

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

??? 23?? ?????????? 2015 (*)

«????? ?????????????? ??? — ?????????????? ??? ?????? ??? ?????? ??? ??? — ?????????? ?????? — ?????????? ?? ?????? ??????????, ??? ?????? ?????????????? — ?????? ?????????? ?????? — ?????? ??? ?????? — ?????? ?????? — ?????? ?????? — ?????? ?????? — ?????? ?????? ?????? — ?????? ?????? »

???? ?????????????? ?????? C?250/14 ??? C?289/14,

? ? ?????????? ?????? ?????????? ?????????? ?????? ?????? 267 ???, ??? ?????? ?? Conseil d'État (?????), ?? ?????????? ??? 21?? ??? 2014, ?? ?????? ?????????? ??? ?????????? ??? 26 ??? 2014 ??? ??? 12 ?????? 2014 ??????????, ??? ?????? ??? ????

Air France-KLM, ??? Air France (C?250/14),

Hop!-Brit Air SAS, ??? Brit Air (C?289/14)

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Ministère des Finances et des Comptes publics,

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

????????? ??? A. Tizzano, ?????????? ??? ??????????, ?????????? ??? ????????, ??????????, F. Biltgen, A. Borg Barthet (?????), E. Levits ??? S. Rodin, ????????,

????? ??????????: J. Kokott

?????????: A. Calot Escobar

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

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

– ? Air France-KLM ??? ? Hop!-Brit Air SAS, ?????????????? ??? ??? A. Beetschen, avocate,

– ? ??????? ????????, ?????????????? ??? ??? D. Colas ??? J.?S. Pilczer, ????? ??? ??? S. Ghiandoni,

– ? ????????, ?????????????? ??? ??? E. Creedon ??? J. Quaney, ????? ??? ??? A. Joyce, ?????????? ??? A. Keirse, BL,

– ? ????????, ?????????? ??? ??? K. N????????? ??? ?. ??????,

– ? ?????????? ??? ????????, ?????????????? ??? ??? L. Inez Fernandes ??? R. Campos Laires, ??? ??? A. Cunha,

– ? ?????????? ??? ????????, ?????????????? ??? ??? C. Soulay ??? L. Lozano Palacios,

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

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

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1 ?? ?????????? ?????????????? ?????????? ?????????? ??? ?????????? ??? ?????? 2, ?????? 1,
?? 10, ?????????? 2, ??? ?????? ?????? 77/388/E?? ??? ?????????????, ??? 17?? ???? 1977,
???? ?????????????? ??? ?????????? ??? ?????? ?????, ??? ?????????? ?? ??? ?????? ?????? ??????
????????? — ??? ?????? ?????? ?????? ?????????????? ?????? (?? ????. ????. 09/001, ?. 49), ???
????????????? ?? ??? ?????? 1999/59/?? ??? ??????????, ??? 17?? ???? 1999 (?? L 162,
. 63, ??? ?: ??? ?????), ??? ?? ?????????? ?? ??? ?????? 2001/115/?? ??? ??????????,
?? 20?? ?????????? 2001 (?? L 15, ?. 24, ??? ?: ?????????????? ??? ??????).

2 ?? ?? ??? ?????? ?????????? ?????????????? ??? ?????? ?????????? ?????????? ??????, ???
Air France-KLM, ??? Air France, ??? ??? Hop!-Brit Air SAS, ??? Brit Air, ???, ????????, ???
Ministère des Finances et des Comptes publics (????????? ?????????? ??????????), ???????
?? ??? ?????? ??? ?????? ?????? ?????? (???) ?? ?????????????? ?????????? ??????????
???????????, ??? ??? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ?? ??? ?????? ??????????
?? ?????? ?????? ?? ?????????? ??? ?????? ?? ?????????? ?????????? ?????????? ??????????.

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

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

3 ?? ?????? 2, ?????? 1, ??? ?????? ?????? ??? ?? ?????????????? ?????? ?????? ?????? ???
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«????? ??? ?????????????? ??? ?????? ??????????:

1. ?? ?????????? ??? ?????? ??? ?? ?????? ??????????, ??? ?????????????????? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ???, ??? ?????? ??? ???
????????? ??? ????.»

4 ?? ?????? 10 ??? ?????? ?????? ?????????? ?? ????:

«1. ?????????? ?:

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

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

2. ? ?????????? ??? ?????? ?????? ??? ? ?????? ?????????? ??????????, ??? ??? ?? ???
????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? [...]

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

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

??????????, ??? ??? ?????????? ??????? ? ?????????? ?????????? ?????????????? ??? ???, ?
????? ?????????? ??????:

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

[...]»

5 ??? ??? 10, ?????????? 2, ????, ?????, ??? ?????? ?????? ??????????, ???
????????????? ?????? ??????, ? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????
?????????. ???, ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
?????????.

6 ?? ??? 11 ??? ????? ?????? ??? ?? ?????????????? ?????? ??????, ?????? ??
?? ??? ?????? ??? ??????, ?????????? ?? ???:

«A. ??? ???????? ??? ????

1. ??? ?????? ??? ????:

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

[...]»

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

7 ??? ?? ??? 256, ?????? ?, ??? ?????? ?????????? ?????? (?? ????: ???):

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

8 ?? ??? 269 ??? ??? ??? ?? ????:

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

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

2. ? ?????? ?????????? ?????? :

[...]

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

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

?????? C250/14

9 ? Air France-KLM, ? ?????? ?????????? ??? ?????????? ??? Air France ?? 2004, ???
?????? ?????????? ??? ??????, ?????? ?????????? ?????? ?????? ???????. ??? ??????
??? ?????????? ???, ? Air France-KLM ?????? ?????????? ?????? ?????? ??????
????????? ??? ?? ?????? ??? ?????????? ???????????. ?????????? ??? ?? ?? ??? ?????? ??????
????????? ?? ??, ?? ?????????? ?????????? ??? ?? ?????????????? ?????? ?????? ??????
?? ??? ?????????? ??? ?? ??? ???.

10 ??? ?? 1999 ? Air France ??? ?????????? ??? ?????? ??? ??????? ??? ?????????????? ???
??? ??? ??? ?????? ?????????? ??? ?????????? ??? ??????? ?? ?????? ??? ?????????????? ???
????? ??????? ??? ?????? ??? ???????????. ???????, ?????, ??? ?????????? ???
????????? ?????????? ??? ?????????? ?? ?????? ?????? ?? ??????? ??? ?????? ??? ?? ??????
??? ?????????? ??? ?????? ???, ???, ???, ???, ??? ?????????? ?? ?????? ??? ??????????
????????? ?????? ?? ?????? ?????? ?? ?????? ?????? ??? ?????? ??? ?????????????? ?????? ???
????????? ?????? ??? ?????? ?????? ???.

11 ?????? ?????????? ???, ?? ?????????? ??? ?????? ?????????? ??? ?? ??? ?????? ??????
?? ??? ?? «????????? ??? ?? ?????????????? ???» ?? ?????? ?? ??? ?????? ??????
????? ??????? ??? ?? ?????????? 5,5 %, ? ?????? ?????????? ??? ?????? ?????? ??????
????????? ?????????? ???, ?? ?? ??????, ?????????????? ??? Air France-KLM
????????? ??? ?????? ??? ?? ??? ?????? ?????? 1?? ?????? 2000 ?? 31??
?????? 2003 ??? 4 066 607 ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???.

12 ?? tribunal administratif de Cergy-Pontoise (????????? ?????????? ??? Cergy-
Pontoise), ?? ??????? ??? 9?? ??????? 2011, ??????? ?? ?????? ??? Air France-KLM ???
????????? ??? ?? ??? ?????? ?????????? ????. ?? cour administrative d'appel de Versailles
(????????? ??? ??????), ?? ?????? ??? 13?? ??????? 2012, ???????
?? ?????? ??? ?? ?????? ???, ?????? ?? ?? 256 ?? 269 ?? ???, ??????????
?? ?????????? ?? ?? ?????? 1234 ??? ?????? ???, ?? ??? ?? ??? ?????? ??????????
?????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ?????????? ???
????????? ??? ?? ???, ? Air France-KLM ?????? ?????? ??? ?? ?????????? ???.

13 ?? Conseil d'Etat, ?????????????? ?? ??? ?? ??? ?????????? ?? ?? ??
????????????? ???, ?????????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?? ?? ??
????????? ??? ?????????? ?? ?????????? ??? ?????????? ???:

«1) ??? ?? ?????????? ??? ?????? 2, ??? 1, ??? 10, ?????????? 2 ??? [????? ??????
?? ??? ?????????? ??? ?????? ??????] ??? ?????? ??? ? ?????? ??? ?????????? ??????
?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ??
????????? ?? ?? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?? ??
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?? ?? ??
?????;»

2) ?????????????? ???, ?????? ? ??????????? ?????? ?? ?????????? ??? ?????????? ??? ?????
??? ?????????? ??? ??????????, ??? ? ?? ?????? ?????????? ?? ??? ??????????????????
?? ?????? ??? ?????;»

??????? C?289/14

14 ??? ??? ?????? ??? ?????????? ?????????????? ??? ?????? ?????? C?289/14 ?????????? ??? ?
?rit Air, ??? Hop!-Brit Air SAS, ?????? ?????????? ?????????? ?????????? ?????????? ???
????????? ?????????? ?????????????? ?? ??? Air France-KLM. ? Air France-KLM ??? ??????
??? ?????? ??? ?????? ??? ? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????????? ? Brit Air ?????? ??? ?????????? ??????????????.

15 ? Air France-KLM ?????????? ?? ?????? ??? ?????????? ??? ?? ?????????? ?? ??????
????? Brit Air ??? ??? ?????? ??? ??? ??????. ??? ?????? ?? ?????????? ??? ??
????????????? ?????? ?????????, ??? ? ?????????? ??? ?????????? ??? ?????????? ??? ??
????? ??? ?????? ??? ?????????, ? Air France-KLM ?????????? ??? Brit Air ?????? ???'
????????? ?????????? ??? 2 % ??? ??? ?????? ?????? ?????????? (????????????????? ???)
????????? ?? ?? ?????????? ?? ?????? ? Brit Air ?????????? ?????? ??? ??????????
????????????? . ? Brit Air ??? ?????????? ?? ??? ?? ??? ?????.

16 ?????? ?????????? ??? ?????? Brit Air, ?? ?????????? ??? ?????? ???
?????????????, ??? ??? ?????? ??? 1?? ?????? 2001 ??? 31?? ?????? 2005,
????????? ??? ?????? ?????????? ??? ??? ?? ?????? ?? ?? ??? ??????????????????
????????? ??? ?? ?????? ??? ?????? ??? Air France.

17 ?? tribunal administratif de Montreuil (????????? ?????????? ??? Montreuil), ??
????? ??? 24?? ?????? 2010, ?????? ?? ?????? ??? Brit Air ??? ?????? ??? ??
????? ?????????? ??? . ? Brit Air ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??
cour administrative d'appel de Versailles. ?????????? ??? ?? ?? ??? ?????? ?????????? ??
?? 13?? ?????? 2012, ?????????? ??? ?????????? ???, ? ?rit Air ?????? ??????
??' ??? ?????? ?????? ??? Conseil d'Etat.

18 ?? Conseil d'Etat, ?????????????? ?? ??? ?? ?????? ??? ?????????? ?? ??? ??
????? ?????? ?????? ?????? ?? ?????? ?? ?????? ?????????? ?? ??? ?? ?????? ??
?? ??? ?????? ?? ?????????????? ?? ?????? ?? ?????? ?? ?????????? ?? ??? ??
??? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ??

«1) ??? ?? ?????????? ??? ?????? 2, ?????? 1, ??? 10, ?????????? 2, ??? [????? ??????
??? ?? ?????????? ??? ?????? ??????] ??? ?????? ??? ?? ???' ?????? ???, ?? ???
????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?? ?????????? ??
????? ? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??
?? ?????? ? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??????
?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??????
?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????
????????????? ??? ?????????? ??? ??????, ? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
????? ??? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????;

2) ?? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?? ?? ??? ?????? ?????????? ???
????? ??? ? ?????? ??? ?????????? ?????? ?? ?????????? ??? ?????? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

?????????? ??, ?? ?????????? ???? ???? ?? ????:

3) ??? ?????????? ???, ?????? ? ?????????? ?????? ?? ??????? ??? ?????? ??? ??
Air France ? ??? ??? Brit Air ??? ??? ??? ?????????? ??? ??????????, ??? ??? ?? ?? ???
????????? ?? ??? ??????????????? ?? ?????? ??? ??????;»

19 ?? ??????? ??? ??????? ??? ?????????? ??? 10?? ?????? 2014 ?????????????? ?
????????? ??? ?????????? C?250/14 ??? C?289/14 ??? ?????????? ??? ?????????? ???
??? ?????????? ?????????? ??? ??? ?????? ?????? ?????? ??????.

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

??? ??? ?????? ?????????? ??? ?????? C?250/14 ??? ??? ??? ?????? ?????????? ???
????? C?289/14

20 ?? ?? ?????? ?????? C?250/14 ??? ?? ?? ?????? ?????? ??? ?????? ???
C?289/14 ?? ?????? ?????? ??? ?? ?????? ??? ?????? 2, ?????? 1, ??? 10,
????????? 2, ??? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ???
??? ? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?? ??? ??? ?? ??????
???? ??? ?????????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

21 ?????? ?? ?????????? ??, ?????? ??? ?????? 2, ?????? 1, ??? ?????? ?????? ???
??? ?????????? ???, «????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
??? ?????? ???, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

22 ??? ?????? ?????????, ?????? ?????? ?????? «?? ?????? ???»,
??? ??? ?????? ??? ?????? ???, ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (????? Tolsma,
C?16/93, EU:C:1994:80, ??? 14).

23 ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ???
??? ??? ?????????? ???, ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? (????? Société thermale d'Eugénie-les-Bains, C?277/05,
EU:C:2007:440, ??? 19 ??? ?????? ???).

24 ???????????, ??? ?? ??? 10, ?????????? 2, ??? ?????? ?????? ??? ??
????????????? ??? ?????? ?????? ?????? ??? ? ?????????? ??? ?????? ??? ?????????? ???
??? ??? 2, ?????????? 1, ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??
????? ??? ??????.

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

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

????????????????????? ?????? ? ?????????? ?????? ???????????????, ?????? ??? ? ?????????????? ???
????????? ??? ? ?????????? ??? ?????? ??? ?????????????? ??? ?????????????????? ???
?????????????, ? ?????????? ??? ?????????????? ??? ?????????????????? ???, ? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????????? ??? ?????????????? ???, ? ?????????? ???
????????? ??? ??????????, ??? ?????????????????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????
????????? ?????????? (???. ??????? Rehder, C?204/08, EU:C:2009:439, ????? 40).

27 ??????????, ? ?????? ??? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????????
??? ? ?????? ??? ?????????? ?????? ?????????? ??? ?????????? ??? ?????????????? ??? ??? ???
????????????? ??? ?????? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?? ??? ?????????????? ??
????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???, ??? ??? ?????????? ??? ?????? ???
??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???.

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

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

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

31 ??? «?????? ??????????» ??? ?????? ?????? ??? ?????? ?????????????? ??? ??? ??????
????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????????? ??? ??????
??????, ? ?? ?????????? ??? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????????? ??? ?????? ??
????????? ??? ?????????? ??? ?????? ?????????? ???, ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ??? (???. ??????? Newey, C?653/11, EU:C:2013:409, ????? 41 ??? ???
????????? ??? ??????????).

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

33 ??????, ?? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

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

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

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

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

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

34 ????????, ?????????????? ??? ?? ??? ???? ???? ?????? ?????????????? ??? ?? ?????? ??????????

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

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

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35 ??????? ??? ??????????????, ??? ?????? ??????? ??? ?????? C?250/14 ??? ??

????????? ??????? ??? ?????? C?289/14 ?????? ?? ?????? ? ?????? ??? ?? ?????? 2,

?????? 1, ??? 10, ?????????? 2, ??? ?????? ??????? ??? ??? ?????????????? ?????? ????????

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??? ?? ?????? ?????? ?????????? ??? ?????? C?250/14 ??? ?? ??? ?? ?????? ?????????? ???

????? C?289/14

36 ?? ?? ?????? ??????? ??? ?????? C?250/14 ??? ?? ??? ?????? ??????? ??? ??????

C?289/14, ?? ?????? ?????????? ????, ???' ??????, ?? ?????????????? ??? ?? ?????? 2,

?????? 1, ??? 10, ?????????? 2, ??? ?????? ??????? ??? ??? ?????????????? ?????? ????????

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

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

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37 ?????????? ??? ?? ??? 10, ?????????? 2, ?????? ??????, ??? ?????? ?????? ???

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38 ???????, ??????, ?? ??? 10, ?????????? 2, ?????? ??????, ??? ?????? ??????

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

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

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

????????? ?????? (??., ??????, ?????? Orfey Bulgaria, C?549/11, EU:C:2012:832, ????

27, ??? ?????? Sani treyd, C?153/12, EU:C:2013:201, ??? 24).

39 ???????????, ?? ?????????? ??? ?????? ??? ?????????? ??? ? ??? ?? ??????????

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

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

????? ??? ?????? ?????? ??? ?????????? ??? ?????? (??, ?????? Orfey Bulgaria, C?549/11,

EU:C:2012:832, ?????? 28 ??? 39, ?????? ??? ?????? Sani treyd, C?153/12, EU:C:2013:201,

????? 25 ??? 33).

40 ?????????????? ???, ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?? ??????????

?? ?????????????? ?????????? ??? ?????? 10, ?????????? 2, ??????? ??????, ??? ????
?????? ??? ?? ?????????????? ??? ?????? ??????, ??????? ?? ?????? ??? ?????????? ???
????????????? ??????? ?????????? ?????????? ?????? ??? ?????? ??? ?????????? ??????????????
???? ?? ?????? ??? ??????????.

41 ?? ??????? ??? ?? ??????? ?????????????? ??? ?????? ??? ?? ?????? ??? ??????? ???
????????? ??? ??????? ??? (??, ??????, ?????? Orfey Bulgaria, C?549/11,
EU:C:2012:832, ??? 37, ??? Efir, C?19/12, EU:C:2013:148, ??? 39, ??? ??? ??????
Sani treyd, C?153/12, EU:C:2013:201, ??? 32).

42 ???????, ?????? ?? ?????????? ???, ??? ?????????? ??? ?? ??????? 27 ?? . ???
????????? ??????????, ?? ?????????? ?? ?????????????? ??????, ? ?????????? ?????????? ?
????? ??? ?????? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
?????? ?? ?????????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????????? ??? ?????? ???
?????? ?? ?????? ?????????????? ??? ??????????.

43 ?????? ??? ??????????????, ??? ?????? ?????? ??? ?????? C?250/14 ??? ??
????? ?????? ??? ?????? C?289/14 ?????? ?? ?????? ? ?????? ??? ?? ?????? 2, ????
1, ??? 10, ?????????? 2, ??? ?????? ??? ?????? ??????, ??? ?????? ?????? ??? ??
????????????? ??? ?????? ?????? ?????? ??? ?????? ??? ? ?????? ?????????????? ??? ??
????? ??? ?????????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?? ??????????????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???, ???
????? ?????????????? ??? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????
?? ?????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

??? ??? ?????? ?????????? ??? ?????? C?289/14

44 ?? ?? ?????? ?????? ??? ?????? C?289/14 ?? ?????? ?????????? ????, ???'
??????, ?? ?????????????? ??? ?? ?????? 2, ?????? 1, ??? 10, ?????????? 2, ??? ??
?????? ?? ?? ?????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ?? ?????????? ???
?????? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ??
?????? ?????????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????' ?????????? ???
????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

45 ?????????? ???, ?????? ??? ?????? 21, ?????????? 1, ?????? ??, ??? ??
?????? ??? ??? ?????????????? ??? ?????? ??????, ?????? ??? ?? ?????????? ??? ?? ??? ??
????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ??????.

46 ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????, ??
????????? ??? ?????????? ?? ?????? ?????????? ??? ??? ?????? ?????? ??? ?????????? ??? ??????????
?? ?? ?????????? ?????? ?????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ???, ?? ??
??????, ?? ?????????? ??? ?????? ?????? ??? ??? . ??????, ?? ?? ?????? ??? ?????? ??????????
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??.

47 ??? ?? ?????? ?????????? ??? ?ir France-KLM ?????????? ?? ?????????? ???
?? ?????????? ??? Brit Air ??? ?? ?????? ??? ?????????? ??? ???????, ? Brit Air ??
????????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? . ?????????, ??? ?????? ??? ? Air
France-KLM ?????? ?? ?????? ???, ??? ??? ?????????? ??? Brit Air, ?????? ??????

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

48 ????? ???? ?? ??' ?????????? ????? ?? ????? ?????????????? ? Air France-KLM ??? Brit Air
???? ?? ?????????? ?? ?? ?????????????????? ????????, ?????????????? ??????? ??,
????????? ?? ?? ?? ?????????? ? Brit Air, ?? ??? ?? ????? ?? ????? ?????? ??? ?? Air
France-KLM ??? ?????? ?? ?????????? ?? ?????????? ?????????????? ??? ?? Air France-KLM
???? ?????? ?? ?????? ? Brit Air.

49 ???????, ?????? ?? ??????????? ???, ??? ?????? ?? ?? ??? ??????????? ??? ??
?????????????? ??????, ? ??????????? ?????? ??? ?????????? ??? ?????? ??? ??
????????? ??? ? ??????? ??? ??????????? ??? ??????????. ? ?? ??? ?????? ???????
?????????? ?? ??????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????. ? Brit
Air ??????? ?? ??????????? ??? ??????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??
????????? ?????? ??? ??????? ??? ?????????? ??? ?????????? ??? ??? ?????????? ??? ?? ???????
????????? ????????. ? ??????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ??? ??? ? ?????????? ??? ?????? ??? ?????????? ???.

51 ??? ??? ????????, ????, ?? ???' ????????, ???? ?? ????, ?????? ??????????? ? Air France-KLM
????? Brit Air ??? ?? ?????????? ???? ?? ?????????????????? ???????????, ?? ????
????????????? ?? ??????? ?? ??? ??????? ?????? ?????? ?????? ?????? ???? ???? ?? ??????
???????????, ??? ??????? ?? ?????????? ???? ?????????????? ???? ?????????????? ?????? ???? ???? ??????????????
????? ??????????? ???? ???? Brit Air. ????????, ???? ???????, ?? ???? ????, ?? ????
???????????, ??????????? ???? ???? ???? ??????????????, ??????????? ???? ???? ????
?????????? ?? ??? ?????? ??????? ?? ??? ?????????? ?? ??? ?????? ?????????? ?????????????? ??
?????????? ??????? ??????? ?? ??? ?????? ?? ??? ?????? ?????????????? ???? ???? ??????????.
???????, ?? ???' ??????? ?? ??? ?? ??? ?????? ?????????? ? Air France-KLM ???? Brit Air ????
????? ??? ?????????? ???? ???? ???? ?????? ?? ?????????? ???? ???? ?????????? ?? ??? ?? ?????????? ?? ????
????????? ???? ???? Air France-KLM ??? ?????????? ???, ?? ?????? ???? ????
????????????????? ???? ???? ??????????. ???????, ?????????? ?????? ?????????? ?????????? ????
????????????????? ???? ???? ?????????? ???? ???? ?????? ???? ???? ?????????? ???? ???? ????
??????.

52 ??????? ??? ????????????????, ??? ?????? ??????? ??? ?????? C?229/14 ?????? ??
????? ? ???????? ??? ?? ?????? 2, ?????? 1, ??? 10, ?????????? 2, ??? ?????? ?????? ???
??? ?????????????? ??? ?????? ??????? ??? ?????? ??? ?????? ???, ?? ?????????? ??? ??????
????????? ??? ?????? ??????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ??? ??????
????????? ?????????? ??? ??? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ??? ??????????
????????? ???' ??????? ??? ?????????????? ?? ??????? ??? ??? ?????? ?????? ?????????? ???
????? ?? ??????? ?????????? ??, ?? ?? ???' ??????? ??? ?????? ?????? ??? ?? ?? ???.
????????? ??? ?? ?? ??? ??????????.

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53 ?????????? ??? ? ?????? ?????????? ?????? ?? ?????? ?????? ?????? ?????????? ??? ?????? ??????

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

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

1) ?? ?????? 2, ?????????? 1, ??? 10, ?????????? 2, ??? ?????? ?????? 77/388/???
??? ??????????, ??? 17?? ??? 1977, ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ????, ??? ?????? ?? ??? ?????? ?????? ?????? ??????— ??? ??????????
????? ?????????? ?????: ?????????? ?????????? ???, ??? ?????????????? ??
??? ?????? 1999/59/?? ??? ??????????, ??? 17?? ?????? 1999, ??? ?? ?????????? ??
??? ?????? 2001/115/?? ??? ??????????, ??? 20?? ?????????? 2001, ?????? ???
????? ??? ? ?????? ?????????? ??? ?????????? ?????? ?????? ?????????????? ??
????????????? ??? ?????? ?? ?????????? ?????? ??? ?????????? ?????? ?????????????? ??
????????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ??????
??? ?????? ???.

2) ?? ?????? 2, ?????? 1, ??? 10, ?????????? 2, ??? ??? ?????? ??????, ???
????? ?????? 77/388, ??? ?????????? ?? ??? ?????? 1999/59, ??? ?? ??????????
?? ??? ?????? 2001/115, ??? ??? ?????? ??? ? ?????? ?????????????? ??? ??????
????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??????????
????? ?????? ??? ?????????? ??? ?????????? ??? ??????????, ??? ?????? ?????????????? ??? ??????
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

3) ?? ?????? 2, ?????? 1, ??? 10, ?????????? 2, ??? ?????? ?????? 77/388, ???
????????????? ?? ??? ?????? 1999/59, ??? ?? ?????????? ?? ??? ?????? 2001/115,
????? ??? ?????? ???, ?? ?????????? ??? ?????? ?????? ?????? ?????? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??????????????
??? ??? ??????????, ??? ?? ?????????? ??? ?? ?????????? ?????? ?????????? ??????????, ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? ??????????, ?? ?? ??? ???' ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??
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(?????????)

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