Downloaded via the EU tax law app / web

@import url(./../../../../css/generic.css); EUR-Lex - 61993J0484 - EL
Avis juridique important

|

61993J0484

??????? ??? ??????????? ??? 14?? ????????? 1995. - PETER SVENSSON ??? LENA GUSTAVSSON ???? MINSTRE DU LOGEMENT ET DE L'URBANISME. - ?????? ??? ??? ?????? ????????????? ????????: CONSEIL D'ETAT - ?????? ??????? ??? ?????????????. - ???????? ?????????? ??? ????????? - ???????? ?????? ????????? - ????????? ????????? ??????? ???????????? ??? ???????????? ?????????? ????????? - ?????? ???????? ?? ????????? ?????? ?? ??????????? ??? ?????? ????? ??? ??????? ??? ?????????. - ??????? C-484/93.

??????? ??? ?????????? ??? ??????????? 1995 ?????? I-03955

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

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

++++

*1. ???????? ?????????? ??? ????????? * ??????????? * ??????? ?????????? ???? ??? ????????? ??? ?????? ?? ???????? ??????????? ????????? ????? ??????????? ??? ??? ?????????? ???????? ??? ??????? ?? ????????? ?????? ???????????? ??? ??? ??????? ??????? * ??? ???????????*

(??????? ??, ????? 67)

*2. ???????? ?????? ????????? * ??????????? * ??????? ?????????? ???? ??? ????????? ??? ?????? ?? ???????? ??????????? ????????? ????? ??????????? ??? ??? ?????????? ???????? ??? ??????? ?? ????????? ?????? ???????????? ??? ??? ??????? ??????? * ??????????? ?? ??? ???????? ????? ??????? ??????????? ? ??? ??????? ??????????? ??? ??????? ??? ??????????? ?????????? * ??? ???????????*

(??????? ??, ????? 56 ??? 59)

????????

1. ?? ????? 67 ??? ???????? ??? ????????? ?? ?????? ????? ?? ?????? ?? ???????? ?????????? ?????????? ???? ??? ?????????, ????? ??? ????????? ?????????, ??? ??? ???

??? ?? ?????? ??? ??? ??????????? ????????????? ??? ??????????, ??????? ? ????????? ????????? ?????? ?? ????? ???????? ?? ????????? ?????? ??????????? ??? ?? ???? ?????? _____, ??? ??? ??????????? ??? ??????????? ??? ?????????? ????????? ??? ?? ???? ??????.

????????, ? ?????????? ???? ?????? ?? ??????????? ???? ?????????????? ?? ??????????? ?? ???????? ????????????? ?? ???? ?????? _____ ???, ???? ????????, ?????????? ??? ???????? ????????? ??? _____ ?????????? ???????.

2. ?? _____ 59 ??? ???????? ??? ????????? ?? ?????? _____ ?? ?????? ?? ???????? ?????????? ?????????? ???? ??? ?????????, _____ ??? ????????? ?????????, ??? ??? ??? ??? ?? ?????? ??? ??? ??????????? ????????????? ??? ??????????, ??????? ? ?????????? ????????? ?????? ?? _____ ???????? ?? ????????? ?????? ??????????? ??? ?? ???? ?????? _____, ??? ??? ??????????? ??? ??????????? ??? ?????????? ????????? ??? ?? ???? ??????.

????????, ? ?????????? ???? ??????????, ?? ???? ??? ?????? ????????? ??? ??????? ? ???????? ?? ?????? ??? ???????? ??????? ??? ??? ????????? ?????????, ???????? ??? _____ ?????????? ????????? ?????????????? ?? ???? _____ ????, ???????????? ??? ?? ?? ???? _____ ??? ?? ?????????????? ???? _____ ??? ??????????? ??? ????????? ?? _____ 56 ??? ????????, ?????? ???? ??? ?????? ?? ????????? ??? ??? ???????? ?????? ??????????? ??????, ???? _____ ??? ??????? ??????????? ??? ??????? ??? ??????? ??????????? ??????????, ?????? ??? ????????? _____ _____ ?????? ??? ?????????? ??? ???????????? _____ _____ ??????????? ??? ??? ?????????????? ??? ??? ?? _____ ??? _____ ??? ??????????? ??? ??? ?????? ??? ?????????? ?????????.

????????

???? ??????? C-484/93,

??? ???? ?? ??????????? ?????? ??? Conseil d' Etat ??? ???????????? ???? ?? ??????????, ???' ????????? ??? ?????? 177 ??? ???????? ??, ?? ??? _____ ????????, ??? ??????? ??? ???????? ??? ???????? ??????? ??? ????????? ??????????? ??????

Peter Svensson,

Lena Gustavsson

???

Ministre du Logement et de l' Urbanisme,

? ?????? ???????????? ????????? ?? ???? ??? ???????? ??? ?????? 67 ??? 71 ??? ???????? ??,

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

?????????? ??? ???? G. C. Rodriguez Iglesias, ???????, D. A. O. Edward ??? G. Hirsch, ????????? ????????, G. F. Mancini, F. A. Schockweiler, J. C. Moitinho de Almeida (????????), C. Gulmann, J. L. Murray, P. Jann, H. Ragnemalm ??? L. Sevon, ????????,

??????? ??????????: ?. ?. ?lmer

??????????: D. Louterman-Hubeau, ????? ????????? ??????????,

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

** ?? ????????????? ??? ?????? ?????, ?????????????? ??? ??? Fernand Entringer, ???????? ????????????,*

** ? ???????? ????????, ?????????????? ??? ??? ????????? ????????, ?????? ???????? ??? ??????? ????????? ??? ???????, ??? ?? ???????? ??????, ????????? ??????????? ??? ??????? ????????? ??? ???????,*

** ? ???????? ??? ????????? ??????????, ?????????????? ??? ??? Marie-Jose Jonczy, ?????? ????????, ??? Helene Michard, ????? ??? ??????? ?????????,*

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

???? ?????? ??? ????????? ???????????? ??? ????????????, ?????????????? ??? ??? Fernand Entringer, ??? ??????????? ??? ????????????, ?????????????? ??? ??? A. Rodesch, ???????? ????????????, ??? ????????? ???????????, ?????????????? ??? ??? ????????? ????????, ??? ??? ????????, ?????????????? ??? ??? Marie-Jose Jonczy ??? Helene Michard, ???? ?? ????????? ??? 14?? ??????? 1995,

???? ?????? ??? ?????? ????????? ??? ???????? ??? ????????? ??? ???? ?? ????????? ??? 17?? ????? 1995,

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

???????

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

1 ?? ??????? ??? 28?? ????????? 1993, ? ????? ???????? ??? ????????? ???? 30 ????????? 1993, ?? Conseil d' Etat ??? ???????????? ???????, ??????? ??? ?????? 177 ??? ???????? ??, ??????????? ??????? ?? ???? ??? ???????? ????????? ??? ?? ???? ???????? ???, ?????, ??? ?????? 67 ??? 71 ?????.

2 ?? ??????? ???? ??????? ??? ??????? ???????? ??????, ??????, ??? ??????? Svensson-Gustavsson, ???????? ????????????, ??? ??? Ministre du Logement et de l' Urbanisme (????????? ????????? ??? ??????????), ?? ?????, ?? ??????? ??? 5?? ????????? 1992, ???????? ?? ???? ????????? ????????? ????????? ???? ???????????? ?????? ??????? ?? ?????? ??????????? ??? ???????????? ??? ????????? ????????? ???? Bereldange ??? ???????? ?? ?? Comptoir d' escompte de Belgique SA, ?? ???? ?? ????? (??????).

3 ? ???????? ??????? ????????? ??? ????? 1, ?????? 3, ??? ??????????? ??? ??????? ????????, ??? 17?? ??????? 1991, ???? ??? ??????????? ??????? ??? ???????????? ??? ??????????? ????????? ??? ??? ????????, ???????? ? ???????? ????????, ???? ?? ????? ? ????????? ????????? ????????? ???? ??? ??????? ??? ????? ??????? ?????? ?? ????????? ?????? ??????????? ??? ???????????. ??? ????????? ???? ??? ?????? ?? Comptoir d' escompte de Belgique.

4 ?? Conseil d' Etat ??? ????????????, ?? ????? ???????? ????????? ???? ??? ?? ???? ?????????, ???? ?? ????????? ??? ?? ???????? ??? ??????? ???????? ??? ????????? ?? ???? ??? ????????????? ??????? ??????, ????????? ?? ????????? ?? ????????? ??? ?? ???????? ??? ????????? ?? ???????? ??????????? ???????:

"????????? ???? ??? ????????? ??? ???????? ??? ?????, ??? ????????? ???? ?? ????? 67 ??? 71 ?????, ??????? ?? ??? ????? ?????? ????? ?????? ?? ???????? ????????? ????????? ??? ??? ???????? ????????, ????? ?? ??? ????????? ????????, ??? ??? ????????? ??? ?? ?????? ??? ??????????? ??? ?? ???????????? ??? ????????, ??????? ? ????????? ????????? ??????????? ?? ????????? ?????? ??????????? ????? ????? ??? ??????? ??????;"

5 ???? ?? ????????? ??? ??????????? (??., ?????, ??????? ??? 11?? ????????? 1981, 203/80, Casati, ??????? 1981, ?. 2595, ??????? 8 ??? 13), ?? ????? 67, ????????? 1, ??? ???????? ??? ??????????, ??? ??? ?????? ??? ??????????? ????????, ??? ????????? ??? ??????????? ???? ???????? ?????????. ????????, ? ????????? ???? ???????? ??? ??? ??????????? ??? ????? 69 ??????? ??? ?????????.

6 ??????????? ???????? ?? ???????? ??? ?? ??????????? ???? ???????? ????????? ??????????? ?? ??? ?????? 88/361/??? ??? ?????????, ??? 24?? ??????? 1988, ??? ?? ???? ?? ???????? ??? ?????? 67 ??? ???????? (?? L 178, ?. 5), ? ????? ???????? ????? ??? ?????? 69 ??? 70, ????????? 1, ??? ????? ???? ??? ????? ??? ??????????? ???????????. ????????, ???? ?? ????? 1:

"?? ????? ???? ????????? ???? ??????????? ??? ???????? ????????? ??? ???????????????? ?????? ???????? ??? ?????? ?????, ?? ??? ????????? ??? ???????? ?????????. ??? ??? ??????????? ???????? ??? ???????? ???????, ?? ???????? ????????? ???????????? ??????? ?? ??? ??????????? ??? ??????????? ?."

7 ?? ?????? V??? ??? ??????????? ????? ?????????, ???????, ???? ?????????????, ???????????? ??? ????????????? ????????. ????????, ?? ???????? ?? ??? ??????? ????? ???????? ????????? ????? ??? ??????????.

8 ???????, ??????????? ?? ????????? ?? ??????????? ??????? ???? ? ??????? ??????????? ??????? ???? ???????????? ????? ???????? ????????.

9 ??????????? ???????? ?? ???????? ???, ???? ?? ????? 1 ??? ?????????????? ??????????? ??? ??????? ????????, ? ????????? ????????? ????????? ????? ?????? ?? ??????? ??? ??????? ????????? ??????????? ?????????, ????????, ??? "????? ??????? ?? ????????? ?????? ??????????? ??? ?????? ??????? ??? ???????????? ? ?? ???????????????? ?????? ??? ????????? ????????? ?????? ??? ??? ????????, ???????? ? ?? ???????? ????????? ???????? ??? ?????? ??? ??????? ???????? ??? ???????????? ??? ????? ??????? ? ????? ??????????? ??? ???????". ??? ??? ???????? ??? ??????????? ??? ???????????? ?? ??????? ??? ??????????? ????????? ???, ??? ?? ????? ??? ???????, ? ??????? ?????? ?? ???? ????????, ? ?? ????? ????????????, ??? ??????????? ???? ???? ????????? ???? ?? ??????????? ???.

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

11 ???????, ??????????? ?? ???????? ???, ??????? ??? ?????? 61, ?????????? 2, ??? ????????, "? ?????????? ??? ?????????? ??? ??????????? ????????? ??? ?????????? ?? ??? ???????? ????????? ?????? ?? ?????????????? ?? ??????? ?? ??? ??????????? ?????????? ??? ??????????? ??? ?????????." ?????? ??????? ???? ?? ?????? ??? ??? ????????? ????????? ??? ???????? ?? ???????? ????????? ????????? ???? ??? ?????? ??? ?????? 59 ??? ????????, ?????? ?????? ?? ????????? ?? ? ??????????? ??????? ???? ????? ?????????? ?? ?????? ?????????? ??????????? ?? ??? ????????? ??? ???????? ???? ????????? ??????? ?????????.

12 ??????, ????????????? ??? ??????????? ??????? ??? ????? ?? ?????????? ??? ??? ?????? ??????????? ????????? ?? ?????? ??? ??????? ?? ????????? ?????? ??????????? ??? ?????? ?????? ????? ???????, ??????, ???????? ??? ????? ?????????? ????????? ????????????? ?? ???? ????? ????, ????????????? ??? ?? ????? 59, ????? ??????, ??? ????????.

13 ????????, ?????? ?? ????????? ?? ??? ?????? ??????????? ??????? ?????? ?? ???????????? ?????? ??? ????????? ??? ????????. ? ????????? ??? ????????????, ????????????? ???? ????? ??? ??? ???????? ????????, ????????? ??? ? ??????? ?????????? ?????????? ?? ??? ????????? ???????? ?? ??????? ????????????? ??? ??????????? ??????????. ???? ??? ?? ???? 1994 ? ??????????? ???? ??????? ???????????? ??????? ??? ??? ??????????? ?????? ?? 1 410 236 417 ??????? ?????? (BFR), ?????? ??? 1 % ??????? ??? ????????? ?????????????. ?? ?????? ??????? ??? ????????????, ????, ??????, ???? ??? ??????????? ??? ?????? ??? ?????????? ????????, ????????? _____, ??????? ?? _____, ??? _____ ??? ?????????? ??? _____ ??????????? ????????, ????????????? ?? ??? _____ ???? ?? ?????????? ?? ????????? ??? ?????????? ???????? ???? ??? ???????? ??? ?? ???????? ????????? ???? ???? ??? ??????? ??????? ????????. ???????, ???????? ??? ???????????? ??????????? ????????, ? ???????? ?????????? ??? ????????? ?? ???? ???????????? ?? ???????? ? ??????????? ??? ?? ???????? ?? _____ ???? ??? ??? ??????????? ??????? ??? ? ??????????? ??????, ???? ??? ?????? ??????????? ??????? ?? ??? ?????????? ??? _____ 59, ?????????? 1, ??? ????????.

14 ?? ??????????? ???? ??? ??????? ?? ?????? _____.

15 ????????, ???? ????????? ??? _____ 12, ? ??????? ??????????? ??????? ??????????? ??????? ???????? ???? _____ ????????????. ??? ?????? ??????? ???????? ??????? ?? ????????????? _____ ?? _____ ??????? ??????????? ??? ???????????? ??? _____ 56, ?????????? 1, ??? ????????, ?? _____ ?????????? ??? _____ 66, _____ ??????? ??? ?????????????? ?????? ??????????? ?????? (??., _____, ??????? ??? 25?? ??????? 1991, C-288/89, Collectieve Antennevoorziening Gouda ?.??., ??????? 1991, ?. ?-4007, _____ 11).

16 ???????, ?? ??? ????????? ??? ??? 28?? ?????????? 1992, C-204/90, Bachmann (??????? 1992, ?. ?-249), ??? C-300/90, ???????? ???? ??????? (??????? 1992, ?. ?-305), ?? ?????????? ?????? ??? ? ?????? ??????????? ??? ??????? ???? ??????????? ?????????? ?????? ?? ???????????? ??????????? ??????? ???????? ?? ?????????? ???? ??? ???????? ?????????? ??? ??????????? ??? ??? ??? ???????? ?????? ?????????.

17 ?????? ????????, ????, ??? ????????? ???? ??????? ???????.

18 ????????, ??? ???? ?????????????? ????????? ???????? ?????? ????????? ?????? ??? ??????????? ????????? ??? ???????? ??? ??? ??????????? ??? _____ ??? ??????? ?? ??????????? ?? ?????????? ???? ???????? ??????????? ????????? ??????? ??? ???????, ????????? ??? ?????? ?? ?????????? ??????????? ?? ??????????? ? ?????? ??? ???????????? ??????????? ??????????, ???? ?????????? ??????? ??? ????????? ???????

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

19 ???????, ??? ?????? ?????????? ?????? ?? ????? ? ???????? ??? ?? ????? 59 ??? 67 ??? ???????? ??? ?????????? ?? ?????? ????? ?? ?????? ?? ???????? ?????????? ?????????? ???? ??? ?????????, ????? ??? ????????? ?????????, ??? ??? ???? ??? ?? ?????? ??? ??? ??????????? ???????????? ??? ??????????, ??????? ? ?????????? ????????? ?????? ?? ????? ???????? ?? ????????? ?????? ??????????? ??? ?? ???? ?????? ?????, ??? ??? ??????????? ??? ??????????? ??? ?????????? ????????? ??? ?? ???? ??????.

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

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

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

??????????

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

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

????????? ??? ??? ?????????? ??? ??? ??????? ?? Conseil d' Etat ??? ???????????? ?? ??????? ??? 28?? ?????????? 1993, ???????????:

?? ????? 59 ??? 67 ??? ???????? ?? ??? ?????????? ?? ?????? ????? ?? ?????? ?? ???????? ?????????? ?????????? ???? ??? ?????????, ????? ??? ????????? ?????????, ??? ??? ???? ??? ?? ?????? ??? ??? ??????????? ???????????? ??? ??????????, ??????? ? ?????????? ????????? ?????? ?? ????? ???????? ?? ????????? ?????? ??????????? ??? ?? ???? ?????? ?????, ??? ??? ??????????? ??? ??????????? ??? ?????????? ????????? ??? ?? ???? ??????.