

?????? C-172/08

Pontina Ambiente Srl

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Regione Lazio

(?????? ??? Commissione tributaria provinciale di Roma ??? ??? ?????? ??????????????
?????????)

«?????????? – ?????? 1999/31/?? – ?????? 10 – ?????? ?????? ??? ??? ?????????? ??? ???????
????????? – ??????? ??? ????? ?????????????? ?????? ?????????????? ?????? ??? ?????? ???
– ?????????????? ?????? ?????? ?????????????? ?????? – ?????? 2000/35/?? – ??????
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????????? ??? ??????????

1. ?????????? – ??????? – ?????????? ??? ?????????? – ?????? 1999/31 – ??? «?
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(?????? 1999/31 ??? ??????????, ??? 10)

2. ?????????? ??? ?????????? – ?????????? ??? ?????????? ?????? ?????????????? ???
????????? ?????? – ?????? 2000/35 – ??? ??????

(?????? 2000/35 ??? ?????????? ?????????????? ??? ??? ??????????, ??? 1, 2, ??? 1,
??? 3)

1. ?? ??? 10 ??? ?????? 1999/31, ??? ??? ?????????????? ??? ?????? ??? ??????????, ???
????????????? ?? ??? ?????????? 1882/2003, ??? ??? ?????? ??? ??? ?????????? ???
????????????? ??????, ??? ? ?????? ??? ?????? ???, ? ?????? ?????????? ??? ?????
????????????? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ??????, ?? ???
????? ?? ??? ?????????????? ? ?????????? ?????? ?????????? ?????????????? ? ?????? ???
????????? ??? ?????? ?????????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????
?????, ??? ??? ?????????? ?????? ??? ? ?? ??? ?????? ?????????? ?????????? ??? ?????
????? ??? ?????????????? ??? ?? ??? ?????? ?????? ?????????? ?????????? ??? ?????
????????? ?????????? ??? ??? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???,
?????????, ?? ?????? ??? ?????????? ??? ?????????? ??? ??? ?????????? ?????????? ???
????????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????
????????? ??????????????, ?????????????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??????, ??????????????
????? ??? ??? ?????? ?? ?????????? ? ?????????? ??? ?????? ?????? ?????????????? ???
????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ???
????? ??? ?????? ??????????????. ?????????????? ??? ?????? ?????????? ??? ?????????? ???
????????? ?? ?????????????? ???.

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

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

(?. ?????? 38, 41, ??????. 1)

2. ?? ??? 1, 2, ??? 1, ?? 3 ?? ?????? 2000/35, ?? ?? ?????????????? ??
????????????? ?????? ????? ?????????? ??????????, ????? ?? ?????? ??? ?? ??? ??
????????? ??? ?????? ?????????????? ????? ?????????????? ????? ?????????? ???
????????? ?????? ?????????? ?????? ?????? ?????????? ?????? ?????????? ???
????, ??? ?????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????, ?????????? ???
????? ?????????? ??? ?? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?? ??????????
??, ?????? ?? ?? ??? 3 ?????, ? ?? ??? ?????? ?????????????? ?????? ?? ?????? ???
????? ?? ?????????? ?????????????? ?????? ?? ?????? ?????? ??? ?????????????? ???
????????? ?????? ?????? ??????????????.

(?. ?????? 48, ??????. 2)

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

?? 25?? ?????????? 2010 (*)

«????????? – ?????? 1999/31/?? – ?????? 10 – ?????? ?????? ?? ?????? ?????????? ??
????????? – ?????? ??? ?????? ?????????????? ?????? ?????????????? ?????? ?? ?????? ???
– ?????????????? ?????? ?????? ?????????????? ?????? – ?????? 2000/35/?? – ??????
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???? ??????? C?172/08,

? ? ?????????? ?????? ?????????? ?????????????? ?????????? ??? ?????? 234 ??,
?? ?????? ? Commissione tributaria provinciale di Roma (?????) ?? ?????? ??? 1??
????????? 2008, ? ?????? ???????? ??? ?????????? ??? 25 ?????????? 2008, ??? ?????? ???
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Pontina Ambiente Srl

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Regione Lazio,

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

????????? ??? ?? C. Toader, ?????? ??? ?????? ???????, ?????????????? ??? ??????????
????????, ??? ??? C .W. A. Timmermans, K. Schiemann, P. K?ris (???????) ??? L. Bay
Larsen, ??????,

????? ??????????: E. Sharpston

?????????: R. ?ere?, ??????? ???????????,

?????? ??? ?? ?????? ?????????????? ??? ??????? ??? ??' ?????????????? ??????????? ???
4?? ??????? 2009,

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

– ? Pontina Ambiente Srl, ?????????????? ??? ??? F. Zadotti, ragioniere, ??? A. Presutti,
avvocato,

– ? ??????? ????????, ?????????????? ??? ??? I. Bruni, ?????????????? ??? ??? G. De
Bellis, avvocato dello Stato,

– ? ??????? ??? ?????????? ??????????, ?????????????? ??? ??? A. Aresu ??? J.?B.
Laignelot,

???? ??????? ?? ?????? ??????????? ??? ??????? ??? ?????????? ??? ??? ?? ???????
??? 17?? ??????????? 2009,

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

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1 ? ??????? ??????? ?????????????? ?????????? ??? ?????? ??? ??????? ??? ??????? 12 ??,
14 ??, 43 ?? ?? 46 ??, ??? ?????? 10 ?? ?????? 1999/31/?? ??? ???????????, ??? 26??
????????? 1999, ??? ?????????????? ??? ?????? ??? ?????????? (EE L 182, ?. 1), ???
????????????? ?? ??? ?????????? (??) 1882/2003 ??? ?????????? ?????????????? ??? ???
??????????, ??? 29?? ?????????? 2003 (EE L 284, ?. 1, ??? ???: ?????? 1999/31), ???
??? ??? ??????? 2000/35/?? ??? ?????????? ?????????????? ??? ??? ???????????, ??? 29??
????????? 2000, ??? ??? ?????????? ??? ?????????????? ?????????? ??? ??? ???????????
????????? (EE L 200, ?. 35).

2 ? ??????? ??? ?????????? ??? ??????? ??????? ??????? ??????? ??? Pontina
Ambiente Srl (???: Pontina Ambiente) ??? ??? Regione Lazio ??????? ?? ??? ??????
????????? ?????? ?? ??? ?????? ?????????????? ?? ??? ?????? ??? Pontina Ambiente
????????? ?????? ?? ??? ?????? ?????? ?? ??? ?????? ?????? ??? ?????? ?????????? ???
?? ??? ?????? ?? ??? ?????? ?????? ??? 2004 ??? ?????????? ?? ??? ?????? ???????, ???
????????? ???.

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

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

3 ? ??????? ??? ?????????? ??? ?????? ??? ??????? 1999/31 ??? ?? ???:

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

4 ?? ?????? 1, ?????????? 1, ??? ?????? 1999/31 ?????????? ?? ????:

5 ????? ?? ?????? 2 ??? ??????? 1999/31:

«???? ???? ??????? ??? ?????????? ????????, ????????, ???:

[...]

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

[...]

n) ???????, ? ??????? ?? ??????? ? ?? ?????? ? ?????? ??????? ?????? ??? ???????

[...]».

6 ?? ?????? 10 ??? ??????? 1999/31 ??????? ?? ???;

7 ?? ?????? 3, ??????????? 1, ????????? ??, ??? ??????? 75/442 ????

«?? ?????? ???? ?????????? ?? ???? ?????????? ?????? ???? ?? ??????????:

?) ??? ??????, ??? ?????? ? ?? ?????? ??? ?????????? [...] ??? ?????????? [...]».

8 ?? ?????? 1 ??? ??????? 2000/35 ?????????? ??? ???? ?????????? ?????? ?????????????? ??
????? ??? ??????? ??? ?????? ?????????? ?????? ??? ?????? ?????????? ?????????? ??????????.

9 ??? ?? ?????? 2, ?????? 1, ??? ??????? 2000/35, ?? «????????? ??????????» ??????
«????? ?????????? ?????? ?????????????? ? ?????? ?????????????? ??? ?????? ??????, ? ??????
?????? ?????? ?????????? ?????? ??? ?????? ?????????? ?????? ?????? ??????».

10 ?? ?????? 3 ??? ??????? 2000/35, ?? ????? «????? ?? ?????????? ??????????????
?????????», ??????????, ?????? ?????, ??? ?? ?????? ??? ?????????????? ??? ??????
????????? ?????? ??? ?????? ?????????? ?????????????? ??? ?????? ??? ?????? ?? ?????????? ???
??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????? ?????? ?? ?????????? ??? ??????????, ?????? ??? ?????? ?????????? ??? ?????????? ??? ???
?????????.

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

11 ?????????? ?? ?????????? ?? ??????? ??? ?????????? ??????????, ?????? ??? ???
????????? ??? ?? ?????????? ?????? ??? ??????????, ?? ?????? 3, ?????????? 24, ???
????? 549, ??? 28?? ?????????? 1995, ??? ??? ?????? ?????????????? ??? ??????
????????????? (?????? ?????????? ??? GURI ????. 302, ??? 29?? ?????????? 1995, ???
????: ??? 549/95), ??????? ?????? ?????? ??? ??? ?????????? ??? ?????? ??????????.

12 ??? ?? ?????? 3, ?????????? 25, ??? ?????? 549/95, ?? ?????????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????????? ??????????.

13 ??? ?? ?????? 3, ?????????? 26, ??? ?????? 549/95 ?????????? ??? ? ?????????? ??? ??
????? ??? ?????? ?????? ?????????????? ??? ?????????????? ??? ??????????
?????????????, ? ?????? ??? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ??????
??? ?????????? ?? ?????????? ??? ??? ?????????? ??? ??????.

14 ?? ?????? 3, ?????????? 27, ??? ?????? 549/95 ?????????? ??? ?? ?????? ?????? ??? ??
????????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??????????.

15 ??? ?? ?????? 3, ?????????? 28 ?? 29, ??? ?????? 549/95, ?? ?????????? ???
????????? ?? ?????????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????????
????????? ??? ?????????? ??? ?????? ?????????????? ??? ?????? ?????????? ?? ??????????????
????? ??? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?? ?????? ??? ?????, ???
????????? ??? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ???.

16 ?? ?????? 3, ?????????? 31, ??? ?????? 549/95 ?????????? ?????????? ?????? ??
????????? ?? ???????, ?????????? ? ?????????? ?????????? ??? ?? ??? ?????? ???, ? ???
????? ?? ?????? ??? 400 % ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???.

17 ?? ?????? 1, ?????????? 1, ??? 2, ??????? a, ??? ?????????? ?????????? 231, ???
9?? ?????????? 2002, ??? ?????????? ??? ?????? 2000/35 ??? ??? ?????????? ???
????????????? ??? ?????? ?????????? (GURI ????. 249, ??? 23?? ??????????
2002, ?. 16), ?????????????? ???' ?????? ?? ?????? ??? ?????? 1 ??? 2, ?????? 1, ???
?????? ???.

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

18 ? Pontina Ambiente, ??? ?????? ??? ???, ?????????????? ?????? ??? ??????
?????????. ? ?????????????? ??? ???????????, ?????? ???, ??? ?? ???????, ?? ??? ???

????????????? ??? ?????????????? ???, ?? ?????? ?????????? ??? ?????????????? ???
????????? ??? Regione Lazio, ?? ?? ??????????, ?? ?? ?????????????? ??? ??
????????? ?????? ?????????? ?????????? ??? ?????????? ??????????, ?????? ??? ?? ?????? ???
????? ???.

19 ???? ??? ??? 549/95 ??? ??? ?????????? ??? ?????? ??????????, ? Pontina Ambiente
????????? ??? ?????? ?????? ?????? ??????, ??? Regione Lazio, ??? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ??????, ?? ?????? ?????? ?? ?????????? ?? ?????????? ???
?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ?????? ?? ?????? ?????????? ?????? . ? Pontina Ambiente ?????? ??
????????? ?? ?????? ??? ?????? ?????? ?? ?????? ?????????? ?????? ?? ?????????? ??? ??
????? ?????????? ???.

20 ? ?? ??? ?????? ??????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ?????? ??? ?? ??????
?????? ??? 2004 ????, ?????? ??? ?????? ??? ?????????? ??? ?????? ??? Regione Lazio ?? ??
????????? ??? ?????? ??? 2006 ??? ?????? ?????? ??? ?????? ???, ???????????, ??
?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? 3, ?????????? 31, ???
????? 549/95.

21 ??? 4 ?????????? 2007, ? Pontina Ambiente ?????? ??? ??? Commissione tributaria ???
?????? ??? ?????? ??? ?????? ? Regione Lazio.

22 ? Pontina Ambiente ?????? ??? ?????? ??? ?????????? ??? ?????? 549/95, ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ????. ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ????. ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Regione Lazio, ?????? ?
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?
????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???
?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???.

23 ? ?? ??? ?????? ???????, ?????? ???, ?? ?????? ?????? ?????????? ???
????????? ??? ???????, ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????
????? ?? ?? ???????, ??? ???????, ?? ?????? ??? ?????????? ?????????? ???, ??? ??
????? ?? ?? ???????, ???, ???????, ??? ?? ?????? 12 ??, 14 ??, 43 ??, 46 ??, ?? ?????? 10
??? ?????? 1999/31, ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? 2000/35.

24 ?????????? ??? ?? ?????????? ??? ?????????? ? Pontina Ambiente ?? ?????????? ??
????? ???????, ? Commissione tributaria provinciale di Roma ?????????? ?? ??????????:

«????????? ??? ?? ??? 3, ?????????? 26 ?? 31, ??? ?????? 549/95, [...] ??? ??? ?????? ???
[...] ? ?????????? ???, ?????? ??? ?????? ??? ?? ?????? ?????????? ??? ?????? ???
????????? ???, ?? ???????, ?? ?????? ??? ?????? ?????? ??? ?? ?????? 12 [??], 14 [??], 43 [??] ??? 46
[??], ?????? ?? ?? ?????? 10 ?? ?????? 1999/31 [...], ??? [??] ???, ?? ??????, ?? ??????
????? ?? ?? ?????? ??? ?????? ?????????? ???] ??? ?????? 2000/35 [...], ?????????? ????
?? ?????????? ???, ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ??????
????? ?? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??.

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

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

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

26 ???????, ? ?????? ?????????? ??? ? ?????? ?????????? ??? ? ?????? ??? ? ??????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ?? ?????? ?? ?????????? ?
????? ??? ??? ?????? ?????? ?????????? ?????????? ?????????? ?????? ?? ?????? 12 ??, 14
??, 43 ?? ??? 46 ??.

27 ?????? ?? ??????????, ??????, ???, ??? ?????? ?????????????? ???????????, ??
????????? ??? ??? ?????? ?????? ?? ?????????? ??? ?????? ?????????? ?? ?????????? ??????
????? ??? ?? ?????? ??? ??????, ??? ?????? ?????? ?????? ?? ?????????? ??? ??????
????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ??? ??????
?? ??? ?????? ??? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? (?????? ??? 16?? ??????? 2009, C?254/08, Futura Immobiliare
??., ??? ??? ??? ?????????? ??? ?????? ??? ??????, ??? 28 ??? ??? ?????????? ???
?????????).

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

29 ?????? ?????? ??? ?????? ?? ?????? 10 ??? ?????? 1999/31 ??? ??? ?????? 2000/35.
?????????, ? ??????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?? ??????????
??? ??????? ?????? ?????????? ?????????? ?????? ?????? ?????? ?? ?????? 12 ??, 14 ??, 43
?? ??? 46 ??, ???????, ??? ?????????? ??? ?????? ??? ?????? ?? ?? ??? ?????? ???
????????? ?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????, ???
????? ?????? ??? ? ?????? ?????????? ??? ?????? 35 ??? 38 ??? ?????????? ???, ???????
?? ?????? ?????? ?????????? ?? ??? ??? ?????? ?????? ??? ??? ?????????? ??????
????????? ??? ?? ??? ?????? ??? ?????????? ??????.

30 ??? ??? ?????????? ???, ?????????? ? ?????????? ??? ? ?????? ?????? ??????
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ?? ?????? 12 ??, 14 ??, 43
?? ??? 46 ??.

31 ??? ??? ?????????? ??? ?????? ?? ?????? ?????????? ??? ?????? ?? ?????? ???
????? ?????? ?????????? ?????????? ??? ?????? ?? ?????? ??? ?????????? ??????:

1) ??? ???? 10 ??? ?????? 1999/31 ??? ?????? ??? ?????????? ?????? ??????????
??????, ??? ? ?????? ??? ?????? ???, ? ?????? ?????????? ??? ?????? ??????????
????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??????????
????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????
?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????
????? ??? ???? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????

?????????????? ?? ??????? ?????????????? ?????????? ??? ?????? ??????, ?????? ???????????
?? ??????? ?? ?????????????? ?? ?? ??? ?????? ?????????? ?????? ?????????????? ?? ?? ??? ??
????? ??? ?????? ?????? ?????? ?????????????? ?????? ?????????????? ?????????????? ??? ??
?????????????, ?? ?????????? ?????????????? ?????????????? ??? ??????, ?? ?? ?????? ???
????? ??? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ???, ?????????????????? ??? ???
??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??????????????; ??

2) ??? ? ?????? 2000/35 ??? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ?????? ?????????????? ?????? ?????????? ?????? ?????????? ?????? ??????????????
?? ??????? ?????????? ??? ?????? ?????????????? ?????? ?????????? ?????? ?????? ???
????????????? ??? ?????????????? ??????, ?????????? ??? ?????? ?????????? ??? ?? ???
????? ??? ??? ?? ?????? ??? ?????? ?????? ?????? ?? ?????????? ??? ?????????? ??? ?? ??? ?? ???
?????, ??? ?????? ?????????? ?????????? ?? ?????????? ?????????? ?????????? ??? ?????? ??? ?? ???
?????; ??

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32 ??? ???? ??? ?????? 10 ??? ?????? 1999/31, ?? ?????? ??? ?????????? ??? ?????? ???
?? ??????? ?????????? ??? ?????????? ?????? ?????? ?????????? ?????? ?????? ?????????? ??
????????? ??? ??? ??? ??? ??? ?????? ?????? ?????????? ?????? ?????? ?????????? ??? ?? ???
????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ???.

33 ??? ?????? ??? ?????? ?????????????? ??? ?????? 49 ??? ?????????? ???, ?? ?????? 10 ???
?????? 1999/31 ??? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ??
????????????? ??? ?????? ?????? ?????? ?????????? ?????? ?????? ?????????? . ??? ?????????? ???
????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ??????????
??????, ?????????? ??? ?????? ?????? 175 ??, ? ?????? ?? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? (??., ???'
??????, ?????? Futura Immobiliare ???., ???????????, ??? 48).

34 ???????, ?? ?????? 10 ??? ?????? 1999/31 ??? ?????????? ??? ?? ?????? ???????
?????? ??????? ??? ?????? ??? ?????? ?????????? ?????? ?????????? ?? ?????? ??? ?????? ??
????????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??????????
?????. ??????, ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????????? ? ?????? ?????????? ?? ?? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
??????, ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???.

35 ?? ?????? 10 ??? ?????? 1999/31 ??????? ??????, ??? ?????? ?????????? ?????? ???
?? ??????? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ???, ?? ??? ?????? ?????? ??? ?? ???
????? ??? ?? ?????????????? ??? ? ??? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? ??? ?? ??
????? ??? ?????????? ??? ?????? ?? ?????????? ?????? ??? ?????? ?? ?????? ?????? ??? ?? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???.

36 ? ??????? ??? ?????? ?????? ??? ?????? ??? ?????? ? ?????? ?????? ???????, ? ?????? ??? ??
??????, ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? 75/442 ??? ??
?????? 2006/12/??, ??? ?????????? ?????????? ??? ??? ?????? ??? ?????? ??? 5?? ???????
2006, ??? ??? ?????? ?????? (EE L 114, ?. 9), ??? ?? ?????? ??? ?????? ???.

?????????? ?????? ?? ??????? ????? ??????? ??? (?? .?????????? ??? 7?? ????????????)
2004, C?1/03, Van de Walle ??., ?????? 2004, ?. I?7613, ???? 57- ?? 24?? ?????? 2008,
C?188/07, Commune de Mesquer, ?????? 2004, ?. I?4501, ???? 71, ????? ??
????????????? ?????? Futura Immobiliare ??., ?????? 44 ?? 45 ?? ????? ??????????????
?????????). ? ?? ??? ?????????? ?????????? ?? ?????? ??? ?????? 1999/31 ? ??????, ???
?? ????? 1, ?????????? 1, ?????, ?????????? ??? ?????????????? ??? ?????????? ??? ??????
75/442, ????? ?? ?? ?????? 3 ????? ?? ??????????, ?????? ?????, ??? ????? ?? ??
????????? ?? ?????????? ????? ?? ?? ?????????? ??? ?????? ?? ?????????? ? ?? ?????????? ??
????????? ??????????.

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

38 ??? ???????, ?????? ?????? ?????? ?????? ?????? ?? ??????? ?????? ??? ?? ??????? ??
????? ?????????? ?? ?????? ?????????????? ?????? ?????????????? ?????? ?????????? ???
????????????? ?? ?????? ??? ?????? ?????????????? ?????? ?????????????? ??? ??????????
????????? ??? ?????? ?????????????? ?????, ?????????? ?????? ?????? ??? ??? ?????????? ??? ?
????????????? ?????? ?????????????? ?????? ?????? ??? ?????????????? ??? ?? ??????
????????????? ?????? ?????????? ??? ?????? ?????? ?????? ?????????????? ?????? ?? ??
????????????? ?? ??? ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ??????
?? ?????????????? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ?????????? ??????
????????????? ?? ??? ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ??? ??
????????? ?????????????? ?????? ?????????? ?????????? ?????????? ?? ?????? ??? ?????????? ??? ??
????? ?????? ?????????????? ?? ?? ?????? ?????????? ?????????? ?? ?????? ??? ?????????? ??? ??
????? ??? ?????? ?????? ?????????? ?????? ?????? ?????????? ?????????? ?? ?????? ??? ?????????? ??? ??
????????? ?????? ??????????.

39 ?? ??? ???????, ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?????? ??????? ??
?????, ?????????????? ?????? ??? ?????????? ?????????? ??? ?????? ?????????? ?? ???
????????????? ?????? ?????? ??????????, ?????? ?????????? ?????????? ???, ??? ??? ?????? ???
????? 10 ??? ?????? 1999/31, ?????????????? ?????? ??? ?????? ??? ?????? ?? ?????????? ??
????? ??? ?????? ?????????????? ?????? ?????????????? ?????? ??? ??? ?????? ?????????? ? ??????
?? ?????? ??? ?????? ?????????????? ?????, ??? ?? ?????? ??? ?????????? ??? ?????? ??? ??????????
????? ??? ?????????? ??? ?????? ?????, ??? ?????? ?????????????? ?? ?????????? ??????????
????? ??? ?????? ??? ?????? ?????????? ??????, ?????, ??? ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? 10 ??? ?????? 1999/31, ?? ?????????????? ??? ?????? ???.

40 ?? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????????????? ??? ?????? ??
????????????? ?????? ?????????????? ?????? ?????? ?????????? ??? ?????? ??? ?????????????? ??
????? ?????? ?????? ??? ?????????????? ?????? ?????? ?????? ??? ?????? ?????? ??? ??????
?? ?????????? ?? ?????????????? ?? ?????? ?????? ??? ?????? ??? ?????? ???, ?????? ???
????????? ??? ?????? ?????????? ?? ?????? ???.

41 ??? ?????? ??? ??????????????, ??? ?????? ?????? ?????? ?? ?????? ? ?????? ??
????? 10 ??? ?????? 1999/31 ??? ?????? ??? ?????? ??? ?????? ?????????? ?????? ??????????
??????, ??? ? ?????? ??? ?????? ???, ? ?????? ?????????? ??? ?????? ?????? ??????????????
????? ?????????????? ??? ?????? ?????????? ??? ?????? ?????? ???, ?? ?????? ?????? ??? ??

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

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

42 ? ?????? 2000/35, ??? ??????? ?? ???? ???? 1 ??? ?? ?????????? ??? ??????????????
?? ??? ???? ??????? ?? ???? ?????????? ??????? ?? ???? ?????? ?????????? ??????????,
??????, ??? ????? ?? 2, ?????? 1, ?? «????????? ??????????» «????? ?????????? ??????
????????????? ? ?????? ?????????????? ?? ???? ??????? ????, ? ?????? ?????? ???? ??????
????? ? ??? ?????? ?????????? ?????? ?????? ».

43 ?? ?????????? ???. ?? ?????????? ???. ?? ?????????? ???. ?? ?????????? ???. ?? ?????????? ???.
?? ?? ?????????? ???. 231, ???. 9?? ???. 2002.

44 ?? ????????????, ?????????? ???, ??? ?????? ??? ?????? ??? ?????, ?????????? ??? ??
????? ?????? ??? ????? ?????????????? ??? ?????? ?????????????? ??? ?????? ?????????? ??? ??
????????? ?????? ??? ?????? ?????????????? ??? ?????? ?????????? ??? ?? ?????? ??? ??
????????? ??? ?????, ??? ??? ?????????????? ??? ?????? ?????? ??? ?????????? ??? ??????
????????? ??? ? ?????? ??? ????? ?????????????? ??????? ?? ?????? ??? ?????????? ??? ??????
????????? ??? ?????? ???, ??? ?? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ??????, ? ?? ?????????? ??? ?????? ?????????????? ??? ?????????? ??? ??
?? ?????????? ??? ?????? ?????????????? ???, ?????? ?? ?? ?????? 3, ?????????? 26, ???
????? 549/95, ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????.

45 ?????????? ?????????? ???, ?? ?????????? ?? ??? ????? ?????????????? ? ?????????? ??????????, ?
?????? ??????? ?? ???? ?????????????????? ??? ?????? ?????????????? ?????? ?????????? ??? ??
????????????? ??????? ?????????????? ??? ?????????? ?????????? ?????? ?? ?????? ???
????????????? ??? ?????? ?????????? ?????????? ?????? ?????????????? ??? ?????????? ??????
????????????? ?? ?????????????? ?????? ?????????? ?????? ?????? ???, ??????, ??????
????????? ??? ??? ?????? ??? ?????? 2, ?????? 1, ??? ?????? 2000/35.

46 ????????, ?? ??????? ?? ?????????????????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????????????? ?????????? ?? ?????? ?? ?????? ?????????? 2000/35.

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

48 ??? ?? ?????????????? ?????????? ??? ?? ?????? ?????? ?????? ?? ???? ?
????????? ??? ?? ?????? 1, 2, ?????? 1, ??? 3 ??? ?????? 2000/35 ?????? ??? ?????? ??? ??
????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????????????? ?????? ?????? ?????????? ???
????????? ?????? ?????? ?????????????? ??? ?????? ?????? ?????? ?? ??? ?????? ?????? ??????????????
?????, ??? ?????? ?? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????? ?????????? ??? ?? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?? ??????????????
???, ?????? ?? ?? ?????? 3 ?????, ? ?? ?????? ?????? ?????????????? ?????? ?? ?????? ?????? ?? ??????????
????? ?? ?????????? ?????????????? ?????? ??? ?? ?????? ?????? ??? ?????????????? ???
????????? ?????? ?????? ??????????????.

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

49 ??? ?????????? ??? ???? ?????? ?????????? ??? ?? ??? ?????? ?????? ?????????? ??? ?? ???? ?
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ??' ???
????????? ?? ?????????? ??? ?? ?????? ?????? ?????? ??????. ?? ?????? ??? ?????? ??????????
????? ?????????? ?????????????? ??? ?????? ??? ?? ?????? ?????? ?????? ??? ??????????.

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

1) ?? ????? 10 ??? ?????? 1999/31/?? ??? ??????????, ??? 26?? ???????? 1999,
???? ?????????? ??? ?????? ??? ??????????, ??? ?????????????? ?? ??? ??????????
(??) 1882/2003 ??? ?????????? ?????????? ??? ?? ?????? ??????????, ??? 29??
????????? 2003, ??? ?? ?????? ??? ?????? ??? ?? ?????? ?????????? ?????? ??????????
??????, ??? ? ?????? ??? ?????? ???, ? ?????? ?????????? ??? ?????? ??????
????????????? ??? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? ?????????? ??
????? ?????? ?? ??? ?????????????? ? ?????? ?????????? ?????? ?????? ?????????????? ? ??????
????? ?????? ??? ?????? ?????? ?????? ?????????????? ???, ??? ? ?????? ?????????? ???
????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ??????
????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ? ??
????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?? ??
????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ??
????? ?? ?????? ??? ?????????? ?? ??? ?????? ???, ??????????, ?? ?????? ???
????????? ??? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??.

2) ?? ?????? 1, 2, ?????? 1, ??? 3 ??? ??????? 2000/35/?? ??? ???????????
????????????? ??? ??? ???????????, ??? 29?? ??????? 2000, ??? ??? ???????????
??? ?????????????? ?????????? ??? ?????????? ???????????, ????? ??? ?????? ??? ??
???? ??? ?????????? ??? ????? ?????????? ????? ?????????? ?????? ?????????? ??? ??
????????? ??? ?????????? ?????????? ?????????? ?????? ?????????? ?????? ??? ??
???? ??? ?????????? ??????, ??? ????? ?? ??? ????? ??? ?????????? ??? ??
????????? ??? ??????, ?????????? ??? ????? ?????????? ??? ?? ??? ?????? ?????? ??? ??
???? ??? ?????? ??????? ?? ?????? ???, ?????? ?? ?? ?????? 3 ??????, ? ??
???? ?????? ?????????? ?????? ?? ?????? ??? ?????????? ?????? ?? ?????????? ??????????
????????? ??? ?? ??? ????? ?????? ??? ?????????? ?????? ?????????? ?????? ?????? ??????
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(?????????)

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