

Arrêt de la Cour
?????? C-365/02

?????????? ??????? ??? ?? Marie Lindfors

(?????? ??? Korkein hallinto-oikeus ??? ??? ?????? ?????????????? ??????????)

«?????? 83/183/E?? – ??????? ?????????? ??? ??? ?????? ??????? ?? ??? – ???
????????????? ??? ??? ??? ?????????? ? ?? ??? ?? ?????????? ??? ??? ??????»

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

????????????? ?????????? – ?????????? ??? ?????????? – ?????????? ?????? ??? ???
??? ?????????? ?????????? ?????????? ??? ??? ?????? ?? ?????? – ?????? 83/183 –
????????? ??? ?????????? ??? ?????? ?????????? ??? ??? ?????? ?????? ?? ??? – ???
????????? ??? ?? ?????? ?????? ?????????? ??? ??? ?????? ?????? ?? ??? ?????? ??? ??????
?? ?????????? – ?????????? – ???

(????? 18 E? · ?????? 83/183 ??? ??????????, ??? 1)

?? ??? 1 ??? ?????? 83/183, ??????? ?? ??? ?????????? ??????? ?? ??? ??????????
????? ?????????? ??????????, ??? ?????? ?????, ?????????? ?????? ??? ??????? ?? ??? ???????,
?????? ?? ?????????? ??? ??? ?????? ??? ??? ?????????, ??? ?????? ??? ?????????? ???
????????? ??? ?????????? ?????????? ??? ??? ?????? ?????? ?? ???, ??? ?????????? ??????
???? ??? ??? ?????????? ??? ?????????? ?? ??? ??? ?????? ?? ??? ?????????? ??? ?????? ???
??? ?????? ?????????? ? ??????. ??????????, ??? ?????? ?????? ??? ?????? ??? ?????? ??
????????? ?? ?????? ?????????? ?? ??? ?????????? ???, ?? ??? ??????, ??? ?????????? ??? ??????
????????? ??? ?????? ?????????? ?? ??? ?????????? ???.

?????, ?????????? ?????? ??? ?????? ??? ?????? 18 ??, ??? ?????? ??????????
????????? ?? ?????????? ?? ? ?????? ??? ?????? ?????? ?????? ?????? ??? ??
????????? ???, ??? ?????? ??? ?????? ???, ? ?? ??? ?????? ?????????? ??? ??
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ?? ?????? ??? ??
????????? ?????? ??? ?????? ?????? ???, ??????????, ?? ??? ?????? ?????????? ??? ??
????????? ?????? ?????????? ??? ?????? ?????? ??????????, ?????????? ??? ?????? ??? ??
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??.

(?. ?????? 26, 36 ??? ??????.)

????? ??? ?????????? (????? ????)
?? 15?? ?????? 2004(1)

????? 83/183/CEE – ??????? ?????????? ??? ??? ?????? ?????? ?? ??? – ???
????????? ??? ??? ??? ?????????? ? ?? ??? ?? ?????????? ??? ?????? ??? ??????????

????? ?????? C-365/02,
?? ??? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ???,
????? 234 ??, ?? Korkein hallinto-oikeus (?????????), ?? ??? ?????? ???, ?? ??????

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

Marie Lindfors,

??? ?????? ?????????????? ?????????? ?? ??? ??? ?????? ??? ?????? 1 ??? ??????
83/183/??? ??? ??????????, ??? 28?? ?????? 1983, ?????? ?? ??? ?????????? ??????
??? ?????????? ??? ?????? ?????? ??????, ??? ?????? ????, ?????????? ???? ???
?????? ?? ?????? (EE L 105, ?. 64),

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

????????? ??? ??? P. Jann, ?????? ??????, A. Rosas, S. von Bahr, R. Silva de Lapuerta
??? K. Lenaerts (????????), ???????,
?????? ??????????: C. Stix-Hackl
?????????: H. von Holstein, ?????? ??????????,
???? ??? ??? ??? ?????? ?????????? ?????????? ??? ??????????:

–? M. Lindfors, ?????????? ??? P. Snell, oikeustieteen kandidaatti,
–? ?????????? ???, ?????????? ??? T. Pynnä,
–? ?????? ????????, ?????????????? ??? J. Bering Liisberg,
–? ?????? ????????, ?????????????? ??? ??. ??????????????, ?. ?????????? ??? .
???????????,
–? ?????? ??? ?????????? ??????????, ?????????????? ??? R. Lyal ??? I. Koskinen,
???? ??? ??? ?????????? ?????????? ??? M. Lindfors, ?????????????? ??? P.
Snell, ??? ?????????? ??????????, ?????????????? ??? T. Pynnä, ??? ??????
???????????, ?????????????? ??? J. Molde, ??? ?????????? ??????????
????????????? ??? ??. ??????, ??? ??? ??????, ?????????????? ??? R. Lyal
??? I. Koskinen, ??? ?? ?????????? ??? 15?? ?????? 2004,

???? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ??????????
??? 4?? ?????? 2004,

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

??????

1 ?? ?????? ??? 10?? ???????? 2002, ??? ?????? ??? ?????????? ??? 14 ??????????
2002, ?? Korkein hallinto-oikeus (????????? ?????????? ??????????) ??????, ?????? ???
????? 234 ??, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? 1 ??? ??????
83/183/E?? ??? ??????????, ??? 28?? ?????? 1983, ?????? ?? ??? ?????????? ??????
??? ?????????? ??? ?????? ?????? ???, ??? ?????? ????, ?????????? ???? ???
?????? ?? ?????? (?? L 105, ?. 64).

2 ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? M. Lindfors ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??????????
????????, ? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??????????
??? ??? ??????.

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

?? ?????? ?????? 83/183/E??

3 ?? ?????? 1 ??? ??????? 83/183 ??????:

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

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

4 ?? ?????? ?????? ?????? ?????????? ?????????? ??? ?????? ??? autoverolaki (1482/1994)
(????? ???? ?????????? ?????????), ??? 29?? ?????????? 1994, ???? ???? ?? 1999
(??? ????: ???? ??? ?????????? ?????????).

5 ?? ??? 1, ?????????? 1, ??? ??? ?????? ??? ?????????? ?????????? ?????? ??? ?
????? ??? ?????? (??? ????: ???? autovero) «????????? ??? ?????? [...]»
????? ??? ??? ?????????? ?? ??? ??? ?? ?????????? ??? ?????????? ??? ??????????
?????????».

6 ?????? ?? ?? ?????? 2 ??? ?????? ????, «?? ??? ?? ?????? ?? ?????????? ???
????????? ?????? ? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????? ????, ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ????. ? ?? ????
????????? ?????? ??? ?????: «?? ????????, ????, ?????????? ??? ?????? ????
????? ??? ?????? ?????? ??? ?????? ?????????? ?? ??? ?????? ?????? ??? ?????? ??? ??????????
?? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? [...]»

7 ?????? ?? ?????? 4, ?????????? 1, ??? ?????? ????, «????????? ??? ?????????? ???
????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?? ??? ?????????? ??? ??
????? ?????????? ??? ?????? ??? ?????? ». ??????, ?? ?????? 5 ??? ?????? ????
????????? ??? «[?] ?????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ??
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??????».

8 ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???,
?? ??? 6, ?????????? 1, ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ????:
«? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? 4 600 FIM [????????? ???]. ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

9 ??? ?? ?????? 7, ?????????? 1, ??? ?????? ????, ??? ?????????? ??? ??????????
????????? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ?? ??
????????? ?????????? ??? ?????? (????????? ??? ??????).

10 ?????? ?? ?? ?????? 25, ?????????? 1, ??? ?????? ????, «[?] ?????? ??? ??????
?? ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 80 000 FIM», ?????? ??????????
?? ?????????? ??? ?? ??? ?????? ???.

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

11 ? M. Lindfors, ??? ?????? ?? ??? ?????? ??? ?????? ???, ?????????? ??? ?????? ???
????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????????? ??? ?? ??
????? ?????? ??? 4 ?????????? 1999 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? 1995.

12 ?? ??? ?? 4 ?????????? 1999 ??? ?????? ?????? ???, ?? Hangon tullikamari
(????????? ??? Hanko) (?????????) ?????? ??? M. Lindfors ?????? ?????? ??? 80
000 FIM ??? ??? ?????? ??? autovero ??? 16 556 FIM, ?????????? ?? ??? ????

3 642 FIM, ????, ????????, ????, ????, 20 198 FIM (???????, 3 400 ????).

13 ? M. Lindfors ??????? ?????????? ??? ?? ?? ????? ?????????? ??????? ??? Helsingin hallinto-oikeus (?????????? ?????????????? ?? ??????) (?????????). ????????????, ??????????? ?? ? ????? autovero ??????? ??? ??????????????, ??? ?????? ? ??????? ??????? ?????????? ??? ?? ??? 1, ?????????? 1, ??? ?????? 83/183.

14 ? ?????????? ????. ??????????????. ?? Helsingin hallinto-oikeus ?????? ??? ? ?????
autovero, ?? ????? ??? ?? ?????????? ?????????????? ??? ?????????? ?? ? ? ????? ?? ?
?????????? ?? ? ?? ???, ?????? ?? ?????????? ??????? ?????? ??? ????? ?? ? ???? ?? ?
????????????? ?????????? ??? ??????????, ??? ? ?? ?????? ??? ?????? 1, ?????????? ??
2, ??? ?????? 83/183, ???, ?? ? ??????, ??? ?????????? ??? ????? ?????????? ???
?????? ?????.

15 ? M. Lindfors ?????? ??? ?? Korkein hallinto-oikeus ????? ?? ??????? ???????
???? ?? ??????? ?? Helsingin hallinto-oikeus.

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

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

17 ?? ??? ??????? ?? 19?? ??????????? 2002, C-101/00, Tulliasiamies ??? Siilin
(?????? 2002, ?. ?-7487, ??????? 61 ?? 80), ?? ?????????? ?????? ??? ? ???
autovero ??????? ???????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??????
????????? ??? ?????????? ??? ?? ?????? 90 ??, ??? ?????? ??? ?? ??? ?????? ???
????? ??? ?????????????? ?????????? ?????????? ??? ?????? ??? ?????????? ???
????? ??? ?????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??????????
????????????? ?????????? ?????????? ?????????? ??? ??? ?????????? ??????????.

18 ?? ??????????? ?????? ????? ??????????????? ?? ??????????? ??? ???????????
????? ?????? ??? ? ????? autovero –????????????? ??? ?????? ?????????????? ??? ? ???
????? ???– ??? ?????? ?????????? ?????????? ??? ??? ?????? ?????? ??? ???.

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

19 ? M. Lindfors ??????????? ??? ? ???? autovero ????? ????? ???????????, ?
?????? ??????????? ??? ???? ?????????? ??????????? ??? ??????????? ??????????.
???? ?? ???? ???, ? ????? ????? ????? ?? ?????????? ??? ??? ?????????? ???
?????????? ??? ?????????????? ??? ?????? 1 ??????????? 1 ??? ?????????? 83/183

20 ?? ??? ? ????? autovero ??? ????? ??????????????, ??? ?? ???? ?????? ??? ?? ???
?????????, ??????????, ??????? ?? ??? M. Lindfors, ??? ?????? ??? ?? ??????????????
??? ?????? ?????, ??? ??, ???????, ??? ?? ?????? ?????????? ??? ?????? 83/182/E??
??? ?????????? ??? 28?? ??????? 1983 ??? ?? ?????????????? ?????????? ??

????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????
????????? ?????????? ?????? (?? L 105, ?. 59), ?????? ??? ??? ??? ?????? ??????
??? ?????????? 98/C 108/12, ??????? ?? ? ?????????? ?????????? ???
????????? ?????????? ?????????? ??? ?????????? ?????????? ??? ?????????? ?? ??? ?????
????? ?? ?????????? ?? ?? ?????????? ??? ?????????? ? ?????????????????? ??????????
?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????????????? (?? 1998, C 108, ?. 75,
??-????????????? ??????- ?? 1999, C 145, ?. 6)

21 ? ?????????????? ? ?????????? ???? ? ?????????????? ?????????????? ?????????????? ??? ? ?????

autovero ??? ??????? ?? ?????????????? ?? ????? ?????????????? ?? ?????????????? ?? ??????????????

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

83/183. ????????????, ?????????? ?? ???? ??????? 1, ??????????? 1, ??? ???????
????? ? ?????? ??? ??????? ?? ??????? ?????? ??? ?????? ??? ???????????, ?????? ??? ??,
????? ???????, ? ?? ??? ?????? ?????? ??????????? ??? ?????? ??? ??????? ?????? ??? ????????. ??
????? ????????, ?????????? ??? ??????? ?????? ??? ??????? ?????? ??? ?????? ??? ??????
????? ?????? ? ??? ?????????? ???, ? ????? autovero ?????????? ?????? ??? ?? ??????
????? ?????? ??? ?? ??? ???????, ?????? ??? ?????? 1, ?????????? 2, ?????.
22 ? ??????? ??????????? ??? ?? ?????? 1, ?????????? 2, ??? ?????? ??????????
??? ?? ?????? ?????????? ??? «????? ??? ??????????? ??? ?????? ??? ?????? ??? ? ?????????? ???
????? ?????? ??? ?????????? ??? ??????????? ??? ?????? ??? ?????? ??? ?????? ??? «????»
????? ?????? ??? ??????????? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ? ?????? autovero ??? ????? «?????» ?????????????? ??? ?????? ??? ???????????,
????? ?????? ??????????? ??? ?????? ? ???????, ??? ?????? ??????????
????? ?????? ??????????? ??? ?? ?????? 1, ?????????? 1, ??? ?? ??? ?????? ????. ?
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ? ?????????? ????, ???
????? ?????? ?? ??? ?????? ?????? ?????, ?????? ? ?????? ?????????? ?????????? ??????????
??? ?????? ?????????? ??????????
23 ? ??????? ??????????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????? ???
????? ?????? ??? ?? ??? ?? ?????? ??? ?????????? . ? ?????? ?????????? ??? ??
????? ?????????? ?? ?? ?????? ??? ?????? ?????????? ?????????? ?? ?????????? ?? ?????????? ?? ??
????? ?????? ??? ?? ?????????? ?????? ??? ?????? 83/183 ?????? ?? ?????????? ???
?? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ?????? ?????????? ???
????? ?????? ?? ??? ?????? 18 ?? ?????? ?????? ??? ??????.
????? ??? ??????????
24 ?????? ??????? ?? ?????????? ??, ??? ?????????????? ? M. Lindfors ??? ?
????? ?, ? ????? autovero ??????? ??? ?????? ?????????? ??? ?????? 83/183.
????? ?????? ?? ?????????? ?? ?????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? -???? ?????? -???? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ??? ?? ??? ??????
25 ??? ??? ?????????? ??? ?????? 1 ??? 2 ??? ?????? ??? ?????????? ??????????
????? ??? ? ?????? autovero ?????? ?? ?????????? ??? ?????? ??? ?????? ?????????? ?
?? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? 2 ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ?????? ??? ?????? ??? ?? ?????? 2 ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? M. Lindfors ?????????? ???, ??
????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?, ?????? ??? ?????? ?????? ???
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? . ? ??????????
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? autovero ?????????? ???
?? ??? ?? ?????? ?????????????? ??? ?????????? ???, ?????? ??? ??, ??? ?????? ???, ?
????? ?????????? ??? ?????? ??? ?????? ??? ?????? . ??????, ? M. Lindfors ?????????? ???
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?????? ???, ?????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ???
????? .
26 ??? ??? ??????? ????, ??? ?????? ??? ? autovero ??? ?????? ?? ?????????? ??
????? ??????? ?? ??? ?????? ???, ?? ?? ??????, ??? ?????? ??? ?????? ??? ??????
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? 1, ?????????? 1, ??? ??????
83/183. ??????????, ?????????? ?????? ??? ?????? ??? ?????? ???, ?????? ? ?????? ???
????? ??? ?????? ??? ?????? ???, ? ?????? ??? ?????? ???' ?????? ??? ?????? ??? ??????
????? ??? (??., ??? ??? ?????? ???, ?????? ??? 29?? ?????? 2004, C-387/01,
Weigel, ?????? 2004, ?. ??4981, ??? 47).
27 ??? ???????, ??? ?????? ?? ?? ?????????? ??? ?????? autovero ???
????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
1, ?????????? 1, ??? ?????? 83/183.

28 ????? ???? ?????????????? ?????? ?????????? ?? ?????? 1, ?????????? 2, ??? ???????
83/183. ??????????????, ?????? ? ??? autovero ?????????? ??? ?????? ??? ?????? ???
????????? ??? ??????????, ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? «???????? [...] ?????? ??? ?????? ??? ?????????? ?? ?????? ??? [...] ?????? ???
????????? ??? ?????», ??? ?????? ?????? ??? ?????? ??????????
29 ? M. Lindfors ??? ??????, ??????, ?? ?????????? ??? ?????????????????? ??? ???
????? ?????????? ??? ?????? 83/182, ??? ?????? ??? ?????????? ?????????? ???
????????????? ??? ?????????????? ?????????? ?????????? ?????????? ???
?????????????, ?? ??? ??? ????? ?????????? ??? ?????? ??? ?????? ?????????? ???
????? ??? ?????????? ?????????????? ??? ?????? ??? autovero, ?????? ?? ?? ?????? 1
??? ?????? ????, ??? ?????????? ?????????? ??? ? ?????? ?????? ?????? ??????????????
??? ?????????? ?????? ??? ?????????? ??? ?????? 83/183, ? ?????? ?????? ???
????????? ?????? ??????????
30 ? ?????? ?????? 98/C-108/12 ??? ?????????? ??? ?????????? ??? ?????????? 83/183
??? ??? ?????? ??? ?????????? ? M. Lindfors ??? ? ??????. ??????????, ??? ???
????????, ?????? ??? ??? ?????????????? ?????? ??? ?????????? ?????? ?????????? ???
????????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ???, ???
????????????? ??? ?????? 1 ??? ? ??? ?????? ?????????, ?? ?????????? «????????? ???
????????????, ??? ?????????? [?] ?????? ?????? ?????????? [...] ??? ??????????
????????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??? ??????
????????????? ??? ?????? ?????? ?????? ??? ?????????? ?? ?? ?????????? ??? ??????????
????????? ??? ?????? », ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ? ?????? ???, ??? ?????? ?????? ?????????? ?? ?? ?????????? ??? ? ??????
????????? Tizzano ??? ?????? Weigel (????????????? ?????? Weigel, ???
52).
31 ??????, ??? ?????????? ? ????????, ? ?????? autovero ?????? ?? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ?? ??????
????????? ?????????? ?????? ???, ??? ?????????? ???, ??? ??????, ??? ??????
18 ??.
32 ??????, ????, ?? ?????? ?????????? ?????????? ?? ?????? ??? ??????
????????? ??? ?????? 1 ??? ?????? 83/183, ?? ?????? ??? ?????? ??? ?????????? ??
????????? ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ???, ??? ?????? ?????? ?????????? ??????????
?? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? (??., ?? ??? ?? ??????
???, ?????????? ??? 12?? ?????????? 1990, C-241/89, SARPP, ?????? 1990, ?. I?4695,
????? 8- ?? 2?? ?????????? 1994, C-315/92, Verband Sozialer Wettbewerb,
????????? «Clinique», ?????? 1994, ?. I?317, ????? 7- ?? 4?? ?????? 1999, C-
87/97, Consorzio per la tutela del formaggio Gorgonzola, ?????? 1999, ?. I?1301, ???
16, ?? ?????????? Weigel ?? Weigel, ??? 44).
33 ??????, ??????, ?? ?????????? ?? ?????????? ?? ?????????? ??? ?????? 18 ??, ??? ??
????????? ?????? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ??????
????????? ??? ??????
34 ?????, ?? ?????????? ??? ?????? ??? ? ?????? ?? ?????? ??? ?????????? ???
????? ??? ?????? ??? ? ?????? ??? ?????????????? ??? ?? ??? ?????? ?????? ???
????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? . ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?
?? ??? ?????? ???, ??? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? . ??? ??????, ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ??
????? ?? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 18 ??, ??? ??
????????? ??? ?????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????????? ????? ?? ??????? ?? ?? ?????????? ??? ?????? ??? ????? ??????????? ? ?? ???
????? (?. ??????????????? ?????? Weigel, ??? 55).
35 ??? ?? ??????????? ?????????? ??? ?? ?????? 25, ?????????? 1, ??? ?????? ???
????????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?? ?????? ?? ???
????????? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?? ???
??? ??????????. ??? ?????? ?????????? ?????? ??? ?????? ?? ?????????? ?? ? ??????
????? ??? ?????????? ??? ??????, ??????????, ?????????? ??? ?????? ?????? ??????
????? ?????? ?? ?????????? ???, ??? ?????? ??? ?? ?????? ???, ? M. Lindfors ???
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????? ???
????? ?????????? ??? ?????? ??? ??????????. ?? ?? ?????? ?????????? ?????????? ???
?? ?? ??? ?????? ?????? ?????? ??? ?????????? ?? ?????????? ???, ?? ?????? ?? ??????
?? ??? ? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ?????????? ???,
????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? (?. ?????? ??? 11? ?????? 2002, C?224/98,
D'Hoop, ?????? 2002, ?. ??6191, ?????? 36).
36 ?????? ??? ?????? ??????, ?????????? ?? ?????? ??? ?????????? ?????? ???
? ??? ??????:
?? ??? 1 ??? ?????? 83/183 ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ???
?????????, ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
??? ?????? ?????? ?? ???, ??? ?????? ??? ?????? ??? ?????? ?????????? ???
????????????? ??? ??? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ??? ??????
??? ?????????? ?? ?? ??? ??? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ? ??????. ??????, ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? 18
??, ??? ?????? ?????????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ???, ? ?? ???
????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??, ??????????, ?? ??? ? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ??????, ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????
????????? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

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

37 ?? ??? ?????? ??? ?????? ?????????? ? ??????????, ? ?????? ??? ? ??????????
?????????, ??? ??? ? ?????? ??? ?????? ??? ?????? ??? ??????????, ??? ??????????
????????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???, ?' ????
????????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.
?? ??? ?????? ????,

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

?????????? ??? ??? ??????????? ??? ??? ??????? ?? ??????? ??? 10?? ?????????
2002 ?? Korkein hallinto-oikeus, ??????????:
?? ????? 1 ??? ?????? 83/183 ?????? ?? ??????????? ??? ??? ?????? ??? ???
??????????, ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
??? ?????? ?????? ?? ???, ??? ?????? ?????? ??? ?????????? ??? ??? ??????????
??? ??? autoverolaki (1482/1994) (????? ??? ??????????? ????) ????

Jann

Rosas

von Bahr

Silva de Lapuerta

Lenaerts

????????????? ?? ??????? ??????????? ??? ?????????????? ??? 15 ?????? 2004.
? ??????????

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

R. Grass

P. Jann

1 – ?????? ??????????: ? ??????????.