

Conclusions

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

F. G. JACOBS

??? 26?? ??????????? 2002 (1)

?????? C-497/01

Zita Modes SARL

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Administration de l'enregistrement et des domaines

[?????? ??? Tribunal d'arrondissement de Luxembourg (?????????????)??? ??? ??? ??????
????????????? ???]

???? ?????? ??? – ?????? 5, ??????????? 8 – ?????????? ??????? ?????? – ?????????? ???
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1. ??????? ?? ?? ?????? 5, ??????????? 8, ??? ?????? ??????? ?????? ??? (2) , ?? ?????? ???
????????? ?? ??????? ???, ?? ?????????? ?????????? ?????? ? ?????? ?????? ?????? ???,
????????? ??????? ??? ?????? ?????????????? ??? ??? ? ?????????? ?????????? ???
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2. ?? ??? ?????? ??? ?????? ??? ??? ?????? ?????????????? ??????????, ?? Tribunal
d'Arrondissement ??? ?????????????? ?????? ???' ?????? ?? ? ?????????????? ??? ??????
???? ?????? ??? ?????? ?????????? ?????? ?? ?????????? ?????????? ?????????? ???
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????? ??? ?????????????? ???, ?? ?????????? ?????????? ?????????? ???, ?? ?? ??????
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????????? ??? ??????????.

3. ??? ?? ?????? 2 ??? ?????? ???????, ?? ?????????? ?????? ??? ?? ?????? ?????????? ???
????????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
???, ??? ?????? ??? ??? ?????? ??? ??????, ?????????? ??? ?????? ??? ?????????? ???
?????. ?????????? ?? ?????????? ??? ?????? ??? ?????? ?? ?????? 4, ?????????? 1, ??????????
????? ?????????? ?????????????, ?????????? ??? ?????? ??? ?????????? ?????? ??? ???
????????????? ??? ?????????????? ????. ??? ?????????? ?????????? ?????????? ???
????????????? ??? ?? ?????? 4, ?????????? 2, ? ?????????? ?????? ?????????? ??? ???
?????, ??? ??? ?????? ?????? ?????? ?????? ?????? ??????.

4. ??? ?????? 5 ?????? ? ?????? ??? ?????????? ?????? ??????. ??? ?? ?????? 5, ?????????? 1,
?? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ?? ?????? ?????? ??????

?????? ?? ??????. ??????, ??? ?? ?????? 5, ??????????? 8:?? ?????? ??? ??????????? ??
?????? ???, ??? ?? ?????????? ?? ??????? ? ?????? ?????? ??????? ?????? ??? ?????? ???????
?? ???????, ?????? ? ?????? ?????? ??????, ?????? ?????? ?????? ??????
????????????? ??? ?? ? ?????????? ?????? ?????? ??????. ?? ????? ??
??????, ??? ?????? ??????, ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??????
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5. ? ?????????? ?? ?? ?????????? ?????? ?????? ?????????????? ?? ?????????? ??????
?????? ?? ??????? ?? ?????????? ?? ?? ?????? 9, ?????????? 2, ??? ?????? ??? ?? ??
12?? ?????????? 1979, ??? ?????????? ?? ?? ??????, ??? ?? ?????, ???' ???????,
??? ?????? ?????? ??? ?????? ?? ??????, ?????? ?????? ???????????, ???'
????????? ??? ?? ?????? ??? ?????????? ???, ?????? ??? ?????? ?????? ?????? ??? ??
????????? ?? ??? ?????? ??????. ?? ?????? ??? ??????????, ? ?????????? ?????? ?????????? ??
????????? ??? ?????????? (3).

6. ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?? ?????? ??????????
?????? ?? ?? ?????? ?????? 5, ?????????? 8, ?? ?????? ??? ??????
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7. ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?? ?????? ???
?? Zita Modes SARL (??? ????: Zita Modes) ??? ?? Parfumerie Milady (??? ????: Milady)
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????????
?? ?????? ?????? ??? 1,7 ?????????? ??? ?????? ???????????, ?? ?????????? ??? ?????????? ???
????????? ?????????? ?? ?????????? (fonds de commerce) ??? ?????????? ??? ??????:
????????? ?? ??? ?????????? ??? ??????, ?? ?????? ?????????? ??? ?????????? ?? ??? ?????????? ?? ???.
8. ? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ???, ??? ?? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
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Milady ??? ?????? ?? ?????????? ??? Zita Modes.

9. ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ?? ??? ?????? ??? ??????
????????? ?? ??? ?????? ??? ??????????, ?????????? ??? ?????? ??? ?????? ???, ??? ?? ??????
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?? ?????????? ??? ?????? ?????????? ???, ??? ?????? ??????, ?????????? ??? ??????
?? ?????? ??? ??? ?????????? ???, ??? ??, ??? ?????? ?????? ?????????? ???, ? Milady ??? ???
????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ???
????????? ????. ??? ??????, ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
Zita Modes (? ?????? ??? ?????? ??? ?????? ??? ??????????).

10. ? Zita Modes (? ?? ?????????? ???) ?????????? ??? ?????? ?? ??? ?????? ?????????? ???
????? ?????? ??? Tribunal d'Arrondissement ?? ?????, ??? ?? ??? ?????? ?????????? ???
????????? ??? ?? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ??? ??
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1) ??? ?? ??? 5, ?????????? 8, ??? ?????? ?????? 77/388/??? ??? ??????????, ??? 17??
????? 1977, ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
????? ?????? ?????? ? ?????? ?????? ?????? ?????? ?????????????? ????: ??????????
????????? ???, ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ??????????
?? ?????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ??? ??????
????? ??? ?????????? ???, ??? ?? ?? ?????? ??? ?????????? ??? ?????? ??? ??????????
????? ?????? ??? ?????? ???, ??? ?? ?? ?????? ??? ?????????? ??? ?????? ??? ??????????
????? ?????? ??? ?????? ???, ??? ?? ?? ?????? ??? ?????????? ??? ?????? ??? ??????????
????? ?????? ??? ?????? ???, ??? ?? ?? ?????? ??? ?????????? ??? ?????? ??? ??????????
????? ??????;

2) ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? 5, ?????????? 8,

????? ??????? ????? ??????????????, ?????????????? ??????? ?????? ?? ?????????????? ??
?????????. ? ??? ?????? ??????, ??????, ??? ?????? ?????? ??? ?????? ????.
17. ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ?????? ??? ??
????????????? ??? ?????????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ????
????? 5, ?????????? 8, ?? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ?? ????
????? ???????, ?????????? ???, ??? ??????, ?????????? ??? ?? ?????????? ?? ????
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????? ?? ??? ?????????? ??? ?????, ?????? ?? ?????? ?????? ?????????? ??? ?????? ??
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18. ??? ?????? ?? ?????? ??? ? Milady ??? ??? ?????? ?? ?????????? ?? ?????? ??? ??
????????????? ?? ?? Zita Modes, ? ??????? ?????????? ???, ??? ?? ?????????? ??,
????????? ?????????????? ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ??,
????? ?????? ??? ?????????? ??? ?? ?????????? ?????? ?????? ?????????? ?????? ?????????? ???,
??????, ??? ?????????? ???, ? ??????? ??? ?????? 5, ?????????? 8, ?????????? ??
????????? ?? ?????????? ??? ?????????? ???, ?? ?????? ?????? ?????? ?????? ?????????? ??
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ???????.
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????? ??? ?????? 5, ?????????? 8

19. ??? ?????? ??? ??????????????, ?? ?????? ?????????? ??? ?? ?????????????? ??? ?????? 5,
????????? 8, ?????? ?? ?????????????? ??? ?? ?????? ??? ?????? ???.

20. ? ?????? ??? ?? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??? ??
?? ??????, ? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? (7) : ?
????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???
????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???, ???????
????????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
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????? ?????????? ???, ? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
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21. ???????, ?? ?? ?????? ?????????? ??? ?? ?????????? ?? ?????????? ?? ?????????? ? ??????????
?????? ???, ??? ?????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ???/? ??????????, ??????, ??
????????? ?? ?? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ???????, ??? ?? ?????? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ???
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22. ??????, ?????? ?????? ??? ?????? ?? ?????????? ??? ?????????? ?? ?????? ??? ????
????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
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????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? (8).

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

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

????????? ?? ??? ?????? ??? ??? ?????????? ???? (11).

28. ??? ??????? ??? ?????? ?? ?????????? ???, ??? ?????????????? ???, ?????????????
?????? ?????????? ?????????????? ?????????????? ?? ???? ?? ?????? ?? ?????????? ??????????
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Customs and Excise 222 222222222 2222222222 2222 2222222222 1 5 222 222222222222 222

Customs and Excise 1.0
Z00/9 ???.?????? 2002 ?? ???. «Transfer of a business as a going concern» (???????????)

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

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29. ???????, ? ??????? ???? ?????? ?????? ?????????????????? ?????? ??? ?????????????????? ???
?????? ?? ??? ?????? ???? ???? ?? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ??? . ????. ????
?????????? ?????????? ?????????? ?????????? ?? ??? ???? ? ?? ?????? ??? ??? ?????? ?????? ??????????????
????????? ?? ?????????? ?? ???, ? ?? ??? ?????? ?????????? ??? ?????? (?????). ??? ??
??? ?????????? ??? ??? ?????? ??????, ? ?????? ?? ?????? ?????????? ?????????? ??
????????????? ?????? ?????????? ?????? ?????? ?????????? ?????? ?????? ?????? ?????????? ???
????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? . ??????
????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? (?????)
????????? ???, ??? ??? ?????? ???? ?????? ??? ??? ???? ?? ?????? ??? ?????? ??????????????
?? ??? ???????????, ?? ??? ?????? ?????? ?????? ?????? ??? ?? ?????????? ??? ??? ??? ??? ??
?? ?????????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??? ??? ???? ?
????? ??? ??? ??? ?????? ?????? ?????? ?????? (13) .

30. ?????, ???????, ?????? ?? ?????????? ? ??????? ?????????? ??? ?????? 5, ?????????? 8,
????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????????? ?????? ?? ??????? ?????? ??
?????????? ?????? ??? ?? ?????????????? ?????????????? ?????????? ??? ?????????????? ??
????????? ???????????.

31. ????? ?? ????? ????????, ? ?????? ??? ??????????? ??? ? ??????????? ??? ??????????? ?????
????? ????, ??? ?????? ???, ?? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ? ??????? ??? ??????????? ??? ?????? ?? ????. ????????, ? ??????? ??? ?????? 9,
?????????? 2, ??? ?????? ??? ?????? ??? ???????????, ???????????, ??????? ?? ??? ?????? ?
?????? ?????? ?? ?????? ??? ?????? ??????????? ??? ?????? ???, ??????? ?? ???????????
?????????? ?? ?????? ??? ?????? ??? ???????, ?????? ?? ??? ?????? ??? ?????? ?????? ???????????
??? ?????? 5, ??????????? 8, ??? ?????? ???????, ??????? ??? ?????? ??? ?? ?????? ??? ??????????? ???
? ??????? ?? ?????? ??????? ??????? ???????????.

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

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33. ?? ??????? ??? ????? ??? ?????? 5, ??????????? 8, ???? ?????????? ???????, ?? ??????
??? ??????? ?? ??????????? ??? ?????????? ??? ??????? ?? ?????? ?????????? ??? ?????? ???????
?? ????????????

34. ??????????? ?? ?????? ??????, ??? ?????????? ?????????? ??????????. ? ???????????
????? ?????????? ??? ?????? ??? ?????????? ?? ???????, ? ??????, ??? ?????????? ?
????????, ?????????????? ?????? ??????. ?????????????? ?????, ? ?????? ?????? ??? fonds
de commerce, ? ?????? ?????????????? ??? ?????? ??? ?????? (14), ?????????????? ??? ?????? ?????? (????? ??
??????????, ??? ?????????? ??? ?????? ??? ??????) ??? ??? ??? ?????? (????? ?? ??????????
??? ??????? ??? ?? ??????? ??????????, ??? ??????? ?????? ? ??? ?????????? ???,
????????? ???????????, ??????? ?????? ??? ??? ??? ??????). ??? ??????? ???
?? ??????? ?? ?????????? ?? ??????? ???????, ?? ?????? ??? ???????????, ??
?????????? ?? ?????? ??? ?????????????? ??????? ?? ?

36. ?????????????????????????, ??? ? ? ?????? ???, ??? ? ???? ?????? ?????? ?????? ???
2222222222 22 222 2 222222222222 222222222222 2222222222 222 2222222222 222222 22222222

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

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

43. ?? ??????? ?????????????? ?? ?????????? ??????? ?? ?????? ?????????? ?? ?????? ??????????
??? ??? ?????????? ?? ?? ?????????????? ??? ?? Zita Modes ??? Milady ??????????
????????? ?????????? ??????? ? ?????? ?????? ?????? ?????????? ?????????? ??? ?? ??? ??????
??? ?????? 5, ?????????? 8, ??? ?????? ??????.

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44. ??????, ?????????????? ??? ?? ??? 5, ?????????? 8, ??? ?????? ?????????? ?? ??????
????? ??? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????????? ??? ?????? ?????? ?????? ???????, ???????, ??? ?? ??? ??????
?? ?????????? ??? ?? ?????????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????????? ???
????? ?????????? ???.

45. ?? ?????????? ??? ?????? ??? ?????????????? ?????????? ??? ? ??????? ????
????????? ?? ?????????? ?? ?????? ?? ?????? ?????? ?????????? ?? ??? ??????????????,,
????? ?????????? ?? ?????????????? ?? ?????? ???.. ?? ?????? ?????? ???
????????????? ??? ?????? ?????????? ??? ?? ?????????? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????? 5, ?????????? 8, ??' ??' ??' ??? ?????? ??? ?? ?????? ??? ??????
????????????? ??? ?????? ?????????? ?? ??? ?????? ?????? ?????? successor (?????????) ????, ??
????? ??????, ?????????????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ??????????
?? ?????? ????, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???.
????, ??? ?????? ??? ?????? ??? ?????????? ????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????.

46. ??? ????????????, ??? ??????? ?? ?????????? ?????? ??? ?????? ??? ??? ??
????????? ??? ?? ?????????? ???????, ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??
????????? ??? ?? ?????????? ?????? ?????? (???, ????, ???, ??? ??????????)
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
????? ?? ?? ?????????? ??????).

47. ?????? ??? ?????????? ????, ?? ?????????? ?? ??? ?????? ??? ?????????? ????,
????????? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??
????? ??????????.

48. ??????, ??? ?????????? ? ???????, ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? 5,
????????? 8, ??? ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????
????????? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????

49. ??????, ??? ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????? ??? ?????? ?????? (??? ??? ??? ?????? ??????) ??? ?????????? ??? ??????????
?? ?? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?? ?????? ??? ?????? ??? ?????? 17, ???? ?? ?? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

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

50. ??? ?? ??????? ?? ???????, ??? ?????? ?????????? ?? ?????????? ?? ??????? ??????? ??
????? ?????? ?????????? ?? ??? ??????????????. ? ??? ?????? ?????????????? ?? ?????????? ??
??????????, ??? ??? ?????????? ??' ?,?? ?? ?????????? ?? ?????? ??? ?????????????? ??
????? ?????????? ?? ??????? ?????? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ?? . ??? ??????
??? ?? ?????????? ?? ??????? ?????? ?????? ?????? ?? ?????????? ?????????? ?? ?????????? ?? (22),
????? ?? ?????????????? ?????? ?? ??? ?????? ?????? ?????????, ??? ?? ?????????? ??
????????? ?????? ?? ?????? 5, ?????????? 8.

51. ??????, ?????? ?? ?????? ?? ??????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?????? ??
????? ??? ?????????? ?? ??? ?????? ?? ?????? 5, ?????????? 8, ?????????? ?? ??
????????? ?????? ?? ?????? ?????????? ?????????? ?????????? ?????????? ?? ?????? ?????? ??????????
????? ?????? ?????? ?????????? ?????????? ?????????? ?????????? ??, ?. . ? ?????????? ??
????????? ?? ?????????? ?? ?????????? ?????? ?? ?????? ?????? ?????????? ?? ?????? ?????? ?????? ??
????? ??? ?????????????? ?? ??? ??? ??? ??????? ?? ??? ?????? ?????????? ?????????? ?????????? ??
????? ??? ?????? ??? ??? ??????????.

52. ?? ?????? 5, ?????????? 8, ??????? ?? ?????? ?????? ?????? ?????????? ??????????, ??
??? ?????? ??? ??? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?????????? ??
????????? ?????????? ?? ?????? ?????????? ?? ?????????? ?? ?????? ?????? ?? ?????????? ??
????? ??? ??? . ??????, ? ?????????? ?? ?????? ?????????? ?? ?????????? ?????????? ??
????????? ?????? ?? ??? ??? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ??
????????? ?????? ?? ??? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ??
????????? ?????? ?? ??? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ??
????????? ?????? ?? ??? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ??
????????? ?????? ?? ??? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ??
????????? ?????? ?? ??? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ??
53. ???????, ?? ?????????? ??????? ?????? ?????? ?????? ?????? ?? ??? ?????????? ??
????????? ?????? (23) . ?? ?? ??? 13, ?, ?? ?????? ??????, ?????????? ?? ??? ?????? ??
????? ?????????? ?????? ?? ?????? ?????? ?????? ?????????????? ?? ?????? ?? ?????????? ??
????????? ?? ?????????? ?? ?????? ?????? ?????? ?????????? ?? ?????? ?? ?????????? ??
????????? ?? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ?????? ??
????? ??? ?? ?????? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????? 5, ?????????? 8, ?? ?????????? ?? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??
????????? ?????? ?????????? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??
????? ?? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
54. ??? ?? ??????, ? ?????? ?? ?????? 5, ?????????? 8, ??? ? ?????? ?? ?????? ??
????? ? ?????? ?????? ?????? ?????????? ?????????? ?? ?????????? ?? ?????? ?? ?????? ??
????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ?????? ?? ?????? ??
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??

55. ??????????, ???????, ??? ?????? ?????????? ?? ?????? ?? ? ?????? ?????? ??
????? ???????. ?????? ?????? ?? ?????????? ?? ?????? ?????? ?? ?????? ?? ?????? ??
??? ?????????? ??? ??' ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ??? ?????? ?????? Spijkers ??? Redmond Stichting (24) ?????? ?? ??????????

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

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

56. ?? ???? ?????? ??????? ??, ?? ?????? ??????????? ?????? ???' ?????? ?? ?? ??????? ???
?????????? ?? ??? ?????? ?????? ?????? ??? ??????????? ???????????????, ??? ??????
????? ??????????????? ?? ??????????? ?????? ??? ??????????? ?????? ???????????????,
????????? ???' ??????????? ?????? ??? ?????????? ??? ??????????? ??? ?????? 5, ???????????
8, ??? ?????? ???????.

57. ???? ??????????? ???? ???????, ?? ??????????? ??? ?????? ???, ?? ?????????? ?? ???
?????????? ?? ??? ??????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????????? ??? ???????, ?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ???
??????, ?? ??????????? ??? ??????? ?? ??????????? ?????????????? ??? ?????? ???
????????? ??????????? ??????????? ?? ??????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??????? ?? ??? ?????? ??????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? (25), ?????????????? ?????? ??? ?????? ??? ??????????? ??????. ???????, ??? ??????
????? ??? ?????????? ?? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ??? ??? ???
????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? (26).

58. ???????, ?????? ?????? ??????????? ??? ?? ??????? ??? ?????? ??? ?????? ??? ??????
??, ??? ???????????, ? Milady ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? Zita Modes ??? ?? ?????, ??? ?????
????? ??? ??? ??? ???????, ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??????????, ??? ?????? ??? ?????? ??? ??????????? ??? ?????? ??? ??????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ??????????? ??? ?????? ??? ??????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????? ??? ?????? ??? ??????????? ???
?????????.

59. ???????, ??? ?????? ???, ?? ?????????? ?? ?????? ??? ?????????? ??? ??????????? ???
Tribunal d'Arrondissement ??? ??????????? ?? ???:

1) ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????? 5, ?????????? 8, ??? ?????? ??????? ???, ?? ?????? ?? ?????? ??? ?????? ???
?????? ??????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????.

2) ??? ???? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.
????????? ??? ?? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
3) ??? ???? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
1 – ?????? ??? ??????????: ? ???????.

2 – ????? o?????? 77/388/??? ??? ???????????, ??? 17?? ????? 1977, ??? ?????????????? ??? ?????????? ??? ??????? ?? ???? ???????, ??? ??????? ?? ???? ?????? ?????? ??????? ??????? ? ?????? ??????? ?????? ?????? ?????????????? ?????: ?????????? ?????????? ????? (?? ??? . ??? 09/001, ?. 49, ??? ????: ??? ??????).

3 – ??????? ?? ?? ?????? 6, ??????????? 5, ??? ????? ???????, ?? ?????? 5, ??????????? 8, ?????? ?? ?? ?????? ?????? ?? ?? ?? ?????? ???????, ?? ?????? ?????? ?? ?? ???? ?????? ?????? (????? 6, ??????????? 1).

4 – ?? ?????????????? ?????????????? ?????? ??????? ?????????? ?? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ? ?????????????? ?' ?????? ??? ?? ?????? ?????? ?????? ?????? ??????????????????
?? ?????????????? ?????? ??? ?? ?????????? ??? ?? ?????????????? ?????? ?????? ?????????????? ??????????????
??? ?? ???? ??? ?????? ?????????? ?????? ??? ? ??' ?????? ??? ?????? ?????? ?????? ??? ??????
?????? (?? . ??????? ??? ?????? 20 ?? . ????????).

5 – ???. ?????? 23 ??? 29 ???????.

6 – . ??????? ???. ????????????. ????????????, ??????????? 11/73, ?. 10? ? ??????, ??????,
????????? ??? ?????? 5, ??????????? 8, ????. ?? ????? 5, ??????????? 4, ??o ??????
????????? ???????.

7 – ?????? ?????? 67/227/??? ??? ???????????, ??? 11?? ??????? 1967, ??? ??
????????????? ??? ??????????? ??? ?????? ??????, ??? ??????? ?? ??? ????? ?????? ??????
?????? (?? ??. ???. 09/001, ?. 3).

8 – ?????????? ??????????????? ?????????? ?????????????? ?????????????? ??? ?? ???? ?????? ?? ??
?????? 13 ??? ????? ????????, ??? ?? ????? 14 ??? 16 ?????????? ?????????? ??? ?? ?????? ?? ??
???????. ??????????? ??? ?????????? ???????, ???????, ?? ??????? ??? ?? ?????????? ?? ?? ???????????
????????? ?????????????? ??? ?????????? ??? ?????????? ???????, ?? ?????????? ??????? ??????????????
????? ?????? ?????????? ?????????? ?????????? ???????, ? ?????????? ??? ?? ?????????? ???????
????? ??? ?????? ?????? ?? ?????????? ??? ?????????? ?????? ???????, ?????? ??? ?? ???? ??????????
????????? ?????????? ?????????? ?????????? ??? ?????????? ?????? ?????????? ??????????????
??????????, ?????????? ??? ?????????? ??? ? ?????????? ?????? ?????? ??? ??????????????
??????????.

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

10 - ??, ????? 20, ?????????? 2.

11 - ???. ?????? ??? ???????? ??? ??? ?????? C-408/98, Abbey National (?????? 2001, ?. ?-1361. ?????? 23 ??? 24).

12 - ?? www.hmce.gov.uk/forms/notices/700-9.htm

13 – ???. ?????????????? ?????????? ??? ?????????? 90/127/??? ??? ??????????, ??? 12??
????????? 1990, ??? ?????????? ??? ?????????? ?????????? ?? ?????????? ?????? ??? ??????????????
??? ?????? 5, ?????????? 8, ??? ??? ?????? 21, ?????????? 1, ?????????? ?? ??? ??????
????????, ?? 1990, L 73, ?. 32, ??? ?????????? ??? Terra, B. J. M. ??? Kajus, J., *A Guide to the
Sixth VAT Directive*. IBFD 1993. ?, 288.

14 – ??., ?.?, Cornu, G., (ed.), *Vocabulaire juridique* (?????? ?????, 1990), Presses universitaires de France, ??? Guillien, R., ??? Vincent, J., (ed.), *Lexique de termes juridiques* (???? ?????. 1985). Dalloz.

15 – ??., ?.?, Abbey National, ??????????? 11 ???????, ???? 24 ??? ???????, ??? ????
???? ?????????????? ??????????

16 – ??????? ??? 13?? ?????????? 1992, C-50/91 (?????? 1992, ?. ?-5225, ????? 17 ??? ??????????). ?. ?????? ??? ?????????? ??? ????? ?????? ??? ?????? ??? ?????? ??? 13? ?????????? 1991, C-164/90, Muwi Bouvgroep (?????? 1991, ?. ?-6049, ????? ?????? 22 ?? ??????? ??? ?????? 18 ??? ?????????? ???).

17 – ??????? ?? 17?? ??????? 1969, ??? ???? ?????? ?????? ??? ?????????????? ??? ???.
????????????? ??????? (??. ???. ???. 09/001, ?. 20? ???. ????? 7, ?????????? 1, ??????????
??).

18 – ?????? ?? 12?? ??????? 2001, ??? ?????????????? ?? ??????????? ?? ???????, ??????? ?? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????????

??????????????, ?????????????? ? ?????????? ?????????????? ? ?????????????? (?? 2001, L 82, ?. 16? ?. ????? 1, ?????????? 1).
19 – ?????? ??? 29?? ??????? 1998, ??? ??? ???????????? ??? ??????? 77/187/??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???????, ??? ??????? ?? ? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? (?? 1998, L 201, ?. 88? ?. ????? 1, ?????????? 1, ?????????? ?).
20 – ?????? ??? 18?? ??????? 1986, 24/85 (??????? 1986, ?. 1119, ??????? 11 ??? 13).
21 – ?????? ??? 19?? ????? 1992, C-29/91 (??????? 1992, ?. ?-3189, ??????? 22 ??? 27).
22 – ??? ????????????, ?. ?????? 29 ??????.
23 – ?. ?????? ??? 8?? ??????? 2000, C-400/98, Breitsohl (??????? 2000, ?. ?-4321, ??????? 43 ??).
24 – ?. ?????? 41 ??????.
25 – ?., ?????, ??????? ??? 29?? ??????? 2000, C-455/98, Salumets (??????? 2000, ?. ?-4993, ??????? 19 ??? 24 ??? ???????, ?? ?????????? ?? ?? ?????????? ??? ?????????? ??? ?????????? ??? ????? 19). ?., ?????, ?????? 15 ??? 21 ??? ??????? ??? ?????? ?????????? Saggio.
26 – ?????? ??? 25?? ??????????? 1999, C-349/96, CPP (??????? 1999, ?. ?-973, ??????? 35 ??? 36 ??? ???????).