

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

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

??? 7?? ?????????? 2017 (*)

«????????????? ?????????? – ?????????? ?????????? ??? ?????????????? ?????????????? –
????????? (EOK) 1408/71 – ??? 46, ?????????? 2 – ??? 47, ?????????? 1, ?????????? ??
– ??? 50 – ?????????? ?????? – ?????????? ?????? – ?????????????? ??? ?????????????? ??
?????????»

???? ?????? C189/16,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ???
?????? ?? Högsta förvaltningsdomstolen (?????? ?????????? ??????????, ???????) ??
?????? ??? 23?? ?????? 2016, ? ???? ?????? ??? ?????????? ??? 4 ?????? 2016,
??? ?????? ??? ???

Boguslawa Zaniewicz-Dybeck

????

Pensionsmyndigheten,

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

????????? ??? ??? J. L. da Cruz Vilaça, ?????? ???????, E. Levits, A. Borg Barthet, M.
Berger ??? F. Biltgen (??????), ????????,

?????? ??????????: M. Wathelet

?????????: C. Strömholm, ?????????? ????????,

?????? ??? ??? ?????? ?????????? ??? ??????? ??? ??' ?????????? ??? ?????????? ???
9?? ?????? 2017,

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

– ? Pensionsmyndigheten, ?????????????? ??? ??? M. Westberg ????? ??? ??? M.
Irving ??? A. Svärd,

– ? ?????????? ????????, ?????????????? ??? ??? A. Falk, C. Meyer-Seitz ??? U. Persson
????? ??? ??? L. Swedenborg,

– ? ?????????? ????????, ?????????????? ??? ??? M. Smolek, J. Pavliš ??? J. Vlá?il,

– ? ?????????? ????????, ?????????????? ??? ??? K. Simonsson ??? D. Martin,

???? ?????? ??? ?????? ?????????? ??? ??????? ??? ?????????? ??? ??? ?????? ??
??? 3?? ?????? 2017,

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

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1 ? ?????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 46, ?????????? 2,
??? ??? ?????? 47, ?????????? 1, ??????? ??, ??? ?????????? (??) 1408/71 ???
?????????, ??? 14?? ?????? 1971, ??? ?????????? ??? ?????????? ??????????
????????? ??? ??????????, ????? ?? ?????????? ??? ??? ?????? ??? ?????????? ??? ???
????????? ??? ?????? ??? ??????????, ??? ?????????????? ??? ?????????????? ??? ???
????????? (??) 118/97 ??? ??????????, ??? 2?? ?????????? 1996 (?? 1997, L 28, ?. 1), ??
???? ??? ?????? ??? ?????????? ??? ?? ??? ?????????? (??) 1606/98 ??? ??????????, ??? 29??
????? 1998 (?? 1998, L 209, ?. 1) (?? ????: ?????????? 1408/71).

2 ? ?????? ??? ?????????????? ??? ?????? ?????? ?????? ?????? ?????? Boguslawa Zaniewicz-Dybeck ??? ??? Pensionsmyndigheten (???? ?????????? ??????????, ??????) ?????? ?? ?? ?????? ?????????? ??????????, ???????, ??? ?????? ?????????? ??? ?? ?????? ?????? ?????????????? ??????.

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

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

3 ??? ??? ?????? ???, ??? ?????????????? «????????? ??????????? ??? ??? ??????????
?????????? ???????», ?? ???????? 3 ??? ??????????? 1408/71, ??? ?????? ??? ????? «?????
??? ??????? (?????????)», ??????????? ?? ????? 44 ??? 51? ??? ???????????.

4 ?? ?????? 44 ??? ?? ????? ????????????, ?? ?????? «??????? ?????????? ????????????????,
???????, ??? ? ??????? ? ?? ??????? ????? ?????? ??? ?????????? ??? ? ????????????,
?????? ??????», ??????, ??? ?????????? 1, ?? ???;

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

5 ?? ???? 45 ?? ??????? 1408/71, ?? ???? «?????????? ?? ???? ?????? ???????
? ??????? ?? ???? ?????????????????? ?? ???? ?????????? ?? ???? ?????? ?? ???? ??????
?????? ?? ???? ?????? ?? ???? ???????, ?? ??????? ?? ???? ??????? ?? ???? ???????
??????». ??????. ??? ?????????? 1. ?? ???????:

«???? ? ?????????? ??????? ??????? ??????? ??? ????????, ?? ????????, ? ??? ???????? ???
???????????, ???????, ??????? ??????????? ?? ???? ?????? ??????? ??????? ??????? ??? ??????
??? ??????????? 2 ??? 3, ??? ??? ?????????????? ??????? ?????????? ??????????? ? ???????????, ?
????????? ?????? ?????? ??? ??????? ??????? ??????? ??????? ???????, ??? ?? ?????? ???
???????????, ??? ?????????? ??????????? ? ?????????? ??? ?????????? ?????????????????? ??? ??
?????????? ??? ?????? ?????? ??????? ???????, ??? ??????? ??? ?????? ?????? ?????? ??????
???????????, ??? ?????????????? ?? ?????????? ?? ???? ??????????. ??? ?? ??? ?????? ???, ? ?? ???
?????? ??????? ??? ?? ??? ??????????, ??? ?? ?????????? ??? ??????????? ??? ??????????? ???
????????????? ??? ?? ??? ??????????»

6 ?? ?????? 46 ?? ???? ????????????, ?? ?????? «????????????? ???????», ??????? ?? ????:

???? ? ? ?????? 40, ??????????? 3, ?????????????? ?? ?????????? ??????:

?) ? ?????????? ?????? ?????????????? ?? ??? ????? ?? ?????????????? ?????????? ?? ?????? ??????????:

i) ???????, ??????? ?????? ??? ?????????????? ??? ?????????????? ??? ??????????????

ii) ????????, ???' ??????? ?? ?????????? 2?

[...]

2. ????? ?? ???????????????, ??? ?????????????? ??? ?? ?????????? ??????? ?????? ??? ??
????????? ?????????? ???????, ?????????? ??? ?? ?????????? ??? ?? ??????? 45 ?/???
??? ?????? 40 ?????????? 3, ?????????? ?? ?????????? ??????:

?) o ?????????? ?????? ??????????? ?? ?????????? ??? ?????? ??? ?????? ??
????????? ?? ??????????? ? ??????????????, ??? ??? ?? ?????????? ?????????? /???
????????? ??? ?????????????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ? ?????????? (????????? ? ?? ??????) ?????? ?????????????? ??? ??? ???
????? ?????? ??? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ??????. ??, ??? ?? ?????????? ???, ?? ??? ??? ?????? ???
????????? ??? ?? ?????????? ??? ?????????? ??? ???????????????, ?? ??? ??? ???
????????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??????

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

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

[...]»

7 ?? ?????? 47 ??? ?? ??? ????????????, ?? ?????? «????????????????? ?????????? ?? ????
?????????? ?? ????»., ??????, ??? ?????????? 1, ?????????? ??, ?? ????;

«???? ??? ??????????? ??? ?????????? ?????? ??? ???' ?????????? ?????? ??? ???????????
??? ?????? 46, ?????????? 2, ?????? ?? ?????????? ??????;»

[...]

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

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

[...]»

8 ?? ??? 50 ??? ?????????? 1408/71, ?? ??? «????????? ?????????????? ??? ?? ???
?? ?????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????? ??? ?? ???
?? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ???
? ??????????», ??? ?? ???:

«? ?????????? ??????, ??? ?? ?????? ?????????? ?? [????????? 3 ?? ??????????
1408/71], ??? ??????, ??? ?????? ??? ?????? ?? ?????? ?????????? ??? ?? ??? ?? ??????????
?? ?????? ??? ?????????? ??????, ?? ?????????? ??? ?????? ?????????? ?????????? ??? ?? ??? ?? ??????????
?????? ??? ?????????? ??? ?? ??? ?????? ?????? ??? ?????? ?????????? ?????????? ??? ?? ?????????? ???
?? ?? ?????? ??? ?????????? ??? ?????????? ?????? ??? ?? ?????????? ?????????? ??? ?? ???
????????? ??? ?????????? ??????. ? ?????????? ?????? ??? ?????????? ?????? ??? ?? ???
?????????, ??????????, ?????? ?? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? ?? ???
?????, ?????????? ??? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ??????????
????? ??? [????????? 3 ?? ?????????? 1408/71] ??? ?? ?????? ??? ?????????? ??????..»

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

9 ? ??????? ??????? ??? ?????????? ?????? ?????????? ?????????? ?????????????? ??????????
????????????? ??? ??? ??????????, ??? ?? ?????????? ??????, ??? ?????????? ?????????? ???
??? ?????????? ??????.

10 ? ?????????? ?????? ??? ? ?????????? ?????? ?????? ?????????? ??? ?????????? ??? ?? ??????????
?? ?????????? ??? ?????? ?????????? ?? ???????????????. ? ?????? ?????????? ???
????????? ?????????????? ?????? ?????? ?????? ?????????? ??? ?? ?????????? ??? ?? ??????????
????????? ??? ?????? ??? ?????????? ??? ?? 2003 ??? ?????????? ??? ?? ?? ?????????? ??? ?? ???
????????? ?? 1953 ?? ???????. ?????? ?????? ?? ?????????? ?????? ?????????? ??????????.

11 ????????, ? ????????, ??????, ?????? ??? ?????? ?????? ?????? ? ?????? ?????????? ???
????????? ?? ?????? ? ????????, ?????? ?????? ??? ?????????? ?? ??? ?? ???
????????? ??? ?????????????? ??? ?????? ?????? ?????????? ?? ?????????? ?? ?????????????? ???
????????? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ??? 1990 ???
????????????? ??? ?????? ?????? ??????.

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

13 ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ??????????
????????? ??? ?? ?????????? ??? lagen (1998:702) om garantipension (????? 702 ?? 1998
???? ?????????? ?????????), ? ?????? ?????????????? ??? ??? socialförsäkringsbaliken
(2010:110) (?????? ?????????? ?????????? ??? 2010, ??? ????: SFB).

14 ??? ?? ??? 8 ??? 10 ??? ?????????? 55 ??? SFB, ? ?????????? ?????????? ?????????? ??
?????? ?????? ?????????? ?????? ??? ?????????? ?????????? ?????????? ?????????????? ???????????.
????????? ??? ?? ?????? ?????????? ?????????? ??? ?????? ?? ?????????? ??? ?????????? ?? ??? ?? ???
????????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ? ??? ?????? ??? ?????? ??? ?? ???
??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

15 ??? ? ? ?????? 2 ??? ?????????? 67 ??? SFB, ?????? ?????????? ?????????? ?????? ??
????????????? ?? ?????? ?????????? ??? ???? 1938 ??? ??????, ?????? ????
????????????? ?????? ?????????? ?????????? ?????? ???.

16 ?? ?????? 4 ??? ?????????? 67 ??? SFB ?????? ??? ? ?????????? ?????? ?????????? ?????????? ??
?? ?????? ??? ??? ??? ??? ???? ???? ?????? ?????????? ?????????? ?? 65? ??? ???
?????? ???.

17 ?? ????? 11 ??? ????? ?????????? ?????????? ???, ??? ??? ?????????? ???
????????? ??????????, ?????????? ??? ???? ???? ?????? ??? ?????? ?? ?????????? ??
???? ??? ???? ???? ?????????? ?????????? ?? 16? ??? ??? ?????? ??? ???
????????? ?? ?????????? ??? ???? ??? ???? ?????? ?????????? ?? 64? ??? ??? ?????? ???.

18 ?? ????? 15 ??? ?????????? 67 ??? SFB ?????????? ??? ???? ??? ??? ?????????? ??
?? ?????????? ?????????? ?????????? ???? ?????? ?????? ?????? ?????????? ??? ???
????????? ???? ?????????? ??? ???? ?????? ?????? ??????.

19 ?? ????? 16 ??? ????? ?????????? ?????? ??? ? «?????? ?????? ?????? ???»
?????????», ??? ??? ?????? ??? ?????? 15 ??? ??? ?????? ??????, ?????? ????
????????? ?????? ?????????? ??? SFB, ??? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ???, ????? ??? ?? ?????????? ??? ?????? ???
????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???
?? ??? ?????? ??? ?????? ??? SFB.

20 ?? ?????? ???, ??? ?????????? ?? ??? ????? ?????????? ?????????? ??????????
??????, ??? ?????? ?????????????? ???? ?????? ???????, ??????? ??? ?????? 7 ???
????????? 2 ??? SFB. ?? ??? ?????? ?????????? ?????????? ?? ?? ?????? ?????? ????.
??? ?? ?????? ??? ?? ?????? ??? ?????? ???, ?? ??? ??? ?????? ??? 39 400
????????? ?????? (SEK) (????? 4 137 ???).

21 ??? ? ???? 23 ??? ?????????? 67 ??? SFB, ??? ??? ??????, ??? ??? ???? ???? ?
???? ?????????? ??? ?????????? ?????????? ??? ?????????? ?? 1,14 ??? ?????? ???,
????? ?????????? ?????? ?????????? ??? 1,9 ??? ?????? ???, ?????????? ??? ?? ???
?????????.

22 ?? ????? 24 ??? ????? ?????????? ?????????? ???, ??? ??? ??????????, ??? ???
????? ? ??? ?????????? ?????????? ?? 1,14 ??? ?????? ???, ? ??? ?????? ??????????
????? ?????? ??? 0,76 ??? ?????? ???, ?????? ??? ?? 48 % ??? ?????? ???
????? ?????????? ??? ?? ??? ?????? ??? ?????????? ?? 1,14 ??? ?????? ???.

23 ?? ????? 25 ??? ?????????? 67 ??? SFB ?????????? ???, ??? ??? ?????????? ??
????? ??? ?????? ?????????? 40 ??? ????????, ??? ?? ??? ??? ?????????? ?? ??
????? ??? ??? ?????????? ??? 21 ??? 24 ??? ?????????? ??? ?????? ?????????? ?? ??
????????? ??????????, ??? ??? ????? ?????????? ??? ?? ?????? ??? ?????????? ??????????
????????? ??? 40.

24 ? ??' ??. 2/2007 ?????????? ?????????? ??? Försäkringskassan (????? ????
?????????, ??????) (?? ??: ??????) ?????????? ???, ??? ?????? ???
????????? ??? 25 ??? ?????????? 67 ??? SFB ?????????? ?????????? ??
????????? ??????, ???, ?????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??
46, ?????????? 2, ?????? ??, ??? ?????????? 1408/71 ?????????? ???, ?? ??????????????
?? ??? ?????? ?????? ?????????? ??? ?????????????? ?? ??? ?????? ???, ??????????

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

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

25 ? Boguslawa Zaniewicz-Dybeck, ?????????? ??????????, ?????????? ?? 1940 ??
????????????? ??? ?????????? ??? ?? ?????????????? ??? ?????????? ?? 1980. ??? ?????????????? ???
19 ??? ??? ??????, ??? ?? 24 ??? ?????? ??????, ??? ??? ?????????? ?? 23 ???.

26 ?? 2005 ?. Zaniewicz-Dybeck ??????? ??? ?????? ??? ?????????? ???????, ? ???
????????? ??? ?? ?????? ?????? ??????.

27 ?? ??????? ??? ??????? ??? ?????????? ?????? 1? ?????????? 2008, ??
?????? ?????? ?????????? ?????? ??? ?????? ???.

28 ?????????? ??? ?. Zaniewicz-Dybeck ??? ?????????????????? ?????????? ??????????
????? ??? ?????? ??? ??? ?????? ??????, ?? ?????? ?????? ?????????? ??????????, ???????
?? ??? ?????????? 1408/71, ??? ?????????? ?????? ??? ??????????, ??????, ????? ???
????????? ?????????? ???, ???????, ?????? ??? ?????????????? ??? ?????? 46, ?????????? 2,
??? ?????????? ??? ?????? ??? ?????????? ???.

29 ??? ??????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?. Zaniewicz-Dybeck
????? ??? ?????? ??????????, ?? ?????? ?????? ?????????? ??????????, ??????? ?? ??
????? 25 ??? ?????????? 67 ??? SFB ??? ??? ???????, ?? ??? ?????????????? ??? ??????????
????? ?????????????? ?????? ?????????? ?????????? ??????????, ??? ??? ?????????? ???
????????????? ??? ?????? 46, ?????????? 2, ?????????? ?, ??? ?????????? 1408/71 ??????
?????, ??? ?????????????? ?? ?????? ?????? ?????? ?????????????? ??? ?????? ?. Zaniewicz-
Dybeck ??? ??????, ??? ?????????? ??? ?????? ?????? ?????????????? ??? ??????
????????? ??? ??????, ??? 75 216 SEK (?????? 7 897 ???) ??? 24 ??? ??????????,
????? ??? 3 134 SEK (?????? 329 ???), ??? ??? 75 216 SEK ?????????? ???
24, ??? ??? ?????? ?????????? ??? ?????? ??? ?? ?????? ?????????? ?????????? ???
????????? ??? ??? ?????????? ??????, ??? 40 ????. ?? ??? ?????? ??? ?????????? ??
????????? ??? ?????????? ?????? 125 360 SEK (?????? 13 162 ???).

30 ?????????? ??? ?????? ??? ?????????? ??? ??????????, ?? ?????? ?????? ?????????? ?????????? ???
?? ?????????? ??? ??? ?. Zaniewicz-Dybeck ?????????? ??? ??????????????, ?? ??????,
????????? ?? ?? ?????? 15 ??? ?????????? 67 ??? SFB, ?????????? ?? ??? ?????????????? ???
????????? ??????????, ?????????? ?? ?????? ?????????? ?????? ??? ?? ??????????
????????? ??????.

31 ? ?. Zaniewicz-Dybeck, ??? ??????? ?????????? ??? ?????????? ??? ?????? ?????? ???
Förvaltningsrätten i Stockholm (?????????? ?????????? ??????????, ??????), ?????????? ??
????????? ??? Kammarrätten i Stockholm (?????????? ?????????? ??????????, ??????),
????????? ??? Högsta förvaltningsdomstolen (????????? ?????????? ??????????, ??????).

32 ? ?. Zaniewicz-Dybeck ?????????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??????????
????? ?? ?????????? ??? ?????? ??? ?????????? 1408/71, ??? ?? ??????????, ??????, ??
????? 47, ?????????? 1, ??????? ??, ??? ?????????? ???, ?????????? ??? ? ??????????
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????, ??????????
?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????, ???, ???????, ?
?????????, ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????????
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????????.

33 ????? ??? ???? ??????????? ??????????, ??? ???????????, ??? 1? ??????????? 2010, ??
?????? ??????? ???????????, ?? ??? ??????????? ??????????? ??? ??? ??????????????? ??
????? ??????? ?????, ???? ??? ??????????? ??? ???????, ? ??????????? ??????????? ???????
?????? ??????? ??? ??????? ?? ??? ?????? ??????. ??????, ??? ?????? ??? ? ???????
?????? ?????? ??????????????? ???????, ? ??????????? ??? ?????????? ?????? ?????
????????? ??? ?????? 47, ?????????? 1, ??????? ?, ??? ?????????? 1408/71 ?? ??? ??
????????? ? ??????????????? ??? ??? ??????????????? ?????????? ??????????? ?? ???
????? ????, ???? ??? ?????????? ??? ???????, ?? ?????????? ?????????? ?????? ???
?????????????. ??????????????, ? ?? ?????????? ?????? ?????????????? ?????? ???
????????????? ??? ?????????? ??? ?????????????? ?? ??? ?????????? ???????, ??? ??? ??????????
?? ????????, ?? ??? ?? ??????? ?? ?????????? ??? ?????????? ?????? ?????? ?????????? ???
?? ??????? ?????? ??????????? ??? ?????? ?????? ?????????? ?????? ?????????? ?????? ?????.

34 ?? ?????? ??????????? ??????? ?? ??????? ???, ???? ? ?????????? ???????, ???? ??
?????? ??????? ??????????? ?? ? ??? ??????????? ??????????, ??????????? ??? ???????????
????????? ??????? ?? ?? ??? 46, ?????????? 2, ??????? ?, ??? ?????????? 1408/71,
?????????? ?? ?? ??? ?????? ?????????? ??? ?????????? ?????? ?????????? ?? ??? ??
????? ????, ???? ??? ?????????? ??? ???????, ?????????? ?????????? ?????????? ???
?????????? ?? ?? ??? ??? ??? ?????????? ??? ?????????? ?????? ??? ?????????? ?????????? ???
????????????? ??? ???????, ? ?????? ?????????? ??? ??? ???????, ?????????? ?????????? ???
????????????? ??? ??? ??? ? ?????????????? ?????????? ? ??? ??? ?? ??? ??????? ??
????????? ????. ???????????, ??? ? ?????????????? ?????????? ??? ?? ??? ??????? ?? ?? ??
????? ??????? ???, ???? ???????, ?????????? ?????? ??????? ?????????? ??? ?? ??? ???????
????????????? ??? ??? ?????????? ? ?????????? ??????, ?????????? . ??????????, ??? ?
????????????? ??? ?????????? ??? ??? ?????? ?????? ?????? ? ?????????? ?????? ??????????
?? ??? ?????????? ?????????????? ??? ??? ?????????? ? ?????????? ???????, ?????????? ??????????
?? ?????????? ???.

35 ????????????? ??? ?????? ??? ?????????? ????, ?? ?????? ?????????? ??????? ???
????????? ??????????? ?? ??? ??? ??? ??? ?????? ?????? ?? ??????????? ?
????????? ??????. ??????????, ??????????, ??? ???????, ???? ??? ?????????? ???????????
?????????, ??????? ?? ?????????????? ?? ??? 46, ?????????? 2, ??? 47, ?????????? 1,
???????? ??, ??? ?????????? 1408/71 ??, ?? ?????????? ??????????, ???? ????, ????
?? ??? ??????? ???, ???? ??????? ?? ??????????????, ?????????? ?? ??? ???????????
? ??? ?????????????? ??? ?????????? ????, ???? ?????????? ?????????? ???
????????????? ??? ??? ??????? ????, ???? ??? ?????????? ??? ?????????? ???, ??????????
????????????? ??? ??????? ??? ??????? ?? ??? ?????????? ??? ?????????? ???, ???
????????????? ??? ??? ??????? ??? ??????? ??? ?????????? ??? ?????????? ???, ??
????????????? ??? ??? ??????? ??? ??????? ??? ?????????? ??? ?????????? ???, ?? ??? ???
?????.

36 ?? ??? ?????? ???????, ?? Högsta förvaltningsdomstolen (????????? ??????????)
?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???
?????????? ?? ?????????? ?????????????? ??? ??????????:

«1) ????? ?? ?????? 47, ?????????? 1, ??????? ?, ??? ?????????? 1408/71 ??? ???????
???, ???? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?? ???????,
????? ??? ?????????? ?????????? ?? ??????? ?????????????? ?? ??? ?????? ?????? ?????? ??
????????????? ?????????????? ??? ?????????? ?? ??? ?????????? ?? ??? ?????? ??? ?????? ???
????????? ?????????? ?? ??????? ?????????? ?????????? ??? ?????????? ??? ?????? ?????? ????

?????????? ?? ?????????? ?????????? ?? ?????????? ?????????? ?? ?? ????? 46, ?????????? 2,
??? ?? ??? ???????????;

2) ?? ?????????? ?????????? ?????????? ?? ?????? ??????, ?????? ? ?????????? ??????,
????? ??? ?????????? ??? ?????????? ?????????? ?????????? ?? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ? ?????????? ??? ?????? ?????? ?????? ???
????? ?? ?????????? ??? ?????????? ??? ?????????? ?? ?????????? 1408/71;»

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

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

37 ?? ?? ??? ?????? ?? ???????, ?? ?????? ?????????? ??, ???' ??????, ??
????????????? ??? ?????? ? ?????? 1408/71 ??? ?????? ??? ?????? ???, ??? ??
????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ? ?????? ??? ??????
??? ?????? ?????? ?????????? ???????, ?????? ?? ?????????? ? ?????????? ??? ??????
46, ?????????? 2, ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ??
?????????????, ?????? ?? ?? ????? 47, ?????????? 1, ?????? ??, ??? ?? ??
?????????, ??? ?????????? ?????????? ??? ?????? ?????????????? ? ?????????????? ??
????? ?????? ?????? ?????????? ??? ???.

38 ?????????? ?? ?????? ?????????? ?????????? ??? ?????? ??????????, ??????, ???'
?????, ?? ?????????????? ??? ? ?????????? 1408/71 ??? ?????? ??? ?????? ??????
????????? ??? ??????????, ??? ?????? ?? ?????? ?? ?????? ?????? ?????????? ??? ??
????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ??????????. ???, ??? ?????? ??????????
?? ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????? ??? ??????????
????????? (??., ?????? ???, ?????? ??? 21?? ?????????? 2013, Salgado González,
C?282/11, EU:C:2013:86, ??? 35 ??? ?????? ?????????? ??????????).

39 ??????, ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??????, ??????
?? ?????? ??? ?????? ?????? ??? ?????? ??????, ?????? ???, ?? ??????????
????????? ?????????? ??? ?????? (????? ?? 21?? ?????????? 2013, Salgado
González, C?282/11, EU:C:2013:86, ??? 36 ??? ?????? ?????????? ??????????).

40 ??? ?? ?????? ??? ?????? ??? ?????????? ???, ?? ?????? ??? ?????? ??? ?????? ??
????? ??? ?????? ???, ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ?? ?????????? ??? ?? ?????? ??? ?????? ???
????? ??? (????? ?? 21?? ?????????? 2013, Salgado González, C?282/11,
EU:C:2013:86, ??? 37 ??? ?????? ?????????? ??????????).

41 ??????, ?????? ?? ?????????? ???, ??? ?? ?????? 45 ??? ?????????? 1408/71, ??? ?
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???
????????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???
????????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??
????????? ???.

42 ?? ??? ?????? ?????????? ?? ?????? 46, ?????????? 2, ?????? ??, ??? ??????????
1408/71 ?????????? ??? ? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????????? ? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ???

? ??????? ?????. ?? ????????, ? ??????? ?????? ???????????????, ??????? ?? ??? ???????????
2, ??????? ??, ??? ????? ?????, ?? ?????????? ????? ?? ??????? ????? ?? ??????? ?? ??????????
????? ???' ??????? ?? ?????????? ?? ?????????? ??????/ ?????????? ?? ??????? ?? ??????
????? ??? ??????? ?????, ?? ?????? ??? ?? ?????????? ?????????? ?? ??????? ?? ?????????? ?????
??/? ?????????? ?? ?????????????????? ?? ?????? ?????? ????. ?????????? ?? ?? ??????
????????? ??????????.

43 ?? ????? 47 ??? ?????????? 1408/71 ?????????? ?????????????????? ?????????? ?? ?? ??
????????? ??? ?????????? ????? ?? ???' ?????????? ????? ?? ?????????? ?? ?? ?? ??
46, ?????????? 2, ??? ?????????? ????. ??????????, ?? ????? 47, ?????????? 1,
?????? ??, ??? ?? ????? ?????????? ??????????, ?????? ?????, ??? ? ?????????? ??????
?????? ?????? ??? ?????? ? ?????? ?????? ?????????? ??? ? ?????????? ??? ??????
????????? ??? ?? ?????? ??? ?????????, ??? ?????? ? ??? ?????????? ?????????? ??????????
??? ???????, ??? ?????? ??? ?????????? ??? ?????????? ?? ??????? ?? ?????? ?????? ??
??? ?????????? ?????????? ? ?????????? ??? ?????????? ?????????? ??? ?????? ?????????? ??
????? ??????, ?????? ??? ?????? ??? ?????????, ??? ?????? ? ??? ?????????? ?????????? ??
????? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ?? ?? ?????????? ??
????????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ???.

44 ?? ??????????, ??? ?? ?????????? ???, ??? ?? ??' ?????????? ???????, ?
????? ? ??????? ?????????? ?????????? ??? ? ?????????? ??????? ?????????? ??
????????? ??? ?????? ?????????? ??? ?? ?????? ?????????? ???, ?????????????? ??? ?? ??
????????? ???????, ?? ?????? ?????????? ?? ?????? ??? ?? ?????????? ?? ??????????
????????????? ??? ?????? ?? ?????? ?????????? ?????? ?????????????, ??? ?? ??? ?? ?? ??
????????????? ?????????? ?????? ? ?????????. ??? ???????, ? ?????????? ??????
????????? ?? ?????? ?????? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ??????????
?????????.

45 ??????, ?? ??????????, ?? ?? ?????? 15 ??? ?????????? ??? 17?? ?????????? 1981,
Browning (22/81, EU:C:1981:316), ??? ?????? ??? ?????? «????????? ??????», ??? ??
????? ??? ?????? 50 ??? ?????? 1408/71, ??? ? ?????????? ??? ??????? ??
????????? ??????? ?????? ?????????, ?????????? ??? ?? ?????????? ??????? ??
????????????? ??????? ?????????? ?????????? ??? ?????????? ?????????, ?????????? ??
????????? ??? ???????, ??? ?????? ?? ?????????? ?? ?????????? ?????? ??? ?????? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????.

46 ??? ?????????? ??????? ???, ?????????? ?????? ??? ?????? ???, ??? ?? ??
????????? ??? ?????? 44 ??? ?????? ???????, ? ?????? ??? ?????? ??? ??????? ??
????? ?????????? ??????? ?????? ?????????? ?????? ?????????? ??? ?????? 50 ???
????????? 1408/71.

47 ??? ?????????? ? ?????? ?????????? ?????????? ??? ?????? 47 ??? ?????????? ???, ??? ?? ??
??? ? ?????????? 1408/71 ??? ?????????? ??? ?????? ??? ?? ?????????? ?????????? ???????
???, ???????, ??? ?? ?????? ?????????? ??? ?????????? ?????? ?????????? ?????? ??? ??????
??? ???????, ?? ????? 46, ?????????? 2, ??? ?????????? ?????? ??? ?????? ?? ???????
????????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ??????.

48 ??? ???????, ?? ??????? ?????? ?????? ?????????? ???????, ??? ?????? ?? ??????? ??
?????? ??? ?????? ?????? ?????? ?????????? ???????, ??? ?????? ?? ?????????? ?????? ??? ??????
46, ?????????? 2, ? ??? ?????? 47, ?????????? 1, ??????? ??, ??? ?????????? 1408/71,
????? ??????? ?? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? 50 ??? ??????????
????? ??? ??? ?????? ?????? ??????.

50 ????? ?????????? ??? ?? ?????? 48 ??? ?????? ????????, ??? ?????? ??????
???????????, ?????????? ??? ?????? 46, ?????????? 2, ??? ??? ?????? 47, ?????????? 1,
???????, ??? ?????????? 1408/71 ??? ?????? ?? ?????? ?????? ??? ??? ??????????
????????? ???????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????
???????.

51 ??????????? ?? ???? ??????? ?????? ?? ??????????? ?? ??????????? ??????? ??
?? ??????????? ?? ???? ??????? ?? 50 ??? ??????????? 1408/71 ??? ?? ??????
??????????, ??????????? ?? ???? ??????? 25 ??? ??????????? 67 ??? SFB ??? ?? ???????????.

52 ????? ??????????, ??? ????? ??????? ?????? ?? ?????? ? ?????????? ??? ? ??????????
1408/71 ??? ?????? ???, ??? ????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??????
????????? ???????, ??? ?????? ? ??????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????
???????, ??? ?????? ?? ?????????????? ?? ?????? 46, ?????????? 2, ??? ?? ?????? 47,
????????? 1, ??????? ?, ??? ?? ????? ??????????. ??? ?????? ?????? ?????? ??
????????? ?????? ?? ??? ????? ?????????? ?????????? ??? ?????? 50 ??? ?? ???
????????? ??? ?? ?????? ??????????, ?????? ?????? ?? ?????????? ?????? ??????
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????, ?? ?????? ?????? ???
????????? ?????.

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

53 ?? ?? ??????? ??????? ???, ?? ?????? ??????????? ??????, ???' ??????, ??
?????????????? ???, ?? ???? ? ?????????? 1408/71 ???, ?? ?????? ??, ?? ??????????
????????? ??, ?? ?????? ??, ?? ?????????? ???, ?? ?????? ??, ?? ?????????? ??, ?? ?
????????? ??, ?? ?????? ??, ?? ?????? ??, ?? ?????????? ??, ?? ?????????? ??, ?? ?
????????? ??, ?? ?????? ??, ?? ?????? ??, ?? ?????????? ??, ?? ?????????? ??, ?? ?
????????? ??, ?? ?????? ??, ?? ?????? ??, ?? ?????????? ??, ?? ?????????? ??, ?? ?
????????? ??, ?? ?????? ??, ?? ?????? ??, ?? ?????????? ??, ?? ?????????? ??, ?? ?

54 ?????? ?? ????????????, ???, ??? ?????? ??? ???? ?????? ??? ?????? ??? ?????? ???
????? ??????, ?????? ?????, ??? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????? ?????, ??? ???? ?????? ?????? ??? ???? 50 ??? ?????? 1408/71 ??? ??
????? ?????? ?????? ??????.

55 ?? ??????????, ??? ??? ?????????? ??? SFB ?????? ?????? ??? ?????? ???
?????????, ??? ??? ?????? ??????????, ?????? ???, ??? ??? 19 ??? ?????? ??? ?????? ???,
????????? ??? ???? ??? ???? ?????????? ?????? ??? ?????? ?? ?????? ?????????? ???
????????? ?????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ?????? ??? ??? ?????? ??? ?????? ?????? ???, ? ?????? ?????? ??? ?????? ???
????? ?????? ?????? ???, ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ?????? ???, ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

56 ??? ??? ?????? ???, ?????? ?? ?????? ??? ?????? ??? ?????? 1408/71 ???,
?????????, ?? ??? 50 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????? ??? ???? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ???.

57 ??????, ??????, ?? ?????????? ???, ??? ?????? ?????? ???, ?? ??? 50 ???
????????? 1408/71 ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ??? ?????? ??? ?????? ??? ?????? ??? (????????? ??? 30?? ?????? 1977, Torri,
64/77, EU:C:1977:197, ??? 5, ??? 17?? ?????? 1981, Browning, 22/81,
EU:C:1981:316, ??? 12).

58 ??? ?????? ??? ?????????? ???, ?? ??? ?????? ??? 50 ?????? ???, ??? ?
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???, ? ?????????? ???
????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? (????????? ??? 30?? ??????
1977, Torri, 64/77, EU:C:1977:197, ??? 6).

59 ?????? ?????? ???, ??? ?????? ???? ???? ?????? ?????? ?????? 59 ???
????????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ??? 50 ??? ??????
1408/71 ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

60 ??? ??????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ????
1408/71 ???, ??????????, ?? ??? 50 ??? ?? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

61 ?????? ??? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

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

1) ? ?????????? (???) 1408/71 ??? ??????????, ??? 14?? ?????? 1971, ???
????????? ??? ?????????? ?????????? ?????????? ????? ??????????, ??? ??
????????? ??? ??? ??? ??? ?????????? ????? ??? ?????????? ????? ??
?????????, ??? ?????????? ??? ?????????? ????? ?? ?????????? (?)
118/97 ??? ??????????, ??? 2?? ?????????? 1996, ?? ??? ?????? ??? ?????????? ???
?? ??? ?????????? (??) 1606/98 ??? ??????????, ??? 29?? ?????? 1998, ??? ??
????? ???, ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????
????????? ??????, ??? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????
????????? ??????, ??? ?????? ?? ?????????? ?? ?????? 46, ?????????? 2, ??? ??
????? 47, ?????????? 1, ??????? ??, ??? ?? ?????? ??????????. ??? ?????? ??????
????? ?? ?????????? ?? ?????? ??? ?????? ?????????? ?????????? ??? ?????? 50
??? ?? ??? ?????????? ?? ?????? ?????? ??????????, ??? ?????? ?????? ??
????????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??????,
?? ?????? ?????? ??? ?????? ?????????? ??????.

2) ? ?????????? 1408/71, ??? ?????????? ??? ?????????????? ?? ???
????????? 118/97, ?? ??? ?????? ??? ?????????? ??? ?? ??? ?????????? 1606/98, ???,
?????????, ?? ??? 50 ??? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????????? ?????????? ?????? ??? ?????? ??? ?????????? ???, ??? ?????? ??????????
????????? ??????, ??? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??????, ? ?????? ?????? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???.

(?????????)

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