

?????? C-212/10

**Logstor ROR Polska sp. z o.o.**

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**Dyrektor Izby Skarbowej w Katowicach**

[?????? ??? Wojewódzki S?d Administracyjny w Gliwicach (???????) ??? ?? ???????  
????????????? ???????]

«????????? – ??? ?????? – ?????? 69/335/??? – ?????? ?????? ??? ?? ??????????????  
????????? – ?????????? ?????? ?? ?????? ?????????? ?????????????? ?????? ?? ?????? ?  
????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? – ?????? ??????  
????? ?? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??????  
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????»

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

????????? ?????? – ?????????? ??? ?????????? – ?????? ?????? ??? ??  
????????? ?????? – ?????? ?????? ??? ??? ?????????????? ??????????

(????? 69/335 ??? ????????, ??? 4 § 2, ??? 7 § 2)

? ???? 4, ??????? 2, ??? ?????? 69/335, ??? ??? ?????? ?????? ??? ??????????????  
?? ??? ?????????? ???, ??? ?????????? ?? ??? ?????? 85/303, ??? ???  
????? ??? ?????????? ?? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ??????  
?? ?????????? ?????????????? ??????, ?? ?????????? ??? ?????? ??? ?????? ? ?????? ???  
????????? ??? ?????????? ??? ?????????? ??????, ?????? ?? ?????? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ???.

??????????, ? ??? «?????? ?? ?????????? ?? ?????????? ?????? ??? ??????????», ?  
????? ?????????????? ??? ??? 4, ?????????? 2, ??? ??? ?????? ???, ??? ?? ??????????  
????? ?????????? ??? ?? ?????? ??? ?????? ???, ?? ?????????????? ??? ?????? ??????????  
????? ?????? ??? ?? ?????? ??? ?????? ??? ??????????????, ??? ??? ?????? ??? ?????? ???,  
????? ??? ?????????? ??? 1? ?????? 1984 ?????? ??????, ??? ???, ??????????, ??  
????????? ?????? ??? ?????? ???.

(?. ?????? 37, 40 ??? ??????.)

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

?? 16?? ?????? 2011 (\*)

«????????? – ????? ?????? – ?????? 69/335/??? – ?????? ?????? ??? ??? ??????????????  
????????? – ?????????? ?????? ?? ?????? ?????? ?????????????? ?????? ?? ?????? ?  
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? – ?????? ??????  
????? ?? ?????? ?? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????  
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????»

???? ?????? C212/10,

?? ?????????? ?????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????,  
?? ?????? ?? Wojewódzki S?d Administracyjny w Gliwicach (???????) ?? ?????? ??? 15??  
?????? 2010, ? ????? ?????? ??? ?????????? ??? 3 ????? 2010, ??? ?????? ??? ????

**Logstor ROR Polska sp. z o.o.**

????

**Dyrektor Izby Skarbowej w Katowicach,**

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

????????? ??? ??? J.-C. Bonichot (????????), ?????? ???????, K. Schiemann, C. Toader,  
A. Prechal ??? E. Jaraši?nas, ???????,

?????? ??????????: P. Mengozzi

?????????: K. Malacek, ??????? ????????????,

?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?? ?????????? ?????????? ???  
??? ??????? 2011,

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

- ? Logstor ROR Polska sp. z o.o., ?????????????? ??? ??? T. Konik ??? K. Gil, doradcy  
podatkowi,
  - ? Dyrektor Izby Skarbowej w Katowicach, ?????????????? ??? ??? G. Pasterczyk,
  - ? ??????? ???????, ?????????????? ??? ??? M. Szpunar ??? ??? ??? A. Kramarczyk  
??? A. Krai?ska,
  - ? ??????? ???????, ?????????????? ??? ??? M. Afonso ??? K. Herrmann,
- ?????? ??? ??????? ??? ?????, ??? ?????? ??? ?????? ???????????, ?? ??????? ???  
?????? ??? ?????? ??????? ??? ???????,
- ?????? ??? ???????
- ??????

1 ? ??????? ?????????? ?????????????? ?????????? ??? ?????????? ??? ?????? 4,  
?????????? 2, ??? ??????? 69/335/??? ??? ??????????, ??? 17?? ??????? 1969, ??? ??  
????????? ??? ?? ?????????????? ??? ??? ?????????????? ?????????? (?? ???.. ???.. 09/001,  
?. 20), ??? ?????????????? ?? ??? ??????? 85/303/??? ??? ??????????, ??? 10?? ???????  
1985 (?? L 156, ?. 23, ??? ????: ?????? 69/335).

2 ? ??????? ??? ?????????? ??? ??????? ??????? ??? Logstor ROR Polska sp. z  
o.o. (??? ????: Logstor ROR Polska), ? ????? ??????? ??? Zabrze (?????????), ??? ??? Dyrektor  
Izby Skarbowej w Katowicach (?????????? ??? ?????????? ?????????????? ?????????? ???  
?????????), ??????? ?? ??? ??????? ??? ?????????? «????? ??? ??? ??????? ???????  
??????», ? ?????? ?????????? ??? ?????????????? ??? ?????????? ??? ?????????? ?????????? ??? Logstor  
ROR Polska ??????? ??????? ??? ??? ??????? ??????? ???.

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

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

3 ? ??????? ?? ??? ??? ????? ??????????? ???, ? ??????? 69/335 ?????? ?? ??????????  
?? ??????? ?????????? ??? ??????????, ? ????? ?????????? ?????????? ??????????  
????????? ??? ?? ?????????? ?????????? ??????. ??? ?????, ??? ?????????? ??? ??? ???  
??? ??? ????? ?????????? ???, ? ?????? ??? ?????? ?? ?????????? ?? ?????????? ?? ??????????  
????? ??? ????? ?????????? ?? ?????? ??? ?????? ??? ?????????? ?????? ??? ??????????  
??????, ?????????????? ?????? ??? ??? ??? ?????????? ?????? ??? ?? ??????? ??  
????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ???  
?????? ??????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??? ?????? ???  
?????? ??????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??? ?????? ???  
??????.

4 ??? ?????, ??? ??? ?????? 1 ??? 9 ??? ?????? ?????? ?????? ??????????? ?? ???????  
????????????? ??? ??? ??? ?????? ?????? ?? ?????????? ?? ?????????????? ???????, ? ???  
????????? «????? ??????».

5 ??? ?? ??? 4, ?????????? 1, ??? ?????? 69/335:

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

[...]

?) ? ?????? ??? ?????????? ?????????? ?????????? ???' ??????? ?? ???  
????????? ????

?) ? ?????? ??? ?????????? ?????????? ??? ?????????? ???' ??????? ??  
?????, ?????????? ????, ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ??????, ??? ??? ?????????? ???  
?????? ??? ?????? ??? ??????, ??? ?? ?????? ???, ?? ?????? ??? ?????????? ???  
????? ? ??? ?????????? ????

[...]».

6 ??? ?? ??? 4, ?????????? 2, ??? ?????? ?????? ?????? :

«?? ?????????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??  
????????? ??? ?????????? ??? 1 % ??? 1? ?????? 1984:

[...]

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

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

[...]»

7 ?? ?????? 7 ??? ?????? 69/335 ?????????? ?? ???:

«1. ?? ?????? ??? ?????????????? ??? ??? ????? ?????????? ??? ?????? ??? ?????? ??? ???  
????????????? ??? ?????? 9 ?? ??????, ??? 1? ?????? 1984, ?????????????? ? ?????????? ???  
????????? ?? ?????????? 0,50 % ? ??????????.

? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?? ??????????  
?????????, ?, ??????????, ??? ??? ?????? ?????????? ??? ?????????? 0,50 % ?  
?????????.

[...]

2. ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????????? ??? ?????? ??? 1, ??? ???? ???? ?????? ??? ??????  
????????? ??? ??? ?? ?????????? ?? 1 %».

8 ? ??????? ??? ? ?????? ?????????? ??? ?????? ??? ?????? 85/303, ?????? ??? ??????  
????????? ?? ?????? ??? ?????? 69/335, ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
????????? ??? ?????? ??? ?????? ??? ??????, ??? ???? ????:

«????????? ??? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??  
????????? ??? ?? ?????????? ??? ?????????? - ??? ?? ?????????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ???.

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

9 ? ?????? 69/335 ??????????, ??? 1? ?????? 2009, ??? ???? ???? 16 ??? ??????  
2008/7/? ??? ??????????, ??? 12? ?????? 2008, ??? ???? ???? ?????? ??? ???  
????????? ??? ??? ?????????? ??? ?????? (?? L 46, ?. 11).

? ??????

10 ? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? 1? ?????? 2004.

? ?????????? ??? 1? ??????? 1984 ?????????? ??? ????? ??????????

11 ? ?????? ??? 19?? ?????????? 1975, ??? ?????? ?????????? (Dz. U ????. 45, ??? 226),  
????????? ??? ?? ?????? ??? ?????????? ?? ?????? ?????????? ??? ?????? ? ??????  
????????? ?????????? ?? ?????? ?????????? ?????? ?????????? ??? ?????? ?????????? ??????????,  
??? 16?? ????? 1983 (Dz. U ????. 34, ??? 161), ?? ?????? ?????? ?? ??? 1? ??????  
1983, ?????????? ?? ?????????? ??? ? ?????????? ?????? ?????????? ?????? ??? ??????  
?????????. ?? ????? 54, ?????????? 5, ??? ?????????? ?????? ?????? ?? ???:

«?? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ???  
????????? ???????, ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???????  
????????? ?? 50 % ??? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ??? ??????».

12 ??? ?????????? ???, ? ?????????? ?????? ?????????? ??? 5 % ??? ?????? ???  
??????.

? ?????????? ??? ?????? ??????, ? ?????? ?????? 1?? ?????????? 2001 ??? 30??  
?????? 2004

13 ?????? 1?? ?????????? 2001 ??? 30?? ?????????? 2004, ?? ?????? ??????  
????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??????  
?????????.

14 ??? ?????? 1, ?????????? 1, ??? ?????? ??? 9?? ?????????? 2000, ??? ??????  
??? ??? ?????? ?????? (Dz. U ????. 86, ??? 959, ??? ????: ??? PCC ??? 2000),  
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??  
????????????? ???, ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????  
??? ??? ???.

15 ?? ????? 1, ?????????? 3, ??? ????? PCC ??? 2000 ????? ???:

«???? ?????????? ?????????? ??????????, ?? ?????????? ??? ?????? ?????????? ???

[...]

4) ?? ?????????? ???????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (???????) ???  
?, ?? ?????????? ???, ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ???  
????????? ??? ?????? (???????).»

16 ?????? ??? ?????? 7, ?????????? 1, ?????? 9, ??? ????? PCC ??? 2000 ??????????,  
????????? ??? ?????? ??? ??????, ?????? ?????????? ?????? ?????? ?????? ??????????  
????? ??? 1 % ??? 0,5 % ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? 0,5 %.

? ?????????? ??? ?????? ??????, ? ?????? ?????? 1?? ?????? 2004 ??? 31??  
????????? 2006

17 ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???  
19?? ?????????? 2003 (Dz. U ????. 6, ??? 42), ?????????? ??? PCC ??? 2000,  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ???  
????? ??? ?. ??? ???? 9, ?????? 10, ?????? h, ??? ????? PCC ??? 2000, ???  
????? ??? 1?? ?????? 2004 (DZ. U ????. 41, ??? 399):

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

[...]

10) ?? ?????? ??? ?????? [...]

h) ?? ?????????????? ?????? ?????? (? ??????).

[...]».

? ?????????? ??? ?????? ????????, ? ?????? ?????? 1?? ?????????? 2007 ??? 31??  
????????? 2008

18 ?? ????? 9, ??????? 10, ??????? h, ??? ????? PCC ??? 2000, ??? ????? ??? 1??  
????? 2004, ?? ????? ???????? ??? ????? ?? ?????? ??? ?????????? ?? ??????????????  
????????? ??? ?????? ? ??????, ???????????, ??? 1?? ?????????? 2007, ??? ?? ????? 2,  
????? 9, ??????? c, ????? ????????, ??? ????? ??? 15?? ?????????? 2006, ???  
?????????????, ??????, ??? ????? ??? ?????????? ??? ?????? ???, ????????, ??? ??????  
???? ????? ??? ?????????? ??????? (Dz. U ????. 222, ??? 1629, ??? ????: ???  
PCC ??? 2007»).

19 ?? ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????? ???  
????? ??? ?????? 1, ?????????? 3, ?????? 2, ??? ????? PCC ??? 2007, ??? ??????????  
????? ?? ?????? ?????????? ?????? 0,5 % ?????? ??? ?????? 7, ?????????? 1, ?????? 9, ???  
????? ????.

? ?????????? ??? ?????? ????????, ? ?????? ?????? ??? 1?? ?????????? 2009

20 ?? ??? ??? ?? 7?? ?????? 2008 (DZ. U ????. 209, ??? 1319) ?????????? ???  
????????? ?????? ??? ?????? 2008/7, ?????? ?? ??? ?????? ?????? ?????????????? ???  
??? ?? ?????? ?????? ?????? ?? ?????? ??? ?????? ??? ?????????? ?? ?????????????? ???  
????????? ? ?????? ???, ?????? ??? ?????? 9, ?????? 10, ?????? i, ??? ?????? ????.

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

21 ??? 9 ?????? 2007, ? Logstor ROR Polska ??? ??? ?? ??? ?????? ???, ?????? ?  
Logstor Holding A/S, ?????????? ??? ?? 15 ?????????? 2004 ?????? ?????? ???  
???????, ?????????? ?? ??? ?????? ?????? ?????????????? ?????? ?? ?????? ??? 2 600  
000 ??? ?? ?? ?????? ?????? ??? 5 233 000 ????. ??? 14 ?????? 2007, ? Logstor ROR  
Polska ?????? ?? ??? ?????? ?????? ??? ?????? ???????, ??? 8 000 000 PLN.

22 ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???, ?? ??  
??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ????.

23 ?????? ???, ???' ?????? ??? ?????? 69/335, ??? ?????? ??? ?????? ???  
????????? ??? ?????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ?????? ???????, ?  
Logstor ROR Polska ?????? ??? ??? ?????????? ?????? ?? ?????????????? ??? ??????  
????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???  
????????? ? ??????.

24 ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ??? ?????? ?????????? ?????? ???, ? Logstor ROR Polska ?????? ???  
Wojewódzki S?d Administracyjny w Gliwicach (????????? ?????????? ??? ?????????? –

????????? – ??? Gliwice).

25 ??? ??? ????????, ?? Wojewódzki S?d Administracyjny w Gliwicach ??????? ??  
?????????? ?? ???? ??????? ?? ??????????? ?? ???? ?? ????????? ?? ???? ????????? ?? ???? ???????  
?????????? ?? ???????;

«????????????? ?? ?????? ??????, ?????? ??? ?????? 4, ??????????? 2, ??? ?????? 69/335 [...],  
?? ??????? ?? ???, ??? 1?? ?????????? 2007, ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????????? ??????, ?? ?????????? ????? ??? ?????? ? ?????? ?????? ??? ?????? ???  
????????? ??? ?????????? ??????, ?????????? ?? ?????? ?????? ?????? ?????? ?????????????? ??????????  
??? ??? ?????? ??? ?????? ?????, ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
[?????] (??? 1? ????? 2004);»

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

26 ?? ?? ??????? ???, ?? ?????? ??????????? ?????, ???' ??????, ?? ?? ????? 4,  
?????????? 2, ??? ?????? 69/335, ??? ?????? ?????? ??? ?????? ??? ??????????  
????????????? ??? ?????????? ??? ?????? ?????, ?????? ?? ?????????? ??? ??? ?????? ???  
????????? ?? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ???????, ?? ?????????? ??? ?? ?????? ??? ?????? ? ?????????? ??? ?????? ???  
????????? ??? ?????????? ??????, ?????? ??? ?? ?????? ??? ?????? ??? ??????????????  
????????? ??? ?? ?????????? ????.

28      ? ?????????? ??? ?????????????? ?????????????? ??? ??? ??? ?????? ?????? ? ?????????? ?  
??? ?????????? ?????????????? ??? ??? ??? ? ?????????? ??? ??? ?????? ?????????? ?????????? ???  
??? ?????? ??? ?????????????? ??? ??? ??? ??? ??? ??? ?????? ??? ?????? ?????? ?????? ???  
??????? ??? ?? ??????? ??? ?????? ??? ?????? ??? ?????? ??????. ??? ??? ??? ?????????? ????, ?,  
??????? ??? ?? 1?? ??? 2004 ??? ??? 31?? ?????????? 2006, ???????? ??? ??? ??? ???  
????? ?????????? ??? ??????? ??? ?????????? ??? ?????????? ????? ?????????? ??? ?????? ?? ??????  
????? ?????????? ??? ??????? ??? ?????? ?????????????? ??? ?????? ??????????, ??????,  
?????, ??? ?? ??? ?? ??????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???,  
???????, ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
???????,

29 ? ??????? ? ??????? ? ??????? ? ??????? ? ??????? ???? , ?????? , ??????? ? ? ??????  
???? ??????? ? ? ?????????????? ?????? ?????? ?????? ? ?????? ?????????????? ??? ? ???? ????  
???? ??? ??????? ? ??????? ? ??????? ???? ?????? 2004 ??? ??? ????? 2006, ??? ??????  
?? ??? ??? ??? ?????? ??? ??????? ???? ??????? ?????????? ?????????? ??? ??????????? ???  
????????? ?????? ??? ??? , ??????? , ??????????? , ?????? ??? ????? PCC ??? 2007  
?????????? ? ??????? ???? ??????? ???? ??????? ???? ??????? ?????????? ????? ??????? ?? ?????  
????????? ??????? ? ??????? ??? ??? ???? ?????????? ??? ?????? ?????? ??? ??? ??????  
????????? ??????? , ??? ?????????? ??????? ???? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ??????? , ??? ?????????? ??????? ???? ?????? ??? ?????? ?????? ??? ?????? ???.

30 ???????, ????? ?? ?????????? ???, ??? ?????? ??? ?????????? ??????????  
????????? ??? ?????????? ?? ? ? ????? 267 ???, ??? ?????????? ??? ?????????? ?? ????  
?? ??????? ? ?? ??????? ??? ??????? ??? ?? ?????? ??? ?????????? ??????????  
????????? ??? ?????? ?????? (??., ???????, ??????? ?? 14?? ?????????? 2008, C-  
449/06, Gysen, ?????? 2008, ?. I-553, ????? 17, ??? ??? 11?? ?????????? 2008, C-11/07,

Eckelkamp ?., ?????? 2008, ?. I-6845, ???? 32).

31 ????????, ?? ?????????? ?????? ?? ????? ?????????? ??? ?????? ??? ???? ?????????  
????????? ??? ?????????? ??? ?????????? ?????????????? ???, ??? ?????? ??? ??????????  
????????????? ??? ?????? ???, ?????? ??? 1? ????? 2004, ? ?????????? ??? ??????  
????????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ????.

32      ????. ?? ?????? 4, ??????????? 2, ??? ??????? 69/335, ?????????? ??????? ?????????? ??  
«????????? ?? ?????????? ??? ?????????? [...] ?????? ?????????? ??? ?????????? ??  
????????? ??? | % ??? 1? ?????? 1984».

33 ? ??????????? ???, ? ?????? ??????? ?? ? ??????????? ?????????? ??????? ?? ????  
?????? 4, ??????????? 2, ??? ??????? 69/335, ??????? ?? ???? ?? ??????????? ?? ?????.  
??????????????, ??? ??????????? ???????????????, ? ??????????? ?? ??????????? ???????????????  
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?????????????? (??????? ?? 21?? ??????? 2007, C?366/05, Optimus – Telecomunicações,  
?????? 2007, ?. I?4985, ??? 32). ??? ?????, ???????, ?? ??????????? ?? ???????, ??  
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34 ??????? ?????????? ??????? ??? ??????? ?????? ?????? ?????? ?????? ?????? ??????  
??????????, ??? 1? ??????? 1984, ?? ?????????? ?????? ??? ?????? ??? ?????? 4, ???????????  
2, ??? ??????? 69/335, ? ?????????? ??? ??????? ?????? ?????? ?????? ??? ???????, ??? ???  
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35      ??????, ????, ????, ??????????? ???. ???. ????????. ???. ????????. ????????. ???. ????????

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36 ??????????????, ?? ???? 4, ?????????? 2, ??? ?????? 69/335, ??? ?????? ?? ??????  
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38      ? ?????? ??? ???????????? ?? 1?? ?????? 1984 ??? ????? 4, ?????????? 2, ???

? ??????? 69/335 ??? ??????????, ?? ?? ??????, ??? ?????? ??? ???? ?, ??? ????  
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39 ?? ?? ??????, ?????? ??? ?????, ??????? ?? ???, ??????? ?? ?? ?????? 7, ?????????? 2, ??  
?????? 69/335, ??????????, ??? ?? 1? ?????? 1984, ??? ?? ?????? ?????? ?????? ??????  
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40 ??????, ??? ??????? ?????? ?????? ?? ?????? ?? ?????? ? ??????? ??? ?? ?????? 4,  
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41 ??????? ??? ? ?????? ?????????? ??? ?? ??? ?????? ?????? ?????? ?????? ??? ?????? ??????  
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? ???? 4, ?????????? 2, ??? ?????? 69/335/??? ?? ??????????, ??? 17? ??????  
1969, ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??????  
?????????, ??? ?????? ??? ?????? ??? ?????? 85/303/??? ?? ?????? ?????? ???, ??? 10??  
???????? 1985, ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
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