:2014:2459, ????? 21 ??? ????? ?????????????? ??????????).

80 ??????????? ?? ?????????? ? ?????????? ??? ? ??????? ??? ?????????????? ???  
????????? ?? ????? 38, ?????????? 1, ??? CIRS ?????? ??? ??? ??????????, ???  
????????? ?? ????? ?????????? ??? ?????? ??? ?????? b, ??? ?? ?????? ?????????? ???  
????????? ?? ?????? ?? ?????? ??? ?????? ??? ?????????? ?????? ??? ??????????????  
??? ??? ?????? ?????????????? ??? ?????????? ?????? ?????????????? ?????? ?? ??????  
????????? 50 % ??? ?????? ??? ?????? ?????.

81 ??? ??????, ?? ??? 38, ?????????? 1, ??? CIRS ?????? ??? ??? ?????? ??????????  
??? ?????????? ??????????.

82 ? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????  
????????? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????  
??? ?????? ??????, ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ?? ??? 38,  
????????? 1, ?????? a ??? e, ??? CIRS. ??? ???? 38, ?????????? 1, ?????? a, ???  
CIRS, ? ?????? ??? ?????? ?????????? ?? ?????????? ??? ?????????? ?????? ?? ??????  
????????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??????????. ???  
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???  
??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? 38, ?????????? 1, ??? CIRS ???  
?????????, ?? ?? ?????, ?? ????? ?????? ??? ?????? ??? ?????? ??? ??????????.

83 ??? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????  
??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????  
?????????, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????  
?? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ?? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???.

84 ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
?? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????,  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ?????? ??? ?????? 37 ??? 40 ??? ?????? ??? ??????.

85 ??????, ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????  
????? ?? ??????.

86 ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
?????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ??? ?????? ???, ?????? ?? ??? ??? ??? ?????????? ???, ???, ?????? ???, ???  
????? ?????????? ??? ?????? ??? ?????? ??? ??????.

87    ????? ?????, ??????, ??? ????? ?????????????? ??? ?????????? ?????????? ???  
????????????? ?????????? ??? ?????? ?????, ?????????????? ???, ??? ???? ?????? ???  
????????????? ??? ?????? 59 ??? ?????? ?????? ??????, ?? ?????? 38, ?????????? 1, ??????????  
a, ??? CIRS ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????  
??????, ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????  
? ??? ???? ?????? ??????.

88    ??? ??? ?????? ??????, ? ?????????? ??? ?????????? ?????????????? ??? ?? ???  
38, ?????????? 1, ?????????? a, ??? CIRS ??? ?????? ?? ?????????? ??? ??? ??????  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???.

89    ????? ?????, ????????, ??? ?????????????? ??? ?????? ??? ?????????? ??? ??? ??????  
????????????? ??? ?????????? ?????, ? ?????????? ?????? ?????????? ?????????? ??? ?  
????????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ?? ?????? ??? ??? ??????????  
????????? ?????????? ?????????? ??? ?? ?????? ?????? ?????? ?? ??? ?????????? ???  
????????? ?????????? ?????????? ??? ?????? ?????? ?????? ??? ??????. ??? ???, ??? ?? ??? ?? ???  
??????, ??? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ???,  
????????? ?????? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???  
??????, ?????????? ??? ? ?????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ??? ???  
????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????.

90    ?????????????? ?? ??? ?????? ??? ?????? ??? ? ?????????? ? ?????? ?????? ?? ???  
?? ??? ???? ? ??? ?????????? ?????? ??? ?????? ?????????? ??? ?????, ?? ??????, ??  
????????? ?? ??? ?????????? ?????????? ?????? ??? ?????? ?????? ??? ?????????? ??  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? 87 ??? 88 ???  
????????? ??????, ? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ??????????  
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???  
????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???  
????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??????  
??????, ?????????? ??? ? ?????? ?????? ?????? ?? ?????????? ?????? ?? ?????? ??????  
????????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? 38, ?????????? 1, ?????????? a, ??? CIRS ?????? ?????? ???  
????? ?? ??? ?????? ???.

91    ??? ??? ??????? ??????, ?????????????? ??? ?? ??? 38, ?????????? 1, ?????????? a,  
??? CIRS ?????? ?????????? ?????????? ??? ?? ??? 49 ??? ??? ??? ???? ???? ??  
??? ??? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ????  
????? ??? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ????.

ii) ??? ??? ?????????? ?? ??? ?????? ?????????? ?????? ??? ?????? 31 ??? ?????????? ???

92    ? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ???? ????  
??? ??? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ???? ???? ???? ????  
??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ???? ????  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ???? ????  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 87 ??? 90 ??? ???? ???? ????  
?????????.

93    ??? ??? ??????? ??????, ?????????????? ??? ?? ??? 38, ?????????? 1, ?????????? a,  
??? CIRS ?????? ?????????? ?????????? ??? ?? ??? 31 ??? ?????????? ??? ??? ??? ????  
?????? ?? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ???? ???? ??

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

94    ?????? ?????? ??? ???? ?????? ??? ????????, ?????????????? ???:

-    ? ??????????? ???????????, ??????????? ??? ??????????? ?? ??? ???? ?? ?????? 10,  
?????????? 9, ??????? a, ??? CIRS, ??? ?? ?????? ? ??????????????? ??? ?????? ?? ??????  
????????? ??????????? ??????? ?? ??????????????? ??? ??????????? ???????, ??? ?? ???  
???? ?? ??? ?????? ??????? ?? ?????? ???????, ?? ??? ?? ???, ??????? ?? ?? ?????? 10,  
?????????? 8, ??? ?????? ??????? ??? ??????????? ??? ??? ?????????? ??????? 21, 45 ??? 49 ???  
??????????, ?????? ??? ??????????? ??? ?????? ??? ?? ?????? 21, 45 ??? 49 ??? ?????? ???  
??? ?? ?????? 28 ??? 31 ??? ?????????? ???, ???

-    ? ??????????? ???????????, ??????????? ??? ??????????? ?? ??? ???? ?? ?????? 38,  
?????????? 1, ??????? a, ??? ??? ?????? ???, ?? ??? ?????? ??????? ?? ??????????? ???  
????????? ??? ??????????? ??? ?????? ??? ?????? ??????? ??? ??????????? ?? ??????? ???  
????????????? ??????????? ??? ??????????????? ??? ?????? ??? ??????????? ?????? ???  
????????????? ??????????????? ??? ?????? ??? ??????????? ?????? ??? ?????? ???  
????????? ??? ???????????, ?????? ??? ??????????? ??? ?????? ??? ?????? ??? 49 ???,  
????? ??? ??? ??? ?????? 31 ??? ?????????? ???.

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

95    ??? ?? ??? 138, ?????????? 1, ??? ?????????? ???????????, ? ??????? ???????  
????????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ???????????  
???????.

96    ?????????? ??? ???? ?????? ??? ?????? ??? ?????????? ??? ??????????? ??????????? ???  
????????? ??? ???? ?????? ??? ???????, ??? ?????? ??? ?????? ??? ?????? ??? ??????????? ???  
??? ?? ??????????? ??? ?????????? ??? ?????? ??? ???????.

97    ??? ?? ??? 140, ?????????? 1, ??? ?????? ???????????, ?? ?????? ??? ??  
?????????? ??? ??? ?????? ??? ?????? ??? . ???????, ? ??????????? ??????????? ???  
????????? ??? ??? ?? ?????????? ??? ?????? ???.

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

? ?????????? ???????, ?????????? ??? ??????????? ?? ??????????? ?? ??? ???? ?? ?????? 10,  
?????????? 9, ??????? a, ??? **Código do Imposto sobre o Rendimento das Pessoas  
Singulares (?????? ?????????? ??????????? ??????? ???????),** ??? ?? ??? ???? ?  
????????????? ??? ?????? ?? ?????? ??????? ?????????? ?????????? ??  
????????????? ??? ?????????? ???????, ??? ?? ??? ?????? ?? ?????? ??? ?????? ??????? ??  
????? ???????, ?? ??? ?? ???, ?????? ?? ?? ?????? 10, ?????????? 8, ??? ???  
????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ???????, ?????? ???  
????????????? ??? ?????? ??? ?? ?????? 21, 45 ??? 49 ??? ?????? ??? ??? ?? ?????? 28  
??? 31 ??? ??????? ??? ??? ?????? ??????? ?????????? ???, ??? 2?? ??? 1992.  
? ?????????? ???????, ?????????? ??? ?????????? ?? ?????????? ?? ??? ???? ?? ?????? 38,  
?????????? 1, ??????? a, ??? ?????? ??????, ?? ??? ?????? ??????? ?? ??????????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??????? ??? ?????????? ?? ??????? ??  
??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??????  
????????????? ??? ?????????????? ?????????????? ?????????????? ?? ??????? ?? ???????????  
????? ??? ?????????? ??? ?????? ??? ?????? ???????, ?????? ??? ??????????? ???  
????? ??? ?? ??? 49 ???, ?????? ??? ??? ?? ?????? 31 ??? ?????????? ???  
????????? ?????????? ????.? ?????????? ?????? ???????, ?????? ??? ??  
????????? ??? ???, ??? ?? ??? ??? ?????? ?????? ?????????? ? ?????????? ???????.  
? ?????????? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???.

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