

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

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

??? 5?? ??????? 2018 (*)

«????????????? ?????????? – ????? ?????????????? ????? (???) – ?????? 2006/112/?? – ?????
2, 9 ??? 168 – ?????????? ?????????????? – ????? ? ?????? ?????????? ??????????
????????????? ??? ?????????? ??? ?????????? ??? – ?????????? ?????????? ??? ??????
????????????? ?? ?????????? ??? – ??????? ??? ????? ?????? – ??? ??? ?????????????? ???
????????? ?????????????? ??? ??? ?????? ??? ?????????? ??? ?????????????? ??? ??? ??????
????????? ??? ?????????? ??? ??????????»

???? ??????? C?320/17,

? ? ?????????? ?????? ?????????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Conseil d'État (????????? ??? ???????????, ??????) ?? ??????? ??? 22?? ????
2017, ? ?????? ??????? ??? ?????????? ??? 29 ????? 2017, ??? ??????? ??? ??????

Marle Participations SARL

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Ministre de l'Économie et des Finances,

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

????????? ??? ??? A. Rosas (?????????), ?????? ???????, C. Toader ??? E. Jaraši?nas,
???????,

?????? ??????????: P. Mengozzi

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

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

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

- ? Marle Participations SARL, ?????????????? ??? ??? L. Poupot, ????????,
- ? ??????? ????????, ?????????????? ??? ??? D. Colas ????? ??? ??? ??? E. de Moustier ??? A. Alidière,
- ? ??????? ????????, ?????????????? ??? ??? S. Jiménez García,
- ? ??????? ????????, ?????????????? ??? ??? G. Eberhard,
- ? ??????? ????????, ?????????????? ??? ??? R. Lyal ??? ??? ??? N. Gossement,
?????? ??? ??????? ??? ?????, ??? ?????? ??? ?????? ???????????, ?? ?????????? ???
?????? ??? ?????? ??????? ??? ??????,

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

???????

1 ? ?????? ?????????????? ?????????? ?????? ??? ???????? ??? ?????? 2, 9 ??? 168 ???
??????? 2006/112/?? ??? ???????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ??????
?????? ??? ????? ?????????????? ??? (?? 2006, L 347, ? 1, ??? ????: ?????? ??? ??? ???).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? Marle
Participations SARL ??? ??? ministre de l'Économie et des Finances (????????? ??????????? ???
???????????, ??????) ??????? ?? ?? ?????????? ?????????? ??? ????? ??????????????
????? (???) ??? ?? ??????? ??? ?????????? ?? ??????? ?????? ??????, ?? ?? ???
????????? ? ?????????? ??? ?????? ?????.

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

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

[...]

?) ?? ?????? ??????????, ??? ?????????????????? ?? ?????????? ?????? ??? ?????? ???
??????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ??? ?????????? ??? ???»

4 ?? ?????? 9, ?????????? 1, ??? ?????? ?????? ??? ??? ?? ???:

«?????? ?? “?????????? ????” ?????????? ????, ??? ?????? ?????????? ??? ??
????????????? ????, ?????????? ???????????, ?????????? ??? ?? ??? ?????????? ??? ??
?? ?? ?????????? ??? ?????????????? ?????.

?? “????????? ??????????????” ?????????? ??? ?????????????? ??? ??????????, ???
??????? ? ??? ?????????? ??????????, ?????????????? ??? ??? ??????????????
?????????, ??? ?????????? ?????????????? ??? ??? ??? ?????????????? ??? ??????????
?????????????. ?? ?????????? ?????????????? ??????????, ??????, ? ??????????????
????????? ? ??? ?????? ???, ?? ?????? ?????? ??? ?????? ?????? ?????????? ??????????..»

5 ?? ?????? 135 ??? ?? ??? ?????? ?????? ?? ???:

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

[...]

?) ?? ?????? ??? ?????? ?????????? ??????.

2. ??? ??? ?????????? ??? ?????????? ??? ?????? ?????? 1, ?????????? ???, ?????????? ??
????????? ????:

?) ?? ?????? ?????? ??????????, ??? ?????????? ??? ?? ?????????? ??? ??????
?????, ??? ?????????????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ? ?????? ?????? ??
????????? ??????????, ?????????????? ??? ?????? ?????? ?????????????? ?????????? ? ??????
????????????? ?????? ??? ?????????? ??? ?????????? ???,

?) ?? ?????????? ??? ? ? ?????????? ????????????,

[...]

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

6 ?? ????? 137 ??? ????? ?????? ?????????? ?? ????:

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

[...]

?) ??? ?????? ?????? ?????????? ??????????.

2. ?? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? 1.

?? ?????? ??? ??????? ? ? ?????????? ??? ?????? ??? ?? ??? ?????? ??????????..»

7 ?? ????? 167 ??? ?????? ??? ??? ?????? ?? ????:

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

8 ?? ????? 168 ??? ?????? ?????? ?????? ?? ????:

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

?) ??? ?????????? ? ?????????? ??? ? ???? ?????? ??? ? ???? ?????? ??? ? ???? ???
????????? ? ???? ?????? ?? ??? ?????? ??? ? ???? ?????? ??? ? ???? ?????????? ???,
? ???? ?????? ?? ??? ?????????? ??? ? ???? ?????? ??? ? ???? ?????? ??? ?,

?) ??? ??? ??? ?????????? ??? ??? ?????? ??? ?????????????? ?? ?????????? ??? ? ????
??? ?????? ?????????? ??? ? ???? 18, ??????? ??, ??? ?? ???? 27,

?) ??? ??? ??? ?????????? ??? ??? ?????????????? ?????????? ??? ? ???? ??? ? ????
??? 2, ?????????? 1, ??????? ??, ?????? i,

?) ??? ??? ??? ?????????? ??? ??? ?????? ??? ?????????????? ?? ?????????? ??? ? ????
????????? ??? ? ???? 21 ??? 22,

?) ??? ??? ??? ?????????? ? ?????????? ??? ? ???? ?????? ??? ? ???? ?????? ??? ? ?????.
?????..»

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

9 ? Marle Participations ?????? ? ?????? ?????????????? ??? ???? Marle, ? ??????
????? ? ? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???????????. ? ??
????? ?????? ??? ? ?????? ??? ?????, ?????? ???, ?? ?????????? ?????? ??? ????????

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

10 ???, ??, ???????????, ???, ???????????, ???, ???????????, ???????????, ???, ???, ??, ??? 2009,
? Marle Participations ???????????????, ???, ??? ???????, ???, ???????, ?? ???????????????, ???
??????, ??????. ? ???????, ???, ???????, ??, ???????, ???, ???, ??, ???, ???, ?????, ???????, ??
??????, ?????, ???, ???????????, ??, ???, ??, ???, ?????, ???????????.

11 ??????? ?????????? ???????, ? ?????????? ????? ?????????????? ??? ?????? ??? ?????? ??? ??
???? ?????? ?????? ? ??????? ???, ??? ??????, ?????????? ?' ?????? ?????????? ?????? ??????
???? ?????? ??? ??? ??? ??? ?????? ??? ?? ??????? ??? ??? ?????? ? ??????? ?????? ??? ??
?????? ?????? ??? ??? ?????????? ??? ?????????? ?????? ?????????? ?????????????? ?????? ???
??? ?????????? ??? ??? ?????? ?????????? ??? ?????????? ??????.

12 ? Marle Participations ?????????? ?????????? ??? ?? ??? ?????????? ?????? ???
????? ??? ??? ?????? ??? tribunal administratif de Châlons-en-Champagne (?????????????
????????????? ??? Châlons-en-Champagne, ??????), ?? ??????? ?? ?????? ??? cour
administrative d'appel de Nancy (????????????? ??????? ??? ?????, ??????).

13 ?? ?? ???????, ? ??????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

15 ????????, ??? ?? ?????? ???????????, ??? ?? ?????? ??? 16?? ??????? 2015,
Larentia + Minerva ??? Marenave Schiffahrt (C?108/14 ??? C?109/14, EU:C:2015:496),
?????????? ??? ?? ?????? ??? ????? ??????????? ??? ??????? ??????????????? ??? ??
?????????? ??????????? ??? ??????? ??????????? ??? ???????, ? ????? ??????? ???
?????????? ??? ??????????? ???, ???????, ?????? ??????????? ???????????????,
?????? ?? ??????????? ?? ?????? ??? ?????? ??????? ??? ?? ???? ?? ?????? ??? ???????????????
?? ?? ?????? ???, ???' ????, ?? ??????? ?? ???????, ??? ?? ???????
?????????? ???, ??? ?? ???????.

16 ???????, ?? ?????? ??????????? ?????????????? ???, ?? ???????????, ?? ?????? ??????????
???? ? Marle Participations ??????? ??? ?????????? ??? ??? ?????? ?????????? ?? ??????
?????? ??????? ??? ?????? ???, ? ??? ??????? ?? ?????????? ?????? ?????, ?????????? ???
?????????? ???????.

17 ???. ?????? ???. ?? Conseil d'État (?????????? ???. ??????????) ?????????? ???.
?????????? ???. ?????? ???. ?????????? ???. ?????????? ???. ???. ?????????? ???. ?????????? ???.
????????? ???. ??????:

«?????? ?? ???????? ?? ? ?????????? ?????? ?? ?????????? ?????? ?????? ?????????????? ?? ? ??????????
?????? ?? ???? ? ?????? ?????? ?????? ?? ???? ?????????? ?? ???? ?????????? ??????, ??? ???? ??
????????? ?? ?????????? ?? ???? ?????? ?? ???? ?????? ?????? ?????????? ?? ???? ?? ???? ?????????? ??

?????????? ?????????????? ?????????????????? ??? ???? ?????? ??? ?????? [??? ??? ???], ???,
?? ?????????? ?????????????? ??????????, ??? ??? ?????? ??????????????;»

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

18 ?? ?? ??????? ???, ?? ?????? ??????????? ????, ???' ??????, ?? ??????????????? ?? ?
?????? ??? ??? ??? ??? ?????? ??? ? ?????????? ?????????? ??? ??????? ???????????????
??? ?????????? ??? ??????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ?????????????? ??? ??????? ??? ?????? ??? ?????? 9, ?????????? 1, ???
?????? ??????, ?????????? ?????????? ?????????? ??? ??????? ??? ?????? ??? ?????? ??????
????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????????
??, ?? ?????????? ?????????? ???????????, ??? ?????? ???????????.

19 ??????????????, ?????? ?? ?????????? ???, ??????? ???? ?????? ??? ?? ??? ??
????????? ??? ?????? ?????? ?????? ??????????, ??? ?????? ??? ?????????? ??? ??
????????????? ?? ?????? ?????? ?????????? ?????????? (?????? ?? 29?? ??????????
2009, ??????? ??? ??????????, C?246/08, EU:C:2009:671, ??? 34). ??????????, ??? ??
????? 2 ??? ?? ??? ?????? ?????????? ???, ??? ??? ?????? ?????????? ????
????????????? ??? ?????? ?????? ??????, ??? ??? ??? ?????????? ??????? ?? ???????
????????? ??? ?????????????? ?? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ???
????????? ?? ??? ?????????? ??? (?????? ?? 12?? ?????????? 2017, MVM, C?28/16,
EU:C:2017:7, ??? 24).

20 ??? ?? ??? 9, ?????????? 1, ??? ???????, ??? ?? ??? ?????? ???????, ?? ???????????
???? ?? ?????? ?????????? ????, ??? ?????? ??????????, ???????????
?????????????, ?????????? ??? ?? ?????????? ?????? ??? ?? ?????????????? ???
????????????? ???.

21 ? ?????? «????????? ?????? ??????????????» ??????? ??? ?????? 9, ?????????? 1,
?????? ????, ??? ?????? ??? ?? ??? ?? ?????????????? ??? ?????? ??? ?????????????? ???
?????????, ??? ?????? ??? ?? ?????????? ??????????, ?????? ??? ?? ??? ??????
????????????? ??? ?????????? ??? ?????? ?????, ?? ?????? ?????? ??? ?????? ?????? ??????
?????????.

22 ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????????? ???
????????? ??? «????????? ?????? ??????????», ??? ??? ??? ??????????????
????????? ??? ?? ??? ?????? ??????, ?????? ??? ?????????????? ??????????,
????????? ??? ?? ??? ?????? ??? ? ??? ?????????????? ????. ??????????, ??? ?????? ???
????????????? ?????????????? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
(?????? ?? 29?? ?????????? 2009, ??????? ??? ??????????, C?246/08, EU:C:2009:671,
????? 37 ??? ??? ?????????????? ??????????).

23 ??????, ??? ?? ?????????? ??? ?????????? ?????? ?????????? ???, ??? ?????? ???
????????? ???, ?? ?????????? ?????? ?????? ?????????? ??? ?????? ?????????? ????
????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ?????????? (?????? ?? 29??
????????? 2009, ??????? ??? ??????????, C?246/08, EU:C:2009:671, ??? 43) ??? ??
??? ?????? ?????? ?????????? «?? ?????? ??????», ??? ??? ?????? ???
????? 2 ??? ?????? ??? ?? ???, ?????? ?? ?????????? ??? ?????? ?????? ????
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? (?????? ?? 29?? ??????????
2009, ??????? ??? ??????????, C?246/08, EU:C:2009:671, ??? 45).

24 ?????? ?????? ?? ?????????? ???, ??? ?????? ?????????? ??? ???????????, ??

????????? ?????????? ????, ??? ?????????????? ??? ?????? 167 ??.. ??? ??????? ??? ??? ???, ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (????????? ??? 12?? ?????????? 2017, MVM, C?28/16, EU:C:2017:7, ??? 26).

25 ?????? ??? ?????????? ??? ?????????? ?????? ??? ?????????? ?????? ? ?????????? ?????? ? ?????????????? ??? ?????? ??? ?????? ?????? ? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? (????????? ??? 12?? ?????????? 2017, MVM, C?28/16, EU:C:2017:7, ??? 27 ??? ??? ?????????? ??????????).

26 ??????, ??? ?? ?????? 168, ???????? ??, ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???, ??? ?? ?????? ??? ?????????? ??????, ??????, ? ?????????????? ?????? ?? ?????? ??? ?????? «????????? ???», ??? ?? ?????? ??? ?? ?????? ??????, ???, ???????, ?? ?????? ?? ?????? ?? ?????? ??? ?????????? ??? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (????????? ??? 19?? ?????????? 2017, Paper Consult, C?101/16, EU:C:2017:775, ??? 39).

27 ??????????, ??? ?? ?????? ?? ?????? ?????? ?????????? ??? ?????? ?????????? ?????? ?????? ?????????? ??? ?????? ???, ??? ?? ?????? ??? ?????? ??? ?????? 9 ??? ?????? ??? ?? ?????? ???, ???, ???????, ??? ?????????? ??? ?????? ??? ?????? 167 ??? 168 ??? ?? ??? ?????? ??????, ?????? ??? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? 9 ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (????????? ??? 16?? ?????? 2015, Larentia + Minerva ??? Marenave Schiffahrt, C?108/14 ??? C?109/14, EU:C:2015:496, ??? 18).

28 ? ??? ?????? ??? ? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? (????????? ??? 16?? ?????? 2015, Larentia + Minerva ??? Marenave Schiffahrt, C?108/14 ??? C?109/14, EU:C:2015:496, ??? 19).

29 ??????, ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (??., ?????? ???, ?????? ??? 14?? ?????????? 2000, Floridienne ??? Berginvest, C?142/99, EU:C:2000:623, ??? 18? ??? 27?? ?????????? 2001, Cibo Participations, C?16/00, EU:C:2001:495, ??? 20? ??? 6?? ?????????? 2012, Portugal Telecom, C?496/11, EU:C:2012:557, ??? 33, ?????? ??? ??? 16?? ?????? 2015, Larentia + Minerva ??? Marenave Schiffahrt, C?108/14 ??? C?109/14, EU:C:2015:496, ??? 20).

30 ??? ?????? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? (????????? ??? 16?? ?????? 2015, Larentia + Minerva ??? Marenave Schiffahrt, C?108/14 ??? C?109/14, EU:C:2015:496, ??? 20).

????????? ??????????? ???????????????, ??? ???? ?????? ??? ?????? 9, ??????????? 1, ???
????????? ??? ??? ?, ??? ?? ?????? ??? ??????????? ?? ?????????? ?????? ???????????
???? ??? ??????? ??? ?????? 2 ??? ?????? ??????, ??? ? ?????? ???????????,
??????????, ???????????????????, ?????????, ??????????????? ??? ?????? ???????????
??? ??? ??????? ??????????????? ??? ??? ??????????? ??? (??., ?????? ????, ??????????
?? 14?? ??????? 2000, Floridienne ??? Berginvest, C?142/99, EU:C:2000:623, ??? 19?
?? 27?? ??????? 2001, Cibo Participations, C?16/00, EU:C:2001:495, ??? 22, ????
?? ??? 6?? ??????? 2012, Portugal Telecom, C?496/11, EU:C:2012:557, ??? 34).

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

32 ?? ?????? ??? «?????????? ??????? ??????????????? ??? ??????????? ??? ???????????
???» ??????, ???????, ?? ??????? ?? ??????????? ??? ??? ??????? ?? ?????? ??????????
?????????? ???????????????, ??? ??? ??????? ??? ??? ???, ??? ?? ?????? ???????????????
?? ??? ?????? ??????????????? ??? ??????? ??? ???.

33 ?? ???????????, ??? ?? ??????????? ??? ??????????? ??? ??????????? ??????????? ??? ??
????? ?????????? ??? ? Marle Participations ?????? ??? ??????????? ??? ???
?????????? ?? ??????? ?????? ??? ?????? ???, ? ??? ??????? ?? ??????????
????? ????, ?????????? ??? ??????????? ???????, ?? ??? ??????????????????? ?? ???
?????????? ?????????? ??? ??? ??????????? ??????????? ??? ??????????? ?? ???
?????????.

34 ???????, ?????? ?????? ?? ??????????? ??? ??????????? ??? ??????????? ??? ???????????
????????? ??????? ??? ???????????, ??????????? ??? ?? ?????? 137, ??????????? 1,
????????? ??, ??? ??????? ??? ??? ???, ??? ?????? ??????? ??? ?????? ??? ?????? ??? ??????????? ???
????? ??? ??????????? ??? ??? ?????? ??????? ??? ?????? ?? ?????? 135, ??????????? 1,
????????? ???, ??? ??????? ?????, ??? ??? ?????? ?? ??????????? ??????????? ??? ??????????
?????????????? ??? ??? ??? . ???????????, ??? ?????? ??? ?????? ??????????? ??? ???????????, ?? ????
???? ??????? ?? ??????? ?????? ?????? ??????????? ??? ??????????? ?? ??????????? ??
?????????????? ??? ??? (??., ??? ??? ?????? ???, ??????? ??? 12?? ??????????? 2006, Turn-
und Sportunion Waldburg, C?246/04, EU:C:2006:22, ?????? 26 ??? 27).

35 ??????????? ?????? ??? ??????????? ??? ??????????? ??? ??????????? 19 ??? 23, ????
?? ??? ??? 34 ??? ??????? ???????, ? ?????????? ?????????? ??? ???????
?????????????? ??? ?????????? ??? ??????? ?????????? ??? ?????????? ??? ??????????? ???
????? ?? ??????? ?????????? ??????????? ?????????? ?????????? ?????????? ?????????? ??? ???
??? ??? ??????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ???
??????????, ??? ??? ??????????? ??? ? ?? ?????? ?????? ?????????? ?????????? ??? ???
?????????? ??? ? ?? ??? ?????????? ?? ?????? ??? ??? ??????????? ??? ??? ??? ??? ???
?? ?????? ?? ?????????? ?????? ?????? ?????? ??? ?????????? ?????????? ??? ??? ??? ???
?????????? ??? ?????????? ??? ?????? ??? ?????????? . ??????????? ??? ??? ?????? ???????????
?? ??????????? ??? ??? ?????? ?????????? ?? ?????????? ?????? ??? ??? ?????? ???
?????????.

36 ??? ?????? ??? ??????????? ??? ??????? ??? ??????????? ??? ??????????? ???, ???????????,
?? ?????? ???, ?????? ?? ??????????? ??? ?? ?????????? ??? ???????????, ?? ??? ??????
?? 16?? ?????? 2015, Larentia + Minerva ??? Marenave Schiffahrt (C?108/14 ??? C?109/14,
EU:C:2015:496, ????? 33), ??? ?? ?????? ??? ?????? ??????????? ??? ?????? ??? ?????? ???

??? ??? ??????? ?????????? ??? ??????? ?????????? ??? ??????? ??? ??????? ? ??? ??? ??????? ??? ??????? ???
????????? ??? ?????????? ??? ??????? ??? ??????? ?????? ??? ?????? ?????????? ??? ?????????? ??? ??????
?? ?????????? ?? ??? ??? ??? ?????? ??? ??? ? ??? ??? ??? ?????????? ?? ??? ???.
?? ??? ??? ??? ?????? ???' ??? ??? ?? ?????????? ?? ??? ???????.

37 ????, ?? ??? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ???, ??? ? ??? ??? ??? ?????? ??? ?????? ???
?? ??? ??? ??? ?????? ??? ?????????? ???' ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???, ???
?????, ??? ? ??? ?????? ??? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????????? ??? ?????? ??? ??? ??? ??? ?? ?????????? ??? ?????? ???, ???
????? ?????????? ? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (?????? ???
16?? ??? 2015, Larentia + Minerva ??? Marenave Schiffahrt, C?108/14 ??? C?109/14,
EU:C:2015:496, ??? 33).

38 ?? ?? ????, ??? ?????? ??? ?????? ??? ?????? ???, ?????????? ??? ?????? ???
?? ?????????? ?? ? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
??? ?????? ? Marle Participations ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ? ?? ???
????? ??????????.

39 ????, ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?? ??? ??? ???
????????? ??? ??? ??? ?????? ???, ??? ??? ?? ??? ??? ??? ? Marle Participations ???
?? ?????? ??? ??? ??? ??? ??????????, ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? 36 ??? 37 ??? ?????? ??? ??????.

40 ????, ?????? ?? ?????????? ???, ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????, ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ?????? ?????? ??? ?????? ???
? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

41 ????, ??? ??? ?????? ???, ?? ?????????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? (????????? ??? 21?? ??? 2012, Mahagében ??? Dávid, C?80/11 ???
C?142/11, EU:C:2012:373, ??? 42 ??? 43 ??? ??? ?????? ??? ?????? ???, ???
?? 19?? ??? 2017, Paper Consult, C?101/16, EU:C:2017:775, ??? 43).

42 ????, ?? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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47 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ???? ?????? ?????? ??? ?????? ??????
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????????? ??????????, ?' ????
????????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ?????? ??? ?????? ??????????
????? ?????????? ?????????????? ??? ?????????? , ??? ??? ?? ??? ?????? , ??? ??????????.

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

? ?????? 2006/112/?? ??? ?????????? , ??? 28?? ?????????? 2006, ??????? ?? ?? ????
?????? ??? ?????? ?????????????? ???, ??? ??? ?????? ??? ? ?????????? ???????
?? ??????? ?????????????? ??? ?????????? ??? ?????? «????????? ??? ??????????»
?? ?????????? , ? ?????? ?????? ?? ?????????? ?????????? ?????????? ?????? ???
????? ??? ?????? 9, ?????????? 1, ??? ?????? ?????? , ?????????? ??????
????????? ??? ?????? ?????????????? ??? (???) ??? ??? ?????? ??? ??????
????????? ? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?? ???
????????? , ?????? ?? ??? ?????? ?????? ?????????? ?????????? ?????? ?????????? ,
????????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? , ?????? ???
????????? ??? ? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
??? ??? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? . ?? ?????? ??? ?????? ?????????? , ??? ??? ?????? ?????????? ?????????? ???
????????? ?????????? ??? ?????? , ??? ?????? ?????????? ?????? ? ?????? ??????
?? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?' ?????? ??? ?????? ??? ???? ?
????? ?????????? ?????? ?????????? ?????????? ?????? ?? ?????????? ?? ?????? ??? ?? ???
????? ?????? ??? ?????? ??? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?? ??? ???
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????????? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ??????
????? ?????????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
? ??? ??? ??? ?????????? ?? ?????? ?? ??? ?????? ?????? ?????? ?? ?????? ??? ?????? ???' ??
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? , ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? , ??? ?????? , ??? ?????? ???
????????? ??? ?????? ??? , ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? , ??? ?????? , ??? ??????
????????? ? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????? ??? ?? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
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* ?????? ??????????: ? ??????.