

?????? C-267/08

SPÖ Landesorganisation Kärnten

????

Finanzamt Klagenfurt

(????? ??? Unabhängiger Finanzsenat, Außenstelle Klagenfurt ??? ??? ?????? ??????????????)

«??? – ?????? ??? ??? ?????? – ?????? ??? “????????????? ??????????????” –
????????????? ?????????? ?????????? – ?????????????? ?????????? ??? ?????? ???
??? ?????? ?????????? ??? ?????? – ?????? ??? ??? ?????????? ??? ?????? ???
????????? ?? ???»

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

????????????? ?????????? – ?????????? ??? ?????????? – ?????? ?????? ?????????? – ??????
????????? ??? ?????????????? ??? – ?????????? ?????????? ?????????? ??? ??? ?????? ???
????? 4, ?????????? 1 ??? 2, ??? ?????? ??????

(????? 77/388 ??? ??????????, ?????? 4 §§ 1 ??? 2)

??. ?????? 4, ?????????? 1 ??? 2, ??? ?????? ?????? 77/388/???. ??? ??. ??????????, ???
????????????? ??? ?????????? ??? ??????, ??? ?????????? ?? ??? ?????? ?????? ??????
????????, ?????? ?? ?????????? ??? ??? ?????? ??? ?? ?????????????? ?????????????? ???
????? ??? ?????? ?????????????? ? ?????? ?????????? ?????????? ?????????? ??? ?????? ??????
????? ??? ?????? ?? ?????????? ?????????? ?????????? ?????????? . ?????????? ??,
????????????? ??? ?????? ?????? ?? ?????????? ?? ?????????? ?????????? ?????? ?????????? ??????????,
????????? ??? ?? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ??? ?????? ??????
????????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ?????? ???, ??????
????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???
?????, ?????????????? ??? ?????? ??? ?????? ??? ?????? ? ?????????????? ?????????? ??? ??????
????????, ?????????????? ?? ?????? ?????? ?????? ?????? ?????????? ?????????? ??? ??????
????? ??? ?????????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ???
????????????? ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ?????????? . ???
??? ?????? ??? ?????????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??
????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??
????????????? ??? ?????? ??????.

(?. ?????? 21, 23-24 ??? ??????.)

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

??? 6?? ?????????? 2009 (*)

«???? – ????????? ??? ????? ??? ????? ?????? – ??????? ??? “????????????? ??????????????????” –
????????????? ?????????? ?????????? ?????????? – ?????????????? ?????????????? ??? ??????????
??? ?????????? ?????????? ??? ?????????? – ??????? ??? ??? ?????????????? ??? ?????? ???
????????????? ?? ???»

????? ??????? C?267/08,

?? ??????????? ?????? ?????????? ?????????????? ?????????? ??? ?????? 234 ??,
??? ??????? ?? Unabhängiger Finanzsenat, Außenstelle Klagenfurt (????????) ?? ??????? ??
16?? ??????? 2008, ? ?????? ??????? ??? ?????????? ??? 20 ??????? 2008, ??? ???????
??? ??????

SPÖ Landesorganisation Kärnten

????

Finanzamt Klagenfurt,

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

?????????? ??? ??? C. W. A. Timmermans, ??????? ????????, J.?C. Bonichot, J. Makarczyk
(????????), L. Bay Larsen ??? C. Toader, ????????,

?????? ??????????: M. Poiares Maduro

?????????: K. Mala?ek, ??????? ??????????,

?????? ??? ??? ?????? ?????????? ??? ??????? ??? ??' ?????????? ??? ?????????? ???
23?? ??????? 2009,

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

– ?? Finanzamt Klagenfurt, ?????????????? ??? ??? J. Wogrin, ?????????????? ??? ??? G.
Lackner, Rechtsanwalt,

– ? ??????? ??????????, ?????????????? ??? ??? ?. ??????????, ?. ?????? ??? ?.
?????,

– ? ??????? ??? ?????????? ??????????, ?????????????? ??? ??? ?. ??????????????,
???? ?????? ??? ?????? ?????????? ??? ??????? ??? ?????????? ??? ??? ?? ??????????
?? 9?? ??????? 2009,

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

??????

1 ? ?????? ?????????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 4,
?????????? 1 ??? 2, ??? ?????? ?????? 77/388/??? ??? ??????????, ??? 17?? ?????? 1977,
???? ?????????????? ??? ?????????? ??? ?????? ?????, ??? ?????????? ?? ??? ?????? ??????
????????? ? ?????? ?????? ?????? ?????????????? ?????: ?????????? ?????????? ??? (??
???. ????. 09/001, ?. 49, ??? ?: ??? ?????? ???).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ??? SPÖ Landesorganisation
Kärnten, ??? ?????? ? ?????????? ??? ?????????? ?????????????? ?????????? ??? ??????????
????? ??? ?????????? (??? ?: Landesorganisation) ??? ??? Finanzamt Klagenfurt ??????
?? ?? ?????????? ??????????, ??? ?????? ??? ????? ?????????????? ?????? (??? ?: ???),
????????? ?????????????? ?????? ?????? ?????? ?????? ? ?????? ???
????????? ??? ?????????? ??? ?????? ?????????? ??? ?? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? 1998 ??? 2004.

? ??????

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

3 ?? ?????? 4 ??? ?????? ?????? ??? ????:

«1. ?????????? ?? “????????????? ??? ?????” ?????????????? ????, ??? ?????? ??????????
??? ?? ?????????????? ????, ??? ?? ?????????? ?????????????? ??? ?????????? ???
???? ?????????? 2, ?????????? ??? ?????????????? ??? ?????? ??? ?????????????? ???
????????????? ????.

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

[...]

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

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

[...]»

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

4 ?? ?????? 1, ?????????? 1, ??? ?????? ??? ?????? (Parteiengesetz), ??? ???
????????????? ?????? ???, ?????? ?? ???:

«(1) ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???

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

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

[...]»

5 ??? ?? ??? 6 ??? ?????????????? ?????????? ??? 1975
(Abgabenänderungsgesetz 1975), ?? ??????? ??????? ??????? ?? ??????????????????, ???
????? ?? ????? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????? 3,
????????? 3, ??? ?????????????? ?????????? ?????? (Bundesabgabenordnung), ?? ??????
?????? ??????? ???????, ?????? ????? ?????? ?????????????? ??????? ?? ?? ????? 1 ???
????? ??? ???????.

6 ?? ??? 2 ??? ????? ??? ??? ????? ?????? ??? 1994 (Umsatzsteuergesetz
1994) ?????? ??? ?????? ??? ?????????????? ??? ??? ??????????. ? ?????????? 3 ???
????? ?????? ??? ?????? ?????? ?????? ?????? ??????.

7 ?? ??? ?????????? ?????????? ??? ??? ?????? ??? ?????? ?????????, ? ?? ???
????????? 3 ??? ?????? 2 ??? Umsatzsteuergesetz 1994 ?????????? ??? ?? ?????? ??????
????????? ?????? ?????? ?????? ?? ?????? ?????????? ? ??????????????
????????????? ??? ??? ?????? ??? ?????? ?????????????? ?????????????? ???
????????????? ? ?????????? ??????????, ??? ??? ?????? ??? ?????? 2 ??? ????? ??? ???
???? ?????????? ?????? ??? 1988 (Körperschaftsteuergesetz 1988).

8 ?? ??? 2 ??? ????? ??? ????? ??? ?????? ??? ?????? ??? ?????? ??????????????
????????? ?????????? ? ?????????? ?????? ?????? ?????? ?????? ?????? ??????
?????:

«(1) ?????? ?????????????? ?????????? ?????? ?????????? ? ?????????? ?????????? ???
????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???

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

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

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

- ??? ?? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ??? (????? 21 ??? ???
??? ??? ??? ?????????? ??? 1988 [Einkommensteuergesetz 1988]).

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

[...]

(4) ?????????? ?????????? ?????????? ? ?????????? ??? ?????? ?????? ??????????
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??????
?????.

(5) ?????????????? ?????????? ??????? ?? ??? ?????? ?????? ??? ?????????? ?????????????? ???
??? ?????? ??? ?????????? 1 ??? ?????????? ??? ? ?????????????? ??? ??????????????
?????? ??? ?????? ?????????? ?????????? (????????????? ???' ?????? ??????????)
?????????). ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????
??? ?????????? ? ?????? ?????????? ??? ?????? ? ?????????? ?????? ??????????????, ???
????????? ? ?????????? ??????, ?? ??? ??????».

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

9 ??? ??? ??? ?????? ??? ?????? ??? ?????? ? Landesorganisation. ? ?????? ???, ???
????? ?????? ??????????????, ?????????????? ?????? ?????????????? ??? ??????????????
??? ?????????? ??? ?????? ?????????? ???, ?????? ?????? ??? ?????????? ?????????, ???
????????? ??? ??? ??????????, ?????????????? ??? ?????????????? ?? «????????? ???
?????». ? ????????, ?????? ?????, ?????? ?????????? ?????????????? ?????? ?? ???
????????? ?? ????????, ?????? ??????????????, ??? ?????????? ?????????? ??? ??????
????????? ??? ?????????? ?????? ??? ?????? ?????? ??? SPÖ.

10 ?? ?????????? ??? ?????? ?????????? ?????? ?? ?? ?????? ??? ?????? ???
Landesorganisation ?????? ?? ?????????????? ?? ?????????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ???, ???????, ??? ?????? ??? ?????? ???
????????? ??? ??? ??? ??? ?????? ??? ?????? ???.

11 ?????? ?? ??? ?????????????? ??? ?????????? ??????????????, ?? ??? ???
Landesorganisation ?????? ??? 1998 ?? 2004 ?????????? ?????????? ??? ??
????????? ??? ?????? ??? ??? ?????? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ??? ??? ??? ?????? ??? ?????????? ??? ??? ?????? ??? SPÖ.
?????????, ??? ?????? ?????? ??? ?????? ??? Landesorganisation ?????????????? ???
????????? ??????????. ?? ?????????? ??? ?????? ?????????? ?????????????? ??? ??????
Landesorganisation ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????
????????????? ??? ?????? ?? ?????? ??? ?????? ?? ??????–, ?????? ??? ?????? ??
Landesorganisation ?? ?????????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ???
????????? ?? ?? ??? ?????????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ??
????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ??? ??????.

12 ?? ?????? ??? ?????? ? ??? ?????? ??? ?????? ?? ?????????????? ?? ??????????????
????????? ???, ??? ?? 2004, ?? ?????????????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????? ???, ??? ?????????? ??? ?????? «??? ??? ??????
?????». ?? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?? ?????? ?? ??? ??????, ???,
??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??????, ??? ??????
????????? ??? ?????????? ??? ??? ??????.

13 ??? ??? ?????????? ???, ?? Unabhängiger Finanzsenat, Außenstelle Klagenfurt
????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??
????????? ?????????? ??????:

«1) ??? ?? ??? 4, ?????????? 1, ??? ????? [??], ??? ?????? ??? ? “????????? ???
?????”, ??? ?????? ?????????? ? ?????? ?????? ?????? ?????????? ?????? ??? ??????
????????? ?? ??? ?????????? ?????????? ?????? ??? ? ?????? ??? ?? ?????? ??????
??????, ?????????????? ?????????????, ?????????? ?????????? ?????????? ??????????.

? ?????????????? / ?????????????? ?????? ??? ?????????? ?????? ?????????? ?????? ??? ?????????? ???
?????? ???? ???? ???? ?????? (??? ???? ??? SPÖ), ?????? ?? ?????? ?? ???? ??????
?????????????, ?????? ?????????????? ?????? ?????? ??? ?? (?????) ?????????? ???
????? “????????? ??? ??????” ??? ?????? ?????? ?????????? ?????????? ???
????? (????????? ?????? ???.) ??? ??? ???? ?????? ??? ??? ???;

2) ?? ?? ?????????????? ??? ?????????????? ?????? ??? ?????? 1 ?????? “??”
????????? ?????? ?????????? ??? ??? ?????????? ?????? ??? ?????? ??? ???
????? ???, ?????? ?????? ??? ??? ?????????? ??? ?? “????????? ?????? ?????????? ???”
????? ??? ?????? ??? ?????? 4, ?????????? 1 ??? 2, ??? ?????? ?????? [??]; ?????? ??????
????? ???, ??? ?????? ??? ?????????? ???, ?????????? ?????? ?????? ?????? ?? ???
?? ??? ?????? ??? ?????????? ???, ?? ??? ?????????? ???, ?????????? ??? ?????? ???, ??
????????? ??? ??? ??? ???? ?????? ???.

3) ?????? ?? ?????? ??? “????????? ?????? ?????? ???” ?? ??? ?????? ???
????? ??? ??? ?????? ??? ?? ?????? ??? ?? “????????? ??? ??????” ??????????
????????? ??? ?????????? ?? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ???; ??

4) ?????? “????????? ?????? ?????????? ???” ?????? ??? ??? ?????? ??? ???? ????
??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ??? (?.?.
????????? ??? ?????? ?? ?????? ??? ?? ?????? ??? ?????? ??? ???? ?????? ???), ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???; ??

5) ?????? “????????? ?????? ?????????? ???” ?????? ??? ??? ?????? ??? ???? ????
??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?? ?? ???
?????????, ?? ??? ??? ?????? ?????? ??? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?? ??? ?????? ???
????????? ??? ?? ??????; ??

6) ?????? ?? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? (????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ???
????? ??? ?????????? ??? ?? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???,
?? ?????????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???;
?????????; ??

7) ?? ?????? ??? ?????? ??? ?????? ??? ? “????????? ??? ??????” ?????? ???
????????? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? 4, ?????????? 1 ??? 2, ??? ???
????? [??]: ?????? ?? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???
????????? ??? ?????? ?????? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? conditio sine qua non ??? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
“????????? ??? ??????”; ??

8) ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ? ?????????? ??? ??? ??? ??????????
“????????? ??? ??????” ?? ??????????, ??? ??? ?????? ???, ?? ??? ?????????? ???
????????? ?????? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ??? (????? 10) ???
????? ??????, ?? ??? ?????? ??? ?????? ?????? ???, ??? ??? ?????? ???, ?? ???
?? ??? ??????; ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???; ??
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????? ??? ?????? ??? ?????? ??? ?????? ??? “?? ??????”; »

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

14 ?? ?? ?????????? ???, ?? ?????? ?? ??????????? ?? ?? ???????, ?? ?????? ?????????? ??????, ???' ??????, ?? ?????????????? ?? ??????? ?? ?? ?????? 4, ?????????? 1 ??? 2, ??? ?????? ??????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ?????? ?? ?????? ?????? ??????.

15 ???? ?? ????? 4, ?????????? 1, ??? ?????? ??????? ??, ?????????? ?? «????????????? ???? ???» ?????????? ????, ???? ?????? ?????????? ???? ?? ?????????? ????, ??? ?????? ?????????? ?????????? ???? ?????? ?????? 2 ??? ?????? ??????, ?????????? ???? ?????????? ?????? ?????? ?????? ???? ?????? «????????? ?????? ??????» ?????????? ???? ?? ?????? ???? ?????? ?????? 2 ??? ?????? ??????. ? ?????? ???? ??? «????????? ?????? ??????» ?????????? ???? ?? ?????? ???? ?????? ?????? 2 ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

16 ??????? ?????????????? ???, ??????? ?? ?????? 4 ??? ?????? ?????? ?? ?????? ?????? ???? ?????????? ???? ??? ?????? ?????? ???? ?????? ?????? (??, ?????????? ??? 26?? ?????? 2007, C?284/04, T?Mobile Austria ?.??., ?????? 2007, ?. I?5189, ??? 34, ??? C?369/04, Hutchison 3G ?.??., ?????? 2007, ?. I?5247, ??? 28).

17 ??? ??? ?????? ?????????? ?????????? ?????? ?? ?????? ???? ?????? ?????? ???? ?????? ?????? ???? ?????? ???? ?????? ?????? ???? ?????? ???? ?????? ?????? ???? ?????? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? (??, ?????? ????, ?????? ??? 21?? ?????? 2006, C?223/03, University of Huddersfield, ?????? 2006, ?. I?1751, ??? 47, ?????? ?????? T?Mobile Austria ?.??., ?????? 35, ??? Hutchison 3G ?.??., ?????? 29).

18 ??? ??? ?????? ???? ?????????? ?????? ???, ??? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? Landesorganisation ?????????? ???? ?????? ?????? ?????????????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? SPÖ ???? ???? ???? ?????? ?????? ???? ?????? ????.

19 ???????, ????????????, ??????, ??? ?????? ?????? ?? ?????? ???? ?????? ???? ?????? ???? ?????? ?????? ?????? ?????? ?????? ?????? ???? ?????? (?????? ??? 3?? ?????? 1994, C?16/93, Tolsma, ?????? 1994, ?. I-743, ?????? 13 ??? 14 ?????? ??? ?????? ?????????? ??????????).

20 ?????????? ? ?????????? ???, ??? ?????? ???? ?????? 4, ?????????? 2, ??? ?????? ?????? ???, ? ?????? «?????????» ??????????, ?????? ?? ??? ?????????? ???? ??????

??? ??????????????? ??? ?????? ??????????? ????, ?? ????, ??? ???????, ???????????, ??????????? ???
?? ?????? ????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ?
?????? ????, (?.., ???????, ???????, ??? 29?? ??????? 2004, C?77/01, EDM, ???????
2004, ?. I?4295, ????? 48, ??? ?? 21?? ??????? 2004, C-8/03, BBL, ??????? 2004, ?. I-
10157, ????? 36).

21 ???????, ??????????????? ??? ? ??????? ??? ?????? ??? ???????????????, ???
????????????? ??? ????? 18 ??? ???????, ?????????, ?????????? ?? ??????? ?????????? ??????????
?? ?????????? ???, ? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?????????? ?????????
????????? ???????.

22 ???????????, ??????????? ???, ??????????? ?? ?????????? ? ?????????????? ???
????????????? ??? SPÖ, ?? ?????? ??? ?????????????? ??? ?????????? ?????????????? ??????????????
?????? ?? ??? ?????? ?????????? ??? ?????? ?????????????????? ??? ?????????? ??????????
???? ?????? ??? ?????? ??? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ??????

23 ?? ?? ??????, ?? ??? ?????? ?????? ??????? ?????????? ?????????? ??? ?? ?????
????????????? ??? ?? ??????? ??? ?????? ??? ?? ?????? ??? ???????, ??? ?? ?????? ???,
????? ????, ??????????? ??? ?????? ??? ?????? ??? ??????? ? ?????? ??? ?????? ???
?????????????.

24 ???????, ??????????????? ??? ?????????? ?????, ?? SPÖ, ??? ??????? ???
????????????? ??? ?????????? ??? ??????, ????? ?????????????? ?????????????? ? ??????
????? ??? ?????? ??? ?????? ??? ?? ?????????? ???????????. ??????????, ?????? ???
????????????? ??? SPÖ, ???, ?????? ???, ??? Landesorganisation, ??? ?? ???????
??? ?????????? ??? ?????????? ?????????? ?? ??? ??? ?????????? ??? ?????? ???
????????? ???????. ??? ??? ?????? ??? ?????????? ?????? ???, ?? SPÖ ??????
?? ?? ?????????? ??? ??????.

25 ??? ???????, ? ??????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ?? ??????
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? 4, ?????????? 1 ??? 2, ??? ?????
?????? ???.

26 ??????????? ??? ?????? ??? ??????????????, ? ??????? ??? ?????? ?? ?????? ????
?? ????? 4, ?????????? 1 ??? 2, ??? ?????? ??????? ??? ?????? ?? ?????????? ??? ???
????? ??? ?? ?????????????? ?????????? ??? ?????? ??? ?????? ?????????? ??????????
????? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ?? ?????? ?? ??????????
????????? ??????????.

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

27 ?????????? ??? ? ??????? ?????????? ??? ?????? ?? ??? ?????? ?????????? ??? ?????? ???
?? ?????????? ?????????????? ??? ??????? ?????????? ??? ?????? ??? ?????? ?????????? ???, ?' ???
????????? ?? ?????????? ??? ??????? ?????????? ??????. ?? ?????? ??? ?????? ??????????
???? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????.

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

?? ?????? 4, ?????????? 1 ??? 2, ??? ????? ??????? 77/388/??? ??? ??????????, ???
17?? ???? 1977, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???, ???
????????? ?? ??? ?????????? ?????? ?????????? ? ?????? ?????????? ?????? ??????????????
?????: ?????????? ?????????? ???, ?????? ?? ?????????? ??? ??? ?????? ?????????????? ? ??????
????????????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????????? ? ??????
????????? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?? ??????????
????????? ??????????.

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

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