

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

?? 17?? ?????????? 2015 (*)

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

???? ?????????????????? ?????????? T?515/13 ?? T?719/13,

????????? ??? ????????, ?????????????? ?????? ??? ??? N. Díaz Abad ??? ??? ????????
??? ??? M. Sampol Pucurull, abogados del Estado,

????????? ??? ?????? T?515/13,

Lico Leasing, SA, ?? ??? ?? ?????? (??????),

Pequeños y Medianos Astilleros Sociedad de Reconversión, SA, ?? ??? ?? ????????,

????????????? ??? ??? M. Merola ??? M. A. Sánchez, ????????????,

????????????? ??? ?????? T?719/13,

????

????????? ??? ????????, ?????????????? ??? ??? V. Di Bucci, ??? M. Afonso, ??? É.
Gippini Fournier ??? ??? P. N?me?ková,

??????,

? ? ?????????? ??? ?????? ??? ?????????? ??? ?????????? 2014/200/? ? ? ? ??????????, ???
17?? ??????? 2013, ??????? ?? ?? ?????? ?????????? SA.21233 C/11 (????? NN/11, ???
CP 137/06) ??? ??? ?? ?????? ? ?????? — ?????????? ?????? ??? ????????

????????? ?????????? ?????????????? ????????, ?????? ??? ?? «????????? ?????????? ???
????????? ?????????????? ??????» (? 2014, L 114, ?. 1),

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

????????? ??? ??? M. van der Woude (???????), ???????, I. Wiszniewska?Bia?ecka ??? I.
Ulloa Rubio, ???????,

?????????: J. Palacio González, ?????? ?????????? ????????????,

?????? ??? ?????? ??? ??????? ?????????? ??? ??????? ??? ??' ?????????? ?????????? ???
9?? ??? ??? 10?? ?????? 2015,

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

???????

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

I – ?????????? ????????????

1 ? ?????????? ?????????? ??????, ??? ??? ????? ??? 2006, ?????????? ?????????????? ??? ???.
????????? «????????? ?????????? ?????????? ?????????? ?????????????? ??????????» (??? ?:
????????? STL). ??????????, ??? ?????? ?????????? ?????????? ?????????? ?????????????? ??? ???.
????????? ?????????? ?????????? ?????????? ?????? ?? ?????????? ????? ?????????? ??? ???.
????????? ?????????? ?? ?????????? ?????? ?????????? ?????? ?????????? ?????? ?????????? ??? ???.
????????? ?????????? ?? ?????????? ??? ?????? 20 % ??? 30 % (??? ?: ??????), ??????????
??? ?????? ?????????? ?????? ?? ?????? ??? 13 ?????? 2010, ?? ??????
????????? ?????????? ?????? ?????????? ?????? ?????????? ?????? ?????? ?????? ??? ??????????
STL. ?????????? ??? ?????????? ?????? ?????????? ?????????? ??? ?????????? ???.

2 ?????? ?????????? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ? ??????
??? ??? ?????????? ??? ??? ?????????? ?????? ??? ?????? ?????? ?????, ? ?????????? ??????
??? ?????? ?????????? ?????? ??? ?????? 108, ?????????? 2, ??? ?? ???
????? C(2011) 4494 ??????, ??? 29?? ?????? 2011 (?? C 276, ?. 5, ??? ?: ??????
???? ?????? ??????????).

II – ?????????????? ???????

3 ??? 17 ?????? 2013, ? ?????? ?????? ??? ?????? 2014/200/??, ?????? ?? ??
????????? ?????????? SA.21233 C/11 (????? NN/11, ????? CP 137/06) ??? ?????? ?? ??????
? ?????? — ?????????? ?????? ??? ?????? ?????????? ?????????? ?????????? ??????????
????????, ?????? ??? «????????? ?????????? ?????? ?????????? ?????????? ??????????» (??
2014, L 114, ?. 1, ??? ?: ?????????????? ??????). ??? ?????? ???, ? ?????????? ????
??? ?????????? ?????????? ??? ?????? ?????? ?????????? ?? ?????? STL «????????[??]?
????????? ??????», ??? ??? ?????? ??? ?????? 107, ?????????? 1, ???, ??????
????????? ?? ??? ??? ??? ?????? ??? ?????? ??? 1? ?????????? 2002, ???
????????? ??? ?????? 108, ?????????? 3, ??? (????? 1 ??? ?????????????? ??????). ??
????? ??? ?????? ??? ?? ??? ?????? ?????? ??? ??? ?????? ?????? (????? 2 ???
????????????? ??????). ? ?????? ?????? ?????????, ??? ?????????? ?????????? ??????
??? ??? ?????? ??? ?????? ??? ?????? ?????? ??????????????, ?????? ?????? ?? ?????? ??
????????? ?? ?????????? ?? ?????? ??? ?????? ?????? ?? ?????? ?????? (????? 4,
????????? 1, ??? ?????????? ?????? ??????)).

? — ?????? ??? ?????????? STL

4 ??? ?????????? ??? 8 ??? ?????????? ?????? ??????????, ? ?????? ?????? ?????????? ???
?? ?????? STL ?????????? ??? ?????? ?????? ?????? ?????? (?????) ??? ??? ?????? ??? ?? ???
????????? ??? ?????? ?????? ?????? (?????), ??? ??? ?? ?????????? ??? ?? ??? ?? ???
????????? ??? ?????? ?????? ?????? ??? ?????????? ?????? ?????? ?????? (?????).

5 ? ?????????? ??????????? ??? «[?] ? ???????? STL ???[?????]: ?? ?????? ?????? ???
????????????????? ????, ?? ?????? ?????[?????] ??? ?????? ??? ?????? [?????]
????? ??? ?????????? ?????? ??? ??? ?????????? ?????????? [...] , ?? ??????
????? ?????????? ??? ?????? ??? ?????? [??] ??? ?????? ?????? ?????? ??????
????????? ??????» (????????? ??? 9 ??? ?????????? ?????? ??????).

6 ? ?????????? ?????????? ??? «[?] ? ?????????? [??] ?????????? ?????????? ???
????????? ??? ?????? ??? ??? ?????? » ??? ??? «[?] ? ??? ??? ?????????? , ??? ????
??? (????? ??? 6 148 969 ???), ?????????? ?????? ??????» (?????????
????? 10 ??? ?????????? ??????).

1. ?????? ??? ?????????? ?????????? ??? ?????????? STL

7 ?? ? ?????? 9 ??? 10 ??? ?????????? ??? ?????????? ?????????????? , ?? ????
????????? , ???' ?????? , ? ?????????? ??? 14 ??? ?????????????? ??????????
????????? ??? ? ?????? STL ?????????? , ??? ??? ?????????? ?????????? ??????
??? ?????????? ?????????? ?????????? , ?????? ??? ?????????? ??????????
???? ?????????? ?????????? , ??? ?????? , ??? ?????????? ?????????? ??????????
(leasing) , ??? ?????? ?????????? (???) , ?????????? ??? ??? ?????? ??? ???
????????? ??? ?????????? ?????? ??? ?????? ??? ??? ??? ???.

8 ? ?????????? ?????? , ??? ?????????? ??? 12 ??? ?????????? , ?? ???:
«?? ??? STL ??? ?????? ?????? ?????????? ?????????? , ?? ??? ?????? ?????????? ???
????? ??? ?????? ?? ?????? ?? ?????????? ?????????? ?????????? ??? ???
????????? ??? ?????? ??? ??? ?????? ?????? ??? ?????????? ?????????? ??? ???
????????? ??? ?????? ??? ??? ?????? ?????? ??? ?????? ?????????? ?????????? ???
?? ??? ?????? ?????? ??? ??? ?????? ??? ?????? . ?? ?????? ?????????? ?????????? ???
??? ?????? ?????? ??? ??? ?????? ??? ?????? ?????? ?????? . ?????? ??? ??? , ???
????? ??? ?????????? ?????? ??? ?????? ?????? STL ?????????? ??? ???
????????? ??? , ??? ?????? ??? ?????? ?????? ?????????? ?????????? (?????
????????? ??????).»

9 ?? ?????? ??? ?????????? STL , ?? ?????????? ?????????? ?????? ??? ??????
????? ??? ?????? 7 ?????? ?????????? ?????? ?????? ?? ?????? ?? ??????
????????? . ?? ?????????? ?????? ?????? ?????? ?????? -????? ? ?????? ??????????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? STL (????? 9,
????? ??, ??? ?????? ??? ?????? ?????? ?????? ??????????).

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

10 ? ?????????? ?????? ? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????????? ???
????????? ?????? ?? ?????? ?????? ?????????? ??? ?????? ?? ?????? ?????? ??? ???
????? ? ??? ?????? , ?????????? ?????? ??? ?????? (?? ????: ?????? ???). ? ??????
????????? ?????????? ?????? ??? ?????? , ??? ?????????? ?????????? , ??? ??????
????? ? ?????? ?????? . ? ?????? ?????? ?????? ??? ??? ?????? ??? ??????
?? ?????????? ??? ??? ?????????? ??? ?????? ?????? STL (????? 9, ?????? ??, ???
????????? ??? ?????? ?????? ??????????).

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

11 ? ??????? ???? ???? ?????????? ???? ?????????? ?????????????? ?????????? ????
???????????, ??? ???? ?????????? ?????, ?? ???? ?????? ?????? ??? ?????? ?? ??
????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ????
????????????? ???? (??? ????: ????.). ??? ?????? ?????? ?????? ?????? ??? ????
????????????? ?????????? ??? ???? ? ?????????? ??? ?????. ? ??? ?????? ??? ????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ????
?? ? ???? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?, ?? ???? ??????????
???? ?????? (?????? ???? ??? ?????? ??? ?????? ??? ?????? ??????) (?????? 9, ??????? ?,
??? ?????? ??? ?????? ?????? ?????? ??????????).

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

12 ??? ? ?????? 9, ??????? ?, ??? ?????? ??? ???? ?????? ?????? ?????????? ??????????
??? ? ?????? «?????? ??? [?] ??? ???? ?????? ??? ?????? », ???, «[?]?????, ??
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
???? ??? ?????????? ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???» ??? ???, «[?]??
??????, ??? ?????? ?????? ?????? ?????? ?????? ». ? ?????? ?????? ?????? ???, ???
????????? ??? 28 ??? ?????? ?????? ?????? ??? ?????? STL, ?????? ??? ???? ?? ???? ???
????????? ??? —??? ??? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? — ?? ???
??? ??? ?????????? ??? [?? ???] ?????? ?? ??????»..

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

13 ? ??????? ?????????????? ????????, ????? ???? ?????? ?????? ??? ?????? 11 ??????,
????????? ?? ??????? ?????? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????. ? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ???? ?? ?????? ??? ?????? ?????? ????. ? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????? ?????? ?????? ??? ?????? ??? ?????? ????. ?????? ??? ?????? ??? ?????? ???
????? ?????? ?????? ??? ?????? ??? ?????? ?????? (?????? 9, ??????? ?, ??? ?????? ??? ????
????? ?????? ??????). ??? ?????, ? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ????
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? (?????? 10
??? ?????? ??? ?????? ??? ?????? ???).

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

14 ??? ?? ??????? 9, ???????? ??, ??? ?????????? ??? ????? ?????????? ?????????????? ???????????
 ??? ? ??? ?????????? ?? ????? «??? ?????? ?????????» ??? ?????????? ?????????? ???
 ????????? ?????????? ?????????? ??????. ? ?????? ?????? ?????? ?????? ?????? ??? ??????????
 ????????? ?????????? ?????? ??? ?????????? ?????? ?? ?????? ?????? ??? ?????? ??? ??????????
 ???? ?? ?????? ?????????? ? ??????. ? ?????????? ?????? ?????????? ?????????? ?? ??????????
 ????????? ?? ?????? ??? ??? ?????? ??? ?????? ??? ?????????? ??????????, ????? ??
 ????????? ????. ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??????????
 ??? ?????? 13 ???????, ?? ??? ?????? ?????? ??? ?????????????? ??? ?????? ??? ?????? ???
 ????????? ?????? ?????? ?????? ?????? ??????, ? ??? ?????? ?????????? ?????? ??? ?????? ???
 ????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
 ????????? ??? ?????? ?????? ?????? ?????? ?????? ?? «????? ??????» ??? ??
 ????????? ?????? ??? ?????? ?? ?????? ??? ??? ?????? ??? ?????? ?????? ??????????????
 ????????? ?????? ??? ?????? ?????? ??? ?????? 13 ?????? (????? 10 ??? ?????????? ???
 ????????? ??????????).

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

2. ?????????? ?????????? ??? ?????????? STL

16 ??? ?? ???????, «[?]????? ??? ?????????? STL [...] ??? ?????? ?????????? ? ??????????
 ??? ?????????????? ??? ?????????????? ?????????? ?????????? ??? ?????? ??? ?? ??? ??
 ????????? ??? ?????????? ?? ??????, ??? ?? ?????????? ? ?????????? ?????? ??? ?? ???
 ????????????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ?????? ???» (?????????????
 ????? 15 ??? ?????????????? ??????????).

17 ??? ?? ?????????? 15 ??? 20 ??? ?????????????? ?????????? ??? ?? ??
 ????? 12 ??? 19 ??? ?????????? ??? ?????????? ?????????? ???, ??? ?????? ??????????, ???'
 ?????, ? ?????????? ??? 18 ??? ?????????? ?????????? ??? ?????????? ??? «[?] ???
 ????????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ??????» (????????????? ??? 16 ???
 ????????????? ??? ??????????).

18 ???????, «[?]?? ??? ?????? ??????, ? ?????? [????? 2, ?????????? ??? ?????? 25 ???????]
 ??? ?????????? ?????? [????? 1, ?????????? ??? ?????? 24 ??????] ??? ??????????
 ????? ?????????? ??? ?????? ??? “?????????” ?????????? ?????????? ?????????? ?
 ????????? ??? ?????????? ??? ?????? [????? 3, ?????????? ??? ?????? 27 ??????], ??
 ????????? ??? ?????? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????????? ???
 ????????? ??? ?????? ??? ?????? ???» (????????????? ??? 16 ??? ??????????????
 ?????????).

19 ? ?????????? ??????????, ??? ?????????? ?????? 17 ??? ?????????????? ??????????
 ???, «[?]?? ?????????? ??? ??????, ?? ??? ??? ?????????? ??? ?? ?????????? ???

?????? ???? ?????????? ??????? ??? ?????? ??? ?????? ?????? ?? ?????????????????? ??
????????????? ?????? ?? ??? ?????? ??? ?????????????? ?????? ??? ?????? ??? ??????
????????? ??? ??????, ??? ?????? ??? ?????????? ?? ?????????? ?????? ??? ?????? ??????????,
???? ??? ??? ?????? ??? ?????? ??? ?? ?????????? ?????? ?????????? ?????????? ???
????????? ??? ??? ?????? ». ????????, ??? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????????? STL.

20 «[?]?? ??????? ??????, ?? ??? ?????? ??? ?????????????? ??? ?? ?????????? ??
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????????? ?? ??
????????? ??? ??? ??? ?????????? ?????????? ?? ??? ?? ?????????? (TT) ??? ??
????????? ?????????? [?? ??????????] ??? ?????? ?????????? ??? ?????????? ??????????
?? ?????????? ??? ??? ?????? ??? ?????? [...] ??? ?????????? ?????? [????? 4 ??? 5,
????????? ??? ?????? 27 ??? 29 ??????]». ? ?????? ??? ?????????? ?????? [????? 18 ???
?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? (????????? ??? ?????? 18 ???
????????????? ??? ??????).

21 «?? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????????? STL ?????? ??? ??? ??? ?????? ?????????? ?? ??
????????? ?? ?????????? ??? ?????????? ??? ?????? ??? 30 % ?????? ??? ??
????????? ?????????? ??? ?????????? ??? ?????? [? ?]?? ?????? ??? ?? ?????????? ???
—?? ?? ?????? ?????????? ??? ?????? ??? ?? ?????? ??? —????????? ???
???? ?????????? (10-15 %) ??? ?? ?????? ??? ?????? ?????????? ??? ??????, ?? ?????? ???
????? (85-90 %), ? ?????? ?????? ?????? ??? ?????????? ??? ??????, ?? ?????? ???
20 % ??? 30 % ??? ?? ?????? ?????????? ?????????? ??? ?????» (????????? ???
19 ??? ?????????? ??? ??????).

22 ??? ??? ?????????? ??? 20 ??? ?????????? ?????? ?????????? ??? «??
?????? ??? ?????? ??? ?????????? STL ?????? ??? ?????? ?????? —?? ??
????????? —????????? ???, ?? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ». ?? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? Real Decreto
Legislativo 4/2004, por el que se aprueba el texto refundido de la Ley del Impuesto sobre
Sociedades (????????? ?????????? 4/2004, ?? ?? ??? ?????? ?????????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (BOE
????. 61, ?? 11?? 2004, ?. 10951, ??? ????: TRLIS) ??? ??? Real Decreto 1777/2004,
por el que se aprueba el Reglamento del Impuesto sobre Sociedades (????????? 1777/2004,
1777/2004, ?? ?? ??? ?????? ?????????? ??? ?????? ??? ??? ?????? ???), ??
30?? 2004 (BOE ????. 189, ?? 6?? 2004, ?. 37072, ??? ????: RIS).

23 ?????????? ??? ?? ??????? ?????? ???, ?? ?????? ?????????? ??? ?????? ??????????
?????? 21 ??? 42 ??? ?????????? ??? ???????.

????? 1: ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? (????? 115, ?????????? 6, ??? TRLIS)

24 ?? ??? 115, ?????????? 6, ??? TRLIS ?????? ??? ?????????? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??????, ?????????? ???
?? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ???
????????? ?? ?? ?????? ??? ?????? ??? ?????????? (????????? 21 ??? 23 ??
????????? ??? ??????).

????? 2: ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? (????? 48, ?????????? 4, ??? ????)

115, ?????????? 11, ??? TRLIS, ??? ???? 49 ??? RIS)

25 ?????? ??? ?????? 115, ?????????? 6, ??? TRLIS, ? ?????????? ??????? ???
????????? ?????????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????????? ?????? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? .
?????, ?? ?????? 115, ?????????? 11, ??? TRLIS ?????????? ??? ?? ?????????? ??????????
??? ?????????? ??????, ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ?? ??????
????????? ?????? ?????? ??? ?????? ?????? ?? ?????? 115, ?????????? 11, ???
TRLIS ?????????? ??? ?????? ?????????? ??? ?? ?????? ?????? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? 48, ?????????? 4,
??? TRLIS. ? ?????????? ?????? ??? ?????? ?????? ??? ?????? 115, ?????????? 11, ???
RLIS ?????????? ?????? ??? ?????? 49 ??? RIS (????????? ?????? 24 ??? 26 ???
????????? ?????? ??????).

????? 3: ?? ???

26 ? ?????????? ??????????, ??? ?????????? ?????? 27 ??? ?????????????? ??????????,
??? «?? ?????????? ??? ?????????? ?????? ?????? ?????? ?????????? ??? ?????? ??? ??????
????» ??? ??, «[?] ?? ??????, ?? ??? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????? ???
??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
?? ?????????? ??? ?????? ?????? 124 ??? 128 ??? TRLIS [...], ?????? ??????
?? ?????????? ?????????????? ??? ?????? ??? ?????????? ?????? ?????? ??? ?? ?????? ???
?? ??? ?????? ??? ?????? ?????? ?????? ». ? ?????? ?????? ?????????? ???, ???
????????? ??? 28 ??? ?????????? ???, ???, «[?]?????, ??? ??????????
?????, ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? » ??? ??, «[?] ?? ?????? ???, ??? ?????????? ???, ??
????? (? ?? ??????) ??? ?????[??] ?? ??? ?????????? ???' ?????? ??????
??? ??? ?????? ??? ?????? ?????? ?????? ». ? ?????? ?????? ?????? ???, ???
????????? ??? 29 ??? ?????????? ???, ???, «[?]?? ??? ?????????? ???
?????????, ?? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???».

????? 4: ?????????? ?????? ?? ??? ?? ?????????? (????? 124 ??? 128 ??? TRLIS)

27 ? ?????????? ??????????, ??? ?????????? ?????? 30 ??? 31 ??? ??????????????
?????????, ?? ?????????? ?????? ?? ?????? ?? ?????????????, ?? ?????? ??????????
??? ??? 124 ??? 128 ??? TRLIS, ?????????? ?? 2002 ?? ?????? ?????? ?????? ?? ???
????????? ???, ?????? ?? ??? ?????????? ?????????? ?????? ??? ??? ??????
????????? ??? ?????? ??? ?????????? ?????? ??? 5?? ?????? 1997 (?? C 205, ?, 5),
????????? ??? 17 ?????????? 2004 (?? C 13, ?, 3, ??? ???: ??????????????)
????? ??? ??? ?????? ?????? [????? C(2002) 582 ?????? ??? ??????????, ??
27?? ?????????? 2002, ?????? ?? ??? ?????? ?????? N 736/2001 ?????????? ???
??? ?????? — ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? (?? 2004, C 38, ?, 4)].

28 ??? ??? ?????????? ?????? 30, 37 ??? 38 ??? ?????????? ??????
????????? ???, ??? ?????? ??? ?????????? ?????? ??? ?????? ?? ?????????????, ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???

????? ??? ??????????? ??? ??????????? ??? ??? ?????? ??? ?????? ?????? ?????? ???????????????
?????????????? ?? ??????????? ??????????? ??? ??????????? ??? ??????????? ??? ???????????
????? ??? ?? ??? ?? ??????????????? ??? ??????????????? ???????????, ??????? ?? ??? ??????????
??? ??? ?????? ??????. ???????, ?????? ?????? ??????????????? ??????????????? ??? ??????
125, ??????????? 2, ??? TRLIS, ?? ?????????? ??? ??????????????? ??? ?????? ??? ?????? ??? ??????
??? ?????????????? ??? ?? ??? ?????? ??????????????? ??? ??????????????? ?????????? ?? ??? ??
????????????? ??? «?????????????????» ?????? ??????????????? ??? ? ?????????????? ??? ??
????????? ?? ??? ?????? ?????????? ??????????????? ??? ?? ??? ?????? ??? ?????????? ?? ?? ???,
«????? ?? ??? ?????? ?????????? ??? ?????????? ?????????? TT, ??? ?????????? ??? ??
?????????, ? ??????? ?????????? ?????????? ?????????? ?????????? ??? ?? ??? ?????? ??? ??????????
TT ??? ?????????? ??? ?? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ?? ??
?????????????, ?? ?????????????? ??????, ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????» (????????????? ??? 39 ??? ?????????????? ??????????).

????? 5: ????? 50, ?????????? 3, ??? RIS

29 ? ?????????? ??????????, ??? ?????????????? ??? 41 ??? ?????????????? ??????????,
???, «??' ??????? ?? ?????? ??? ?????? ??? ?????????? ??? 125, ?????????? 2, ??? TRLIS
[?. ???. 28 ??????], ?? ??? 50, ?????????? 3, ??? RIS ?????? ???, ??? ?? ??? ??????
????? ??? ?????????????? ??? ?????? ??? ?????? ?????????? ?????????????? ?????????? ???
????? ?????????? ?????????????? ??? ??? ?????????? ??????, ?? ?? ??? ?????? ?????? ??????????
????????? ??? ?? ??? ??????????????», ??? ?? ??? ?????? ??? 125, ?????????? 2, ???
TRLIS, ??? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?? ??? ??????
?????, ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????? ??? ?????? ?????????? ??? ?????? ??? 125, ?????????? 2, ??? TRLIS.

30 ?????? ??? ?????????? ??? ??? ??? ?????? ??? ? ?????????, «? ?? ??? ??????
????? ??? ??? ?????? ?????????? ?????????????? ?????????? ??? ?????? ?????? ?????????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ?????????? ??????????
??? ?????? 115 ?????????? 11 ??? TRLIS [????? 2, ?. ???. 25 ??????] ?????? ?? ???
?? ?????????? ?????????? [...] ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? STL ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
(????????????? ??? 41 ??? ?????????????? ??????????).

31 ?? ?? ??????, ??? ??? ??????, «[?]?? ?????????? ??? ?????????? ??????????????
????????? ??? ?????????? STL, [...] ?? ??? ?????? [...] ?? ?????????? ??? ?????????? TT ????
?? ?????????? ??? ?????? ?????????? ?????????? ??????????, ??? ?????????? ??? ??? ??????
??? ?????????? ??????, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? TT ??? ??
????????????? ??????, ??? ??? ?????? ??? ?????? ??? ?????? ??? ??????» (????????????? ???
40 ??? ?????????? ??????)).

32 ??????, ??? ?? ?????????? ?????????? ??? ?????????? STL, ??? ??? ??????????????
???? ?????????? ??? 15 ??? 42 ??? ?????????? ??????????, ?????????? ??? ?? ??? ??????
????? 1 ??? 2 ?????????? ???' ??? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ??????
????? ??? ?????? ??? ?????????? ???, ?????? ?????????? ?????? ?????? ??? ?????? ???.
????? ??? ?????????? ?????? ??? (????? 3), ?? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? 15, ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? (????? ???).

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

? — ??????? ??? ??? ????????

1. ?????? ??? STL ?? ??????????/??????? ??? ??????? ??????

33 ? ?????? ??????????????, ??? ?????????????? ?????? 113 ??? 122 ???
????????????? ?????? (????? 5.2), ?? ?????????? ??? ?? ?????? ??? ??????????
??? ?????????? STL.

34 ??? ??? ??????, «[?] ? ?????? ??? ?? ?????? STL ?????????? ??? ??????
?????, ?? ?????? ??? ?????????????? ??? ?????? ??? ?????? ?????????? ??????????
?????????, ??? ?????? ??? ?? ?????????? ??? ?????? ?????????? ?? ?????????? ??? ???
????????[? ?]????????, [...] ?????? ??? ?? ?????????? ?????????? ??? ????
????????????????? ??? ?????????? ?? ?????? ?????? ?????? ??? ?????????? STL, ??????????
????? ??? de jure ? de facto» (????????? ??? 116 ??? ?????????? ?????).
??? ??? ?????? «????? ?????????? ?? ?????????? ?? [????? STL] ?? ??????
????????????? ?????????? ??? ?? ?????????? ?????? ??? ?????????? ??? ??? ??? ??????
????????????? ???, ?????????? ??? ?????? ?????????? ??? de facto ?????? ???
????????????? —? ?????????— ??? ?? ?????» (????????? ??? 119 ???
????????????? ??????)).

35 ? ?????? ?????????? ???, «[?] ? ??? ?????? [?????], [...] ??? ???[?????] ??????????
??? ?????? ??????» ??? ???, «[?]????? ?? ? ?????? ??????????, ? ??????
????? ??? ?? ?????? ??? ?????????? ?????? ??? [?????] ?? ?????? STL». ?
????????? ??? «?? ??? ?????????? [????] ?????????????? ??? ?????[?] ??
????????? ??? ?????????? ?????? ». ?????????? ??? «[?] ?????????? ?????????? [????]
????????? ??? ?????????? ?? ?????????????? ??? ?????? ??? ?????????? ??????????????
??? ?????? ?? ?????????? STL ???[?????] ?? ?????? ??? ?????? ??? ?????????? ???
??? ??? «[?] ?????????? ?????????? [?] [?] ?? ?????????? ?? ??????????????
???? ??????????, ??? ?????? ??? ?????????? [?] ?????? ?????????? ?? ??? ?????????? ???
???? ?????? [?] ?? ?????????» (????????? ??? 120 ??? ??????????
?????????)).

36 ? ?????? ?????????? ??? «[?] ? ?????????? ??? ?????? [?] ??? ?????????? ??
????????? ??? ?????? ?????????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ???
?? ?????????? ??? ?????? ??? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????[?] ? ???
?????????». ??????????, ??? ??? ??????, «????? ?? ? ??? ?????? ???[?] ???
????????? ?????????? ?????????? ??? ?????? ??? ?????????? ?? ?????? ??? ??????
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? [?] ?? ??????
????????? ?????????? ?????????? [?] ???, ?? ?????? ??? ?????????? ??? ?????? ??? ??????????
????????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? [?] ?? ??????
????????? STL ?????[?] ?????? ???[?] ??????, ?? ?????? ??? ??????????
????????????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???
????? ?????? ??? ?????? ?????? ??? ?????[?] ?? ?????? ??? ?????? ??? ?????? ??? ??
?? ??? ?????? [?] ?????? ?????????? ??? ?????? ??? ?????» (????????? ??? 122 ???
????????????? ??????)).

2. ?????? ?????????? ??? ??? ?????? ??? ?????? 107, ?????????? 1, ????

????????????? ??? ??? ?????? ??? ?????? 107 ????

37 ? ?????????? ????????????, ???? ?????????????? ?????? 126 ??? ?????????????????? ????????????,
??? ???? ?? ?????????? ???? ?????? ??? ?????????????? ???? ?????????? STL ????
????????????? ???? ??? ?????? ??? ?????? 107, ?????????? 1, ????, ?????????? ???? ??
????????????? ???? ?????????? ???? ?????????? ???? ?????????? ???? ?????????? ?? ??? ??????. ???
?????, ??????????, ???? ???, ????? «????[?????] ??? ?????[?]? ?????». ??? ?????? ???
?????????, «????[?????] ????? ??? ?????????? ?? ??? ????? ?????, ????? ??? [?????????] ???
??? ????? ??? ??? ????? ?????????? ????????????, ????? ??? [?????????] ??? ?????
????????? ??? [?] ??? ?????».

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

38 ? ????????, ???, ?????????????? ??????? 127 ??? 163 ??? ??????????????????
 ????????, (?????? 5.3.2), ??? ???, ?????????? ?????????????? ??????????????????.

39 ?????? ?????? ?? ???? 1 (????????????? ??????????), ? ?????????? ?????? ??? ???? ??????
???????? «????????????? ?????????????? ??? ??? ???? ????? ?????? ??? ?????????? ??? ??????????
STL» (????????????? ??? 131 ??? ?????????????? ??????????). ??????????, ?? ??????????????
?? ?????? ?????????? ?? ?????? ??? ?????? ?????? ??????????, ??? ??????????????, ?? ??? ?? ????,
????????????????? ??? ?????????????? ?????? ?????? ?????? ?????? ?????, ??? ?? ??? ?? ???
????????????? ??? ?????????? ?????? ?????? ?????? ?????????????? ?????? ??????. ? ??????????
????????? ??? ?????? ??? ?????????????? ??? ?? ?????????????? ??? ?? ?????? ???, de facto,
????????????? ??? ?????????? ?????? ? ?????? ?????? ?????????? ??????, ?? ??????????????
????????? ??? ?????? ?????? ??????, ?????????????? ??? ?????????? ??? ?????? ??? ??? ??? ??????
???? ??? ?? ?????????? ??? ?????? ?????? ?????????? ?????? (?????????????)
????????? 128 ??? 130 ??? ?????????????? ??????????).

40 ????? ?????? ?? ?????? 2 (????? ??????????? ?????????? ?????????? ??? ?????????
?????????????), ? ?????????? ?????????? ??? ? ?????????? ????? ?????? ??????????
????????????? (????????????? ??? 132 ??? ?????????????? ??????????) ??? ??? ??????????
????????? ??? ??? ?????? ??????, ?????????? ??? ??? ??? ?????????? ?????????? ??????
??? ?????????? ??????. ??????????????, ??? ??? ??????????, ?? ?????????? ??? ?????????? ???
????? 115, ?????????? 11, ??? TRLIS ????? ?????? ??? ?????????? ?????????? ??? ??
????????? ????. ????????, ?? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????????? ??? ?? ?????????? ??? ??? ?????? ??? ?????? ?? ?????????????? ??? ??????
????????????? ?? ?????? 48, ?????????? 4, ??? TRLIS ??? ?? ?????? 49 ??? RIS ??? ??????????
???? ?????? ??? ??????????. ?? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ??????
???? ??? ?????????? ? ?????????? ?????? (????????????? ??? 133 ??? ??????????????)
?????????). ???????, ??? ?????????????? ?????? ?????????? ?????????? ?????????? ?? ?????????? ???
????????????? ?????????? ??? ?????????????? ?????????? ???' ?,? «????? ?????????? ??????
????? ??? ?????????? ??? ?? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ??
??? ??? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?? ?????????? ?????????? ?????????? ??? ?????????? ?????????? ???
»(????????????? ??? 134 ??? ?????????????? ??????????). ? ?????????? ?????????? ??? ??
????????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??????????
????????? ??? ?????????? ??? ?????????? STL ??? ?????????? ??? ?? ?????????? ??????????
(????????????? ??? 135 ??? ?????????????? ??????????). ? ?????????? ?????????? ??? ??
????????? ?????? ?????????? ??? ?????????? ?????????? ?????????? ?????? ?? ?????? 49 ??? RIS,
????????? ?????????? ?????????? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ??????
????? ??? ?????????????? ?? ?????? ?????????? ?????????? ?????????? ??? ?????? ?? ?????? ??????
????????? ?????????? ??? ??? ?????? (????????????? ??? 136 ??? ??????????????)
?????????). ??? ??? ?????????? ???, ? ?????????? ?????????? ??? ?????????? ??? ? ????

???????????? ?????????? ?????????? ??? ????????? ?????????????? «?????[?????] ???????????
????????????? ??? ??? ???? ?????????????? ?? ?????????? ??? ?????????? ??? ?????????? STL,
????? ??? ????? ?????????????? ???» (????????????? ??? 139 ??? ??????????????????
??????????).

41 ????? ???? ?? ???? 3 (??), ? ?????????? ?????? ??? «?? ?????????? ??????????????
????????? ??? ?? ???? ?????????????? ??? ????? 48 ??? 49 ??? TRLIS ????? [?????] ??
????????? ?? ?????????????? ?????????????? ?????? ?? ?????????????? ??? ?? ??????????????
????????? ?? ???? ?????? ?????????? ??????????????» ??? ???, «[?]?? ??????????, ?? ??
???? ????? ?? ?????[?????] ?????????? ?????????? ??? ??? ?? ??? ??????»
(????????? ??? 140 ??? ?????????????? ??????????).

42 ?????? ?????? ?? ?????? 4 (????????????? ?????????? ?? ????) ? ??????????
????????? ??? ??????? ?? «????????? ?? ?????????? ?????? ?????????? ??????????»,
????? ?? ?????? ?????????? «????????? ?????????? ?????????? ?????????? ?????????? ???
????????? ??? ?????????? ?? ?????? ??, ?????? ?????? ??? [?????] ??? ??????
????????? ??????????» (????????? ??? 143 ??? ?????????? ??????). ??
????????? ?????? ?? ?????? ?? ??????????, ??? ?????????? ??? ??? ?????? (?)
????? 27 ??????), ??? ?????? ?? ?????????? ?????????? ??? ?????? ?? ?????? ??????????
? ?????????? ?????? ?????? ??? ? ?????????? ??????, ??? ?????? ?? ?????? ???
????????????? ?????????? ?????????? ??????????. ??????, ? ?????????? ??? ?????????? ??????????
?? ???? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ??? ?????????? ?????????? ?????????? ?????????? ??? ??? ??????
(????????? ??? 144 ??? ?????????? ??????, ? ?????? ?????????? ??? ??????
5.4 ??? ?????????? ??????).

43 ????? ???? ?? ???? 5 (????? 50, ?????????? 3, ??? RIS), ? ?????????? ??????????? ???
«[?] ? ?????????? ?????????? ??? ??????? [?????] ??? [?? ?????? ???] [????] ??????????
????? ??? ??[?????] ??? ??? ?? ???????? ?????????? [? ?]?? [?????????] ??? ??? ??? ??
????? ??? ???????? ??? ???????? ?? ??? ??? ??? 125 ?????????? 2 ??? TRLIS[? ?]??
?????, ?? ?? ??? ????? ?????????? [?????????] ??? ??? ??? ??? ??? ??? ?????[?????]
???? ???????? ?????????????? ???????? ? ?????? ??? ?????????????? ???????? ??? ???
????????? ??? [?????] ??? ?????? 115, ?????????? 11, ??? TRLIS (????? 2)».
???????, «?? ?? ??? ????? ?????????? ?????????? ??? ???????? ??? ?????????? ??????????
???????, ??? ?????? ?? ?????????? ?????? ??? ?????? ?? ?????? ?? ?????????? ??????????
????» (????????? ??? 146 ??? ?????????? ?????). ??? ??? ???????, «?
????????? ??? ??? ??? ?????????? ?????????? ?????????? —???? ?? ?????????? ???
????? ?????????? ?????? ??? ?????? ??? ?? ?????????? ??? ?????????? ?????????? ???
????????? ?????? ??? ??? ??? 125 ?????????? 2 ??? TRLIS ??? ?????
????????? ??? ??? ??????— ??? ?????? ?? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ?????????? ?????» (????????? ??? 148 ??? ??????????)
?????????). ? ???????? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? 5 «?????[?] ??????????
????????? ?? ?????????? ??? ???????[?] ? ?????? ??? ?????????? ??????????????
????????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????? ???, ??????????
?? ??? ? ?? ?????????? ??? ?????? ??? ?????? [?] ? ?? ?????? ??? ?????????? ??? ??????????
STL» (????????? ??? 154 ??? ?????????? ?????).

44 ????? ?????? ?? ?????????? STL ??? ?????? ??? ???? ?????????????? ??? ??????????????,
? ?????????? ?????????? ???' ?????, ??? ?????????????? ?????? 155 ??? ??????????????
?????????, ??? «[?]?? ??? ?????? ?????????????? ?????????????? ??? ???? [?????] ??? ?? ??????????
STL ??????? ?????????[?????] ??? ?????????? ??? ???? ?? ????? ?????????? ? ??? ??? ??
???? ?????? ????????????????. ??? ?????????????? ??? ????? ?????? ?????». ? ??????????

?????????????? ???, «[?]???? ??????, ?? ?????????????? ????? ?????????????[????] ??? ?????? ???
?????????????? ??? ?????????????[?] ??? ??? ??? ??? ????? ??? ?????????? ??? ??????????????????
????????????? ??????, ??????: ?? ?????? ??? ?????????????????[?] ??? ??? ??? ?????????? ???
??? ?????????????[?] ??? ??? ?????? ?????????? (????? 115, ?????????? 11, ??? ????? 48,
????????? 4, ??? TRLIS ??? ????? 49 ??? RIS)? ?? ?????? ??? ?????????????[?] ? ?? ??????
??? ?????????????[?] ??? ?????? ??? ?????????????[?] ??? ??? ??? ?????????? ?? (????? 128
??? TRLIS), ?????????? ??? ? ??? ??? ????? ?????????? ??? ?? ?????????? ??, [?] ?? ??????
??? ?????????????[?] ??? ??? ?????????????? ?????????? ??? ??[?????] ??? ??? ?????????? ???
????? ?????? ??? ?????? 50, ?????????? 3, ??? RIS».

45 ? ?????????? ???????, ???? ?????????????? ?????? 156 ??? ?????????????? ??????????, ??
?????:

«????????????? ?? ??????? STL ????????, ?? ?????????????? ?????? ?????????????? ?????? ?????
????? ??????????? ?????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ??? ????
????????????? ?????? ?????????? ?????????? ?????? ?????? ??? ?????????? ?????? ?????? ???
????????????? ??? ?????? ?????? ??????. ??? ?????? ?????? ??? ?????????? ?????? ??? ?????????? ???
????????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????????? ???
????????? ??? ??? ?????????? ?????????? —????????? ?? ?????? 50, ?????????? 3, ???
TRLIS— ?????????? ??? ??? ?? ??? ?????? ??????, ?? ??????? STL ??? ?????? ???
????? ??????????. ?? ?? ??????, ?? ?????????? ?????? ?????? ?????? ??? ?????????? ???
????????? ?????????? ??? ??????? STL ??? ?? ?????????????? ?????? ?????? (??????
?????????????). ??? ?????????????? ??? ?? ?????????? ?????? ??? ?????? [??
????????? ???] ??????[?], ?? ?????? ??? 273 ?????? ??? ?????????? ??? ?????????? STL ???
????? ?????????? ??? ??? ?????? ??? 2010 ?????????? ?????????? ???»

46 ? ?????????? ??????????, ???? ?????????????? ?????? 157 ??? ?????????????????? ???????????,
???, «[?] ???????????, ?? ?????? ??? ??? ?? ?????????????? ???????????,
????????????????????????? ?????? ?? ??? ?? ??? ?????? ?????? ??????, ?? ?????????? [?????] ?????????? ??
????????? ?????????????? ?????????????? ??? ?????????? STL ??? ???[????] ?? ?????????? ??
?? ?????????? ?????? ?????????? ??????????????????, ?????????????? ??? ?????????? ??????????????
?????? ?????? ?????????? ?????????????? ??????????, ?????????? ?? ??? ?????? ?? ?????? ??????????
?????? ??? ??? ?????????? ?? ?????????????? ???».

47 ?????????? ? ?????????? ??????????? ??? «??? ?? ??????, ?? ?????????? ???, ??? ??????????
??? ?????????? STL ????, ?????????? ?? ?????????? ??????????», ??? ?????? ??? ???
????????????? ?????????? ?????????? ???, ??? ??? ?????? ??? ?????? 107, ?????????? 1, ????.
???????, ? ??????? ?????????? ??? ?????? «????????????? ?????????? ??? ?????????? ???
????????? ??? ??? ??? ?????????? ?????? ?? ?????????? ??????????» ??? ?? ??? «?? ???
????????? ?????????? ?? ?????????? ?? ?????????? ?????????? ?????????? ??? ?????????? 1?
????????? 2008, ?? ?????????? ?????????? ?????? ?????????????? ??? ??? ??????????
STL ????[????] ????, ??? ?????????? ?? ??? ?????? ??? ??? ??? ???» (?????????????
?????? 159 ??? 160 ??? ?????????????? ??????????).

48 ? ?????????? ?????? ??? «?? ?????????? ?????[?????] ???? ??? ???, ???
?????????, ???? ?????????? ???[?]??????, ? ??? [????] ? ?????? ?????????? ???
??[?????] ??? ?? ?????????? ?????? ???, ??? ?????????? ??[?]????? ?????????? ???
???? ?????????? ?????[?]?? ?????????? ??? ?????????[?] ??? ?????????? ???
????? ??? ?? ?????? ??? ?????? ?????? ????? ?????? ?????? ??? ?????? ???[?]??
????????? ???, ? ??? ?????[?] ?????? ?????? ?????? ?????? ??? ?????? ???
????? ??? ?? ?????????? ?????? ??? ?????????? ???[?] ?????? ??? ?????? ???
(????????? ??? 161 ??? ?????????? ???).

49 ? ?????????? ?????????? ???, ??? ?????????? ??? 162 ??? ?????????? ???
?????????, ??? «[?]?? ??? ????? ?????????? ??? ?????? STL, ?? ?????????? ???,
????????? ??? ?????? ?????????? ?????????? ??? ?????[?] ?? ??? ?????? [?????]
?? ?????????? ?????? ??? ?????? ?????? ??? ??? ?????». ? ?????????? ??????????
????? ??? «?? ?????? ??? ?????????? ??? ?? ??? ?????? ?????????? ??? ??????
[?????????...] ??? ?????? ???».

50 ?????, ? ?????????? ?????????? ??? «[?]?? ??? ?????? ?????????? ???
????????? ??? ?????? STL, ??? ?????????? ??? ?????????? ??? ?????????? ??????????
????????? ??? ?????? ?????????? ???, ?????????[?] ?? ??? ??? ?????? ?????????? ???
????????? ???, [... ??????] ??? ?? ?????????? ??? ?????? ?????????? ??? ??? ??? ???
???? ?????? ??? ?????[?] ?????? ?? ??? ?????? ?????? ?????????? ???
(????????? ??? 163 ??? ?????????? ???).

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

51 ??? ??? ??????, «[?]?? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????????? ???[?]?? ??? ??? ?????????? ??? ?????????? ???, ? ??? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ???» (????????? ??? 166 ???
????????? ???).

52 ??? ??? ?? ?????????? ?????????? ???, ? ?????? ?????? ??? ?????????? ???
?? ?????????? ?????????? ??? «????? ?????????? ??? ?????? ??? ?????? ???
????????? ???[?] ?? ??? ??? ?????? ??? ?????? ??? ?????? ???». ??????????, «????? ???
[?????] ??? ?????? ??? ?????????? ??? ?????? ???[?] ?? ?????????? ??? ?????? ???
a fortiori ??? ?????? ?????????? ??? ??[?]?? ??? ??? ?????????? ??? ?????????? ???
???? ?????????? ». ???????, «[?]?? ?????????? ??? ?????? ??? ?????[?] ??? ??? ???
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ???, ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???» (????????? ???
????? 169 ??? 170 ??? ?????????? ???).

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

53 ??? ??? ??????, «?? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ???[?]?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ???, ??? ?????? ??? ?????? ??? [?]?? ???[?] ?? ?????? [?]?? ??? ???
[?]?? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???» (????????? ???
171 ??? ?????????? ???).

54 ? ?????????? ??????????, ??? ?????????? ?????? 172 ??? ?????????????? ??????????,
?? ??????: «????? ?????????? ??????????, ?? ????????, ?????? ?? ??? ???,
????????????????? ?? ?????????? ?????? ?????? ?? ??????????, ??? ?????????? ??
????? ?????? ?????? ?? ?????????? ?????? ??????. ???????, ??? ?????? ?????? ?? ??????????
????? ?????? ?? ?????? ?????? ?????? STL, ?????????????????? ?????? ?? ??? ?? ??????
??? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??????, ?????? ??
????? ?????? ?????? ?? ?????????? ?????? ??????. ?? ?????????? ?????? ?? ?????????? ??
????? ?????? STL ?????????? ?? ??? ?????? ?????? ?????? ??????, ?????????????? ?? ??????
??? ?????? ?? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? 173 ??? ??????????????
?????????, ??? «[?] ? ?????????? ?????????? ??? [?????????] ?? ??? ?? ???? ?????????? ???
??? ?????????[?] ??? ?? ?????????? ??? [????] ?????????? ?????? ?? ??? ??????????
???? ?????????? ?????????? ?????? ??? ?????? ?????? ??? ?? ?????????? ??? ??????????
???? ?????????? ???».

3. ?????? ?? ??? ?????????? ????

55 ? ?????????? ??????, ??? ?????????????? ?????? 194 ??? 199 ??? ??????????????
?????????, ??? ??? ? ?????? ?? ?? ?????????? ?? ?????? ?? ?????? ?? ?????????? (??.
????? 27 ??????) ??? ?? ?????????? ?????? ??? ??? ?????? ?????? «????????? ??
????????????? ??? ?????????????? ??? ???, ?? ?????? ?????? «????????? ??
????????????? » (????????????? ??? 197 ??? ?????????????? ???).

56 ??????????, ? ?????????? ?????????? ??? «?? ??? ??? ?????? [?????] ?? ?????? ???
????????? [?] ??? ?????????? STL ??? ?? ?????????? ??? ?????? [?] ?? ?????????????? ???
???[?????] ?? ?????? ?????????? (????????? ???) ??? ?????????? ??? ?? ?????????? ???
????????? ??? ?????? ?????? ?????? » (????????? ??? 200 ??? ??????????????
?????????) ??? ???, ???????, «? ?????????? ??? ?????????? ? ??? ? ?? ?????????? ???
????????? ?????????? ??? ?????????? ??? » (????????? ??? 201 ???
????????????? ???).

57 ? ?????????? ?????????? ??? «?? ?????????? ?????? ??? ?????? [?????] ?????? ???
????????? ?????????? ??? ??? ?????? ??? ?????? 107, ?????????? 1, ??? ???».
?????????, ?????????? ???, «????????? ?? ?????????? ?? ?????? ??? ??????????
????????? ??? ?????? ??? ??? —?? ?????????? ??? ?????? ?????? ?????? — [...]
????[????] ??? ?? ?????????? ??? ?????? ??? ?????? ?????? [?????] ??
????????????, ?????????? ??? ?????? ??? ?????? ??? ?????? [?????] ??? ???
??? ??? ?????????? ???, ?????????? ?? ?????????? ??? ?????? ?????? 1) ?? ??? ???
????????? ??? ?????? ?????? [?????] ??? ??? ??? ?????? [?????] ??? ??????
????????? ?? ?????? ??? ?????? ?????? ??? ?? ?????????? ??? ?????? ??????
????????? ??? ?? ?????? ??? ?????? ?????? 2) ?? ?????? ??? ?????? ??? ??????
????????????? ??? ??? ?????? ?????? ?????? ??? ?????? [?????] ??? ??????
????????? ??? 3) ?? ??? ??? ?????? ??? [????? ?? ??????] ?????????? ??? ??????
??? ??? ??? ?? ?????????? ???» (????????? ??? 203 ??? ??????????????).

4. ???????

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

58 ? ?????????? ??????, ??? ?????????????? ?????? 211 ??? 276 ??? ??????????????

? ?????????? ??? ??????? ?? ?? ???? 14 ??? ?????????? (?) 659/1999 ??? ??????????, ???
22?? ??????? 1999, ??? ?? ??????? ?????????? ??????? ?????????? ??? ?????? [108 ???]
(?? L 83, ?. 1), ?? ? ??????? ??? ?????????? ?????????? ?? ?????? ??? ?????? ???
?????. ???????, ? ??????? ??????? ???, ??????? ?? ?????? ??? ????? ?????????? ???
??? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ???
????????? (????????? ?????? 213 ??? 245 ??? ?????????? ??????????), ? ??????
??? ????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
STL ??? ??? ?????? ??? STL ?? 2002 ??? ??? 30 ??????? 2007», ??????????
????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
2007/256/??, ??? 20?? ?????????? 2006, ??????? ?? ?? ??????? ?????????? ??? ?????? ??
????????? ? ?????? ??? ?????? 39 CA ??? ?????? ?????? ?????? ?????? — ??????
????????? C 46/2004 (????? NN 65/2004) (?? 2007, L 112, ?. 41) (????????? ?????? 246
??? 262 ??? ?????????? ??????).

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

59 ? ??????? ???????, ??? ?????????????? 263 ??? 269 ??? ??????????????
??????????, ??? ?????? ??? ??? ?????????? ??? ?????? ?????????? ?????? ??????????
?????????? ? ????? ?????????? ?? ??????? ???????, ???, ?????, ??? ?????????? ???
????????? ?????????? ?????????? ?? ?????? ??????? ? ?????? ?????? ?????, ???????, ???
????????? ??? ?????????? ?????????? ?? ?????? ??????? ? ?????? ?????? ?????? ??????
????? (????? 1 ??? 3) ??? ?????????? ??? ?????? (?? ?????? ?????? ?? ?????? ???),
??????, ??? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????????? ??? ???
????????? ??????? ???, ???????, ??? ?????????? ??? ?????? ??? ?????????? ??????????,,
????????? ?? ??? ?????? ??? ?????????? ?????????? ??? ?????????? 202 ??? 210 ???
????????????? ???????.

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

60 ?????, ? ??????? ???????, ??? ?????????? 270 ??? 276 ???
????????????? ???????, ??? ?????? ??????? ?????? ?? ?????????? ??? ??????????
????? ??? ???????, ??? ?????????? ?????? ??? ?????? ?????????? ??????????????,
????? ??? ?????? ?? ?????????? ?????????? ?? ?????? ?????????? ?? ?????????? ??? ???
????? ??? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?????????? ???
?????????????. ???????, ? ??????? ?????????? ??? ? ?????? ?????? ??? ?????????? ???
??? ?????????? ??? ?????????? ??? ? ?????? ??? ?????? ?????? ??? ?????????? ???
????????????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ???,
????? ??? ?????? ???????, ? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????????? ???????, «[?]?? ?? ??????? ?? ?????????? ???, [...] [?????] ?? ??? ??
????????????? ??????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ???
?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
?????????». ? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ?????? ??? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? «??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
????? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? [?] ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??, «[?]?? ??? ??? ???, ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????????????????? ?????????????? ?????» (????????????? ????? 275 ??? ??????????????????
?????????).

? — ?? ??????????? ?? ?????????????????? ??????????

61 ?? ?????????? ?? ?????????????????? ?? ?????????? ?? ???:

????? 1

?? ?????? ??? ?????????? ?? ???? 115, ?????????? 11, ??? TRLIS (?????? ???????
????????? ?????????? ??? ?????? ??? ?????????????? ??????), ??? ??? ?????? ???
????????? ?????????? ?? ??? ?? ?????????????? ?? ?? ?????????? ??????????, ???
? ?????????????? ??? ?? ?? ?? 50 ?????????? 3 ??? RIS ?????????? ?????? ??????
???? ??? ?? ?? ?? ?????????? ???, ?? ?????? ?????? ?????? ??? ?? ??? ?? [??
?????] ??????[?] ??? ?? 1? ?????????? 2002, ??? ?????? ??? ?? 108,
????????? 3, [????].

????? 2

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

????? 3

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

????? 4

1. [?? ??????? ??] ?????? [?] ??????????? ?? ??????????? ?? ??????????? ?? ?? ???????????
?????????? ?? ??????????? ?? ??????? ?? ??????????? ?? ??????? ?? ??????? 1 ??? ?? ??????? ?? ??????? ??
?? ?? ??????????? ??, ?? ??????? ?? ?? ??????? ?? ??????? ?? ??????????? ?? ??????????? ?? ??????????? ??
?? ??????? ?? ??????????? ?? ??????? ?? ??????? .. ???????, ?? ??????????????????? ?? ??????? ?? ??????? ??
?? ??????????? ?? ??????????? ?? ??????? ?? ??????? ?? ??????????? ?? ??????? ?? ?? ??????? ??
????????? ?? ??????? ?? ??????????? ?? ??????? ?? ??????????? ?? ??????? ?? ??????? ?? ??????? ??
????????? ?? ??????? ?? ??????????? ?? ??????? ?? ??????????? ?? ??????? ?? ??????? ?? 30 ??????? 2007.

[...]

????? 5

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

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

????? 6

1. ?????? ??? ?????? ??? ?? ?????????????? ??? ?????????? ??????????, [?? ?????????? ???]

??????[?] ?????? ?? ??????? ?? ??? ??????:

[...]

2. [?? ??????? ??] ??????[?] ????? ??????? ?? ?????? ?????? ?????? ?? ??? ?????? ??
?????? ?????? ?? ?????????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??????
?????????? ? ?????? ?? ?????????? ?? ?? ?????????? ?????? ?????? ?? ?????? ??
????????? ?? ?? 1.

[...]»

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

62 ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?????????????? ?? 25
?????????? 20013, ?? ?????????? ?? ?????????? ?????? ??????, ?? ??????????????? ??
?? ?????? T?515/13.

63 ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?????????????? ?? 30
????????? 2013, ? Lico Leasing, SA (?? ???: Lico) ?? ? Pequeños y Medianos Astilleros
Sociedad de Reconversión, SA (?? ???: PYMAR) ?????? ??????, ?? ??????????????? ??
?? ?????? T?719/13.

64 ??????, ??? ?? ?????????????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
????? ??????????????.

65 ??? 26 ????? 2014, ?? ?????? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??
?? ?????? ?? ?????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? T?515/13, ??
????????? ?? ?????? 77, ??????? ??, ?? ?????????? ?????????? ?? ?????????? ??
????????? ?? 2?? ????? 1991, ????? ?? ?????? ?? ?????? ?????????? ?????????? ??
????????? ?? ?????????? ?????? ?? ?????? ?????????? ?? ?????????? ?? ?????? ??
?????????, ?? ?????? ?? ?????? ?????? ?????? 63 ?? 64 ??????. ?? ??????????????
??, ?? ?????????? ?? ?????????? ?????????? ?? ?????? ?? ?????? ?? ??????????
?????????.

66 ?? ?????? ?? 17?? ?????? 2014, ?? ?????? ?????????? (?????? ???) ??????
?????? ?????????? ??, ?? ?????????? ?? Comité des associations
d'armateurs des Communautés européennes ?? ?????? ?? ?????? T?719/13.

67 ??? 17 ?????????? 2015, ??? ?????? ?????? ?????????? ?? ?????????????? ??
????????? T?719/13, ?? ?????? ?????????? ?? ?????? ?? ?????? ?? Lico ?? ? PYMAR ??
?? ?????? ?? ?????????? ?? ?????? ?? . ? Lico ?? ? PYMAR ?????????? ??
????????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????????? ?? ??????????.

68 ??? 26 ?????????? 2015, ?????? ?????????? ?? ?????????? ?? ??????, ?? ??????
????????? (?????? ???) ?????? ?? ?????? ?? ?????????? ?? ?????????? ??
????????? T?515/13.

69 ??? 3 ?????? 2015, ??? ?????? ?????? ?????????? ?? ?????????????? ??
T?515/13, ?? ?????? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??
?????? ?????????? ?? ?????? ??' ?????????? ?? ??????.

70 ??? 23 ??????? 2015, ?????? ?????? ??? ?????? ??????, ?? ???
????????? (????? ?????) ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? T?719/13.

71 ??? 28 ??????? 2015, ??? ?????? ?????? ?????????? ??? ?????????? ???
????????? T?515/13 ??? T?719/13, ?? ?????? ?????????? ??? ?????? ??????
?????????, ?????? ??? ?????? ??? ?????? ?? ?????? ??? ??? ?????? ?????? ???
????????? ??? 7? ??????? 2014, Autogrill España ??? ?????? (T?219/10, ??????,
EU:T:2014:939), ??? Banco Santander ??? Santusa ??? ?????? (T?399/11, ??????,
EU:T:2014:938), ?????? ??? ?????? ??? ?????? ??? ?????????????? ??? ??????????????
????? ?????????????? ??????. ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ?????? ??????.

72 ?? ??????? ??? ??????? T?515/13 ??? T?719/13 ?????? ??? ??????? ???
????????? ?????? ??? ?????? ?????????? ??? ?????? ???' ?????????? ?????? ???
9? ??? 10? ?????? 2015, ??????????.

73 ??? ??' ?????????? ?????????? ??? ?????????? T?515/13 ??? T?719/13, ??
????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????? ??????????
????????? ??? ?????????? ??? ?????? ??????, ???' ?????????? ??? ?????? 77, ?????? ??,
??? ?????????? ??? ?????????? ??? 2? ??? 1991, ?? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? C?20/15 P, ?????? ??? Autogrill
España, ??? ??? ?????? C?21/05 P, ?????? ??? Banco Santander ??? Santusa.
????????? ?? ?????? ??? ?????????? ??? ?????? ?????? ???, ?????????? ??? ??? ???
????????? ??? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ???
????????? ??? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???.

74 ?? ??????? ??? 6? ??????? 2015, ?? ?????? ?????????? (????? ???) ??????
?? ??????? ??? ??????? ?????? ?????????? ??? ?????? T?515/13 ??? T?719/13,
????????? ?? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??????.

75 ?? ??????? ???, ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??????????
????? ?? ?????????? ??? ?????? T?515/13 ??? T?719/13 ??? ?????? ???
????????? ??? ?????? ???, ???' ?????? ??? ?????? 68 ??? ??????????
????????? ??? ?????? ??????.

76 ??? ?????? T?515/13, ?? ?????? ??? ?????? ?????? ??? ?? ?????? ??????????:
- ?? ?????? ??? ?????????? ??????
- ?? ?????????? ??? ?????? ??? ?????? ???.

77 ??? ?????? T?515/13, ? ?????? ??? ?? ?????? ??? ?????? ??????????:
- ?? ?????? ??? ??????
- ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

78 ??? ?????? T?719/13, ? Lico ??? ? PYMAR ?????? ??? ?? ?????? ??????????:

- ?? ??????? ?????? ??? ?????????????????? ????????, ???? ??? ???? ?? ?????????? STL
????????????????? ??????????? ?? ??????? ?????????? ?????????? ?????????? ?? ?????? ?????? ????
?? ????? ?????????? ???? ??? ????? ?????????? ??????????????

– ???????????, ?? ?????????? ??? ?????????? ??? ?????????? ?????????????? ???
????????? ??? ?????????? ?????? ??? ?????????? STL, ??? ?????????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

- ?????????????, ?? ????????????? ?? ????????????? ?? ????????????? ?????????????? ???

- ?? ??????????? ?? ??????????? ?? ??????????? ???.

79 ????? ??????? T?719/13, ? ?????????? ?????? ??? ?? ?????? ?????????????????;

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

- ?? ??????????? ?? Lico ??? ??? PYMAR ??? ?????????? ????.

?????????

| - ??? ??? ?????????? ??? ?????????? ??? ????? T?719/13

80 ??? ?? ?????????? ??? ?????????? ??? ????? ?????? T?719/13 ?????????? ??? ? Lico
????????? ?????????????????? ?????? ?? ?????? ??? ????? ?????????? ?? ?????????? ?????? ??? ??
????????? ??? ????????? STL. ?????????? ??? ?????? ??? ?????????? ??? ?? ??????????
????????? ?????????? ?? ?????? ?????? ?? ?????????? ?????? ??? ??????????????
?????????. ? PYMAR ??????? ?????? ?????????????? ?? ??? ?????????????? ??????????
????????????? ?????????????? ?? ??? ????? ?????????? ?? ?????????????? ?? ?????????????? ??????????
???? ?????????????? ?????? ??? . ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ?????? ??? ?????? ??????????, ?????????? ???, ??? ?????? ??????????????
?????????, ?? ?????????? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ???
?????????. ??????, ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????????? ?? ?????????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ??????????
????????????? ?????????????? (??..????? 60 ??????), ?? ?????????? ??? ?????????? ???
??? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ?? ?????? ??????. ???, ??? ? Lico
??? ??? ? PYMAR ??????? ??? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ??????
????????? ? ?????????????? ??????, ?????? ?? ????? ?????????? ??? ?????????? ???
?????????.

81 ?????? ?? ?????????? ?????? ??????? ??????????????, ? ?????????? ?????????? ?????????????? ??
????? ??? ??????????? ?????????????? ??? Lico ??? ??? ??? PYMAR.

82 ??? ?????? ?? Lico, ??? ??????????? ??? ??? ????? ??????. ????????????, ???
??? ????????, ?? ??????????? ??????????? ?????????? ??? ??????? ?????????? ?????? ??
????????????? ??? ?????????????? ?? ? ??????? ?????? ??? ?????? ?????? ?????? ?????? ????
?????? ?? ????????, ??? ?? ?????????? STL. ??????????, ? Lico ??? ?????????? ??
????????? ??????????? ?????????? ??? ?? ?????????? ??? ?????? ?????? ????????????, ???
????????? ??? «??? ?????? ??????????? ??? ?????? ?????????? ?????? ?????????? ??????????», ???
?????? ? ??????????? ??? ?????? ?????????? ??? ?????? ?????????? ?? ?????????????? ?? ? ?????????? ??????

????????????? ? ?? ?????????? ??? ?????????? ??? ?? ?????? ? ?????????? ??? ?????????? ???
?????????, ??????? ?? ???? ??? ?????? ??????????. ????? ??' ?????????????? ????????,
? ??????? ?????????? ??? ? Lico ??????, ???????, ?? ?????????? ??? ??? ??????????
????????? ??? ?? ?????? ?????? ?? ?????????????? ??? ?????? ??? ?????????? ??????????
?????. ??????????, ?? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?? ????????? STL
(????? ??? ?? ?????????? ?? ?????????? ?? ?????? ??? ?????????? ?????? ??? Lico ???
????? ??? ?????????? ???) ??? ?? ??? ?????? ??????. ? ?????? ??????????
?????????, ??? ?? ??' ?????????? ???????, ??? ?? ?????????? ?? ?????????? ? Lico
????????? ??? ?????????? ??????????, ??????? ??? ? ?????????? ??? ??? ?????????? ???
????????? ??? ?????????? ???.

83 ????? ?????? ??? PYMAR, ? ?????????? ?????????? ??? ??? ????? ??? ?????????? ??? ??
????????? STL ??? ??? ? ???????? ??????? ?????? ??? ?????? ?? ??????? ?? ?????????? ?? ??????????
?????? ??? ??? ?????????????? ??????. ???????, ? PYMAR ??? ?????????????? ??
?????? ?????? ??? ??? ?????????????? ???????, ??????? ? ??????? ??? ??? ??
??????.

84 ?? ?????? ??????????? ??????? ??????? ?? ??????? ?????? ?? ?????????? ??
????????? ?? Lico.

85 ????. ?? ?????? 263, ??????? ???????, ????, «[?]??? ?????? ? ?????? ??????? ???????, ???
???? ?????????????? ??? ??????? ??? ?????????? ???????, ?? ?????? ??????? ??????? ??? ????
????????? ??? ??????? ?????? ?????????? ??? ???? ?? ??????? ?????? ??? ???????, ?????? ??? ???
??? ?????????????? ??????? ??? ?? ??????? ?????? ??? ?????? ?? ?????????????? ??????????????
?????».

86 ?? ????????????, ? ?????????????? ??????? ??? ?????????? ?????????? ?? ???????
??? ????????. ???????, ??????? ?? ?? ????? 263, ??????? ???????, ????, ? Lico
?????????????? ?? ??????? ?????????? ??????? ?? ??????? ?????????? ??????? ?? ?
????????????? ?? ??????? ?? ??????? ??????? ?? ???????, ?????? ? ??????? ?? ??????????????
?????????? ?? ??????? ?? ??????? ??, ??? ?? ??????? ?? ?????????? ?????? (??., ??? ??
?????? ??, ??????? ?? 19?? ?????????? 2013, Telefónica ????, ??????????, C?274/12 P,
???????, EU:C:2013:852, ??????? 35 ??? 36).

87 ????? ?????? ???????????, ??? ?????? ??????? ??????????? ??? ?????? ???????, ??? ???.
?????? ???. ??????? 263, ??????? ??????, ???, ???, ????? ??????????? ??????????? ??????? ???????
?????????? ???. ??????????? ?????? ?????? ??????????? ??????????? ??? ???. ?????? ??? ???????
?????? ? ??????? (?. ??????? ???. 9?? ??????? 2011, Comitato «Venezia vuole vivere» ?.?.
???. ???????, C?71/09 P, C?73/09 P ??? C?76/09 P, ???????, EU:C:2011:368, ??? 53 ???.
???. ??????????? ??????????).

?????????. ???????, ?? ??????? ??? ?????????????? ??? ? Lico ????? ???????????
????????? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? STL ???
????????? ??? ?????? ?????? ?????? . ???????, ??? ?????? ?????? ?? ??????????
Lico, ???????, ??? ?????? ?????? ?????????? ?????? ?? ?????? ?????? ?? ??????????
???? ??? ?????? ?????????? ?????? . ???????, ??? ?????????? ?? ?????????? ???
????????? ???, ? ??????? ??? ?????? ?????????? ?????? «??? ??? ?????? ?????????? ???
????? ?????????? ?????? ??????????».

89 ??? ?????? ?? ?????? ?? ? Lico ??????? ??? ??? ?????? ??????, ??????? ?? ??? 4,
????????? 1, ??? ?????????????? ?????????? ?????????? ?? ?????????? ??? ?????????? ??
????? ?? ??????? ?????? ?????????? ?? ?????????? ??? ?????????? ?????????? ??? ??????
????????? ??? Lico, ?????? ?? ??????? ??? ? ?????????? ?????? ?????? ??? ?????? ???
(??., ??? ??? ?????? ???, ?????? ??? 4? ?????? 2009, Associazione italiana del risparmio
gestito ??? Fineco Asset Management ??? ???????, T?445/05, ???????, EU:T:2009:50,
????? 52 ??? ??? ?????????? ??????????).

90 ?????????? ??? ?????????? ??? ? ?????????????? ?????? ?????? ?? Lico ?????? ???
??????, ??? ??? ?? ?????? ??????? ??? ??? ?? ?????????? ??? ??? ?????????? ???
????? ??????????, ? ??????? ??? ?????????? T?719/13 ?????? ?? ?????? ??????????, ???
?? ?????????? ?? ?????? PYMAR ?????? ?????? ??? ?????????? ?????????? ???
????? ?????????? ?? ?????? 263, ?????? ??????, ??? (?? ?????????? ??? 24? ??????
1993, CIRFS ??. ??? ??????????, C?313/90, ???????, EU:C:1993:111, ?????? 30 ??? 31,
??? ??? 26? ?????????? 1999, Burrill ??? Noriega Guerra ??? ???????, T?51/98, ???????
??., EU:T:1999:271, ?????? 19 ??? 21 ??? ?????? ?????????? ??????????).

II – ??? ??? ?????

? — ??? ??? ?????????? ??? ?????? ?????????? ??? Lico ??? ??? PYMAR ??? ?????
T?719/13

91 ?????????? ???, ?? ?? ?????? ?????? ???, ?? ?????? ?????????? ??? ?????? ???
?????????, ? Lico ??? PYMAR ?????? ??? ?? ?????? ?????????? «?? ?????? ???
????????????? ???, ??? ??? ?? ?? ?????? STL ?????????? ?????? ??? ?????????? ???
????? ?????? ?????????? ?? ?????? ?????? ??? ??? ??? ?????? ?????? ??? ?????? ???
????????? ?????? ??????????».

92 ?????????? ??? ?? ??? 1 ??? ?????????????? ???????, ?? ?????? ???
????????? ??? ??????? ?????????? ???, ??? ??? ?????? ??? ?????? 107, ?????????? 1,
???, ??? ?????????? ??? ?????? STL ?????? ??? ?? ?????????? ?? «?????
????????? ??????????». ???????, ?? ?????? ??? ?????? ?? ??? «?? ?????? ???
?? ??? 115, ??????? 11, ??? TRLIS (????? ?????? ?????????? ?????????? ???
????? ??? ?????????? ??????), ??? ??? ?????? ??? ?????????? ?????? ??? ?????? ???
????? ?? ?????????? ?? ?? ?????????? ?????????? ???, ?????? ??? ?????????? ???
????? 50 ?????????? 3 ??? RIS ?????? ?????? ?????? ??? ?????? ??? [?? ?????? ???]
?? ??? 1? ?????? 2002, ??? ?????? ??? ?????? 108, ?????? 3, [??]». ??
????? 4, ?????????? 1, ??? ?????????? ?????? ??? ?????? ?????? ?? ??????
????????? ?????? «?? ?????????? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????? 1».

93 ??? ??? ??' ?????????? ???????, ? Lico ??? PYMAR ?????????? ???, ?? ??
????? ?????? ???, ??????? ??? ?????? ??? ?????? 1 ??? ?????? ??? ??? ??? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ».

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

94 ???????, ?????????????? ??? ?? ?????????? ??? ?????????? ?????? ?????????? ?????????? ?? ??
????????? ??? ?? ?????? ?? ?????????? ?? ?????????? ?? ??????, ?????????? ??? ??????
??? ?????? ??? ?????????? ??? ?????? ??? (????????? ??? 15?? ?????? 1997, TWD ???
?????????, C?355/95 P, ??????, EU:C:1997:241, ??? 21, ??? ?? 29?? ?????? 2004,
????? ??? ?????? ????????, C?298/00 P, ??????, EU:C:2004:240, ??? 97).

95 ?? ??????????, ??? ??????????? ??? ?????? 33 ?? 35 ???????, ? ???????
????? ??????? ?? ?????????? ?? ?????????? ?? ?????? STL, ??? ?????????? ?????? 116 ?? 122
??? ???????????????, ?? «??????» ?????????? ?????????? ?????? ??? ??
????????? ?? ?????????? ??? ?????? ??? ?????????? ?????? ???, ??????????
?????, ?????? ????, ??? de facto ?????? ??? ?????????? ? ?????????? ??? ??
?????. ???????, ? ??????? ??? ?????????? ?????? ?????????? ?? ?????? ??? ?????? ??????????.
?????? ?????? ?????????? ?? ?????? ??? ?????????? ?? ?????????? ?? ?????? STL, ??????????
«?? ?????????? ??? ?????? ??? ?????????? ?????????? ?????? ??? ?????? ?? ?????? ??
STL ??????? ?? ?????? ??? ?????? ?? ?????????? ?????», ??? ?? ?????? ???
????? 107, ?????????? 1, ????. ??? ???? ??????, «?? ??? ?????????? ???
????????????? ??? ??????? ?? ?????????? ??? ?????????? ?????? ???» (?????????
????? 120 ??? ?????????? ??????).

96 ??????? ??? ?? ?????? ??? ?????????? ??? ?????????? ?????? ??? ?????????? ??
?????? STL, ? ??????? ???????, ??? ?????????? ??? 155 ?? ??????????????
?????????, ??? ?????????? ??? «[?] ??? ??? ?????????? ?????????????? ??? ??[?????]
??? ?? ??????? STL ??????» ?????????? «????? ???» «??? ?????? ???
????????????? ??? ?????????? ??? [?] ??? ??? ??? ??? ??? ?????? ??? [?????]
????????????? ??? ?????????? ???», ??? ??? ??? ?????? ?????????? (????? 2) ??? ???
????????? ??? ?????????? ??? ?????? ?? ??? ??? ?? ?????????? ??? ?? ?????? ??? ???
????????????? ??? ?????????? ??? ?????? (????? 4), ??? ?????????????? ??? ???
50, ??????? 3, ??? RIS (????? 5).

97 ?? ?? ??????, ? ??????? ???????, ??' ??????, ??? ?????????? ??? ?? ???????
STL ??? «??????» ?????????? ??? ?????? ?????????? ???, ??? ?? ??? ??????
????????? ??? ?????????? ??? ?????? 107, ?????????? 1, ????. ? Lico ??? PYMAR
????????? ??? ??? ??? ?????? ?? ?????????? ??? ??? ?????????? ??? ?????????? ???,
???? ?????????? ?? ?????? ??? ?????????? ??????????.

98 ???????, ??? ? Lico ??? PYMAR ?????? ??? ?? ?????? ??????????, ?? ?? ???
?????? ???, ?? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????, ?? ??????? ???
????????????? ??? «????? ??? ??? ?? ?????? STL ?????????? ??? ?????????? ??
????????? ??? ?????? ???», ??? ?????? ???' ?????? ??? ??? ?????????? ??????????
??, ??? ??? ??? ?????? ??? ?????? 1 ??? ?????????? ??????.

? — ??? ??? ?????? ?????????? ??? ?????????? ??? ?????????? T?515/13 ??? T?719/13

99 ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? T?515/13, ?? ?????????? ??? ??????????
?????????, ???' ??????, ?????????? ?????? ??????????.

100 ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? 107, ?????????? 1, ???.

101 ??? ???????, ?????? ??? ?????????? ??? ?????? ?????????? ?????????????? ??? ?????????? ???
??? ?????????? ??? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??????????.

102 ????? ??????? ?? ?????????? ????? ????? ?????? T?719/13, ? Lico ??? ? PYMAR
????????? ????? ?????? ?????? ??????????.

103 ? ??????? ?????? ????????????, ? ??????? ?????????????? ???? ??????? ??? ??????
?????????? ????, ????? ??????? ??? ?????? 107, ??????????? 1, ???? ??? ?? ?????? 296
????.

104 ? ?????????? ?????? ???????????, ? ?????? ?????????????? ?????????????? ?????? ?????? ???
????????? ?????????? ????, ????, ????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
?????????????? ?????????????? ??? ?????????? ??? ?????? ?????????? ??????, ??? ?????? ??? ??????????
?????????.

105 ? ??????? ?????? ???????????, ? ??????? ?????????????? ?????? ??????????????, ???? ???????
??? ?????? ?????????? ????, ?????? ???? ??? ?????? ?????? ?????????????? ???? ?????????? ???
????? ?????????????? ? ?????????? ???? ?????????????? ?????? (?. ??? 59 ??????), ?
????? ??? ?????? ??????? ?? ??? ?????? ?????? ??? ?????? ?????????? ???? ?????????? ???
?????????. ??????????, ? Lico ??? ? PYMAR ?????????? ??? ? ?????? ??? ???????????,
???? ?????????????? ??? ?????????????? ???????, ?? ?????????? ?? ?????????? ??? ???
????? ??? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??????????
?? ?????? ??? ?????????? ?????????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ???
????, ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????????? ??? ?????? ??? ?????????? ??? (?. ??? 21 ??????).

106 ??????? ???' ?????? ?? ????????????, ??? ???????, ? ?????? ?????? ?????? ?????????? ??? ??????
????????? ?? ?????????? ??? ?????????? ??? ??????? ??? ?????? ?????? ??? ? ?????? ?????? ?????? ???
????? ?????????? ? Lico ??? ? PYMAR ??? ?????? ????????, ?????????? ??? ?????? ?????? ??????
??? ?????????? ??? ??????? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? 107, ?????????? 1,
????.

1. ??? ???. ?????? ???????, ? ?????? ?????? ??? ?????????????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????? 107, ?????????? 1, ????

107 ?????????? ??? ????????, ? Lico ??? ? PYMAR ?????????????? ??? ? ?????????? ??????
?? ????? 107, ?????????? 1, ????, ?????? ??? ?????????? ?? ?????????????? ?? ?????????????? ??
??? ??????????????, ??? ?????? ?????????? ?????????? ??? ?????????????? ??? ??? ?????????? ??
?????????. ?????????? ??? ?????????? ?????? ?????????? ??? ?????? 296 ??? ??????, ?
Lico ??? ? PYMAR ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?? ?????? ?? ?????? ?? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????????? ?? ?????? ??? ?? ?????????? ??? ?????? ???
????????, ?????? ?? ?? ??????????. ?????? ?? ?????? ?????? ??? ?????? 296 ???, ??
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ? ??????????
??? ?????????????? ?????????? ????, ????, ????, ????, ????, ????, ????, ????, ????, ????, ???,
????????? ?????????? ??? ?????? ?????????? ??? ??? ???, ??????, ????, ????, ????, ????, ???,
?? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ??? ???, ??????, ????, ????, ????

108 ????????, ?? ??????? ?? ???????, ? Lico ??? ? PYMAR ?????????? ?? ? ??????

??? ?????????????? ??? ??????? ??? ??????????????, ??? ??????? ?????????????? ???
????????????? ??? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ??????????????
??? ?????? ?? ??????? ?? ?????????????? ??? ?????????? ?? ??????????. ???????, ??
????????? ??? ??????? ?????????? ??? ?????? ?? ?????????? ?????? ?? ?????? ??????????
??? ?????? ?????? ? ??????? ?????????? ??? ?????? ?????????? ?? ?????? 4, ?????????? 1, ???
????????????? ?????? ?? ???????, ? ???????, ? ?????????? ?????????? ?? ?????? ??????????
??? ??? ?????? ??? ?????? 107, ?????????? 1, ??? ? ?????????? ?????????? ?????????? ???
????????????? ?????? ?????? ?????? ? Lico ??? ? PYMAR ?????????? ??? ?? ??????????
????????????? ?? ?????? ?????????? ? ?????????? ?????????? ?????? ?? ??????????
????????????? . ???' ?????????? ??? ?????? ??? ?????????? ?????????? ?? ?????? ??
????????? ?????????? ?????? ?????????? ?????????? ?????????? ?? ?????? ?????????? ??
????????????? ?? ?????????? ??? ?????? ??? . ?????????? ?? ?????? ??? ??????
????????? (??, ??? 71 ??????), ?? ?????? ??? ?????? ?????????? ?????????? ??? ??? ??
????????? ??? ??? ??? ? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ?????????? ???
??? ???????, ??? ?????????? ??? 140 ??? ?????????? ??????.

109 ??? ??????? ??? ?????????? T?515/13, ?? ??????? ??? ?????? ?????????? ??????????
?????? ??????????.

110 ??????, ?????????? ??? ?????? ??? ?????????? ? ?????????? ??? ?????????????? ?????????? 116
??? 119 ??? ?????????? ??? ??????????, ?? ?????????? STL ??? ?????? ??? «??????» ??
????? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ?? ???????, ??? ??
????????? ??? ?????????, ?? ?????????? ?????????? STL ?????????? ??? ?????? ??? ?????? ??????
????????? ?????????????? ??? ?????????????? ?? ?????????? ?????? ??? ?????? ??? ??????
?????????, ??? ?????????? ??? ?????????????? ?????????????? ?????????????????, ??? ??????????
????????? ?????????? ?????????? ??????. ??????, ?? ?????????? STL, ?????????, ??? ??
????????? ?? ?????????? ??? ??????.

111 ???????, ?? ??????? ??? ??????? ?????????? ??? ?????? ?????????? ???
????????? ?????? ??? ?????? ???, ??????, ??? ?????? ?????????? ??????????.

112 ??????, ?? ??????? ??? ??????? ?????????? ?? ?????????? ??? ?????????? ???
????????? ?????? ?? ?????? ?? ?????????? ???, ??? ?????? ?? ?????? (??, ??? 27
?????), ??? ?????? ??? ?????????????? ??? ??? ??? ?????????? ??? ?????? ??? ?????? ???
????????? STL.

113 ?????, ?? ??????? ??? ??????? ?????????? ??? ?? ?????? 50, ?????????? 3, ???
RIS ??? ?????? ??????? ??? ?? ??? ?????? ??????, ??? ??? ??? ??????.

114 ?? ?????? ?????????? ?????? ?????? ?? ?????????? ???' ?????? ?? ??????
????????? ??? ??????????, ?? ?????? ?????????? ??? ?????? 107 ??? 108 ??????,
????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????????, ??? ??????????
????????? ??? ?????????? ??? ?????? ?????, ??? ?????? ?????????? ?? ?????????? ??? ?????? ???
Lico ??? ? PYMAR, ?? ?????????? ???' ?????? ?? ?????????? ??? ??????????
?????????????, ??? ??? ?????? ??? ?????? 107, ?????????? 1, ???, ?? ?????? ??????????
??? ?? ?????? ???.

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

115 ? ??????? ??????????, ??? ??? 1 ??? ?????????????? ??????????, ??? ??? ???
?? ?????? ?????????? ??? ???, ???' ????, ?????????? ?? ?????????? STL ??????????
????????? ?????? «????? ??? ??? ??? ?????? ?????? ???». ?????????? ??? ??? ??????

? ??????? (???? 2) ??? ??? ???????? ??? ?????????? ???????????? ?? ??? ?? ?
????????????? (???? 4), ??? ?????????????? ??? ??? 50, ?????????? 3, ??? RIS (????
5). ?? ??? 4, ?????????? 1, ??? ?????????? ?????? ?????????? ?????????? ?????????? ??? ?? ?
????????? ??? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?? ?
??? ?????????? ??? ?????? ?????? 1 «??? ??? ?????? ?????? ??? ?? ?
????????? ??? ??? ?, ?? ?????? ??? ??? ?????? ?? ?????????? ?? ?????????? ??? ?? ?
????? ??? ?????? ?? ??? ??????».

116 ????, ?????????? ??? ?????????? ???, ?????????? ?? ??? ?????????? ??? ?? ?
????????? ?????????? ??? ?? ??? ?????? ?? ??? 1 ??? ?????????? ?????? ??????????
?? ??? ??? ??? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ?? ??? ??? ?
????. ???????, ??? ?????? ??? ?????? ??? ?????????? ?????? 140 ??? ??????????
????????? (??. ??? 41 ??????), ? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ??? ?????? ?????? ??? . ?????? ??? ?????? ??????, ?? ??????????
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?
????????? STL ?????? ?? ?????? ?????? ??? ?????, ?? ?????? ? ??????
????????? «????????» (??. ??? 12 ?????). ??????, ?? ??? ??? ??? ???
?? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ??? 4,
????????? 1, ??? ?????????? ?????? ??????.

117 ???, ?????????? ?????????? ?????????? ???, ??? ???, ??? ?????? ?????? ? ?????? ???
?????????, ??? ??? 1 ??? ?????????? ?????? ??????????, ??? ??? ??? ?????? ??????
????????, ??? ??? ?????? ??? ?????? 107, ?????????? 1, ???.

118 ???, ?????????? ??? ?????????? ??? ??? ??? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????????? ??? ?????? STL, ?????? ?? ?????????, ??? ??? ?
????????? ??? ??????, ?? ??? ?????????? ??? ?????? ?????? ?????? ?? ?????????? ???
????????? ??? ??????, ?????????? ??? ?????? ?????? ?????? ??? ?????????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ? ?????????? ?????? ??????
????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

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

119 ???, ?????????? ??? ??? 97, ? ?????? ?????? ???, ???' ??????, ???
????????? ??? ?????? ??? ?????????? ??? ?? ?????? STL ??? «?????» ??????????
?? ??? ?????? ?????? ???, ??? ?? ??? ?????? ?????? ?????? ??? ?? ?????????? ???
????? 107, ?????????? 1, ???, ?????????? ??? ?????? ??? ?????? ??? ??????????.

120 ???, ?????????? ??? ??? 39 ??? 46 ??????, ? ?????? ?????? ??? ?? ?
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?? ???, ???' ??????, ??? ??????
?? ?????? STL, ??? ?????????? ??? ?????? 128 ??? 154 ??? ?????????? ??? ??????
????????? ?? ?????? ??? ?????? ??? ??????, ???????, ??? ?????????? ??? ??????
STL ?? «?????», ??? ?????????? ??? ?????? 155 ??? 157 ??? ??????????
????????? . ?? ?????? ??? ?????? ??? ?????? ??? ?????? 120 ??? ??????????
????????? ??? ?? «?????» ??? «?????» ??? ?????? ??? ?????? ?? ??????
????????? ??? ?????? ??? «?????» (?. ??? 35 ??????).

121 ???, ?????? ??? ?? ?????? ??? ?????? ???' ?????? ??????, ?? ??? 2 (?????)
????????? ?? «?????», ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? . ?? ?????? ???, ?????? ??? ?? ??? ?????? ??? ??????, ?????? ???
?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

?????? ???? ??????? ??? ?????????? STL ??? ??? ??? ????? ?????? (?????????????)
?????? 132 ??? 139 ??? ?????????????? ??????????). ?? ????? 4 (????????? ???
????????? ????? ?????????? ?? ??? ?? ?????????????? ????? ??? ??? ?????????? ??? ???
????????? ??? ?????????? STL) ??? ?? ????? 5 (????? 50, ?????????? 3, ??? RIS) ???
?????????, ??? ????? ?????????? ?????????? ?????????????? ??? ?????????????? ?? ??????
????? ?????? (????????????? ?????? 141 ??? 144 ??? ?????????????? ??????????) ???
??? ??? ?????????? ?????? ??? ?????????? ?????????????? ??????????, ??????????
????????????? ??? ?? ?????????? ???, ??? ?? ?????????? ??? ?????? ???
(????????????? ?????? 145 ??? 154 ??? ?????????? ??????????).

122 ????? ?????? ?? ??????? ??????? ?? ?????? ??? ??????????, ?? ?????? ??????????
?????????, ????, ??? ?????????? ??? 156 ??? ?????????????? ??????????, ? ????
????? ?? ????: «????????? ?? ?????????? STL ???????, ?? ?????????? ?????? ??????????
????? ?????? ??? ?????????????? ?????????? ??? ?????????? ??? ?????????????? ?????? ???
??? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????
??? ?????????? ??? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??? ???
????????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ??????????????
????????? ??? ??? ?????????? ?????????? —????????? ?? ?????? 50 ?????????? 3 ??? [RIS]—
????????? ??? ??? ?? ?????? ?????????? ??? ?????????? ?? ?????? STL ??? ?????? ??? ??????
?????????. ?? ?? ??????, ?? ?????????? ??? ?????? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????? STL ??? ?? ?????????? ?????????? ??? ?????? (?????????
?????????????). ??? ?????????????? ??? ?? ?????????? ?????????? ??? ??????????
??????, ?? ?????? ??? 273 ?????? ??? ?????????? ??? ?????????? STL ??? ?????? ??????????
??? ??? ?????? ??? 2010 ?????????? ?????????? ?????». ?? ?? ??????, ? ?????????? ??????????
??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?? ?????????? STL ?? ??????
????????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ?????????? ? ??????
????????????? ??? ?????????? ??? ???' ?????? ?????????? ??? ?????????????? ??? ?????? 2.

123 ??????, ? ??????? ??????????, ??? ?????????? ?????? 157 ??? ??????????????
?????????, ??? «?? ??????? ???[????] ?????????? ??????????????, ?????????????? ???
????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????????? ???
????? ?? ?????? ?????? ?????? ??? ??? ?????? ?? ?????????? ??? ?????????? ???». ?? ?? ???
????????????? ?????????? ?' ?????? ?? ??????, ??? ?? ?????????? ?????????????? ??????,
????????? ??? ??? ??? ??? ?????????? ??? ?????? ?????? ?????????? STL ??? ??? ???
????? ??? ?????? ?????? ?? ??? 2, 4 ??? 5. ?????? ?? ??? ???' ?????? ?????? ??? ??????
????? ? ????? 121 ??????, ?????? ??? ?? ?????? ??? ??????, de jure ??? de facto,
????????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????????? ???
(????????????? ?????? 132 ??? 139 ??? 141 ??? 154 ??? ?????????? ??????????).

124 ?? ?? ??????, ??? ?? ?????????? ?????? ?????? ?????????? ??? ?? ?????? ???
????????? ?? ?????? STL, ?????????? ?????? ?????? ??? ?? ?????? ??? «?????»,
????? ?????????? ??? ??? ??????. ??????, ?? ?????? STL ?? «?????» ??? ??????????
????? ? ?????????? ???, ??? ?????? ??? ?????? ?????? ?????????? ??????????, ?????????? ??
????????? ?????????? ??? «????? ?????? ?????? ??? ?????? STL ??? ??
????????? ?????? ?????? (????? ??????????????»), ?????? ??? ??????
????????? ?? ?????????? ??????, ?? ?????????? ??? ?????? ?????? STL ?????????? ???
??? ??? ?????????? ?????????? ??? ?? ?????? ?????? ?????? ??? ?? ??????????,
????????????? ??????????. ?? ?????? ??? ?????? ??????, de jure ??? de facto, ?????????????? ???
????? ?????????? ??????????.

125 ????? ?????????? ??? ?????? 118 ??????, ?????? ?? ??????????, ??? ?? ?????? ???
????????????? ??? ?????????? ??? ???????, ??? Lico ??? ??? PYMAR, ?? ?? ??? ???

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

126 ??? ?????????? ?? ??????? ???, ?????? ?? ?????????????? ?? ?????????????? ???
????????????? ??? ?????????? ?? ??????? ??? ???????, ? Lico ??? ? PYMAR ??????????
?? ??????? ?????????? ?? ??????? ??? ??????? ??????????, ??? ??????? ???
????????? T?515/13, ? ??????? ?????????? ?? ??????? ??? ??????? ??? ??????? ???
????????? ??? ?? ?????????? ??? ?????????? ??? ?? ??????? ??? ??????? ???
????????????? ??? ?????????? ??? ?????????? ??? ??????? 155 ??? 163 ???
????????????? ??? ??????????. ? ??????? ??? ??????? ??? ??????? ??? ?????????? ???
????????? ??? ??????? ??? ??????? ??? ??????? ??? ???????, ?????????? ???
??? ?? ??????, ??? ?????????? ??????? ??????????. ?????????? ??? ??????? ???
??? ?????????? ??? ?????????? ??? ??????? ??? ???????, ?? ?????????? ???
????????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ?????????? ???
????????? ??? ??????? ???' ?????????? ??? ??????? T?719/13, ? ???????
????????? ??? ? Lico ??? ? PYMAR ??? ?????????? ??? ???' ????? ?????? ??? ??????
2, 4 ??? 5 ??? ?????? ??? ?????? ??? ?????? ??? ??????????.

127 ??????, ?????????? ? ?????????? ???, ??? ?????? ??? ?????????? ???
??, ?? ?????? ??? ?????? ?????????? ?????????? ?????????? ??? ?????? ???
???? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???.
????????? ??? ?????????? ??? ?????????? ??? ??????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????????? (??, ??? 71 ??????) ??? ??? ???' ??
????????? ??? ?????????? ??? ??????? T?515/13. ??????, ?? ??????? ???
????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?????? ???
????????? ? ?????????? ??? ??????? ???' ????? ?????????? ??? ?????????????? ???
?????? 2. ?????????? ??? ?????????? ??? ?????????? ??? ?? ????? ?????????? ??? ??
?????????, ??? ?????????? ??? 156 ??? ?????????? ??? ??????????, ???
????????????? ??? ?????????? STL ?? ??????, ?? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???.

128 ??? ?????? ?? Lico ??? ? PYMAR, ??? ? ??????? ?????????? ??? ??' ??
????????? ??? ??????? ??? ??? ?????? ?????????? ??? ??' ??? ?????? ?????? ???
?? 2, 4 ??? 5. ??????, ??? ?????????? (??, ??? 98 ??????), ??? ? Lico ??? ? PYMAR
????????? ??? ?? ?????? STL ?????? «?????? ?????? ?????? ??????????», ??????????
??? ??? ?????????? ??????? ???, ??? ?????? ??? ?????? ?????? ??? ?????? 1 ???
????????????? ????????. ?????????? ??? ?? ?????????? ??? ?????? ???
Lico ??? ? PYMAR ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????????? ??? 156 ??? 157 ??? ?????????? ??? ?????? ???
????????? ??? 122 ??? 123 ??????, ?? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ???' ????? ?????? ??? ?????? 2, 4 ??? 5.

129 ??????, ?? ?????????? ??? ?????????? ?? ??? ?????? ?? ?????????? ???
????????? ??? ?????????? ??? ??????????, ??? Lico ??? ? PYMAR ??? ?????? ???.

????????? ?????????? ??? ?? ?????????? ???, ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? STL, ?????????? ???
?? ?????????? ??? ?????????? ???.

130 ?? ??????? ??? ???????, ? Lico ??? ? PYMAR ?????????? ??? ? ??????????
????????? ??? ?????????? ??? ?????????? STL ???, ??????, ? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???

?????????? ?????, ????? ?????????????? ?????????? ? ?????? ???????????
?????????. ??????, ?? ?????????????? ??? ?????????? ?? ?????????? ??? ?? ?????
?? ?????????? ?? ??????????, ????? ?? ?????? ??? ????????? Autogrill España ???
????????, ?????????????? ?? ????? 71 (EU:T:2014:939), ??? Banco Santander ???
Santusa ??? ?????, ?????????????? ?? ????? 71 (EU:T:2014:938).

131 ??????, ?? ??????? ?? ???????, ? Lico ??? ? PYMAR ??????????? ?? ??????
?????????? ?????????? ?? ?????????? ??? ?????????? ?????? ?? ?????????? ??? ??????????
??? ?????????? ?? ?????? ??? ?????? ?????? (????? 2). ? Lico ??? ? PYMAR ?????????? ???,
??? ?????? ?? ?? ?????? ?????? ?????????? ?????????, ? ?????? ?? ?????? ?????? ??????
????????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ??' ?????????? ??????
?? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??
????????? ?????? ?????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????
????????, ?????? ?? ?????? ??? ?????? ?????? ?? ?? ?????? ?????? de facto ? de jure
????????? ??????????.

132 ??? ??????? ??????????? ?? ?????? T?719/13, ? ??????? ?????????? ??
?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?? ??????????, ?????? ??? ?? ??????????
??? ?????????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ?' ???, ???
?? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????
??? ?????? ?????? ?? ?????????? ?' ????. ? ?????? ??? ?????, ??? ??? ?????????, ??????
?? ?? ?????????? (????????? ?? 15?? ?????? 2004, ?????? ??? ??????????, C?501/00,
??????, EU:C:2004:438, ????? 120? ?? 15?? ?????????? 2005, ?????? ??? ??????????,
C?66/02, ???????, EU:C:2005:768, ?????? 97 ??? 98, ??? Associazione italiana del risparmio
gestito ??? Fineco Asset Management ??? ???????, ?????????????? ??? ?????? 89,
EU:T:2009:50, ????? 156).

133 ??????? ?? ?????? ??????? ?? ?????? ?????????? ?????? ?????????? T?515/13
?? T?719/13 (?. ??? 71 ??????), ? ??????? ?????????? ??? ? ?????????? ??
????????? ??? ?????????? ?????? ?????????? ??? ?????? ?? . ? ?????????? ??? ?????????? ??
????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ???
????????? ??? ?????????? ?? ?????? ?????????? ?????? ?????????? ??? ??????, ? ??????????
????????? ??? ?????? ?????? ?????? ?????? ?????????, ?????????????? ??? ?????? 132
(EU:C:2004:438), ?????? ??? ?????? ?????? ??? 6?? ?????? 2002, Diputación Foral de Álava
??. ??? ?????? (T?92/00 ?? T?103/00, ???????, EU:T:2002:61).

134 ??????? ?? ?????? ??????? ?? ?????? ?????????? (?. ??? 71
??????), ? ??????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ? ??????????
??? ?????????? ??? ?????????? ??? ?????????? Autogrill España ??? ??????????,
????????????? ??? ?????? 71 (EU:T:2014:939), ??? Banco Santander ??? Santusa ???
????????, ?????????? ??? ?????? 71 (EU:T:2014:938), ??? ??? ?????????? ?????? ???
?? ????? 107, ??????? 1, ???, ??? ?????? ?????????? ??? ?? ?????????? ?????? ??? ?????? ???
????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ???
(????????? C?20/15 P ??? C?21/15 P).

135 ?? ????? ???????????, ?? ??????? ?????????? ???, ????? ??? ? ? ?????????? ??? ???????
?????????? ??? ?????????? Autogrill España ??? ???????, ?????????????? ??? ??????
71 (EU:T:2014:939), ??? Banco Santander ??? Santusa ??? ???????, ?????????????? ??? ??
????? 71 (EU:T:2014:938), ?????? ?? ??? ?????????? ?? ???????????, ?? ???????
????????????? ??? ??????? ???, ?????? ????, ??? ?????? ??? ?????? ????? ?????????? ???????
?? ??????? ??? ??????? ?????????? ???????.

136 ? ????????, ????????, ?????????? ????? ???? ?????????????? ?? ?????????? ??? ??????????, ?
Lico ??? ? PYMAR, ??? ?? ????????, ??? ?????? ?? ???????, ?? ?????????? ??? ?? ??? ????? ??? ??????????
??? ????? ?????????? ?? ??? 115, ?????????? 11, ??? TRLIS ??? ????? ???
????????????? ??? ?????? ??? ?????????? ???????, ??? ?????? ? ??????????, ??? ?????? ??
????? ?????????? ??? ?????? ?????????? ???????.

137 ??????????? ??? ???????? ??? Lico ??? ??? PYMAR ??? ? ?????????? ??????????
????? ?????????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????????????? ??? ??? ????? ??????????, ?
????? ?????? ??????????, ??? ?????? ?????????????? ??? ?????? ?????? T?719/13, ??? ??? ??
????? ??? ?????? ???, ??? ??? ??? ?????? ?????? ?????????? ?????? ?????? ??????????, ??
????????? ??? ?????????? ?????? ?????????? ?????? ?? ?????????? ?????? ?????? ??????????????,
????? ??? ?????? ??? ??????. ??? ??? ??' ?????????? ?????? ?????????? ??? ?????? ??????????
T?515/13 et T?719/13, ? ?????? ?????? ?????? ??? ?????? ??? ?????? ? ?????? ??? ?????? ???
????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? de
jure ???????????. ??? ??? ?????? ?????? ???, ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????? 48, ?????? 4, ??? TRLIS ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?' ?????? ??? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

138 ??? ?? ??????? ??? ?????????????? ??? ?????????? ?????? ?? ???????, ??????, ?? ??
????????????? ??? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ?????? ?????? ??? ?????? ???
????????? STL ?????? ??????????, ?????? ?????? ?? ?????????????? ??? ?????????????? ???
????????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????????? ????. ??
????????? ?????????? ?????????? ??????? ?? ?????? ???????, ???????, ?? ? ??????
????????????? ?????????? ?? ?????? ??????? ??? ?????? ?????????? ?????????????? ??????????
???????????, ?? ???? ??????????, ??????? ???????, ?????? ?????? ?????????? ??????????????.

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

139 ??????????????? ???, ??? ?????????? Autogrill España ??? ??????????,
?????????????? ??? ????? 71 (EU:T:2014:939), ??? Banco Santander ??? Santusa ???
?????????, ??????????????? ??? ????? 71 (EU:T:2014:938), ??? ?????? ??????????????? ??
????????? ??? ???????, ? Lico ??? ? PYMAR ??? ?????? ??? ?????????????? ???, ??
??????? ??? ?????????????? ?????????? ?????????? ??? ?????? ?????????? ??????????????
??????????????, ?????????? ??? ?????? ??? ?????? ???????, ? ?????? ?????????? ?? ???????
????? ???????????, ?????? ??? ?????? ?????????? ?????????????? ?????????????? 5 % ?? ???????
????????, ??? ?????????? ??? ?????????? ???.

140 ?????????????? ??????, ?? ?????? ??????????? ?????? ??? ? ?????? ??????????????
????????? ??? ?????? ??????? ?? ?????? ?????????? ? ?????? ?????????? ??? ?????????? ??'
?????? ??????? ?? ??????????? ?? ?????? ?????? ?????? ?????? «????????? ?????????????? ?
????????? ??????? ??????», ??? ??? ?????? ??? ?????? 107 ????, ?? ??? a priori
?????? ??? ??? ?????? ??????? ?? ?????? ??? ?????? ??? (????????? Autogrill España ????
?????????, ??????????????? ??? ?????? 71, EU:T:2014:939, ??? 52, ??? Banco Santander

??? Santusa ??? ????????, ?????????????? ??? ????? 71, EU:T:2014:938, ??? 56).

141 ?? ???????????, ?? ?????????? ?????????????? ??? ?????????? STL ??????????
????? ?? ?????????? ?? ?????????? ?????????? ?????????? ?????? ?? ?????? ?????? ??????????
??? ?? ?????????????? ?????????? ?????? ??? ?????? ??? ?????????? STL. ??????????, ?
????????? ?? ?????????? ??? ? ?????????? ??? ?????? ?????????? ?? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ??? ?????? ??????????????, ?????? ? ?????? ??
????????? ?????????? ??? ?????????? ??? ?????? ?????? ??????????. ? ?????????? ??????????
??????, ??? ?????????????? ??????? 126 ??? 172 ??? ?????????????? ??????????, ??? ??
????????? ?????????? ??? ?????? ??? ?????????? ?? ??? ?????? ?????? ?????? ??? ??????????
????????????? ?? ??? ?????? ??? ?????? ??? ??????????.

142 ???????, ??? ?????????????? ??? ?????? ?????????? ?? ?????? ?????????????? ???
????????? Autogrill España ??? ??????????, ?????????????????? ??? ?????? 71 (EU:T:2014:939),
??? Banco Santander ??? Santusa ??? ??????????, ?????????????????? ??? ?????? 71
(EU:T:2014:938), ??? ?????????????? ??? ?????? ?? ?????? ??? ?????????? ??????????????
??????????????, ?????????????? ?? ?????????? ?????? ?????????????? ??? ?????? ?????????? ??
??????, ??? ??? ????? ?????????????, ??? ?????????? ??? ??????????????.

145 ???????, ??? ?????? Autogrill España ??? ??????????, ?????????????? ???
????? 71 (EU:T:2014:939), ??? Banco Santander ??? Santusa ??? ??????
????????????? ??? ??? 71 (EU:T:2014:938), ???????? ?????? ?????????? (?????????
C?20/15 P ??? C?21/15 P). ????????, ?? ?????? ?????????? ?????? ??? ?????? ??
????????? ??? ?????? ??? ??? ????? ?????????? ??? ?????? ??? ?????????? ??????????, ???
????? ?? ?????? (?. ??? 73 ??????).

146 ????????, ?? ?????????? ??? ?????? ??? ? ?????????? ?????????? ??? ?????
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??????—?????
????????? ??????, ??? ?????? ?????????? ?????????? ?? ?????????????? ?????? ??? ??????
???? ??? ? ?????? ?????????? ??? ??? ?????????? Länder ??? ??? ??? ??????
????????? ??? ??? ?????????? ?????????? ??? 250 ?????????—????????? ??? ??? ??? ??????
????????????? ??? ??? ?????????? ??? ??????, ?? ?????? ??? ?????? ?????????????? ??????????
?? ??? ??? ??????????????, ??? ?????? ?????? ???????, ??? ??? ??? ?????? ??? ??????
107, ?????????? 1, ??? (??., ??? ??? ?????? ???, ?????? ??? 19?? ?????????? 2000,
????????? ??? ??????, C?156/98, ??????, EU:C:2000:467, ??? 22). ??????, ??
????????? ??? ?????????? ?? ?????????? ??? ?????????? ?????? ?????? ??????, ??
????? ? ?????? ?????????? ?????????? ?????? ?????? ?????? ?? ?????? ??? ??????????
????? ?????? ?????? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??????????, ???
?? ?????????? ??? ??? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ??????????
????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????, ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ??? ?????? ??? ??????

???????, ??????? ?? ???? ?????????????? ????, ????? ?????????????? ????????, ??? ?? ???? ??????? ??
?????? 107, ??????????? 1, ??? (????????????????? ??????? ?????????? ????, ?????????????? ??,
EU:C:2000:467, ??? 23).

147 ??? ?????? Associazione italiana del risparmio gestito ??? Fineco Asset Management
???? ??????????, ?????????????? ??? ????? 89 (EU:T:2009:50), ?? ?????? ??????????
???????, ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????
??????????, ??????? ?????????? ?????????? ?????? ??? ?????????? ?????? ?????? ??? ??????
?????????? ?????????? ?? ??????? ?????? (?? ????: ?????) ?? ?????? ?????????????? ????
?????? ?????? ?????? ?????? ?????? ? ?????? ?????? ???????????????. ??? ?????? ?????? ???????, ?
????????? ?????????? ??? ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? ?????????? ?????? ??????. ??????????, ? ?????? ?????? ?????? ??? ? ?????? ?????? ???
????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???,
??????????, ??? ?????? ?????? ?????????????? ???, ?????????? ??? ? ?????? ??? ?????? ???
?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????????? ?????? ??????. ? ?????? ?????? ?????? ?????? ??? ? ?????? ?????? ?????? ??????
????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 146
(EU:C:2000:467, ?????? 22 ?? 23), ? ?????????????? ??? ?????? ?????? ?? ?????? ??? ??????
?????????, ?????? ?????? ?????? ?????? ??? ??????.

148 ??????? ?????????? ???, ??? ?????????? ?????? ?????? ?????? ?????? ?????? ??????
??????????, ?? ??? ?????????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ??????????
????? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????????????? ??? ?????? ?????? ?????? ?? ???
????????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

149 ???????, ?????????? ???, ??? ?????? ??? 22? ?????????? 2006, Le Levant
001 ??. ??? ?????? (T?34/02, ??????, EU:T:2006:59), ?? ?????? ??????????
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????
??? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????? ??????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???
????? ?? ?????? ??? ??????. ??? ?????? ?????? ??? ?????? ? ?????? ?????? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ??? ? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????? 107, ?????????? 1, ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????
?????????, ?? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????
????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????
?? ??? ? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ???, ?????? ??? ?????? ??? ?????? ?????? ??????

150 ? ?????????? ??? ?????? ?????? ?????????? ??? ?? ???? ?????????? ??? ?????????? ???
????????? T?515/13 ??? T?719/13 ??? ?????????? ?? ?????????? ??? ?? ???? ??????????
??? ??????????, ??? ??? ????? ???????????, ?? ??? ????? ?????????? ? ?????? ?????????? ??
????????? ??? ????? ??????????, ??? ????? ?????? ?? ?????? ??? ????? ?????????????, ???
?????????.

152 ????????, ??? ????? ?? ?????? ?????? ?????? ????? ???????????, ?????????????????? ???
????? 132 (EU:C:2005:768, ??????? 97 ??? 98), ? ?????????? ?????????????? ??????????
????? ?????????? ?????????????? ??? ?????? ??? ?????????????? ??? ?????????????? ???
??? ?????????? ??? ?????????????? ??? ?????? ??????, ?????????? ??? ??? ??? ??? ??????????

154 ????????, ??? ????? ?? ?????? Diputación Foral de Álava ??. ???. ??? ???????????,
?????????????? ?? ?? ????? 133 (EU:T:2002:61), ??????????????? ?? ?? ?????? ??????????
?????? ?? ?? ?????? ?? ?? ?????? ?? ?? ??????????????? ?? ?? ?????????? ??????. ?? ?? ?? ??
????????? ?? ?? ?????? ?? ?? ? ?????? ??????????? ?? ?? ?????????? ?? ?? ?????????? Álava ??
????? ?? ?? ?????? ???????????, ?????????? ?? ?? ?????? ?? ?? 2,5
????????????? ?????? (ESP), ?????? ?? ?? ?????? ?????? de facto ??
????????? ?????????? ?? ?? ?????????? ?? ?? ?????????? ?? ?? ?????????? ??????????
????????? ??????, ?????????? ?? ?? ?????????? ?? ?? ??????????

?????? ? ?? ?????? ??????? ? ?? ???? ? ?????? ??????? ? ?? ???? ?????????????????
????????????? ??? ???? ?????????? Álava ?? ???? ? ?????????????????? ?? ???? ?????? ??????????
?????????, ??? ???? ???? , ??? ?????????? ?????????? ?? ? ???? ?????????? ?????????? ??????????
???????? ?????. ???????, ??????? ? ???? ?????? ?????? ??? ?????????? ?????????? ?????????? ?? ???
????????????? ? ???? ?????? ?????????? ?????????? ?????? ??? ?????????? ?????????? ??????????
Álava, ??? ? ???? ?????? ?????????? ?????????? ?????? ?? ???? ?????? ?????????? ?????????? ,
????????????? ?????? ?????????? . ?? ?????????? , ??? ?????????? ?????? ??? ? ???? ??????
????????? ??? ???? ???? ???????, ??? ? ???? ?????????? , ?? ???? ?????? , ??? ? ???? ?????? , ???
? ???? ? ???? ?????? ?????? ??? ???? ?????? ??? ? ???? ?????? ???.

155 ???? , ?? ?????????? ??? ???? ??????? ?? ???? ?????? ?? ???? ???? ?????? ???
?????? ??? ???? ?????? ??? ???? ?????? STL ??? ???? ? ???? ?????? ?? ???? ?????? ?? ???
????????? ??? ???? ?????? ??? ???? ?????????? ?? ???? ???? ?????? ?????????? ???
????????? ??? ???? ?????? ?????????? ??? ???? ???.

156 ??? ?????????? ??? ???? 138 ?????? , ?????? , ?????? , ?? ?????????? ??????????
?? ? ???? ?????? ?????????? ?????? ? ???? ?????? ??? ?????? ?????? ?????? ?????????? ??????????
????????? ??? ?????? , ?? ???? ?????? , ?? ?????? ?????? ??? ?????? ?????? ?????????? ???
????????? ??????.

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

157 ? ???? ?????? ?????????? ???, ?? ???? ?????????? , ??? ?????? ?? ???? ??????????
????????????? ?? ???? ?????? ??? ???? ?????? ?????????? ?????????? ?? ???? ?????? ??????
????????? ?????????? ?????? ??? ???? ?????? ??? ???? ?????? ?????? ?????????? ??? ??????
????????? ?? ???? ?????? ?????????? ??? ???? ?????? Autogrill España ??? ?????? ,
????????????? ??? ???? 71 (EU:T:2014:939), ??? Banco Santander ??? Santusa ???
????????? , ?????????????? ??? ???? 71 (EU:T:2014:938). ??? ? ???? ?????? , ??? ?
????????? ? ???? ?????? ??? ???? ?????? ??? ???? ?????? ?????????? ??? ???? ?????????? ??????
??? ??? ???? ?????? ?? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ???
????????? ??? ???? ? ???? ?????? ??? ???? ?????? ??? ???? , ??? ???? ???? ???? , ??? ???? ????
??? ? ? ???? ???? ???? ???? ?????? (??., ??? ? ???? ???? , ??? ???? ???? ????
29? ???? 1999, DM Transport, C?256/97, ?????? , EU:C:1999:332, ??? 27 ??? ????
????????? , ??? ? ???? 18? ???? 2013, P, C?6/12, ?????? , EU:C:2013:525,
????? 25).

158 ???? , ?????????? ? ???? ?????? ???, ??? ? ???? ?????? ??? ???? ??????
????????? ?? ???? ?????? ??? ???? ?????? ?????????? ?????????? , ??? ???? ????
????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? STL ??? ???? ???? ??
????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ?????????? ??? ???? ??? ??
????? ???? ??? ???? ??????.

159 ???? , ??? ?????????? ?? ???? ?????? ??? ???? ?????? , ? Lico ??? PYMAR, ??? ??
????????? ??? 133 ??? ?????????? ?????? ?????????? ?????????? ??? ? ???? ??????????
????????? ??? ???? ?????? ?????????? ?? ???? 115, ?????????? 11, ??? TRLIS, ???
????????????? ??? ???? 49 ??? RIS —??? ?????? ? ?????? ?????? ?? ???? ??????
?? ???? ?????? ?????? ??? ???? (?? . ???? 40 ??????)— ?????? , de jure, ?????????????? ???
????? ? ???? ?????? ??? ?????????? ??? ???? ?????? ??? ???? ?????? ?????? . ? ???? ????
????????? , ??? ?????????? ??? 134 ??? ?????????? ?????? , ??? ? ???? ???? ??
????????? ?????? ??? ?????????? ??? ???? ???? ?????? ??? ???? ? ???? ???? ??

????????? ??????????????? ??? ?????? ??? ?????????????? ?????????? ?????????? ???
???????????, ??? ??? ?? ?????????? ??? ?????? ?? ?????? ?????????? ??? ?? ???????
????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?? ???
????????? (?. ??? 40 ??????). ??? ??? ?????????? ??? ?????? 66, 116, 134 ??? 156
??? ?????????????? ?????????? ?????????? ?????? ???' ?????? ??? ?????? «????? ????

????????? STL» ??? ?????????? ??? ?? ?????? ?????????????.

160 ????, ? ?????????? ??? ?????????? ??? ?????????? ???, ????, ????, ??? ?? ?????????? ???
????? ?????? ?? ??????????, ?? ??????, de jure ??? de facto, ????, ???, ???, ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????????? ??????????
?????????????, ????, ??? ?????? ??? ?????? ??? ?????? ??? ?????????? STL ??? ?????? ???
????????? ?????? ??????, ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???,
???? ?????????? ??? ?????? ?????? ???, ?? ?????????? ??? ?????? ??? ?????? ???
????????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? 140, 146 ??? 147 ??????.

161 ?? ????, ?? ?????? ?????????? ? ?????? ???' ?????????? ?????????? ???
?? ?????????? ??? ??????????, ??? ?? ??? 48, ?????????? 4, ??? TRLIS ?????????? ???
???? ??? ???, ?????????? ?? ?????? ??? ?????????? ??? ?????????? ???, ???
????????? ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ?? ?????? ??? ??????????
????????????? ??? ?????????? ??? ?????????? ?? ?????????? ????. ???????, ??????????
??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????????.
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ??? ?????? ?????????? ?? ?????? Autogrill España ??? ??????????,
????????????? ??? ?????? 71 (EU:T:2014:939), ??? Banco Santander ??? Santusa ???
????????, ?????????????? ??? ?????? 71 (EU:T:2014:938), ?????????? ?????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? (?. ??? 139
??????).

162 ????, ??? ?????? ?????????? ?? ?????????? ??? ? ?????? ??? ?????? 48, ?????????? 4,
??? TRLIS ??? ?????? ??? ?? ?????? ??? ?????????? ??? ?????? ?????????? ?????????? ???
??? ??? ?? ?????? ??? ?????????? ??? ?? ?????????? ????. ? ?????????? ???, ???
????????? ?? ?????????? ??? ?????????? ?, Lico ??? PYMAR ??? ?????? ???' ??????????
????????? ?? ?????????? ??? ?????????? ?????????? ??? ?????????? ?? ?????? ??? ?????? ??
????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????????? STL, ?????????? ??? ?????????? ?????????? ??? ?????? ??
????? ??? ?????? ??? ?????? ?????????? ?????????? ?????????? ????, ? ?????? ???
????????? ??? ?????? ??? ?????????? ?? ?????????? ?????????? ?????????? ??? ?????????? ???
??? ?????? ?????? ??? ?????????? ???.

163 ??? ?????? ??? ?????? ?????? (?. ??? 130 ??? 162 ??????), ??? ?
????????? ????????, ??? ?????????? ??? 156 ??? ?????????????? ??????????, ??? ??
????????? STL ?????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ? ??????????
???? ????????, ??? ?????? ?????????????? ?????????? ?????????? ???, ??? «?????
????????? ??? ?????? STL ??? ?????????? ?????????? ?????????? ??????» ??? ??????
??????.

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

164 ??? ?????????? ??? ?????? 123 ??? 124 ??????, ? ?????? ??? ?????? ???

????????????????? ??? ??? ?????????? ??? ?????????????????? ??????? ?????????? ??????????????
????????????? ??? ??? ??? ?????????????? ??? ?? ?????????? STL ?????? «?????????»
?????????????, ?????????????? ??? ?????????? ?????????????? ??????? ??? ??????????
????????????? ??? ???????, ?????????????? ?? ??????? ?? ?????????? ?????? ?????? ??? ???
????????? ?? ?????????? ???» (????????????? ??? 157 ??? ?????????????? ??????????).
?? ?????????????? ?????????????? ?? ?????????? ?? ???????, ??? ??? ??? ?????????????? ???????,
????????? ??? ??? ??? ??? ?????????? ?????? ??? ?????????? STL ??? ?????????? ???
????????? ??? ?????? 2, 4 ??? 5. ??????? ?? ??? ???' ?????? ?????? ?????? ?????? ??????????????
??????? 132 ??? 139 ??? 141 ??? 154 ??? ?????????????? ??????????, ??????? ??? ?? ???
????? ???????, de jure ??? de facto, ?????????? ?????????? ?????? ?????????????? ??? ??????
??? ?????????????? ??? (?. ??????? 40, 42 ??? 43 ??????).

166 ??? ?????????? ??????????? ??? ?????????? ?? ?????????? ??? ??????????, ?
????????? ?????????? ?? ??????? ??? ?? ?????????? ?????, ??? ?? ???, ???
????????????? ??? ????. ??? ?????? ???, ?? ?????????? ??? ?????????? ??? ??????????
??? ?? ?????? ??? ?????? ??? ?????????? ?????? ?????????? ???, ??? ?? ??????????,
?????????. ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????????????? ??
?????????, ? ?????? ?????? ?????????????? ??? ?????? ?????? T?719/13 ??? ? ?????????????? ??? ??????
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ??? ? ??? ?? ?????
????????????? ??? ??????????

169 ?????????????? ???, ??? ??????? ??? ?????????? ???, ?? ?????? ?????????? ?????? ??
 ?????? ?? ??? ??? ?? ?????? ??? ?????????? ???' ????? ?????? ??? ?????? 2, 4 ??? 5, ???
 ??? ???????????, ???' ??????, ? ?????????? ??? 157 ??? ???????????????, ???????????,
 ?????????? ??? ?? ?????????????? ??? ?????????? ?? ?????????? ??? ??? ?? ??? ?????? ???
 ?????????? ??? ?????????????? (???. ??? 118 ??????).

170 ???. ??????? ???. ???' ???. ?????? ????????, ? ??????? ???. ??? ???. ??? 2, 4
??? 5 ????????, de jure ??? de facto, ??????? ????????????????, ?????? ??? ???????
?????? ??? ??????????? ????????????????, ????????????, ??? ??????????? ??? ???. ??? ???????
??? ???. ??????????? ???????????, ???.

172 ????????, ?????????????? ??? ? ?????????? ??? ?? ?????????? ??????, ??? ?? ???, ??? ?????????? ??? ???? ?? ?????????? ??? ???? ?? ?????? ??? ?? ?????????? ???, ??? ?? ?????????? ??? ???? ?? ?????????? ??? ???? ?? ?????? ??? ?? ?????? ??? ???? ?? ?????? ??? ???? ?? ?????????? ???, ??? ?? ?????????? ??? ???? ?? ?????????? ??? ???? ?? 172. ????????, ??? ?? ????????

?????????? ??? ???????? ??? ??????? ??? ??????? ?????????????? ??? ?????????????? ??? ?????????????? ???
?????? ??? ?????? ?????? ???????????, ? ???????? ?????? ??? «???? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ???????? ??? ?????????? STL, [?] ?????????? ?????????? [?] ?????? ???
??? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ??? ?????? ??? ?????? ?????? ?????????? ??????,
?????? ??? ?????? ?????? ?????? ?????? ?????? ??????» (???. ?????? 54 ??????).

173 ????????, ? ????????, ????????, ????????, ??? ?????????????? ????????, ???
????????????? ??? ??? ?? ?????? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? STL
????????? ?? ?????????????? ??? ??? ?????? ??? ?????????? ?????, ??? ?????? ??? ?????????? ???
????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????, ? ?????? ?????? ?????????? ???
????????? ??? ?????????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ???
??? «??»/«?» ?????? ?????????? ??? (????????? ?????? 139 ??? 154 ???
????????????? ??? ??????), ?????? ?? ?????? ?????? ?????? ?????? ?????????? ?????????? ???.
?? ?????? STL ?????????? ?? ??????, ? ?????? ?????? ?????? ?????? «?? ?????????? ???
????[?????] ??? ??? ???, ?????? ?????? ?????? ?????? ?????? ?????? ????. ??????????
????????? ??? ??? ?????? ??? ?????? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????? ??
????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ??????. ???????, ??? ? ?????? ?????? ???????, ??? ?????????? ?????? 126 ???
????????????? ??? ??????, ?? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
STL ?????????? «?????????», ??? ??? ?????? ??? ?????? 107, ?????????? 1, ???, ???
?????? ??? ?????? ?????? ?????????? ?? ?????? ??? ?????? ?????????? ??? ?? ??? ???
????????? ??? ??? ?????? ??? ?????? STL ??? ?? ??? ?????? ?????? ?????????? ???
??????, ??? ??? ?????? ?????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ???, ???
????????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???, ???.

174 ????????, ??????????? ??? ? ?????????? ??? ?????????? ?????? 172 ???
????????????? ??? ???????, ??? ?? ?????? «????????????? ??? ?????? ??? ?? ??? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???» ??????? ???
????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??????.

175 ????????, ? ????????, ?????????? ??? ???????, ??? ?????????? ??? 28 ??? ??????????????
?????????, ???, «[?]????????? ??? ?? ??? ??? ?????? [?] ?? ?????? ??? ?????? ???
????????? STL, ?????? [?] ??? ?? ??? ?????? ?????????? ??? —?? ??? ??? ??? ???
?????? ?????? ??? ?????? ?????? — ?? ??? ??? ??? ?????????? [?] ??? [?? ???]
?????? ?? ??????». ? ?????? ?????? ?????? ???, ??? ?????????? ??? ?????? 27 ???
????????????? ??? ???????, ??? «?? ?????? ??? [?] ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ???». ????, ? ?????? ??? ?????????? ???, ???
??????, ?? ?????????? «?? ??? [?] ??? ?????? ?????????? ???» (?????? 9,
????????? ??, ??? ?????????? ??? ?????? ?????? ?????????? ???, ??? ?????? ?????????? ???'
??????, ? ?????????? ??? 14 ??? ?????????? ???).

176 ??? ??? ??????? ???, ???????? ?? ?????????? ??? ? ?????????? ??? ??????????
????????????? ??? ?????? ?????????? ??? 157 ??? ?????????? ???, ??? ?????? ???
?? ?????? STL ?????? «????????? ?????? ?????????? ???, ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???
?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???
??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? STL, ??? ??? ???
????????????? ? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? «?????????». ????, ? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????? 157 ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???' ??? ?????? ???

????????????????? ??? ?????? 2, 4 ??? 5 ??? ????? ?????? ??????????? ???' ?????? ? ?? ???
????????????? ????, ???????????? ?? ??????????? ??? ?????????????? ??? ?????????????? ???
??? ?????????? ?? ??????????.

177 ??, ??? ?????????? ? ??????? ?????? ?????? ??? ?????? ???????????, ?????? ?? ???
??????????, ??? ?? ?????? ??????? ?? ?????????????? ???????????, ??? ? ??????? ?????? ???
?? ??????? ???????, ??? ?? ???, ??? ?????????? ??? ??????????? ??? ??????????? ??? ?????
176 ?????? ??? ?? ? ?????????????? ??? ?????????? ??? ??????????? ??? ??????????? ??? ?????
?? ?????????? ??? ?? ?????? ???, ? ?????????? ??? ?????? ?? ?????????? ?? ?????????? ?? ?????
??????????, ??? ?? ??? ?? ?????????? ?????????? ??????. ?????????? ??? ? ???????
?????????? ??????? ??? ?????? ?????? ?????? ?????, ??? ?? ?????? ??????? ??? ??????? 263
????, ?? ?????? ?????????? ??? ?????? ?????? ?????? ???????????, ??? ?????? ?????? ???
??????????, ?????????? ??? ?????? ???' ?????????? ?????????? (??., ??? ?? ??? ??????
????, ?????? ??? 2? ?????????? 2009, ?????????? ??? ?????????? ???., C?89/08 P,
??????, EU:C:2009:742, ?????? 34 ??? 55).

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

178 ??? ?? ?????? ??? ?????? ?????? (?? . ??????? 115 ??? 177 ??????), ??????
????????? ???????, ??? ?????????????? ???????, ??? ?????? ???????????
????????????? ???, ?? ?? ??????, ?????????? ?????????? ??? ??? ??? ??? ??? ???????????.

179 ??? ?????? ???, ?? ?????????? ?????? ?????? ?????????? ??????? ??? ?? ??????
????????? ??????. ???????, ??????? ??? ?????? ?????????? ???????????, ??
????????????? ??? ?????????? ?????? ??? ?? ?????? ?????? ?????????? ?????? ?? ?????? ??? (??.
????????? 115 ??? 117 ?????). ???????, ??? ?????????????? ?????????? ??? ?????? ?????? ???
????????? ?????? ?????????? ?????????? ??? ??? ?? ?????? ?????????? ??? ?? ?????? ?????? ???
(??. ?????? 153 ??????).

180 ??? ?????? ?? ??? ???, ?? ?????? ? ?????????????? ??????? ?????????????? ??
«?????????», ??????? ?? ??? ?????? ??? ?????????? ?????????????? ??? ?????? ??????? ??
???? ???, ??? ?? ?????? ???????????, ??? ?????????????? ?????????? ??? ?????? ???
????????? ??? ???????????, ??? ?? ??? ??? ?????? ?????????? ?????????? ???????????, ???
????? ? ?????????? ?????? ??? ?? ?????????? ?????? ?????? ?????????? ???????????????, ???
?? ?????? ??? ?????? 107, ?????????? 1, ??? ?? ??? ?????? ?????????? ??? ?? ???????????
????? ?????????? ?????? (?? . ??????? 130 ??? 163 ?????). ?? ?????????????? ???
????? ?????? ???, ?????? ?????, ??? ?????????? ?????? 157 ??? ?????????????? ???
?????????, ??? ?? ?????????? ?????? ?????? ?????? ?????? ?????????? ?? ?????????????? ???
????????? ??? ??? ??? ??? ??? ??? ?????? ?????????? ?? ?????? ?????? ??? ?? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ?????????? ?? ???
4, ?????????? 1, ??? ?????????? ?????? ???????, ??? ?????? ?????????? ??? ?? ???
????????????? ??? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?? ???
?? ?????? ????. ?????? ??? ?? ?????????? ??? ?????????? ?????? ?????? ??? ?????????? ???
????????? ??? ??? ?????? ??? ?? ?????????? ??????, ??? ?????? ??? ??? ?????????? ???
????? ?????? ??? ?????? ?????? STL, ??? ?????????? ?????????????? ??? ??, ? ??????
?? ?????????? ?? ?????? ?????????? ?????, ??? ?? ??? ?? ?????????? ?????????? ??? ??
(?? . ??????? 164 ??? 177 ??????).

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

181 ??? ?????????????? ??? ?????? 53 ??? 54 ??????, ? ?????? ??? ?????????? ???
????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???

????? ??????????? ??????????? ??? ?????????????? ?????? 171 ??? 173 ???
????????????? ?????? ??????. ??? ?????????? ?????? ?????????? ?????????? ??????
(????????? ?????? 171 ??? ?????????????? ??????????), ? ?????????? ??????????, ???
????????? ?????? 172 ??? ?????????????? ??????????, ?? ????: «????? ??????????
?????????, ?? ??????????, ?????? ?? ??? ???, ?????????????????? ?? ??????????????
????? ??? ??????????, ??? ?????????? ?? ?????????? ?????????? ??? ??????????
??????. ?????????, ??? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ??????????
STL, ?????????????????? ??? ??? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ??? ???
????? ??? ?????? ?????????? ??????, ?????? ??? ?????? ?????? ?????? ??? ??????????
??????. ?? ?????????????? ??? ?????????? ??? ?? ?????????? STL ?????????? ?? ??? ??? ???
???? ?????????? ??????, ?????????????? ?? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ?????? ??? ?????????? ??? ?????????? ». ? ?????????? ?????????, ???
????????? ?????? 173 ??? ?????????????? ??????????, ??? ?????????? ??? «[?]?????????? ?????????? ??? [?????????] ?? ??? ??? ?? ?????????? ??? ??? ?????????[?]??
??? ?? ?????????? ??? [????] ?????????? ?????? ?? ??? ?????? ?????????? ??? ??????????
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ?????????? ??? ?????????? ??? ??????????
?????».

182 ??? ?????????? ??? ? Lico ??? ? PYMAR, ??? ?????????? ??? ??????????, ??? ??
????????? ??? ???????, ??? ?????????? ??????????, ??????????, ???' ??????, ??? ??????
?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? 181 ??????, ???
????? ??? ??? ??? ?????????? ??? ?????????? ?????????? (??.. ?????? 107
?????). ??????, ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ???
????? ??? ?????????? T?719/13, ??? ?? ?????? ?? ??? ?????? ??? Lico ??? ??? PYMAR
????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????????? ??????????.

183 ?? ??? ??????????, ??? ?????????????? ??? ?????? 177 ??????, ? ??????? ? ?
????????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ???, ??? ??? ?????? ???
????? 263 ???, ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ?? ??????????
????????? ?? ?????????? ?? ?????? ?????? ??? ?????????? ??????, ??? ?????, ??? ? ?????? ???
????? ?? ?????????? ?????????? ??? ??? ?????? ??? ??????, ??? ?????? ??? ??????
??? ???' ?????????? ??????????, ?????????? (??., ??? ??? ?????? ???, ?????????? ??? 20??
????????? 1997, ??????? ??? Daffix, C?166/95 P, ??????, EU:C:1997:73, ?????? 24
??? 25, ??????? ??? ?????? ???., ?????????????? ??? ?????? 177, EU:C:2009:742,
?????? 34 ??? 55, ??? ??? 8?? ?????? 2004, Mannesmannröhren-Werke ??? ??????????,
T?44/00, ??????, EU:T:2004:218, ??? ?? 210 ??? ?????????????? ??????????).

184 ?? ??????????, ?????????? ?? ?????? ?????? ??? ?????? ?????????? ?????????? ???
?????? T?515/13 (??.. ??? 69 ??????) ??? ?? ?????????? ?????? ??? ?????????? T?719/13,
?? ??????? ?? ?????????? ??? ?????????? ?????????? ??? ?????? ???' ?????????? ??????????
??? ??? ?????????? ?? ? ?????????????? ?????? ?????????? ??? ?????????? ??????????????
??? ?????? ?????????? ?? ?????? 296 ??? ?? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???.

185 ??? ?????? ??????????, ? ?????????? ??? ?????? 296 ??? ?? ??? ?? ?????? 41,
????????? 2, ??????? ?, ??? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ??????????
????????? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
??? ?????? ??? ??????, ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ???.. ??? ?????????? ? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ??????, ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

?????????? ?? ?????? 296 ??? ???? ?????? 41 ??? ?????? ??? ??????????? ???????????
?????? ?? ??????? ?? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ??????, ??? ?? ??
?????? ?? ????? ??????????? ?? ?????? ??? ?????? ??? ?????? ??????? ??? ?????? ?? ??????
???? (?. ??????? ?? 6?? ??????????? 2006, ?????????? ??? ??????????, C?88/03,
??????, EU:C:2006:511, ??? 88 ??? ??? ??????????? ????????, ??? ?? 28?? ???
2013, Trabelsi ??? . ??? ???????????, T?187/11, ???????, EU:T:2013:273, ??????? 66 ??? 67
??? ??? ??????????? ??????????).

186 ?????????????? ?????? ??? ? ?????????? ??? ?????????????? ?????? ?? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? (??????? ??? 13?? ?????? 1985, ??? ?????? ??? Leeuwarder Papierwarenfabriek ??? ????????, 296/82 ??? 318/82, EU:C:1985:113, ??? 19).

187 ? ??????? ????????????, ????, ??? ?????????????? ?????? 171 ??? ??????????????????
??????????, ???, ??? ?????????? ?????????????? ??? ?? ?????? ??? ????? ?????????? ?? ??? ???? ???
????????????? ?? ??? ???? ?? ?????? ?????????????? ?????????????? ??? ????? ?????????? ???
??? ??????, ????, ?? ?????????? ??? ?? ?????????? ?????? ????? ?????????????? ??? ??? ??? ??????
(?. ?????? ??? 10?? ?????????? 2006, Cassa di Risparmio di Firenze ?.??., C?222/04,
??????, EU:C:2006:8, ??? 141 ??? ??? ?????????????? ??????????).

188 ????? ???? ?????? ??? ??????????? ??? ?????????????? ??? ??????????????, ??? ?? ???? ???????
?????????? ??? ?? ??????????? ??? ??????????? ??? ?????????? ??? ?????????????? ??? ?? ????
??? ?? ??????? ?????????? ?? ?????????? ???, ??? ??????? ??? ?????????? ??? ?????????????? ??????????????
??? ? ??? ?????? ?????????????? ???, ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????????? (????????? ?????????? ??? ??????????, ?????????????? ??? ??????? 146,
EU:C:2000:467, ??? 30, ??? ??? 3?? ?????? 2005, Heiser, C?172/03, ???????,
EU:C:2005:130, ??? 55).

189 ????? ??????????? ? ???????? ?? ?????????? ??? ??????????, ??? ?????????? ??
????????? ??? ? ???????? ??? ?????????? ????? ?????????? ????? ?????? ?????? ??????
????????? ??? ??? ?????????? ????? ?? ??????????, ??? ????? ?? ?????? ??? ?????????? ?? ?
????????? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?? ?? ??????????
?? ?????????? (?. ?????? Cassa di Risparmio di Firenze ?.?, ?????????????? ??
????? 187, EU:C:2006:8, ????? 140 ??? ??? ?????????? ??????????).

190 ????? ?????? ?? ??????????? ????????????, ?????????????? ?????? ??? ? ?????????? ??????
?? ??????????? ?? ?????? ??????? ?? ?????? ???????????, ?????? ?? ??????????? ??
?????????? ?? ??????? ?? ??????????? ?? ??????????? ?? ?????' ?????? ??????????? ??????????? ??
????? ??????? ?????????? (?????? Comitato «Venezia vuole vivere» ?.?. . ??? ????????,
?????????????? ??? ????? 87, EU:C:2011:368, ??? 63).

191 ? ??????? ??????????, ????, ??? ?????? ?????????? ??? ??????????, ??? ?? ???? ??
????????? ?????????? ??? ? ??????? ?????????? ??? ?????? ???, ??? ?? ????
????????? ??????????, ?? ?????????? ??? ?????? ?????????????? ??? ?????? ?? ????
??? ?????? ??? ?? ?????????? ??? ?????? ???, ??? ?????? ???, ??? ?????? ??
????????? ???, ??? ?? ?? ??? ?????????????? ??? ?????? ?????????? ??????????????
??? ?????????? ?????????? ??? ?????? ?????????? ? ?????? ??? ?????????? ??? ?????? ??
????????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????????????
(??., ??? ?? ?????? ???, ?????? Heiser, ?????????? ??? ?????? 188, EU:C:2005:130,
????? 35).

192 ??????? ?????????? ??? ? ?????????? ?????????????? ?????????? ?? ?????????? ??
????? ??? ??? ?????? ?????? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? ??? ???
????????? ??? ?????? 107, ?????????? 1, ????. ??????, ??????, ??? ?????? ??? ?????? ??????????
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ? ?? ??????
??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
???? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? (??., ??? ??? ?????? ???,
????? ??? ?????? ??? Leeuwarder Papierwarenfabriek ??? ???????, ???????????????
??? ??? 186, EU:C:1985:113, ??? 24).

193 ?????????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ???, ??? ??????????
????????????? ??? ?????????? ?? ????????, ? ?????? ?????? ?? ?????????? ??? ?????? ???
??? ??? ??????????????, ?????????? ?????? ?????? ?????? ?????? ?? ?????? ??? ??????????
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? . ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
????????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ??? ???????, ?? ?????? ?????? (??., ??? ??? ?????? ???, ?????? ??? 30?? ??????
2009, ??????? ??? ?????? ??? Wam, C?494/06 P, ???????, EU:C:2009:272, ??????? 56, 57
??? 62).

194 ??? ?? ?????? ??? ?????? ??? ??????, ?????? ?? ?????????? ? ?????????? ???
????????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???
??? ?????????? ??? ?????? ?????? ?????? ?????? ??????.

195 ??? ?????? ??? ??? ??????????, ? ?????? ?????? ?????? ??? ?????????????? ??? 172
??? ??????????????, ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
??? ??? ?????? ??? ?????? ??????.

196 ??? ?????????? ??? ?????? 181 ??????, ? ?????????? ??? ?????? ??? ??????????, ???
????????? ??? 172 ??? ?????????? ??? ?????? ??? ?????? ?????? ?? ??? ?????????? ???
?????, ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? . ?????? ?? ??????
????????? ?????? ??? ?????? ???, ??? ??? ???, ??? ?????? ??? ?????? ??? ??? ??????
????????? ??? ?????? ???, ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????.

197 ?????? ?? ?????????? ?? ?? ??? ?????? ??? ?????????????? ??? ?????????? ???
????????? ??????.

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

198 ??? ?????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ?????? ?????????????? ??
????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????????? ?????? ?? ??? ?????? ???
????????? ???, ?????????? ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ???, ?? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? . ? ??????
?? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ?? ?????????? ??
????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????.

199 ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ?????? 1 ???
????????? ???, ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ???, ?? ?????? ??? ?????? ??? ?????? ???, ?????? ??? ?????? ??? ???

?????????????? ??? ??? ?????????? ??? ?????? ??? ??????????? ??? ??? ??? ?????? ?????
?????? ?????????? ?????? ?????????? ??? ?????? (?. ??? 1 ??????). ?????????? ???
? ??????? ??????, ??? ?????????? ??? 122 ??? 156 ??? ??????????
?????????, ??? «?????? ??????????» ??? ?????? ?????? (?. ?????? 36 ??? 45
?????), ??? ??? ?????????? ??? ? ?????? ?????? ?????????? ?????????? ??? ???
????? ??? ?????????? . ??????, ? ?????? ?????? ??????????, ??? ?????????? ?????? 19 ???
????????????? ??????, ??? ?? ?????? ?????? ?????????? ?????? ??? ?????? ??? ??????????
STL ?????? ?????? ?????? (??? ?????? ??? 10 % ??? 15 %) ??? ?????????? , ??????????
??? ?? ?????? ?????? ??? ?????????? ?????? (??? 85 % ??? 90 %) ?????????? ???
????????? ?????? ??? ?????? ??? ?????? ??? (?. ?????? 21 ??????). ???????, ?? ?????? ???
«????????? ??? ?????????? ?????? ?????????? ?????? ?????? ? ??? ?????? ?????? ?????? ???
????????? ??????», ? ?????? ?????? ??????, ??? ?????????? ?????? 270 ??? 276 ???
??? ??? 4, ?????????? 1, ??? ?????????? ?????? ?????????? , ?????????? ?????? ???
????????? ??? ?????????? ?????? ?????? ??? ?????????? ?????????? ?????? ??? ???
????????? ?????????? , ?????? ??? ?????? ?? ?????????? ?????????? ?????????? ??
????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??
????????? ?????? ?????????? (?. ?????? 60 ??????). ?? ??? ?????, ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ?????????? ??
????????? ??? ?? ?????? ?????????? ??? ?? ?????? , ? ?????? ?????? ?????? , ??? ???
4, ?????????? 1, ??? ?????????? ?????? ?????????? , ?? ?????? ?????? ??? ?? ?????? ??????????
?? ?????? ??? ?????????? ?? ??? ?????? . ??? ??? ??' ?????????? ?????? ???
?????? T?719/13, ? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ???
??????.

200 ??? ??? ?????? ??????? ????, ? ?????? ?????? ?? ?????? ?????????? ?????????? ???
????????? ?????????? ?? ?????? ?????? ?????? ??? ?? ?????????? ??? ?????????? ??
????????? ??? ?? ?????? ?????? ?????? ? ?? ?????? ?????? ?????????? ?????? ?????? ??
?? ?????? ? ?? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ???
????????? , ??? ??? ?????? ??? ?????? 107, ?????????? 1, ???, ??? ?????? ??? ?????? ???
????????? ??????????.

201 ? ?????????? ??? ?????? ?????????? ? ?????? ??? ??' ?????????? ???
????????? ?? ?????? ??? ?????? (????????? DM Transport, ?????????? ??? ??
????? 157, EU:C:1999:332, ??? ??? 22?? ?????? 2006, ?????? ??? Forum 187 ???
????????? , C?182/03 ??? C?217/03, ?????? , EU:C:2006:416) ??? ?????????? ??
????????? ???.

202 ?????? , ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 199 ??????.

203 ?????? , ??? ?????? ??? Forum 187 ??? ?????? , ?????????? ??? ??
????? 201 (EU:C:2006:416), ?????????? ??? ??? ?????? ?????? ??? ??' ?????????? ???
????????? ??? ?????? T?515/13, ?? ?????? ?????? ?????? ??? ?????? ??? ??
????????? ?????? ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? . ?????????? , ??
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?? «????? ???
????????? » ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?? ?????? ?? ?????? ???
????????? ??? ?? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? , ??? ?????? ???
????????? , ??? ?????? ?????? ??? ?????? (????? ?????? ??? Forum 187 ???
????????? , ?????????? ??? 201, EU:C:2006:416, ??? 132). ??? ?????? ???
????? DM Transport, ?????????? ??? ?????? 157 (EU:C:1999:332), ??? ??????

? ?????????????? ? ?????????? ??? ??' ?????????????? ?????????? ??? ?????????? T?719/13, ??
?????????? ?????????? ??? ?????????? ?????????????? ?????????????? ?????????????? ?? ???????????
?????????????. ??? ?????????? ??? ?????????? ???, ?? ?????????? ?????? ?????? ?????? ??
????????????? ?????????? ??? ??????, ?????????? ?? ?? ?????????????? ??? ?????? ??? ?????? ???
????? ?????????? ?????????????? (??????? DM Transport, ?????????????? ??? ?????? 157,
EU:C:1999:332, ??? 29).

204 ??? ?? ?????????? ?????????? ??? ? ?????? ?????????? ??? ?????????????? ??? ?????????? ?,
?????? ??? ?????? ??? ?????????? ??? ?????????? ?????????????? ??? ?????????????? ??? ??? ?? ??????????
??? ??????????, ??? ??? ?????? ?????????? ??????????????.

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

205 ? ?????????? ??????????, ??? ?????????????? ?????? 172 ??? ?????????????? ??????????,
??? «[?]???????, ??? ?? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? STL,
[?? ?????????] ?????????????????[?] ??? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
??? ??? ??? ?????? ??? ?????? ?????????? ??????, ?????? ??? ?????? ?????? ?????? ???
????????????? ??????».

206 ??? ?????????????? ??? ?????? 173 ??? 175 ??????, ? ?????????? ??? ?????????? ???
????????????? ??? ?????? ??? ??? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? STL ??? ?? ??? ??? ?????????? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
?? ?????????????? ??? ??? ?????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.
????????? ?????????? ?? ??????????, ?????? ??? ?????????? ??? «[?]????????? ??? ?? ??? ??? ???
?? ?????? ??? ?????? ??? ?????????? STL, ?????????? ??? ?? ??? ?????? ??? ?????????? ???
—??? ??? ??? ??? ?????? ?????? ??? ??????????— ?? ??? ??? ??? ??????????
???? [?? ???] ?????? ?? ??????».

207 ??? ??? ?????????? ????, ??? ? ?????????? ?????? ??? ?????????????? ??? ??????????
????????????? ??? ?????????? ?????? ?????????? ??? ?????????? ?? ??? ?????? 296 ??? ?? ??
????? 41 ??? ?????? ??? ?????????? ??????????.

208 ??? ?? ?????? ??? ?????????? (?. ?????? 198 ??? 207 ??????), ?????? ??
????????? ?? ?????????? ??? ? ?????????? ?????? ??? ?????????? ?????????????? ??? ??????
??????, ???????????, ??? ?????????? ?????? 171 ??? 173 ??? ??????????
?????????, ??? ?? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ??????????
??? ?????????? ??? ?????? ?????? ?????? ??????????.

2. ??????????

209 ?????????? ??? ? ?????????????? ?????? ?????????? ??? ?????????? ?????????? ??? ??????
????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???
????? ??? ?????? 107, ?????????? 1, ???, ?????? ?? ?????? ?????? ?? ?????? ??? ?????? ???
????????? ??? ???????, ??? Lico ??? ??? PYMAR ??? ?????? T?515/13 ??? T?719/13
??? ?? ?????????? ? ?????? ??? ?????? ???, ?????? ?? ?????? ?????? ?? ?????? ??? ?????????? ??
????? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??????
????????? ??? ??????.

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

210 ??? ?? ?????? 134, ?????????? 1, ??? ?????????? ??????????, ? ?????????? ??????
????????????? ??? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????????

?????????. ?????????? ??? ? ??????? ?????????? ??? ?????????? T?515/13 ??? T?719/13,
?????? ?? ???????????? ??? ?????????? ??? ????? ?? ?????????? ??? ???????, ??? Lico ???
??? PYMAR, ??????? ?? ?? ??????? ?????? ???.

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

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

?????????:

1) ?????????? ??? ??????? 2014/200/?? ??? ??????????, ??? 17?? ?????? 2013,
?????? ?? ?? ??????? ?????????? SA.21233 C/11 (????? NN/11, ????? CP 137/06)
??? ????? ?? ??????? ? ?????? — ?????????? ?????????? ??? ?????? ??????????
????????? ?????????????? ???????, ?????? ??? ?? «????????? ??????????».
????????? ?????????????? ???????.

2) ? ?????????? ??????? ?? ?????????? ?????? ?? ?????????? ?????? ???, ?????? ??? ?? ??????????
????? ??? ?????????? ??? ???????, ??? Lico Leasing, SA ??? ??? Pequeños y
Medianos Astilleros Sociedad de Reconversión, SA.

Van der Woude

Wiszniewska?Bia?ecka

Ulloa Rubio

????????????? ?? ??????? ?????????? ??? ?????????????? ??? 17 ?????????? 2015.

???????????

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

I – ?????????? ???????????

II – ?????????????? ???????

? — ?????????? ??? ?????????? STL

1. ?????? ??? ?????????? ?????????? ??? ?????????? STL

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

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

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

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

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

2. ?????????? ?????????? ??? ?????????? STL

?) ?????? 1: ??????????? ???????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????????? ?????? (????? 115, ?????????? 6, ??? TRLIS)

?) ?????? 2: ??? ?????????? ???????? ?????????? ??? ?????? ?????????? ??????????
????????????? ??? ?????? ??? ?????????????? ?????? (????? 48, ?????????? 4, ??? ????
115, ?????????? 11, ??? TRLIS, ??? ????? 49 ??? RIS)

?) ?????? 3: ?? ???

?) ?????? 4: ?????????? ???????? ?? ??? ?? ?????????? (????? 124 ??? 128 ??? TRLIS)

?) ?????? 5: ?????? 50, ?????????? 3, ??? RIS

? — ???????? ??? ??? ????????

1. ?????? ??? STL ?? ??????????/??????? ??? ?????????? ??????

2. ?????? ?????????? ??? ??? ?????? ??? ?????? 107, ?????????? 1, ???

?) ?????????? ??? ??? ?????? ??? ?????? 107 ????

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

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

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

3. ?????? ?? ??? ?????????? ????

4. ????????

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

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

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

? — ?? ?????????? ??? ?????????????? ??????????

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

?????????

I – ??? ??? ?????????? ??? ?????????? ??? ?????? T?719/13

II – ??? ??? ??????

? — ??? ??? ?????????? ??? ?????? ?????????? ??? Lico ??? ??? PYMAR ??? ?????
T?719/13

? — ??? ??? ?????? ?????????? ??? ?????????? ??? ?????? T?515/13 ??? T?719/13

1. ??? ??? ?????? ??? ??????????, ? ?????? ?????? ??? ?????????? ??? ??????????
????????? ??? ??? ?????? ??? ?????? 107, ?????????? 1, ???

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

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

????????? ?????????????? ??? ?? ?????????? ???, ????? ?????????????? ??????????,
????????????? ??? ??? ??? ??????? ??? ??????? ??? ?????????? STL, ?????????????? ???
?? ?????????? ??? ??? ?????????? ??????

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

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

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

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

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

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

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

2. ??????????

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

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