

?????? C-253/07

Canterbury Hockey Club

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Canterbury Ladies Hockey Club

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The Commissioners for Her Majesty's Revenue and Customs

[?????? ?? High Court of Justice (England & Wales), Chancery Division ??? ?? ?????
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«???? ??????? ?? – ?????????? – ?????? ?????????? ?? ??????????? ?? ?? ??????????? –
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1. ?????????? ?????? – ?????????? ?? ??????????? – ?????? ?????? ?????? –
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(?????? 77/388 ?? ??????????, ?? 13, A § 1, ??????? ???)

2. ?????????? ?????? – ?????????? ?? ??????????? – ?????? ?????? ?????? –
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(?????? 77/388 ?? ??????????, ?? 13, A § 1, ??????? ???)

1. ?? ?? 13, ?, ?????????? 1, ??????? ??, ??? ?????? ?????? 77/388/???, ???
????????????? ??? ?????????? ??? ???????, ??? ?????????? ?? ??? ?????? ?????? ??????
?????????, ??? ?? ?????????? ??? ??????? ?? ?????? ??? ?????????? ??? ?????? ?????? ??????
?? ?????? ?? ?? ??????? ??? ?????????? ?? ??? ??????????, ??? ?? ?????????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????, ?????? ??
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????????? ??? ?????? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ???.

??????????, ?? ?? 13, ?, ?????????? 1, ??????? ??, ??? ?????? ?????? ???
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?????????, ??? ?? ?????? ?????? ??? ?????????, ??? ?????????? ??? ?? ?????????? ???
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????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ???
????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????? 13, ?, ?????????? 1, ??????? ??, ??? 2, ?????????? ??, ??? ?????? ????. ?

?????????, ?? ? ??????????? ?????????????? ??? ?????????????????? ??? ?????????????? ??? ?????????????? ???
????????? ?? ?????? 13, ?, ??????????? 1, ?????????? ???, ??? ?????? ?????????? ?????????? ??? ??
????????????? ?????????? ??? ?????? ?????????????? ?? ??? ?????? ?????????? ?????????????? ???, ??
????????????? ? ??? ?????? ?????????????? ??????????????, ? ?????? ?????? ?? ?????????? ??? ?????????? ???
??? ?????? ??? ?????????? ??? ?????? 13 ??? ?????? ??????.

????? ??????????? ?? ???? ??????????????? ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ????
13, ?, ?????????? 1, ??????? ??, ??? ????? ??????, ? ?????????, ? ??????? ?? ???? ?????? ??
?????????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ?????????, ??????? ??, ??????????
????????? ? ?????????? ?? ???? ?????????? ?????????????? ?????? ?? ???? ?????? ?????????? ??????????
?????? ???????, ???' ?????, ?? ?????? ?? ???? ?????????? ??????????. ???????, ? ?????????? ??
????????? ?????????? ?? ???? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?????????? ?? ????
????? ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ?????? ??????????????
?? ???? ??.

(?. ??????? 27, 29-31, 35, ???????, 1)

2. ? ?????? «?????????? ??????? ?????????? ?????????????? ?????? ?? ???? ??????????», ???
????????????????? ??? ?????? 13, ?, ?????????? 1, ?????????? ???, ??? ?????? ??????, ???
????????????? ??? ?????????? ??? ?????? ??????, ??? ?????????? ?? ????? ?????? ??????
?????????, ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ?? ?????????? ???
????????? ??? ?????????? ??? ?????????? ? ?????? ???, ??? ?????????? ??? ?????????? ???
????????? ??? ??????????.

?????????, ?????? ?????????????? ??? ?????????????? ??? ?????? ?????? ??? ?????? 13, ?, ???
????? ??????? ??????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? 2
??? ?????????? ??????. ???????, ??? ? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??
?????????? ?? ?????????? ??? ?????????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????????? ???
??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ??????????
?????????, ?? ?? ??? ?????? ?????? ?????? ?????? ?? ?????????? ??? ?????????? ?????? ???
????????????? ?????????????? ??? ?????? ??? ??? ?????????????? ??? ?????? 13, ?,
????????? 2, ??? ?????? ??????. ?????????? ??? ? ?????? ??? ?????? ??? ?????? ?????? ??????????
????????? ?? ?????? ?? ??? ?????? ?????????? ??? ?????? ?????? ??????????, ?? ?????? ??? ??
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(???. ??????? 39-40, ????????. 2)

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?? 16?? ??????? 2008 (*)

«???? ??????? ?? – ??????? – ?????? ?????????? ?? ??????????? ?? ?? ?????????? –
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???? ??????? C2253/07,

? ? ?????????? ?? ?????? ??????? ?????????????? ?????????? ??????? 234 ??,
?? ??????? ?? High Court of Justice (England & Wales), Chancery Division (?????? ???????)
?? ??????? ?? 1?? ?????????? 2007, ? ?????? ??????? ?? ?????????? ??? 29 ???
2007, ??? ??????? ?? ???

Canterbury Hockey Club,

Canterbury Ladies Hockey Club

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The Commissioners for Her Majesty's Revenue and Customs,

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

????????? ?? K. Lenaerts, ??????? ???????, T. von Danwitz (??????), E. Juhász, ?.
?????? ?? J. Malenovský, ???????,

?????? ??????: D. Ruiz-Jarabo Colomer

?????????: L. Hewlett, ?????? ??????? ????????,

?????? ?? ?? ??????? ?? ??????? ?????????? ?? ??????? ??' ?????????? ?? ?????????? ??
3?? ?????? 2008,

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

– ?? Canterbury Hockey Club ?? Canterbury Ladies Hockey Club, ?????????????? ??
M. G. MacDonald, advocate,

– ? ??????? ?? ??????? ???????, ?????????????? ?? ?? T. Harris ?? L.
Seeboruth, ?????????????? ?? I. Hutton, barrister,

– ? ??????? ???????, ?????????????? ?? ?? K. ???????, I. ??????? ?? K.

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

– ? ?????????? ??? ?????????? ??????????, ?????????????? ??? ?? M. Afonso ??? ???
R. Lyal,

??????? ??? ?????????? ??? ?????, ??? ?????? ??? ?????? ??????????, ?? ?????????? ???
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1 ? ??? ????? ?????? ??????? ?????????? ?????????? ?????? ??? ??????? ???
?????? 13, ?, ?????????? 1, ??????? ???, ??? ?????? ?????? 77/388/??? ??? ??????????,
??? 17?? ??? 1977, ??? ?????????? ??? ?????????? ??? ??????? ???, ??? ???????
?? ??? ?????? ?????? ?????? – ????? ?????? ?????? ?????????????? ?????: ??????????
????????? ??? (?? ??. ??? 09/001, ?. 49, ??? ????: ??? ??????).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ???????, ??????, ??? ??????: Hockey
Clubs) ???, ???????, ??? ?????? Commissioners for Her Majesty's Revenue and Customs
(???: ?????? ??? Commissioners), ?? ?????????? ??? ??????? ???
????????????? ??? (???: ???) ??? ?????????? ??? ?????????? ? ??????????
England Hockey Limited (???: ???: ?????????? England Hockey) ??? ?? ??????? ??? Hockey
Clubs ??????? ???, ??????? ?? ??? ????? ?????????? ???, ?? ??????? ?? ?????????? ???
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3 ??? ?? ??? 2, ?????? 1, ??? ?????? ??????, ??? ??? ?????????? «?? ??????????
?????? ??? ?? ?????? ?????????? ??? ?????????????? ?? ?????????? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???».

4 ?? ??? 13, ?, ??? ?????? ??????, ??? ??? ????? «????????? ??????????
????????????? ?????? ??????????», ?????????? ?????? ????:

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

[...]

?) ? ?????????? ?????? ?????????? ?????????? ?????? ?? ??? ?????????? ? ?? ??????????
????? ??? ?????????? ??? ?????????? ?? ??? ?????????? ?????????? ?? ??????????
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[...]

2. [...]

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

????????????? ??? [?] 1, [?] ??, ??, [?]?, ???, ??? ??? ??? ???, ???:

– ??? ??? ???? ?????????? ??? ?? ?????????? ??? ??????? ??? ?????????????? ???
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– ?????????? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????????????? ?????? ?? ???
????????????? ?????? ?????? ?????????????? ??? ?????? ?????? ?????????? ??????????????
????????? ??? [??].»

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5 ??? ?? ?????? 3, ?????????? 10, ??? ?????????? 9 ??? ?????? ??? 1994 ??? ??
(Value Added Tax Act 1994), ?????????? ??? ?? ??? ???:

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

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

6 ?? Hockey Clubs ????? ?????????? ???????, ??? ?????? ??? ??????
????????????? ?????? ?????? hockey. ?? ??? ??? ?????????? ?????? ?????? ?????? ??
????????????? ??? ?? ?????????? ??? ?????? ??? ??? ?????? ????. ?????????? ??? ??
????????????? ??? ?????? ?????? ??????, ?? ?????? ?????????? ?????? ??????.

7 ?? Hockey Clubs ????, ?? ?? ?????? ???, ??? ??? England Hockey, ??? ??????????
?? ?????????? ??? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ?????? ??? ??
????? ??? ?????? ??? hockey ??? ??????. ?? ??? ?????????? ?????? ??? ??
????? ? ?????? England Hockey ?????? ???.

8 ?? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ?, ?????????? England Hockey
????? ??? ?????? ??? ?????? ??? ?????????? ??? ???????, ??? ?????? ?????????? ??? ??
????? ?????? ??? ?????? ??? ?????????? ??? ???????, ??? ?????? ?????????? ??? ??
????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ??
????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ???????, ?????????? ?? ??? ??
marketing ? ?????????? ??? ???????, ?????? ??? ?????????? ??? ?? ?????????? ? ?? ???????
?? ??????-????? ???, ?????? ??? ?????????? ????, ?????? ?????? ?????? ??? ???????
?? ?????? ??????.

9 ? ?????? ??? Commissioners ?????? ??? ?????? England Hockey ??? ??
????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ???
????? hockey ??? ??? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ????. ??? ??
????? ??? Commissioners, ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
?? ??? ???????, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
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10 ?? Hockey Clubs ?????? ?????? ??? VAT and Duties Tribunal,
????????? ??? ?? ?????? ??? ?????? ??? ?????? England Hockey ??????????????
?? ??? ??? ?????? ??? ?????? 13, ?, ?????? 1, ?????? ???, ??? ?? ??? ??????.

11 ?? VAT and Duties Tribunal ?????????? ??? ?? ?????????? ??? ?????? ? ??????????
England Hockey ?????? ?? ?????????? ?? ?????????? ?????? ??????-????? ??? Hockey

Clubs, ??????? ?? ?????? ?????? ?????????? ??????? ??? ????? ?????? ?????????????????? ???
?????? ??????? ??? ?????????????? ?????? ???????????????. ?? ?? ??? ????? ?????????? ??????
??? ?????? ?? ?????????????? ?????? ?????? ?? «?????????» ??? ???? ?????? ?????? ??
?? ?????? ??? [??? ??? ??? ?????? ?????? ??????], ?????????? ?? ?????????? ?? ?????? ??
????????? England Hockey ??????? ?? «?????? ?????????? ?? ??? ??????»
????????? ?????????? ??????? ?? ??? ???????, ?? ??????, ?? ?? ??????, ??????????????
??? ??? ???.

12 ?? ??????? ??? Commissioners ?????? ?????? ??? ?????????? ?????? ?????? ?????? ???
High Court of Justice (England & Wales), Chancery Division, ?????????????? ??? ?? Hockey
Clubs ??? ??????? ?? ?????????? ?? «??????» ??? ??????? ????. ?? Hockey Clubs ??????
????????, ?????????? ??? ? ?????? ??? VAT and Duties Tribunal ?????? ??? ??
??????????, ??? ?????? ??? ?????? ?????????????? ??? ?????????? ??? ?????????? ??
????????? ??? ??, ??????????????, ?????? ? ?????????? ??? ?????????? 3, ?????????? 10, ???
????????????? 9 ??? ?????? ??? 1994 ??? ???, ??? ?? ?????????? ?????? ?? ?????????? ??
«?????», ??? ??????? ??? ?????????? ??? ?????????? ??? ?????? 13, ?, ?????????? 1,
????????? ???, ??? ?????? ?????? ??? ?????????? ?????? ?????? ???.

13 ?? High Court of Justice (England & Wales), Chancery Division, ?????????? ??? ?
????????? England Hockey ??? ??????, ?? ??? ?????????? ???, ?????????? ??? ??? ??
Hockey Clubs ?? ??? ?? ?????? ?????????? hockey. ?????? ?? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????????????? ??? ?? ?????????? ??? ?????????? ? ??????????
England Hockey ?????????? ?????? ?? ??? ??????????.

14 ?? High Court of Justice (England & Wales), Chancery Division, ?????????? ??? ?? Hockey
Clubs ??? ?????? ?? ?????????????? ?? «??????» ??? ?????? ??? ?? ?????? ??????????
??? ?????? ??? ?????? ?? ?????????? ??? Commissioners. ??????????, ???, ??? ? ?????? ???
????????? ??? ?????? ?? Hockey Clubs ?????????? ??? ?? ?????????? ?????????? ???
????????? ???, ?? ?????? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ???
????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ?????????? ??????????:

«1) ??? ??? ?????????? ??? ?????????? ??? ?????????? ?? ?????? 13A, ?????????? 1,
????????? ???, ??? ?????? ??????, ?????????????? ?? ??? “?????”, ??? ??????????????
??? ?????? “????? ?????????? ?? ??? ??????”, ?? ?????? ?????? ??? ?? ??????
????? ?????? ?????????????? ?? ?????? ?????? ??? ??????, ??? ??? ?????? ??? ??????
????????? ? ?????????? ???;

2) ??? ??? “?????”, ??? ?????????????? ??? ?????? “????? ?????????? ?? ???
?????????”, ?????????? ??? ?? ?????? ?????? ??? ??? ?????? ?????? ?????? ??????
????????? ??? ?? ??? ?????? ??????, ?????? ? ?????? “????? ?????? ?????? ?????? ??????
????????? ??? ?? ??? ?????? ?????? ?? ?????????? ??? ??? ?????? ??? ?????? ??? ??????
????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? [?????]
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15 ? ????? ???? ?????? ?????????? ??? ???? ?????? ?????? ??????????, ??? ???? ?????? ??????????
????? ? ? ?????????? ?????????? ?????? ??? ???? ??????, ??? ???? ? ? ? ? ? ? ? ? ? ?
????????? (??., ?????? ????, ?????? ??? 15?? ?????? 1989, 348/87, Stichting Uitvoering
Financiële Acties, ?????? 1989, ?. I-1737, ??? 10). ??????????, ?? ???? 13 ??? ??????
????? ?????????? ?????????? ?????????? ??? ??? ???.

16 ?? ?????? ??? ?????? 13 ??? ?????? ?????? ??????????, ??? ???? ?????? ?????????? ???
?????????, ?????????? ?????? ??? ?????????? ??????, ?? ?????? ?????? ?? ???? ???
????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??? ??? ???? ?????? ???
?? ??? (??., ?????? ????, ?????? ??? 18?? ?????? 2004, C-284/03, Temco Europe,
????? 2004, ?. I?11237, ??? 16- ??? 26?? ?????? 2005, C?498/03, Kingscrest Associates
?? Montecello, ?????? 2005, ?. I?4427, ??? 22, ??? ??? 14?? ?????? 2007, C-434/05,
Horizon College, ?????? 2007, ?. I?4793, ??? 15).

17 ?? ??? ???? ?????????????? ??? ???? ?????????? ??? ?????????? ??? ???? ???? 13
??? ???? ???? ?????? ??? ???? ?????????? ??????????, ?????????? ??? ? ? ? ? ? ? ? ?
????? ?????????? ?????????? ??? ???? ???? ?????? ??? ???? ???? ?????????? ?? ???? ????
????????? ??? ?????????? ??? ???? ?????????? ?? ?????? ?????? ??? ?????????? ??? ???? . ?????.
????? ? ?????? ??? ?????????? ?????? ?????????? ??? ??????, ??? ? ? ?????????? ?????????? (??.
????????????? ?????? Temco Europe ??? Horizon College). ?? ??? ???? ?????? ?????? ??
????????? ??? ???? ???? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ???? ???? ????
????????? ??? ???? ?????? ?????? ?????? ?????? ?????? ratio legis ??? ??????????
????????? (??., ??????, ?????????? ?????? Temco Europe, ??? 18, ??? ??????
?? 3?? ?????? 2005, C-428/02, Fonden Marselisborg Lystbådehavn, ?????? 2005, ?. I?1527,
????? 28).

18 ? ?????? ??? ?????? 13, ?, ??? ?????? ?????? ?????? ??? ?????? ?????? ??????????
????????????? ?????? ?????? ?????????? ??? ??? ??. ? ?????? ?????? ??? ???? ???? , ???? ,
???? ? ? ?????????? ?????? ?????? ?????????? , ??? ???? ?????? ?????? ??? ???? ??????????
?? ?????????? ?????? ?????????? ??? ???? ? ? ???? ?????? (????? ??? 14?? ??????????
2006, C?401/05, VDP Dental Laboratory, ?????? 2006, ?. I?12121, ??? 24, ??
????????? ?????? ?????? Horizon College, ??? 14).

19 ???? ?????? ??? ?????????? ??? ???? ?????? ?????? ?? ?????????????? ??????
????????? , ?? ??? 13, ?, ?????????? 1, ?????? ???, ??? ?????? ?????? ??? ???? ?
????? ? ? ?????????? ??? ?????? ?????????? , ??? ???? ? ? ???? ?????? ?????? ??
????? ? ? ?????????? ??? ?????????? ?? ??? ?????????? ??? ? ? ???? ?????? (?? . ?????
?? 12?? ?????? 2006, C-246/04, Turn- und Sportunion Waldburg, ?????? 2006, ?. I?589,
????? 39).

20 ? ?????????? ??? ?????????????? ??? ?????????? ??? ?????????? ?? ???? 13, ?,
????????? 1, ?????? ???, ??? ?????? ?????? ?????????? ??? ?????????? ?????????????? ,
?? ?????? ?????? ??? ? ? ???? ??????.

21 ?????? , ?? ?????????? ?????? ?? ??? ?????????? ? ? ?????? ?????? ?????? ?????????? ??????
?? ?????????? ??? «?????????» ??? ? ? ?????? ??? ?????? 13, ?, ?????????? 1, ??????
??, ??? ?????? ?????? . ?????? , ??? ? ?????? ?? ?????? ?????? ?????? ?????? ?????? ? ?
????? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??
????? ?????? ?? ?????? ?????? ?????? ?????? ?????? . ??? ? ? ?????? ?????? ?????? ?????? ??
????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? . ??? ? ? ?????? ?????? ?????? ??

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22 ????????, ?? ??????? ??? ?????? ??????? ?????? ?? ?????????? ?????????????? ??
????????????? ?????? ?????????? ?????? ?????? ?????????? ?????? ?? ??? ?????????? ?
?? ?????? ?????? ??? ?????? ?? ?????????? ?????? ?????? ?????????? ?? ??? ?????????? ? ??
?????? ??????. ????????, ??? ?? ????? 13, ?, ?????????? 2, ???????? ?, ??? ??????????,
?? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????????? ?????? ?????? ??????????
????????? 1, ????????, ??? ?????? ?????? ?????????????? ?????? ?? ??? ?????? ??????????
?? ?? ?????????? ??? ?????? ??????, ?????? ??? ?????????? ?? ??? ?????? ?????????? ?? ??
?????? ?????.

23 ????????, ? ?????????? ?????????? ??? ?????? ?????? ?????????? ?????? ?????????? ???
????????? ??? ?????????? ?????????? ??? ??? ?????? ??? ?????? ??? ??? ?????? ??? ???
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24 ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?????? ??? ??? ?????????? ???
?????? ?? ?????? ??? ?????? ?????????? ?????? ?? ?????????? ??? ?? ?????????? ??? ??????
13, ?, ?????????? 1, ????????, ??? ?????? ?????? ?????????? ??? ?????????? ??? ??????????
????????? ??? ?????????? ?????????? ??? ?????? ?????? ??????????, ??? ?????? ?? ??????
????????? ??? ?????? ??? ?????????? ?? ?????????? ??? ???, ????????, ?????? ?? ?????????? ???
????????? ??? ?????? ??? ?????????? ?? ?????? ?????? ?????????? ?? ??? ?????? ?????????? ???.

25 ? ????????, ??? ?????????? ?????????? ?????????? ??????????, ????????, ??? ? ????????, ???
?? ?????? ?? ?????????? ??? ??????, ??? ???, ??? ?????????? ??? ?????? ?? ?????? ?? ??????
????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????, ?????? ?? ?????????? ??
????????? ?? ?? ?????? ??? ?????????? ??? ?????? ???, ????????, ?? ?????? ?????? ??? ??????
? ?????? ? ?????? ?????????? ??? ?????????? ??????????, ??? ??? ?? ?????????? ??? ??????
?????? ??? ?????????? ??? ?????? ??? ??????.

26 ???????, ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? «??????» ??? ?????? ???
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??????, ??? ??? ?? ?????? ??? ??????
????? ?????? ?????????? ??? ?? ?????? ??????, ??????????, ??? ?? ?????? ?????? ??? ??
????, ?????? ?? ?????? ?????? ??????, ?????? ??? ?? ?????????? ??? ??????????.

27 ??????, ?? ??? 13, ?, ?????????? 1, ????????, ???, ??? ?????? ?????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????????? ???
??????, ??? ?????? ?????? ??? ??????????, ??? ?????????? ??? ?????????? ??? ?? ?????????? ???
????? ?? ?????? ?????????? ? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ???
????? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?? ?? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????????? ???
????? ?????? 21 ??? 22 ??? ?????? ?????????? ??????????.

28 ? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ?????? ???, ??? ??????????
?????? ?????????? ??? ?????????? ??? ??????, ??? ?????????? ? ?????? ?? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ???
????????? ??????, ??? ?????? ? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??????, ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???,
?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??????.

29 ???????, ?? ? ??? «?????? ?????? [...] ?? ??????? ?????????????? ?? ???
?????????» ??? ?????? 13, ?, ?????????? 1, ???????? ???, ??? ????? ?????????? ??????????????
??? ??? ?????? ??? ?? ??????? ?????????? ?????? ?? ?????????? ?????????? ?? ??????
?????? ??? ?????????? ??? ??????? ??? ?????????? ?????? ??? ?????? ?????????? ??????, ?
????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ?? ?????????? ??? ???
????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ??????. ? ?????????? ??? ?? ?????????? ??? ??????????
??? ?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ?? ?????? ?????? ??????????
??? ??? ?????????? ?????????????? ???, ??? ?? ?????? ?????????? ??? ?????? ?????? ??????????
????????? ??? ?? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?? ?????? ???
????????? ?? ??? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ??? ?????? ??????????
????? ??? ??????. ?? ?????????? ??? ?? ?????????? ??? ?????? ?????? ?????????? ?? ??????????,
????? ??? ??? ?????? ?????????? ??? ?????? ??????, ??? ?????? ?????? ?????????? ??? ??????????
????? ?????? ??? ?????????? ??? ?????? ??????, ??? ?????? ?????? ?????????? ??? ??????????

30 ????????, ? ????????, ??? ?????? ?? ?????? ?? ????????, ?? ??? ?????? ?? ?????? ??
???????, ??? ?????? ?? ???????, ????????, ????????, ?? ????????, ?? ????????, ?? ?????? ?? 13,
?, ????????, 1, ????????, ???, ??? ?????? ???????, ????????, ????????, ????????, ?? ????????, ??
??????, ???????, ???????????, ??? ?????? ??? ?????? ??? ?????? ??? ???????, ??? ???????, ??
??????????, ?????? ??? ??????. ???, ? ????????, ??? ?????? ?? ??? ?????? ???????, ??? ?????? ??
??????????, ?? ?? ?????? ???????, ??? ?????? ??? ?????? ??? ?????????????, ?????????????, ?, ??????
??????, ?? ???????, ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ????????, ?? ??????
(??., ????????, ???????, ??? 11?? ??????? 1998, C-283/95, Fischer, ??????? 1998, ?. I 3369,
????? 27). ????????, ?? ?????? ??? ???????????, ?????? ???, ?? ?????????? ???????????
??????????, ??? ???????, ??? ???????, ???, ?????????????? ??? ?????????? ??? ???????, ?? ??????
?????? (??., ????????, ???????, ??? 7?? ?????????? 1999, C-216/97, Gregg, ??????? 1999,
. I-4947, ??? 20). ????????, ?? ???????, ??? ???????, ??? ???????, ?? ?????? ??? ???????????
??????????, ?? ? ???????????, ???????????, ??? ???????????, ?? ???????????????, ?? ???????????, ??
??????????, ?? ?????? 13, ?, ???????????, 1, ???????, ???, ??? ?????? ???????, ??? ???????, ??
??????????, ???????????, ??? ?????? ??? ?????? ???????????, ???????????.

31 ????? ?????????? ??? ?????????????????? ?????????? ??? ?????????? ??? ?????????? ??
????? 13, ?, ?????????? 1, ??????? ???, ??? ?????? ??????, ? ?????? ?????? ??? ?????? ??
????????? ??? ??? ?????? ??? ?? ?????????? ??? ???????, ?????? ???, ??????????
????????? ? ???????? ??? ???????? ?????????? ?????? ??? ?????? ?????????? ??????????
????? ??????, ???' ????, ?? ?????? ??? ???????? ??????????. ???????, ? ?????????? ??
????????? ???????? ??? ?????????? ??? ? ?????? ??? ?????? ??? ??? ?????? ?????????? ????
???? ???????? ??? ??? ???????? ??? ?????????? ??? ?????????? ?? ?? ?? ??? ?????? ?????????? ??????????
?? ?? ???.

33 ????????, ?????????????? ???, ??? ?????????? ??? ?? ?????? 13, ?, ?????????? 2,

????????? ??, ??????? ??????????, ??? ????? ???????, ??? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??????? ??
??? ?????????? ?? ?????? 13, ?, ?????????? 1, ?????????? ??, ??? ?????? ?????? ??
????????? ??? ?????? ???' ?????? ?? ?????? ?? ?????????? ? ?????? ?????????? ?????????? ?????????? ??
????? ??? ?????? ??? ?????????? ?????? ?????? ?? ?????? ?????? ?????????? ?????????? ?????????? ??
????????? ????.

34 ??? ?????? ??? ?????? ??, ?? ?????? ?????????? ???????, ??? ?????? ??? ?????? ??
????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ?? ?????????? ??
????????????? ??? ?????? (??.. ?????????? ??? 2?? ????? 1996, C-231/94, Faaborg-Gelting
Linien, ?????? 1996, ?. I-2395, ????? 12, ??? ??? 18?? ?????? 2001, C-150/99,
Stockholm Lindöpark, ?????? 2001, ?. I?493, ????? 26), ?? ?????????? ?? ?? ?????????? ??
????? ? ?????????? England Hockey ??? Hockey Clubs ?????????? ?? ?????? ?? ??
????????? ??? ?????? ?????????? ??? ??? ?????? ??? ?????? ?????????? ?????????? ?? ?? ??
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??
????? ???' ?????? ?? ?????? ?? ?????????? ? ?????????? England Hockey ?????? ??
??? ?????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ???
????????? ????.

35 ??????, ??? ????? ?????????? ?????? ?????? ?? ?????? ? ?????????? ??? ?? ??
13, ?, ?????? 1, ?????? ???, ??? ?????? ?????? ?????? ?? ?????????? ?? ?????????? ??
????? ??? ?????? ??? ?????? ?????? ?????? ???, ?? ?????? ?? ?? ?????? ?? ?????????? ??
?? ??? ???????, ??? ?? ?????????? ??? ?????????? ?? ?????? ?????? ?? ?????? ??
????? ???????????, ?????? ?? ?????? ?????????? ?? ?????????? ?? ?????? ??
????????? ?????? ?? ??? ?????? ?????? ??? ?????? ?????????? ?? ?????? ??
????????????, ?????????? ??? ?????????? ?? ?????????? ?????????? ?????????? ??
????????????? ?????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ??
????????????? ?????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ??.

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

36 ?? ?? ?????? ???????, ?? ?????? ?????????? ?????? ?? ?????????????? ?? ?? ??
????? ??? ?? ?????????? ?? ?????????? ?? ?????? ?????? ?? ?????????? ?? ?? ?????????? ??
????? 13, ?, ?????? 1, ?????? ???, ??? ?????? ?????? ?? ?? [?????] ??
????????? ?? ?? ??????????.

37 ??? ??? ?????????? ?? ?????????? ?????? ?? ?????? ?? ?????? ?????? ?????????? ??
????????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ??
??????, ?????????? ?? ?? ????? 13, ?, ?????? 1, ?????? ???, ??? ?????? ??????
????????, ?????? ?? ?????, ??? ?????????? ?? ?? «????????? ?????? ?????? ??????».
????????? ?? ?? ??????????».

38 ??????, ?????????? ??? ?? ?????? 13, ?, ??? ?????? ?????? ?????? ?????????? ??
????? ??? ?????????? ?????????? ??? ?????? ?? ?????? ?? ?????????? ?????? ?? ??, ??
????????? ?????????? ??? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?? ??
????????? ??? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ??
????? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????? ?????????? ?? ?????? ?? ?????? ?? ?????? (????? ??? 3?? ?????? 2003, C-
144/00, Hoffmann, ?????? 2003, ?. I?2921, ??? 38).

39 ??? ?????????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? 13, ?, ??? ??
????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????? ?????? (??.. ?????????? Hoffmann, ??? 39). ???????, ??? ??
????? ??? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??

??? ?????????? ?? ?????????????? ????????, ?? ?? ??? ????? ?????? ?????? ?????? ?? ?????????? ?? ??????????
??? ?????????? ??? ?????? ??? ?????????????? ?????????????? ??? ?????? ??? ???
????????????? ??? ?????? 13, ?, ?????????? 2, ??? ?????? ?????? (?. ?????? ??? 7??
????? 1998, C-124/96, ??????? ??? ?????? ?????? 1998, ?. I?2501, ??? 18).
????????? ??? ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?? ???
????????? ??? ?????? ?????? ?????? ?? ?????? ??? ?????? ?? ?????? ?? ?????? ?????? ??????
????????? ?????? ??? ?????? ?????? ??????.

40 ???????, ??? ?????? ??????? ?? ?????? ?? ?????? ? ?????? ? ?????? «?????????»
????????? ?????????? ?????????? ?????? ?? ??? ??????», ??? ?????????????? ???
????? 13, ?, ?????????? 1, ?????? ???, ??? ?????? ??????, ??? ?????? ??? ?? ???
????? ??? ?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ???
????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

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

41 ??????? ?? ? ?????????? ?? ?????? ?? ??? ?????? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ???, ?' ???
????????? ?? ?????????? ??? ??? ?????????? ?????? . ?? ?????? ??? ?????? ??????????
????? ?????????? ?????????? ??? ?????? ???, ??? ??? ?? ??? ?????? ???, ??? ??????.

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

1) ?? ??? 13, ?, ?????????? 1, ?????? ???, ??? ?????? ?????? 77/388/?? ??
?????????, ??? 17?? ??? 1977, ??? ?????????? ??? ?????? ??? ?????? ??? ??
????, ??? ?????? ?? ??? ?????? ?????? ?????? ?????? – ??? ?????? ?????? ???
????????? ?????: ?????????? ?????? ???, ?????? ?? ?????? ??? ?????? ??? ??
????? ??? ?????? ??? ?????? ?????? ?????? ???, ?? ?????? ?? ?? ?????? ???
????????? ?? ??? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????? ???
????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???, ?????? ?? ?????? ???
????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ??? ?????? ??? ?????? ?????? ?????? ???, ?????? ???
????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ???.

2) ? ??? «????????? ?????? ?????? ?????? ?????? ?????? ?? ?? ??? ??????»,
???? ?????????? ??? 13, ?, ?????????? 1, ?????? ???, ??? ??????
????? 77/388, ??? ?????? ??? ?? ?????? ??? ?????? ?? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????? ??? ?????? ??? ?????? ??? ?????? ???.

(?????????)

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