

?????? C-427/10

**Banca Antoniana Popolare Veneta SpA**

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**Ministero dell'Economia e delle Finanze**

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**Agenzia delle Entrate**

(?????? ??? Corte suprema di cassazione ??? ??? ?????? ?????????????? ??????????)

«??? – ?????????? ??? ?????????? ?????????????? ?????? – ?????? ?????? ?????????? ?????????????? ??  
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(?????? 77/388 ??? ??????????)

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(?? . ??? 42 ??? ??????.)

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??? 15?? ?????????? 2011 (\*)

«??? – ?????????? ??? ?????????? ?????????????? ?????? – ?????? ?????? ?????????? ??  
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?? ??? ?? ?????????? ??? ?????? ?????????? ?????????? ?????????? ?????? ??? ??????  
267 ???, ??? ?????? ?? Corte suprema di cassazione (?????) ?? ?????? ??? 7?? ??????  
2010, ? ??? ?????? ??? 31 ?????????? 2010, ??? ?????? ??? ??????

**Banca Antoniana Popolare Veneta SpA**, incorporante la Banca Nazionale dell'Agricoltura SpA,

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**Ministero dell'Economia e delle Finanze,**

**Agenzia delle Entrate,**

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

????????? ??? ??? K. Lenaerts, ?????? ??????, E. Juhász, ?. ?????? (?????????), T. von  
Danwitz ??? D. Šváby, ????????,

?????? ??????????: J. Mazák

?????????: A. Impellizzeri, ?????? ??????????,

?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???  
16?? ?????? 2011,

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– ? Banca Antoniana Popolare Veneta SpA, incorporante la Banca Nazionale dell'Agricoltura  
SpA, ?????????? ??? A. Fantozzi, R. Tieghi ??? R. Esposito, avvocati,

– ? ?????? ??????, ?????????? ??? G. Palmieri, ?????????? ??? ??? G.  
De Bellis, avvocato dello Stato,

– ? ?????? ??????, ?????????? ??? T. Henze ??? C. Blaschke,

– ? ?????? ??? ?????? ??????, ?????????? ??? S. Hathaway,  
????????? ??? P. Mantle, barrister,

– ? ?????? ??????, ?????????? ??? D. Recchia ??? R. Lyal,

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??? 15?? ??????????? 2011,

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1 ? ?????? ?????????? ?????????????? ?????????? ?????? ??? ??????? ??? ?????? ???  
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2 ? ?????? ??? ?????????? ??? ?????? ???????, ????, ??? Banca Antoniana Popolare Veneta SpA, incorporante la Banca Nazionale dell'Agricoltura SpA (??? ??? BAPV) ???, ???????, ??? Ministero dell'Economia e delle Finanze ??? ??? Agenzia delle Entrate (??? ???, ??? ??????: ?????????? ???), ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? BAPV ??? ?????????? ?????????????? ??? ??? ??? ?????????????? ??? ?????? ?????????????? ?????????? ?????????????? ?????????? ??? ?????? ??????????????.

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3 ?? ?????? 2 ??? ?????? 77/388/??? ??? ??????????, ??? 17?? ?????? 1977, ???  
????????????? ??? ?????????? ??? ???????, ??? ?????????? ?? ??? ?????? ?????? ??????  
????????? – ??? ?????? ??? ?????? ?????????????? ????: ?????????? ?????????? ??? (??  
???. ???. 09/001, ?. 49), ??? ?????????????? ?? ?? ?????? ?????? 84/386/??? ???  
?????????, ??? 31?? ?????? 1984 (?? L 208, ?. 58, ??? ????: ??? ??????), ?????????? ??  
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«???? ??? ?????????????? ??? ?????? ??????????»:

1. ?? ?????????? ??? ?????? ??? ?? ?????? ?????????? ??? ?????????????? ???  
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4 ?? ?????? 13 B, ??????? ??, ?????? 2 ??? 3, ??? ?????? ?????? ??? ?????? ?? ????:

«B. ?????? ??????????»

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

3. ??? ????????, ?????????????? ??? ?? ??????????????, ?? ?????? ??????  
?????????, ?????????? ??????????????, ???????, ?????????? ?? ?????????,  
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5      ??? ?? ??? 13, ?, ??? ?????, ??????? ??, ??? ?? ??? ?????:

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«[?] ???? ??? ?????? ?? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ??????

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6      ?? ??? 21 ??? ?????? 77/388 ?? ????? «????????? ??? ?????? ?????? ???  
?????????» ??????, ??? ?????? 1, ??????? ??, ?? ???:

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

1.    ??? ?????????? ????????:

?)    ??? ??? ?????????? ????, ? ?????? ?????????????? ??? ?????????????? ????, ???  
??? ?????????????? ??? ?????? 9, ?????????? 2, ?????????? ??, ??? ?????????????????? ???  
????????????? ????, ?????????????? ??? ??????????. ??? ?????? ?????????????? ???  
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7      ?? ??? 10, ?????????? 5, ??' ????. 633 ?????????? ??? ?????????? ???  
????????? ??? 26?? ?????????? 1972, ??? ?????? ??? ?????? ??? ?????? ??? ??????????????  
????? (?????? ??????????, GURI ????. 1, ??? 11?? ?????????? 1972, ?. 1, ??? ????:  
????????? ?????? 633/72), ?????? ?? ???:

«??? ?????????? ??? ?????:

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5. ?????? ??? ?????? ??? ?????? ?????, ?????????????????? ??? ?????? ???  
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8      ??? ?? ??? 21 ??? ?????????? ?????????? ????. 546, ??? 31?? ?????????? 1992,  
??? ?? ?????? ?????????? ?????? ?? ?? ?????????? ?????????? ?????? ???  
????????????? ??? ?????????? ??? ?????????? ??? ?????? 30 ??? ?????? 413 ??? 30??  
????????? 1991 (?????? ?????????? GURI ????. 8 ??? 13?? ?????????? 1993, ?. 1):

«1. ??? ?????? ??????????, ? ?????? ?????? ?? ?????? ?????? ?????? ?????? ??? ???  
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2. ? ?????????? ????, ??? ?????????? ?????????? ?????????????? ?????? ??? ?????????? ?? ??? 19,  
?????????? 1, ???????? ???, ?????? ?? ??????? ?????? ??? ?????? 90 ?????? ??? ??? ??????  
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?? ??? ??? ?????? ?, ?? ?????? ???????????, ??? ??? ?????? ??? ??? ??????  
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9       ????? ? ? ?????? 2033 ??? ??????? ?????? ??? ?????? ?? ?????????????????? ?????????????:

10 ?? ?????? 2946 ??? ?????????? ?????????? ?????????????? ?? ?????????? ??????????????;

11      ???? ?? ?????? 2935 ??? ??????? ??????, ? ?????? ?????????? ??????? ?? ?????? ???  
???? ?????? ??? ?????? ?????? ?????? ?? ?????????? ? ??????.

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

12 ????? ??? ??????? 1984-1994, ? BAPV ??????? ?????????? ?????????? ???  
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????????????????? ??????, ??? ?????????? ?????????? ?????????? ?????? ??? ?????? ???  
????????????? ??????. ?????????? ??? ?? ??????? ??? ?????????? ??? ?? ?????????? ???  
??? ?? ??? ?????????? ?????????? ???, ? BAPV ?????????? ??? ??? ?????? ??? ??  
???? ??????????. ? BAPV ?????????? ??????? ??? ??, ??????? ?? ??? ?????????? ???  
?????, ??? ?????????? ???, ? ??? ?????? ?????? ??? ?????? ?????? ??? ? ??????????????  
????????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? 10,  
????????? 5, ??? ?????????? ?????? 633/72.

13 ?? ??????? ?? 26?? ??????????? 1999, ? ??????????? ????, ??????????????? ??,  
?????? ?? ?? ??????????????? ?? ??????? ?? ??????????? ??, ???????, ???????????????  
?? ?? ??????????????? ?? ??????? ?? ??????????? ??, ???????, ?? ???????????  
?? ?? ??????????? ?? ??????? ?? ??????????? ?? ??????????? ??, ???????, ???????  
????????? ?? ?? ??, ??? ?? ????? ??, ????? 10, ?????????? 5, ??? ??????????  
?????????? 633/72.

15     ???? ??? ?????? ???? ? BAPV ??????? ??????? ???? ?????????????? ?????? ?????????  
????????????? ??? ??? ??? ?????????????? ??? ??? ??? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ???  
????????? ???, ?????? ??? ?????? ?????? ?????????? ??? ?????? ???, ? BAPV ??????

?????? ??? Commissione tributaria provinciale di Roma (????????????? ????????????)  
????????? ??? ??????????? ??? ?????) ????? ?????????? ??????????, ?? ?????? ??????  
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16   ??????, ?????? ??????? ??? ?????? ? ?????????? ??? ?????? ??? ?????? ???????????,  
?? Commissione tributaria regionale del Lazio (?????????? ?????????? ??????????? ?????  
?????????? ??? Lazio), ??? ?????? ??? ???????, ?????? ??? BAPV ??? ??????? ??  
????????? ?????????? ??? ?????, ?????? ??? ?????? ?????? ?????? ?????????? ???????????  
??? ??? ??? ??? ??????? ??? ???, ??? ?????? ?????????? ?? ?????? 21, ?????????? 2, ???  
????????? ?????????? 546 ??? 31? ?????????? 1992. ??? ??? ?????? ?????, ?? ??  
????????? ?????????? ??? ? ?????????? ?????????? ??? 26? ?????????? 1999 ???  
????????? ?? ??????? ?????? ?????? ?????? ?????? ?????? ???????????.

17   ? BAPV ?????? ??????? ??? ?????? ?????? ?????? ?????? ??? Corte suprema di  
cassazione.

18   ?? Corte suprema di cassazione ??? ?????????? ?? ??? ?? ??????????? ??? ???????  
?????????? ??? ?????? ?? ??? ?????????????? ??? ?????? ??? ???, ??????????????  
????? ??? ?? ??????? ??? ?????? ??????? ?? ?????????? ?? ?????????? ??? ?????? ???????????,  
???? ?????????? ??? ?????? ??? ?????????????? ??? ?????????? ?????????? ??? ???????????  
????????????? ????. ???????????, ?? ?????????? ??? ?????? ?????????? ??? ? BAPV, ???  
????????? ??? ??? ?????????? ???, ????? ?????????? ??? ?????? ?????????? ??? ??????????  
????????? ?? ?????????? ??? ?? ?????? ??? ?????? ?????? ??? ??? ?????? ??????????, ??? ??  
????? ?? ??? ?????????? ??? ?? ?????????? ????. ??? ?? ?????? ??????????, ?? ?????? ???  
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19   ?? ??? ???????, ?? Corte suprema di cassazione ?????????? ?? ??????????? ??  
?????????? ??? ?? ??????? ??? ?????????? ?? ?????? ?????????? ??????????? ??????????:

«1)   ?????????? ?? ??? ?????? ??? ?????????????? ?????????? ???????????, ???  
?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ???  
????? ??? ??????? ? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ? ???????????  
?? ??? ?????????? ? ??? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????? ???, ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
(?? ??????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
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?? ?????????? ?????????? ? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???;

2)   ?????????? ?? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ???????, ??????? ?? ??? ???  
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?? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
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20 ?? ?? ???? ?????? ???, ?? ?????? ?????????????? ????, ???' ??????, ?? ?? ?????? ???  
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?????, ??? ? ??????????, ??? ?????????? ?????????? ?????? ?????????? ?????????? ??? ??  
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????????????? ?????????????? ??? ?? ??? ?????? ??? ?????????? ?????????? ?????????? ???, ??? ? ??????????  
?? ?????? ?? ?? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ???.

21 ???????, ?????? ?? ?????????? ??? ?? ?????????? ??? ?????? ?????? ??? ??  
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????? ?????? ?????? ?????????? ?????????? ?????????? ?????????? ?????????? ??????????  
?? (??., ??' ????, ???????? ?? 19?? ??????? 1998, C?85/97, SFI, ?????? 1998, ?. I?7447, ?????? 22 ?? 36, ?? 11?? ?????? 2002, C?62/00, Marks & Spencer, ?????? 2002,  
. I?6325, ?????? 22 ?? 47, ?? 21?? ??????? 2010, C?472/08, Alstom Power Hydro,  
?????? 2010, ?. I?623, ?????? 14 ?? 22).

22 ?? ??? ?????? ??? 15?? ?????? 2007, C?35/05, Reemtsma Cigarettenfabriken  
(?????? 2007, ?. I?2425), ?? ?????????? ?????? ???, ?????? ?????????? ?????????? ??????????  
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????????? ?? ?????????? ?? ?????????? ?????, ?? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ???  
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23 ?? ?? ?????? 42 ?? ?????????????? ?????????? Reemtsma Cigarettenfabriken, ??  
????????? ????, ?????? ????, ??? ? ???? ??? ?????????????????? ??? ??????????  
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????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
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24 ?? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ?? ?? ?????? ??? ?????? ?  
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????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????  
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
(??., ?? ?? ?????? ????, ?????????? ?? 17?? ??????? 1998, C?228/96, Aprile, ??????  
1998, ?. I?7141, ??? 19, ?? 30?? ?????? 2011, C?262/09, Meilicke ?.??., ?? ?? ??? ???  
????????? ??? ?????? ??? ?????? ?????? 56).

25 ?? ??? ?????????? ?????????? ?? ???? ?? ?????? ?????????? ?????????? ?????????? ?  
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????? ??? ??? ?????? (??., ?? ?? ?????? ????, ?????????????? ?????? Alstom

Power Hydro, ??????? 20 ??? 21). ? ?????????? ????? ?????? ?????? ??? ?? ?????? ?????????  
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27      ????? ??????????, ?? ??????? ??? ?????????????? ??????? ??????? ?????????? ?????????????  
?????? ???. ?????? ? ?????????????? ????? ???. ?????? ?????? ???. ???. ?????? ?????? ???. ???. ???.  
????????? ???. ?????????????? ?????????????? ???. ???. ? ?????????? ?????????? ???. ???. ???.  
????????? ???. ?????????????? ?????????????? ??????? ??????? ??????? ?????? ???????, ???.  
?????????, ??'. ??????, ???. ???. ?????? ??????????????????.

29      ?? ?????? ?????? ??????????? ?????? ?? ???????? ??? ???? ? ???????? ? ?????? ?????????  
????????? ??? ?? ???? ?????? ?? ????????, ??? ???? ?????????? ??? ??????  
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30     ???? ?? ?????????? ?????????? ?????? ??? ? ???? ??? ??????????????????????  
????????????? ??? ?????????? ??? ? ?????????? ??? ?????? ??? ??? ?????? ?? ?????????? ??  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??  
????????? ??? ?????? ??? ?????????? ??? ?????? ???, ??????? ?????????? ?? ?????? ???  
????????????? ??? ??? ?????????? ??? ?????????? ?????????????? ?? ?????? ??? ?????? ??  
??? ??? ??? ?????????? ??? ?? ??? ??????????, ?? ?????????? ?? ?????? ??? ??????????  
???? ??? ?????????? ????, ??? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? (??., ??)  
???? ??????, ?????????????? ?????? Q-Beef ??? Bosschaert, ??? 43).

31      ???????, ??? ?????? ?? ???? ?????? ?????? ?? ??????? ?? ??????????? ?? ???? ??????????  
 ??????? ??????????? ???????????, ?? ? ??????????? ?? ??????? ?? ??????? ?? ??????? ?? ????  
 ??????? ??????????? ??????????? ??????????? ??????? ?? ??????? ?? ??????? ?? ????  
 ??????????? ?? ?? ???? ??????? ?? ??????????? ?? ??????? ?? ??????? ?? ??????????? (??.,  
 ??? ??? ??????, ?????????????? ??????? Q-Beef ??? Bosschaert, ??? 51).

32 ????? ??????? ?? ?????? ??????, ?????? ?? ??????????, ??????????, ???, ??? ??????????  
? ?????????? ?????????? ???' ??' ?????????? ??????, ??? ?????????? ? ??? ??????  
????????? ??? ?? BAPV ?? ??????????, ?????????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??????????, ??? ?? ??? ??? ????? ?????????? ??? ??? ?????? 1984-1994,  
????????? ???, ?????? ???, ??? ?????? ??? ?????????? ?????? ? ??????, ???  
????????? ??? ?? ?????????? ??? ?????? ?? ?????? ??????????, ?????? ?? ??? ??????  
????????? ??? ?? ?????? ?? ?????? ?? ?????????? ??? BAPV ?????????? ??? ?? ?????? ??????????  
?? ?????????? ??? ?????? 10, ?????????? 5, ??? ?????????? ?????????? 633/72.

33 ??????????, ?????????????? ?????????? ??? ????? ?????? 26?? ??????????  
1999, ? ??????? ?? ?????? ??? ?????? ??? ?? ?????? ?????????? ??? ??? ?? ???

? ?????????????? ??? ??? 16 ?????????? ??????? ?????????????? ?????????????? ?????????????? ???  
????????????? ?????????? ??? ?? ?????? ?????????? ??? ?????????? ??? ?????????????? ??????????  
????????????? ??? ?????????????? ??? ?????????????? ?????????????????? ?????, ?????????? ???,  
????????????? ??? ?????? ?????????? ??? ?????????? ?????????? ?????? ?????? ?????????? ??? ?  
????????????? ?????????????? ??? ?????? ?????????? ?????????? ?????????? ?????? ?????????? ???  
????????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ?????, ?????????? ?????? ??? ??  
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34    ????, ????, ?????? ?????? ??? ?? ?????????????? ?????????? ?????? ?????????? ???  
????????????? ?????????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????????? ??????????  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? BAPV, ?????????? ?? ???  
?? ??? ?????????? ??? ??????????, ??? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ???  
??? ?? ?????????? ???.

35    ????????????, ?? ?????????????? ?????? ?????????? ?????? ?????? ?????????? ???  
????????????? ?????????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? 26??  
?????????? 1999, ?? ??? ?????? ?????? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ???  
??? ?????????? ??? ?????? ??? ?????? ?????, ?????????? ??? ?????? ?? ?????? ??? ?????????? ?????????? ???  
??? ??? ???.

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

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

38    ??????, ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ? BAPV ???? ?????? ??????  
??? ??? ??? ?????????????? ??? ?????????? ??? ?????????????? ??? ?????????? ???  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?? ??? ??  
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39    ? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???  
???? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ?????????????? ??? ?????? ???  
??, ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ??  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ???  
?????????.

40    ??????, ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? 26??  
?????????? 1999 ?????? ??? ? ?????????? ???, ??? ? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ??? ?????? ?????? ?????????? ???, ?????????? ?????? ??? ??  
????????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ??? ?????? ??? ?????? ??? ??  
????????????? ??? ?????? ??? ?????? ?????? ???, ??? ??? ?????? ??? ?????? ??? ??  
????????? 5, ??? ?????? ?????? ?????? 633/72. ??????, ? ?????? ??? ?????? ??? ??

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

41 ???? ??????????? ????, ? ??????????? ??? ?????? ??? ?????? ?? ??????? ??? ?????? ??? ???????????  
?????????? ??? ?????????????? ??? ?? ????????, ???????????, ??????????? ???  
????????? ??? ??? ????? ?????????? ??? ??? ??? ?????? ?????????????? (??., ?? ????  
????? ????, ??????? ??? 10?? ?????????? 2009, C?201/08, Plantanol, ?????? 2009, ?. I?8343, ??? 49).

42 ??? ??? ?? ??? ?????????? ?????????? ??? ?????? ??? ???? ??? ?????? ??? ?????????????????? ????  
??? ?????????? ??? ??????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????  
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43 ???? ??? ?????????? ??? ????????, ??? ?????? ??? ???????, ??????? ???? ???? ???  
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44 ???? ??? ???? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
??? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???, ?' ???  
????????? ?? ?????????? ??? ??? ?????????? ??? ??????. ?? ?????? ??? ?????? ??????????  
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??? ??? ?????? ????, ?? ?????????? (????? ????) ??????????:

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

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