

?????? C-150/04

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????????? ??? ?????? ?????????? C. Stix-Hackl ??? 1?? ?????? 2006

????????? ??? ?????????? (????? ?????? ??????) ??? 30?? ?????????? 2007

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????????? ?????????? ??? ??????—?????????—????????? ??????????????—  
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(????? 39 E?, 43 E? ??? 49 E?)

????? ??????, ?? ?????? ??? ?????????? ?? ?????????? ?? ??? ?????? ??? ?????? ?????????? ??????  
?? ??????????, ??? ?? ?????? ?????????? ?????????? ?????????? ?? ?? ??????????????  
?? ?????????? ?????? ?????????? ?? ?????????? ?????????? ?????????????? ?? ??????????  
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????????????? ?? ?????????????? ?????????? ?? ??? ?????? ??? ?????? ???, ?????????????? ???  
????????????? ?? ?????????? ??? ?? ?????? 39 ??, 43 ??, 49 ??.

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

(???. ??????? 64, 71-74, 76 ??? ??????.)

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??? 30?? ?????????? 2007 (\*)

«????????? ??????? ?????? – ?????????? ?????????? ??? ?????????? – ?????????? ??????  
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????????? – ?????? ?????? – ?????? ?? ?????????????? ?????? ?????????????? ??  
????? ?????? ?????? – ?????????? ?????? – ?????????? ??? ?????????? ?????? ?????????? ??????  
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????? ?????????? ?????? – ?????????? ?????? ?????? ?????? ?????? ?????????? –  
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? ? ?????????? ??? ?????? 226 ?? ??? ??????????, ? ??? ?????? 23  
?????? 2004,

????????? ??? ?????????? ??????????, ?????????????? ?????? ??? S. Tams, ???  
??????, ??? ??? R. Lyal ??? H. Støvlebæk, ?? ??? ?????????? ??? ??????????,  
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????????? ??? ??????, ?????????????? ??? J. Molde, ?? ??? ?????????? ???  
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? ? ?????????? ??? ??????, ?????????????? ??? A. Kruse,

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

????????? ??? ??? ?. ??????, ??????, P. Jann, C. W. A. Timmermans, A. Rosas, K.  
Lenaerts, P. K?ris (???????) ??? E. Juhász, ?????????? ????????, R. Silva de Lapuerta, K.  
Schiemann, J. Makarczyk, ?. ??????, A. Borg Barthet ??? A. Ó Caoimh, ????????,

????? ??????????: C. Stix-Hackl

?????????: H. von Holstein, ?????? ??????????,

????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??' ?????????? ?????????? ???

31?? ?????????? 2006,

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?? 1?? ?????? 2006,

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1 ?? ??? ??????? ???, ? ??????? ?? ?????????? ?????????????? ?????? ??? ??  
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?????????? ?? ??? ????? ?? ?????? ?????? ?????????? ??? ???????, ??? ?? ?????? ??????????  
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?????????? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????????? ??????????  
?????????? ?? ??? ????? ?????? (?? ????: ??????? ??????????), ?????? ?? ??????????  
?? ?????? ??? ?? ????? 39 ??, 43 ??, 49 ?? ??? 56 ??.

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

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

2 ?? ?????? ?????????? ??? ??????? 77/799/??? ??? ??????????, ??? 19?? ??????????  
1977, ??? ?? ?????????? ??????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? (?? ????. ???.. 09/001, ?. 86), ??? ?????????? ?? ??? ?????? 92/12/??? ??  
??????????, ??? 25?? ?????????? 1992 (?? L 76, ?. 1, ??? ????: ?????? 77/799),  
?????????? ??? ??? ????? ?????????? ??????.

3 ?? ?????? ?????????? ??? ?????? 77/799 ?????????:

«????????? ??? ? ??????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???  
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????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???  
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4 ?? ?????? 1, ?????????? 1, ??? ?????? 77/799 ?????????:

«1. ?? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?? ???  
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5 ?? ?????? 8 ??? ?????? ??? ?????????????:

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

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

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

3. ? ??????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????????? ??????????????,  
????? ?? ?????????????? ?????? ??? ?????? ?? ???, ??? ?????????????? ? ?????????? ???????, ??  
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6 ?? ??? 1, ?????????? 1, ??? ?????? 88/361/??? ??? ??????????, ??? 24?? ??????  
1988, ??? ?? ??? ?? ??????? ??? ?????? 67 ??? ?????? [????? ?????????? ?? ??  
?????? ?? ??????] (?? L 178, ?. 5) ??????:

«?? ??? ?????? ?????? ?????????? ??? ?????????????? ??? ?????????? ?????????? ???  
????????????????? ?????? ?????????? ??? ?????? ?????, ?? ??? ?????????? ??? ??????????  
?????????. ??? ??? ?????????? ?????? ??? ?????? ??????, ?? ?????????? ??????????  
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7 ?? ??? X ??? ?????????? | ??? ?????? 88/361 ?????? ?? ?????????? ?? ??????????  
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«A. ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???

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2) ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ?????????? ??  
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[...]»

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8 ? ?????? ??????????, ??? ?????????????? ?? ??? ??? 816, ??????, ?????? ????, ??  
?? ?????????? ??? ?????????????? ?????? (bekendtgørelse af lov om beskatningen af  
pensionsordninger m.v.), ??? 30?? ?????????? 2003 (*Lovtidende* 2003 A, ?. 5522, ??? ?:  
????? ??? ?????????? ??? ?????????), ?????? ?????????? ??? ?? ?????????? ???  
????????????? ??????????, ?????????????? ??? ?????????? ??? ?? ?????????? ??? (???:  
????????????? ?????????). ?????? ?????? ??? ?????????? ?????????????? ??????????????  
?????????, ?? ?????? ?????????? ?? ?????????? ?????????? ?????????? ??????????????. ? ???  
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9 ??? ?????? ??? ?????? ?????????? ?????????????? ???????????, ? ??? ?????? ???  
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? ?? ?? ?????? ??? ?????? ?? ?????????????? ??? ?????? ?????????? ?????????????? ???  
????? ? ??? ?????? ?????? ??????, ?????????? ??? ?? ?????????? ??? ?????????? ??  
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10 ?? ?????? ??? ?????????? ?????? ?????????????? ?????? ?????????????? ?????????? ?? ???  
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11 ??? ??? ?????? ?????? ??? ?????????? ?????????? ??? ?????? ? ??? ??? ?????? ???  
????????? ??? ?????? ??? ?????????? ?? ?????? ?????? ?????? ?? ?????? ??????????  
????????? ?????? ??????, ?????? ?????, ?? ??? ?????? ?????????? ??????, ??? ??????????  
??? ?????? ??? ?? ?????? ??? ??????. ?????????? ?????? ?????????? ?????? ???  
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????? ?????????? ?????? ??? ?????? ?? ?????????? ?? ?????? ?????? ?????? ???,  
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12 ?? ?????????? ?????? ????:

- ?? ?????? ??? ?????? ??? ??????, ?
- ?? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????????  
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????????? ?????? ????, ?
- ?? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???.

13 ?? ?????????? ????:

- ?? ?????????? ??? ?????????????? ???' ????. 148, ??? ?????????? ???  
????????? ?????????? ?????? (bekendtgørelse af lov om tilsyn med  
firmapensionskasser), ??? 7 ?????? 2003 (*Lovtidende* 2003 A, ?, 953), ? ?????? ??????????  
??? ?? ?????? ??? ?????? ?????????? ??? ??????, ?
- ?? ?????????? ??? ?????? ???' ????. 453 ??? ?????????????? ??? ?????????? (lov  
om finansiel virksomhed), ??? 10?? ?????? 2003 (*Lovtidende* 2003 A, ?, 2822), ? ??????  
????? ??? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???  
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14 ?? ?????????? ????:

- ?? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
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- ?? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????? ???  
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15 ??? ??? ?? ?????? ?????????? ?????????? ?????????? ??? ??????????, ? ?????? II A ???  
????? ??? ?????????? ??? ??????????, ?? ????? «????????????? ??? ??????????, ??????????  
??? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??????????», ?????????? ???  
????????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

16 ? ?? ??? ?????? II A ?????????? ?? ?????? 53 A ??? 53 B ??? ???, ??????  
?????, ?? ?????????? ?? ?????? ?????? ?????????? ?????? ?????? ??????????.

?????????.

17 ?? ????? 53 A ??? ????? ??? ???????????? ??? ?????????? ??????????:

«1. ?? ?????????? ??? ?????????? 2 ??? 5 ?????? ???:

1) ?????????? ??? ???? ??? ?????????? ??? ?????????? 1.

2) ?????????? ???, ?? ?????? ??????? ??? ?????????? ?????????? ?? ?? ?????????? 1, ??  
????? ??? ? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??  
????????? ??? ?? ??? ?????????? ??? ?????? 1.

3) ?????????????? ??? ?????????? ?? ?????? ??? ?????????? ??? ?????????? 1.

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

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

3. ??? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????????? ??? ?????? ?? ??????????  
??? ?????????? ??? ??? ?????????????? ??? ?????????? ??? ?????? ?? ??? ?????????? 1 [...]

[...]

5. ?????? ??? ?????????????? ??? ?????????? ?.?. ?????? ?? ??? ?????????? 1 ???  
????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????????.

18 ?? ????? 53 B ??? ????? ??? ????? ??????????:

«1. ??? ?? ????? 53 A, ?? ?????????? ??? ?????????? 4 ??? 6 ?????? ??? ?? ??????????????  
?? ??? 53 A, ?????????? 1, ?????? ???????, ?????????? ???, ??? ?? ?????????? ???  
????? 53 A, ?????????? 1, ?????? ???????, ?????????????? ?????????? ??? ?? ???  
????????? ??? ?????? 53 A, ?????????? 1, ?????? ???????, ?????????? ?????????? ??? ??  
????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????????? 2 ??? 3. ??  
????? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ?? ?????????? ??? ??  
????????? ??? ??????.

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

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

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

4. ??? ???? ?????????? ??? ??? ?????????? ?? ?????????????????? ?????????? ??? ??????  
????????? ??? ?????? ?? ??? ?????????? 1, ?????? ?? ?????? 53 A, ?????????? 2.

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

6. ??????? ??? ?????????????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ???  
????????? 1 ?????????????? ??? ?????? ??? ?????????? ??? ?????????????? ?????????????? [...]  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???  
?????????????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ? ? ??????????, ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ?????? ???, ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? 4 ??? ???? 53 A,  
????????? 2.»

19   ?????????, ?????????? ?????? ??? ?????????????? ??? ?????? ??? ?????????????? ???  
????????? ??? ??????????, ??? ??? ?????? ?????????? ???, ???, ???, ?? ??????????  
??? ?????????????? ?????????? ??? ?????? ??? ???? ?????? ??? ?????????? ??? ??????????  
??? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??  
????????? ???.

20   ?????????, ?? ?????????? ?????????? ??? ?????????????? ?????????? ?????????????? ??  
????????? ??? ?????????? ??? ?????? ?? ??? ?????? 53 A, ?????????? 3, ??? ?????? ???  
????????? ??? ??????????. ?????????? ?? ?????????????? ?????????? ?????????? ??? ??????  
53 B ??? ?????? ???, ?? ?????????? ?????? ??? ?????? ??? ??????????????.

21   ??????, ?? ?????? ??? ?????????????? ??? ?????????? ??? ?????? 53 ? ??? ?????? ???  
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ??????????????  
????????? ??? ?????? 53 ? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ??? ?  
????????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????????? ??? ?  
????????? ??? ?????? ??? ?????????? ???.

22   ?????????, ?? ?? ??? ?????? 53 ? ???? ?? ?????????????? ?????????? ??? ??????  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
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?? ?????????? ??? ?????? ??? ?????? ??????????

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

23 ?? ????? 18 ??? ???????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ??  
?????????, ??? ??? ?????????? ? ?????????? ??? ??? ?????????? ?????????? ???  
????????? (OECD) (??? ????: ?????? O??), ??????, ???' ??????, ??? ?? ??????????  
????????? ?????????????? ???' ?????? ??? ?????? ??? ?????? ?????????????? ? ??????????  
??? ?????????.

24 ?? ?????????? ??? ?????? ?????? ?? ?????? ?????? ?????????? ??? ?????? ??? ??????  
?????????. ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??  
????? ????, ?? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ??????????????  
?????????.

25 ?????????? ?? ?? ????? 18 ??? ???????? ?????? ??? ?????????? ?????????????? ???  
????????? ??? ??????, ??????, ?? ???????? ??? ?????? ???, ?????????, ? ??????  
????????? (?????? ?? 8?? ?????????? 1957, ??? 13), ? ?????????? ??? ??????  
(?????? ?? 23?? ?????????? 1961, ?????????????? ?? ?? ?????????? ??? 19?? ??????????  
1970, ??? 15), ?? ?????? ?????? ??? ?????????? (?????? ?? 17?? ?????????? 1980,  
????? 18), ?? ?????? ??? ?????? (?????? ?? 1?? ?????? 1996, ??? 18), ??  
????????? ??? ?????? (?????? ?? 3?? ?????? 1972, ??? ?????????????? ?? ??  
????????? ?? 17?? ?????? 1999, ??? 18, ?????????? 1). ?????? ?????? ?? ??  
????????????? ?????????????? ??? ?????????? ?? ?? ?????????? ??????????????  
????? (?????? ?? 23?? ?????????? 1973, ??? 18).

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

27 ?????????? ??? ?? ?????????? ??? ?????????? ?? ?? ?????????? ?????????? ??? ??  
????????? ??? ?? ?????????? ?????????? (?????? ?? 11?? ?????????? 1980, ??????????????  
????????? ?? ?? ?????????? ??? 13?? ?????????? 1996, ??? 28, ?????????? 3), ??? ??  
????? (?????? ?? 1?? ?????? 1996, ??? 5, ?????????? 5), ??? ?? ?????????? ??  
????????? (?????? ?? 29?? ?????????? 2003 ?? ?????? ?? 23?? ??????????  
1996, ??? 19, ?????????? 1 ?? 3). ?????????? ?????????? ?????????????? ?? ??  
?? ?? ?????????? ?????????????? ?????? (?????? ?? 1?? ?????? 1996, ??? 25,  
????????? 5).

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

28 ?? ?? ?? 5 ?????????? 1991 ?? 31 ?????? 1992 ?????? ?????????, ?????? ?? ?? ??  
????????????? ?????? ?????????? ?? 11?? ?????????? 2000, ? ?????????? ?????????? ??  
????????? ?? ?????????? ??? ?? ?????????? ?????????? ?????????? ?? ?? ??????????  
????????? ?? ?????????????? ??? ?????????? ?????????? ?? ?? ?????????? ??

?????????????? ????????, ??? ?????? ??? ?? ????? 39 ??, 43 ??, 49 ?? ?? 56 E?.

29    ??????? ??? ?? 12 ?????? 1992, 22 ?????????? 1992 ??? 29 ?????? 2000  
?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ???  
?????????? ??? 4?? ?????????? 1997 ??? 14?? ?????????? 2000, ? ?????? ??????????  
???? 5 ?????????? 2003, ??? ?????????? ??? ?????????????? ??? ?? ??? ??????  
????????? ??? ?? ?????????? ??? ??????, ?????????? ?? ??? ?????? ??????????  
????? ??? ?????????? ??? ?????? ??? ?? ?????? ???.

30    ??? 15 ?????? 2003, ? ?????? ???????, ?????????? ??? ?????????????? ???  
??? ???????, ?????????? ??? ? ??????? ??? ?????? ?? ?????? ?????????? ???  
????????? ?????? ?????????, ??? ?????? ?????????? ??? ?????????? ??? ??? ?? ??????????  
????????????, ??? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ???  
?????????.

31    ???????, ? ?????? ??????? ?????? ??? ?? ?????????? ??? ?????????? ???  
????????????? ??? ?????????? ?????? ?????? ?????? ?????????? ??? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????? ?????????? ?????????? . ?????? ?? ??? ??????  
??? ?????????? ???, ?? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ???  
??????????, ?????? ?????????? ?????? ?????? ?????? ??? ?????????? ?????????? ??? ??  
????????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ???.

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

33    ?? ??? ?? 19 ?????? 2004 ?????? ??? ?????? ??? ???????????, ??????? ???  
????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???  
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34    ???' ????, ?????? ?? ?????????? ???, ??? ??? ?? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ???, ??? ??? ?????? ??? ?????? ?? ?????? ??? ?????????? ???  
????????? ??? ?????????? ?????? (??., ?????? ???, ??? ?????????? ??? 11??  
????????? 1995, C-80/94, Wielockx, ?????? 1995, ?. ?-2493, ????? 16- ??? 6?? ??????  
2000, C?35/98, Verkooijen, ?????? 2000, ?. ?-4071, ????? 32, ?????? ??? 26?? ?????? 2003,  
C?422/01, Skandia ??? Ramstedt, ?????? 2003, ?. ?-6817, ????? 25).

35    ?????? ?? ?????????? ??, ??? ?????????? ? ?????? ?????????? ? ?????? ??????????  
????????? ??? ?????? ?????? ?????? ?????????, ??? ?????? ?????????? ??? ??????????  
??? ??? ???????, ??? ??? ?? ?????? ?????????? ??????????????. ? ?????? ??????????  
????????? ??? ?????? ?????? ?????????? ?????? ?????? ?????????? ??? ??????????.

36    ???????, ?????? ?? ??? ??????? ???, ? ?????? ?????????? ??? ??????????  
????? ??? ?????? ?????????? ??? ?????????????? ?????????? ?????? ?? ?????? ???  
????????????? ?? ?????? ?????????? ?????????? ?????? ? ?????????? ??? ?????? ???  
????? ??? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????, ??? ?????? ?????????? ??????????.

37 ???????, ????????????, ???????, ??? ?? ??????? ?????????? ??? ?????? ???  
?????????? ??????? ??????? ?? ??????? ??? ?????? ??? ?????? 50 ?? ??? ?? ????? 49 ??  
?????????? ??? ??????? ?????? ?????? ?????????? ? ?????, ????? ?? ??????????????  
??????????????, ??????????? ?? ?????????? ??? ?????????? ????? ?????????? ?? ?????  
?????????? ??? ?????????? ??? (?., ??????, ??? ?????????? ??? 28?? ??????? 1998,  
C?118/96, Safir, ??????? 1998, ?. I?1897, ????? 22- ??? 3?? ??????? 2002, C?136/00,  
Danner, ??????? 2002, ?. I?8147, ??????? 25 ??? 27, ????? ??? ?????????????? ???????  
Skandia ??? Ramstedt, ??????? 22 ??? 24).

38 ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ??????? ?????? ? ?????????????? ???  
?????? ???, ?? ????? 49 ?? ?????????? ??? ?? ??????? ?????????????? ???????  
?????????? ??????? ??? ?? ?????? ??? ?????????? ?? ?????????? ? ?????? ???????  
????? ?????? ????? ?????????????? ??' ?,?? ? ?????? ?????????? ??? ??????????????  
????????????? ??? ?????????? ??? ?????????? ?????? (??. ?????????????? ?????? Safir,  
????? 23).

39 ?? ??????????, ??? ?? ??????? ?? ?????????????? ??????? ??? ?????  
????????????? ?? ??? ????? ?? ????? ?? ?????? ?? ?????????? ??? ?????? ??? ?????????? ???  
?? ??? ?????????? ?????????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????????  
?? ?????????????? ??? ?????? ?????????????? ??? ???????, ?????? ?? ?????? ??????????  
?????? ? ?????? ?????????? ??? ?? ??? ????? ???????.

40 ??? ?? 43 ??, ?????????? ??? ?????????? ?????? ?????????? ?????????? ??? ?  
????????? ??? ?????? ?? ??? ?????? ?????????? ?????????? . ??????, ?? ??????????  
????????? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? . ?  
????????? ??? ?????? ?????? ?????? ??? ?? ?????? ?????????? (?., ??????, ???  
????????? ??? 11?? ?????? 2004, C?496/01, ??????? ??? ?????? ?????? 2004, ?. ?-  
2351, ??? 65, ??? ??? 15?? ?????? 2002, C-439/99, ??????? ??? ?????? ?????? ?????? ???  
2002, ?. ?-305, ??? 30). ???????, ?? ?????????? ??? ?????????? ??? ?????? ?????????????? ??  
????????? ?? ?????????????? ?????? ?????????????? ?????????? , ?????????????? ??  
????? ?????? ?????, ?????????????? ??? ?????? ??? ?????????? ??? ??? ?? ?????? ?????? ??????  
????????????? ?????? ?????? ??? ?????????? ??? ?????? ?????????? ?????????????? (??.  
?? ?????????? Danner, ??? 31).

41 ???????, ??? ?? ?????? ??? ??????? ?????????? ??? ???????????, ?????????????? ???  
?? ?????????? ??? ?????? ??????? ?????????????? ?????????????? ?? ?????? ??????, ???  
??? ??????? ??? ??????, ??? ?? ?????, ??? ???????, ?????? ??? ?????? ??? ??????, ?  
????????? ??????, ?????????? ?????? ?? ?????????????? ?????????? ?????????? ??????????????  
????????? ??? ?????? ?????? ???????, ?? ?????? ?????????? ?????????? ?? ??????  
????????? ??? ?????? ?????????? ?????? ??? ?????, ??? ?????? ?????? ?????, ??? ??????  
????? ?????? ????? (?., ??????, ??????? ??? 28?? ??????? 1992, C?204/90,  
Bachmann, ?????? 1992, ?. I?249, ??? 9, ??? C?300/90, ??????? ??? ??????, ???  
1992, ?. I?305, ??? 7).

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

43 ?????, ??? ?? ?????? ??? ?? ??? ?????????? ?????? ??????, ?????????? ??? ? ??????  
????????? ?????????? ??? ?????? ?????????? ?????????? ?????? ??? ?????? ??? ?? ??????

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

45 ?????? ??? ????????????, ?????????????? ??? ? ?????? ?????????? ?????????? ??????  
????????? ??? ?????? ?????? ?????? ??????????, ??? ?????? ?????????? ?????????? ???  
????? ??? ??? ?????????? ??????????.

46 ??????, ??? ????? ?????????? ?????????? ??? ???? ?????? ?????? ??? ?????????? ??  
????? ?? ???? ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? ???  
????????? ??? ?????? ?? ?????? ?????? ?? ?????? ??? ?????, ??? ??? ??? ??? ??????????  
????? ?????? ?????????? ???, ??? ????? ?????????? ??? ??? ?????????? ??? ??????????????  
????? ??? ??? ??? ?????????? ?? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????  
(??., ?????? ??? 7?? ?????????? 2006, C?470/04, ?, ??? ??? ??? ?????????? ???  
??????, ?????? 40).

47 ??????, ?????? ?? ?????????? ?? ???? ?????????????? ?????????????? ??????????????????  
??? ?????????????? ??? ?????? ?????????? ?????????? ??????????, ??????, ??? ?????????????? ?  
????? ??????????, ??? ????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??????????  
????????? ???, ??????, ??? ?????????? ? ?????? ?????????? ??????????, ??? ??????  
????????? ??? ?????????????????? ??? ?????????? ?????? ?????????? ?????? ???, ???  
????????? ??? ?????? ??? ??' ?????????? ??????, ??? ?????? ?????????? ???  
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????? ?????? ??? ?????????????????? ??? ?????????? ?????? ??? ???? ?????? ???  
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- ?????????????? ??? ???????

48 ?????? ?? ??? ???????, ??? ?????? ??? ?????????????? ??? ?????? 77/799, ???  
? ?????? ?? ?????????? ? ?????????? ?? ?????????????? ?? ?????????? ?????????? ??? ??????  
????????? ??? ?? ?????????? ?? ?????????? ?? ?????????? ?????????? ?????????? ?????????? ???  
????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ?????????? ???  
????????? ??? ??????. ? ?????? ???, ??? ???? ???? 76/308/??? ??? ??????????, ???  
15?? ?????? 1976, ??? ??? ?????????? ?????????? ??? ??? ?????????? ?????????? ???  
????????? ??? ?????????? ?? ?????? ?????????? ?????? ??? ?????????? ?????????? ?????????? ???  
??? ?????????? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ?????? ??? ???  
????????? ?????? ??? ?????? (?? ????. ??? 02/002, ?. 126), ??? ?????????????? ??? ???  
????? 2001/44/?? ??? ??????????, ??? 15?? ?????? 2001, ??????, ?????? ?????, ?? ???  
???? ?????????????? ??? ?????? ?????????? ?????? ?????? ?????????? (?? L 175, ?. 17),  
????????? ??? ?????? ?????? ?????? ?????????? ?? ??? ?????? ???.

49 ??? ??? ??' ?????????? ???????, ? ?????? ?????????? ?????????? ???, ??????  
?? ?????? ?????????? ??? ?????? 76/308, ??? ?????????????? ?? ??? ?????? 2001/44,  
????????? ?? 2001 ?????? ?????? ??????, ?????? ??? ?????????? ??? ?????????? ???  
????????? ?????????????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ???  
???? ?????????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ???  
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ???.

????????????????? Bachmann.

50    ??????? ?? ?? ??????? ??????????, ? ?????????????????? ??? ?????? 77/799  
????????????? ??? ?? ??????? ??? ?? ?????? ?????? ??? ?????? ?????? ?????????????? ??  
????????????? ??????? ??? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ?????????????? ??  
????????????? ???' ??????? ??? ?????? ??????. ??????????????, ??? ?????????? ??? ??  
????? 8 ??? ?? ????? ??????, ??? ?????? ????? ?? ?????????????? ?? ?????????? ??????????  
??? ?? ??????? ??? ? ?????????? ??? ?????????? ?? ?????? ?? ??????, ??????? ?  
????????????? ??????? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??????????  
????? ??????? ??? ?????????.

-    ??????? ??? ??????????

51    ?? ?????????? ??? ?????? ??? ? ?????????????? ??? ?????????????? (?. ?????????? ???  
16?? ?????? 1998, C?264/96, ICI, ?????? 1998, ?. I?4695, ????? 26- ??? 8?? ?????? 2001,  
C?397/98 ??? C?410/98, Metallgesellschaft ?.., ?????? 2001, ?. I?1727, ????? 57, ????? ???  
??? 15?? ?????? 2004, C?315/02, Lenz, ?????? 2004, ?. I?7063, ????? 27) ??? ?  
????????????????? ??? ?????????? ?????? (?. ?????????? ??? 21?? ?????????? 2002,  
C?436/00, ? ??? ?, ?????? 2002, ?. I?10829, ????? 51, ????? ??? ??? 4?? ?????? 2004,  
C?334/02, ??????? ??? ???????, ?????? 2004, ?. I?2229, ?????? 31 ??? 32) ??????????  
????????????? ?????? ?????? ?????????? ?????????? ?? ?????????? ??? ?????????? ??? ??????????  
????????? ??? ?????? ?????? (?., ??????, ?????? ??? 14?? ?????????? 2006,  
C?386/04, Centro di Musicologia Walter Stauffer, ??? ??? ??? ?????????? ??? ???  
??????, ??? 32).

52    ???????, ?????????????? ??? ??? ?????? ?????? ?????? ??? ?????????????? ??? ??????  
77/799 ?????????? ?? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???  
??? ?????????? ?? ??? ?? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????????????? ??? ??????  
????????? (?. ?????? ??? 28?? ?????? 1999, C?55/98, Vestergaard, ?????? 1999, ?.  
I?7641, ????? 26) ? ??? ??? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ??  
?????? ??? ??? ?????????? ?????? ?????????? ?? ?????? ??? ?????????? ?????? ??????????  
(?. ?????? ??? ?????????? ?????? Wielockx, ????? 26).

53    ?? ??????????, ?????????????? ??? ?? ?????? ?????? ?????? ??? ?????????? ?? ?????????? ??  
????????????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?????????????? ??????  
????????????? ?? ??? ?????? ?????? ?????? ?????? ?, ?????? ?? ?? ?????? 11 C, ?????????? 1  
??? 3, ??? ?????????????? ??? 726 ??? ?????????? ?????? (Bekendtgørelse af  
skattekontolloven), ??? 13?? ?????? 2001 (*Lovtidende* 2001 A, ?. 4620), ?? ?????? ???  
????? ?????? ?? ?????? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???  
????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???).

54    ?? ?????? ?? ?? ??? 8, ?????????? 1, ??? ?????? 77/799 ?? ?????????? ??  
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??  
??? ?????? ?? ?????? ??? ?????? ?? ?????? ?? ?????????? ?? ?????? ??? ?????? ???  
??? ?????????? ?? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????  
????????? ?? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???  
????????? ?? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? (?., ??????,  
??? ?????????????? ?????? Bachmann, ?????? 18 ?? 20, ?????? ??? ?????????? ???  
??????, ?????? 11 ?? 13).

55    ???????, ?? ?????????? ??? ?????????? ?? ??? ?????????? ?????????? ??? ???????

??? ??????? 77/799, ?????? ??? ?? ??????? ?????????? ?????? ??? ?????? ?? ?????????????? ??? ??  
?????????? ?? ?? ??????? ?????????????? ?????????? ?????? ??? ?????????????? ??? ??  
????? ? ??????? ?????????? ?? ?????? ?????????? ?????? ??? ?????????? ? ?? ?????????????? ??? ??  
??????, ??? ?????????? ?????? ?????????????? ??? ?????? 45 ??? ??????? ?????????? ??????????  
??????????.

56    ??????????? ?????? ? ??????????? ??? ? ?????????????????? ??? ?????????? ??? ??????? ???  
????????????? ??? ?????????? ??? ?????????????? ??? ?????? ??????????????, ?? ?????? ???  
????????????? ??? ??????, ?????? ?? ?????????????? ?? ?????????? ?????????????? ??? ???  
????????? ?????? ?????????? ???' ?? ? ?????? ??????????, ?????? ?? ?????? ?? ??? ???  
????????? ??? ?????????????? ?? ?????????????? ?????????????? ??? ?????????? ???  
????????? ??? ?????????? ?? ?????????????? ??? ?????????????? ??? ?????????? ???.

57    ???????, ?????? ?? ??????? ??? ? ??????????????, ??? ?????? ???  
????????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ?????????? ?????????????? ???  
??????, ?? ??? ?????? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?????? ?? ?????????? ??????????.  
?? ??????? ?????? ??? ?????? ?? ?????????? ?? ?????????????? ?? ?????? ?????????? ??? ??  
????????????? ??? ?????????? ?? ?????????????? ??' ?????? ?????? ?????????? ?????????? ??  
?????????, ??? ?????? ???, ?????? ??? ?????????????? ?????? ?? ??? ?????????? ??? ??  
????????? ??? ?????? ??? ?????? ???.

58    ???????, ??????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????????????? ???  
????????? ??? ?????? ??? ?????? ?????????????? ??? ?????????? ?????????????? ??? ??  
????????????? ???, ??? ?????? ?????????????? ??? ?????? ???, ??? ?????? ??  
????????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????????? ??? ??  
????????? ? ?????? (??., ??????, ?????? ??? 26?? ?????????? 2000, C478/98,  
????????? ??? ??????, ?????? 2000, ?. I?7587, ??? 45, ??? ??? 4?? ?????? 2004,  
????????? ??? ??????, ??????????????, ??? 27).

59    ?????? ??? ??????????????, ? ?????????????????? ??? ?????????? ?????? ??? ?  
????? ??? ?????????????? ??? ?????? ?? ?????????????? ??? ?????? ?????????? ??? ??  
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60    ? ??????? ??? ?????? ??? ? ?????? ??? ?????????? ?????? ?????????? ?????????????? ???  
????????? ??? ???????????. ??????, ?????? ?? ?????????? ?????? ?????? ?????? ???  
????????? ? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ???,  
?????????, ? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??????????  
????????? ? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ???  
????????? ? ?? ?????? ?????? ???, ?????? ?? ?? ?????? ?????????? ??? ?????? ?? ?????? ???  
????????? ??? ?? ?????? ?????? ???.

61    ?????? ?? ?? ?????? ???????, ?????? ? ?????? ?????????? ?????????? ??  
????????? ??? ?????????? ?????? ?? ?????? ?????? ?? ?????? ?????? ?? ?? ?????? ???  
?? ?????????? ??? ???????, ??? ?????? ?????? ??? ?????? ?? ?????? ?? ?? ?????????? ??? ??  
????????? ?? ?????????? ?????? ?? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ??  
????????? ?? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ??  
????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ???  
????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ???????,  
????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

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

62 ?? ??? ???? ?????? ??????????????? ??? ?????????? ??? ?????????????? ??????????????, ?  
????????? ??????? ??? ??? ?? ?????????????????? ?????????? ??? ?????????????? ??  
????????????? ???????, ??? ??? ????? ?????????????? ?? ??? ????? ?????? ??? ????? ??  
????????? ??? ??? ????? ?????????????? ?????????????? ?? ??? ?????????? ??? ??????. ??  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ??? ??????????????  
????????? ?????????? ?????????? ??? ?????? ??? ?????????????? ??? ?????? ?? ?????????? ??? ??????  
??? ?????????? ?? ?????????? ??? ?????????? ?????????? ??? ??????. ? ?????????? ?????????? ??? ?? ??  
???? ?????? ?????? ??? ?????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????  
????????? ??? ??????????????, ? ?????? ?????????? ??? ?????? ???, ?????????????? ??? ?? ??  
????????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ??? ?? ??  
????????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????.

63   ??????? ?? ?? ?????? ??????????, ? ?????????????? ???? ?????????? ???? ??? ??  
?????? ?? ?? ?????? ?????????? ?????????? ?????????????? ?????????? ?????????? ??  
????????????? ?????????? ?? ?????????????? ?? ?????????? ?????????????? ?? ?????????? ??  
????????????? ??????????. ???????, ?? ?? ?????????? ?????????? ?????????? ?????????? ??  
?????????????, ?? ?? ??? ?? ?????????????? ?????????? ?????????? ?????????? ??, ???  
?? ???????, ?? ?? ?? ?? ?????????????? ?? ?????????????? ?? ?????????? ??, ???'  
????????? ?????????? ?? ?? ?????????? ?? ?????????? ?? ?????????? ?????????? ??, ????  
????????? ?? ?? ?????? ?? ?? ?????? ?? ?????????????? ?? ?????????? ?? ?? ?????????? ??  
????????? ?? ?? ?????? ?? ?? ?????????????? ?? ?????????? ?? ?? ?????????? ?? ?? ?????????? ??.

64 ? ?????????? ?????????? ?????????????? ??? ? ?????? ??? ?????????? ?????????? ??????????  
????????? ??? ? ? ?????????? ?????? ?????? ?????? ?? ?????????? ?????????? ? ??  
????????????? ??? ? ?????????? ?????? ??? ?????????? ??? ?????????? ?????????? ??????????  
????? ??? ???? ? ? ?????????? ??? ? ? ?????????? ?????? ?? ?????????? ??? ?????????? ??? ??  
????????? ??? ?????????? ?????? ??? ? ???? ??? ? ?????? ?????????? ?????????? ??????????.

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

65      ??????? ?????? ?????????? ?? ??????????? ?? ?????????????? ??? ?????????? ?????????????? ??? ?  
?????????, ?????????????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????????????? ???  
????????? ??? ?????????????? ?????????? ??? ?????? ?????? ?????????????? ??? ?????? ?? ?????????? ??? ??????  
??? ?????? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?? ??????????  
????????????? ???????, ?????? ??? ?????? ?????????????? ??? ?????? ?? ?????????????? ??????????????  
??? ?????????? ??? ?????? ??? ??????, ?????????? ?????????? ??? ?????? ?? ?????????????? ??? ??????  
????????? ??? ?????? ?????????????? ????.

66 ???????, ?????? ?? ??????????? ???, ??? ??????? ??????????? ??? ???????????, ?  
?????? ??? ??? ?? ?????? ??? ?????? ??? ?????????? ??????????? ?????????? ??? ?? ?????? ???  
?????? ?????? ??? ?? ??????????, ??????, ?? ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?? ?????????? ???, ??????, ?? ?????????? ?????? ???  
????????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? (??.  
?????? ??? 26?? ??????? 2005, C-494/01, ??????? ??? ??????????, ??????? 2005, ?. ?-  
3331, ????? 33).

67 ???????, ??? ?? ?????????? ??? ?????????????? ?????????????? ??? ? ?????????????? ???  
??? ?????????? ??? ? ?????????? ?????? ?? ?????????????? ??? ???? ?????? ??????????, ???  
????? ?? ???????????, ?? ??? ???????????, ?????? ?????? (??., ???????, ??? ??????  
?? 9?? ??????????? 2004, C?417/02, ??????? ??? ???????, ??????? 2004, ?. I?7973,

????? 17).

68 ?? ???????????, ? ???????, ?? ??????????? ??????????? ??? ?????? ??? ??????? ?? ???????????  
??? ??????????? ?? ??? ?????????????? ????? ?? ?????? ??? ?????????? ??? ? ?????? ???  
?????????? ?? ?????????? ??? ?????? ??? ?? ??????????? ????? ?? ?????????? ???  
????????? ??? ?????????????? ???????, ??? ?????????? ??? ?????? ??? ??? ??? ??????????  
?? ?????????? ??? ?????? ??? ?????? ??????????.

69 ??????, ?????? ?? ?????????? ? ?????? ?????????? ??? ?????? ??? ?????? ? ??????  
?????????.

70 ????? ?? ??????????? ?? ?????????? ??? ?? ?????? ??? ?????????? ??? ???????????, ??  
????????????? ?? ??? ?????? ??????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ??? ?????? ??? ??????????? ?????????? ??? ??? ?????????? ??? ??????????????  
(?. ?????????????? ?????? ??? 28? ?????????? 1992, ?????????? ??? ??????, ??? 14-  
??? ?????????????? ?????? Svensson ??? Gustavsson, ??? 18- ICI, ??? 29-  
Vestergaard, ??? 24- ??? 26? ?????????? 2000, ?????????? ??? ??????, ??? 35, ???  
?? X ??? Y, ??? 52).

71 ??????, ??????????? ?? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ??? ???????  
????????? ?? ?????????? ??? ?????? ??? ?????????? ?????????? ?? ?????? ?? ?????????? ???  
????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?? ?????????? ?? ?????????? ???  
??? ?????? ?????????? ??? ?????????? ??????, ??? ??? ?????? ??? ?????? ?? ?????????? ???  
????? ?????? ?????? ??? ?????? ??????.

72 ??????, ??? ?????? ???????, ? ?????? ??? ?????? ??? ?????, ? ?????? ??? ?????? ?? ??????????????  
????????? ?????????????? ??? ?????? ??? ?????? ?????????? ??? ??????, ??? ??????  
????????? ?????? ??? ?????????? ??? ?????? ??? ??????, ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ??????, ?? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ???  
????? ?????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?? ?????? ???  
????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
?????????, ? ?????? ?????????? ?? ?????? ??? ??????, ?? ?????? ??? ?????? ??????????  
?????????, ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?? ?????????? ??????????  
????? ?????? ?????? ??????.

73 ??????, ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????, ??? ??????  
????????? ?? ??? ?????? ??? ?? ?????? ??? ??????, ?? ?????????? ??? ?????? ??? ?????????? ??  
????? ??? ?? ?????? ??? ?????? ??? ??????, ?? ?????????? ??? ?????? ??? ?????????? ??  
????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???  
??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????  
??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???, ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????.

74 ??????, ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???  
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ??????.

75 ??????, ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

??? ??? ?????????????????? ??? ?????????????? ??????? ??? ??? ?????????????? ???  
????????????? ??? ??? ??? ?????? ?????????????? ??? ??????? ??? ?????????? ???  
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76    ?????? ?? ?????????? ??? ?????????? ??????? ?? ??? ?????????? ??????? ??????????, ???  
????????? ?????????? ??? ?????????? ??? ??? ?????????? ?????????????? ?????????????? ???  
????????? ??????????, ??? ?????????? ?? ?????????? ??????? ? ?????????? ??? ?????????? ???  
??? ?????? 56 ??? ??? ??? ?????????? ?????????? ??? ?????????? (??., ???????, ???  
????????? ??? 26?? ?????????? 2006, C?345/05, ?????????? ??? ??????????????, ??? ??? ???  
????????????? ?????? ??? ???????, ?????? 45).

77    ??? ??????????, ?????????????? ??? ?? ?????????? ??? ??????, ??????? ?????????? ???  
????????? ?? ??? ??? ?????? ?????????? ??? ??? ??????????, ??? ?? ??? ?????? ??????????  
????????? ?????????? ??? ?? ?????????? ?????? ?????????? ?????????? ??? ?????????? ???  
????????? ?????????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????????????? ???  
????????? ?????????????? ?? ?????????????? ?????????? ?? ??? ??? ??? ??????, ??? ???  
????????? ?????? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ?????????? ???  
????????????????? ?????? ?????????? ?????????? ?? ?????????????? ?? ?????????????? ?????????? ?? ???  
?? ??? ??? ???, ?????? ??? ?????????? ??? ?????? ??? ?? ??? 39 ??, 43 ??, 49 ??  
?? 56 ??.

**??? ??? ?????????? ??????**

78    ??? ?? ??? 69, ?????????? 2, ??? ?????????? ???????????, ? ?????????? ??????????  
????????????? ??? ?????????? ???, ?????? ?????? ?????? ?????? ?????? ??? ??????????  
?????????. ?????? ? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??  
????????? ??? ?????? ?????????, ?????? ?? ?????????? ?????? ??? ?????????? ??? ??????. ??? ???  
????????? 4, ?????? ??????, ??? ?????? ?????? 69, ?? ?????????? ??? ?????????? ??? ??????????  
?? ??? ??? ???? ?? ?????????? ??? ??????.

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

1)    ?? ?????????? ??? ??????, ??????? ?????????? ??? ?????????????? ?? ??? ???  
????????? ?????????? ??? ?????? ??? ??????????, ??? ?? ??? ?????? ?????????? ??????????????  
????????? ??? ?? ?????????????? ??? ?????????? ?????????? ??? ?????????? ??? ??????????  
????????? ?????????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ??????  
????????? ?????? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????  
????????????????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????  
?? ??? ?? ??? ?????? ???, ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ??? 39  
??, 43 ??, 49 ?? ??? 56 ??.

2)    ?????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ??????.

3)    ?? ?????????? ??? ?????????? ??? ?? ?????????? ??? ??????.

(?????????)

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