

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

??? 29?? ?????????? 2015 (*)

«????????????? ?????????? — ????? ?????????????? ????? — ?????? 2006/112/?? — ?????? 13,
????????????? 1 — ?? ??????? ???? ??? — ?????? ??? “????????????? ?????????? ??????????” —
????????? ?????????? ??? ????? ?????? ?????????? ?????? ?????????? ??? ?????????? ?????????? ???
????????????? ??? ?????????? ?????? ??? ?????????? ?????? ?????????? ??? ?????? —
????????????? ??? ??? ?????? ?????? ??? ?????????? ??????, ?????????????????? ??? ??????
??? ??????, ?? ?????????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ?????????? ???
??? ?????????? ???»

???? ??????? C?174/14,

?? ??????????? ?? Supremo Tribunal Administrativo (?????? ?? 2014, ? 9 ?? 2014, ???)

Saudaçor — Sociedade Gestora de Recursos e Equipamentos da Saúde dos Açores SA

???

Fazenda Pública,

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

?????????? ?? L. Bay Larsen, ??????? ?? ?????? ????????, ??????? ???????
?????? ?? ??????? ????????, J. Malenovský, M. Safjan, A. Prechal (??????????) ??? K.
Jürimäe, ???????.

????????? ??????????????: N. Jääskinen

???????????: M. Ferreira. ????? ?????????? ??????????.

????????? ?????? ??? ??????? ?????????????? ??? ?????????? ??? ??' ?????????????? ?????????????? ???
19?? ??????? 2015,

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

- ? Saudaçor — Sociedade Gestora de Recursos e Equipamentos da Saúde dos Açores SA, ?????????????? ??? ??? G. Leite de Campos, M. Clemente ??? J. Batista Pereira, advogados,
 - ? ??????????? ????????, ?????????????? ??? ??? L. Inez Fernandes ??? R. Campos Laires,
 - ? ?????????? ??? ??????? ????????, ?????????????? ??? ??? L. Christie, ??????????? ??? ??? P. Mantle, barrister,

– ? ?????????? ???????, ?????????????? ??? ??? P. Guerra e Andrade ??? L. Lozano Palacios,

???? ??????? ??? ?????? ???????????? ??? ?????????? ??? ?????????? ??? ?????? ?? ???????????
??? 25?? ??????? 2015,

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

?????????

1 ? ??????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 1, ?????????? 9,
??? ?????? 2004/18/?? ??? ?????????? ?????????????? ??? ??? ??????????, ??? 31?
?????? 2004, ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ??????,
????????? ??? ?????????? (?? L 134, ?. 114), ??? ??? ?????? 13, ?????????? 1, ??? ??????
2006/112/?? ??? ??????????, ??? 28? ?????? 2006, ?????? ?? ? ?????? ?????? ???
????????????? ??? (?? L 347, ?. 1).

2 ? ?????? ??? ??????????? ??? ?????? ??????? ??????? ?????? ??? Saudaçor —
Sociedade Gestora de Recursos e Equipamentos da Saúde dos Açores SA (??? ????: Saudaçor)
??? ??? Fazenda Pública (??????), ?? ??????????? ?? ??????? ?? ? ?? ??? ????? ??????
????????? ??? ????? ?????????????? ??? (???) ??? ????? ?????????????? ??? ??? ??? ???
??? ?????????? ??? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ???
????????? ?????????? ??? ?????? (??? ????: RAA).

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

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

3 ? ?????? 2006/112 ??????? ??? ??????????????, ??? 1?? ?????????? 2007, ???
????????? ?????????? ?????????? ???, ?????? ???, ?????? ?????? ??? ?????? 77/388/??? ???
??????????, ??? 17?? ??? 1977, ??? ?????????????? ??? ?????????? ??? ????????,
??? ?????????? ?? ??? ?????????? ?????? — ?????????????? ??? ?????? ??????????????
????? (???) ????? ?????? ?????? ?????????????? ??????: ?????????? ?????????? ??? (??
???. ??. 09/001, ?. 49, ??? ????: ??? ??????).

4 ???? ??? ?????? ??? ??? ?????? ?????????????? ?????? ??? ??????? 2006/112, ?
????????????? ??? ?????? ??????? ??? ?????? ?????????????? ?? ?????????????? ??? ???? ?
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ?? ?????????????? ??? ???? ?
?????????????, ????, ???????, ?? ?????????? ?????????????? ??? ??? ???????.

5 ?? ?????? 2, ??????????? 1, ???????? ??, ??? ??????? 2006/112 ?????? ?? ????:
«????? ??? ??????????? ?? ?????????? ???????:

[...]

6 ????? ?? ?????? 9, ??????????? 1, ??? ??????? ?????:

«?????? ?? “????????????? ??? ?????” ?????????????? ??????, ??? ?????? ?????? ?????????????? ??? ?? ?????????????? ???, ?????????? ??????????????, ?????????????? ??? ??? ?????? ?????????????? ????

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

?? “?????????? ??????????????” ?????????? ?? ? ?????????????? ?? ? ??????????, ??
????????? ? ?? ? ?????????? ??????????, ?????????????????? ?? ? ??????????????
?????????, ?? ? ?????????? ?????????????? ?? ? ?????? ?? ? ?????????????? ?? ? ??????????
?????????????. ?? ? ?????????? ?????????????? ?? ? ??????, ?? ? ??????????????
????????? ? ?? ? ?????? ?? ? ?????? ?? ? ?????? ?? ? ?????? ?? ? ?????? ?? ? ??????..»

7 ?? ???? 13 ?? ???? ??????????:

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

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

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

2. ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?????????????? ?? ???? ??
????????????? ?? ???? ?????? ?????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ?? ???? ??
????? 132 [...].».

8 ??? ? ???? 1, ?????????? 9, ??? ?????? 2004/18:

«?? “????????????? ???” ??????: ?? ???? , ?? ???? ???? ?????? ?????????????? ??
????????? ?????? ?? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ?
????? ? ?????????????? ?? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? .

?? “????????? ??????”, ?????? ?? ???? ???????:

?) ? ???? ???? ?????? ?? ???? ?????? ?? ???? ???? ???? ???? ???? ???? ???? ???? ?
????????? ?? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ,

?) ? ???? ???? ?????? ?????????????? , ??

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

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

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

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

9 ?? ?????? 2, ??????????? 2, ??? [?????????????] ?????? ??? (Código do IVA) ??????
??? ?? ??????? ??? ?? ?????? ?????? ??????? ??????? ??????? ??? ??????????? ??? ??
????? ?????????? ??????? ??? ?????? ??? ??????? ?????? ??????? ???????, ??? ?? ?? ??
??? ??????? ??? ??????????? ??? ? ??????????? ??? ???????????, ??????? ? ??
?????? ?? ?? ?? ?? ?? ???????????.

10 ?? ?????? 2, ??????????? 3, ??? ?? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?? ??????
?????? ??????? ??????? ??????? ?????????? ?? ??? ?? ??? ??????? ??????? ??? ?? ?????? ??? ?? ?????? ??? ?? ??????
????????? ?????????????? ??? ?? ??? ?? ??? ??????? ??????? ??? ?? ?????? ??? ?? ?????? ??? ?? ??????
????? ?? ??? ?????????????? ??????? ??? ?? ??? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?? ??????.

?? ?????? ???????? ??? Saudaçor

11 ? Saudaçor ?????????? ?? ?? ?????????????? ??????????? ?????????? 41/2003/A ??? RAA,
??? 17?? ?????????? 2003, ??? ?????????? ?? ?????????????? ?????????????? ??????????????????
????????????? ??? ?????? ??? ?????????? ?????????????? ?????????????? ??? ?????? ?? ?????? ??? ?????? ???
????????????? ?????? ??? ?????? ??? ?? ??? ?????? SAUDAÇOR — Sociedade Gestora de
Recursos e Equipamentos da Saúde dos Açores SA ??? ??? ?????????????? ???
????????????? ?????????? ?????????? 28/99/A, ??? 31?? ?????? (Decreto Legislativo
Regional n.º 41/2003/A, Transforma o Instituto de Gestão Financeira da Saúde da Região
Autónoma dos Açores em sociedade anónima de capitais exclusivamente públicos, passando a
designar-se SAUDAÇOR — Sociedade Gestora de Recursos e Equipamentos da Saúde dos
Açores SA, e altera o Decreto Legislativo Regional n.º 28/99/A, de 31 de Julho) (*Diário da
República I*, ???? A, ??. 257, ?? 6?? ?????????? 2003, ?. 7430), ?? ?????????? ?????????? ???
????? ?????????? ??? 100 % ??? ??? ?? ??? ??????????????.

12 ??????? ?? ?????? 2, ?????????? 1, ??? ?? ??? ?????????????????????????????????
?????????????, ???????? ??? Saudaçor ????? ? ?????? ?????????? ?????? ??????????
????????????? ??? ?????? ??? ??????. ?????????? ??? ?????????? ?????? ?????? ?
????????? ??? ? ?????????? ??? ?????????? ?????? ?????????? ?????? ??? ??? ??????????
?????????, ??? ?????? ??? ??? ?????????? ??? ?????? ??? ?????? ?? ?????????? ???, ???
??? ? ?????? ??? ?????? ??????, ??????????, ?????????? ??? ??? ?????????? ??? ?????? ??????????
????? ??? ?????? ??? ??????, ??? ?? ?????? ?????????? ??? ?????? ?????? ??????????
??? ?? ?????? ?????????? ??? ?????.

13 ????? ?? ?????? 3 ??? ?????????????????? ?????????????? ?????????????? 41/2003/A:

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

a) ?? ??????????????? ?? ?????????? ??????????? ?? ?????????? ?? ?????????? ?? ??????????????? ?? ??????????

b) ?? ??????? ??????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????????

c) ?? ??????? ?????????????????? ??? ????? ??????? ??????, ??????? ?? ??? ????? ??????? ???????
?????????? ?? ??? ????? ?????? ?????????? ?????????? ??? ??????, ?????? ??? ?????????? ??
???????????

d) ?? ?????? ?????????????????? ??????? ?? ?????? ?? ???? ??????????????????????

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

e) ?? ?????????? ?? ?????????????????? ?? ?????????? ?? ?????? ?? ?????? ?? ???? ?? ?????????? ??
?????? ?? ???? ?? ?????????? ?? ???? ?? ?????????? ?? ??????? ?? ?????? ?? ?????? ?? ?????????????? ??
????, ?? ?? ?????????? ?? ?????????? ?? ??????? ?? ???? ?? ?????????? ?? ?????? ?? ???? ?? ??
?? ?????????? ?? ???? ?? ?????????? ?? ???? ?? ??????? ?? ???? ?? ??????

f) ?? ??????????? ?? ?????????? ??????????? ?? ??????????? ?? ??????????? ?? ???? ?? ??????????? ?? ???????
?? ?????? ?? ??????? ?? ?? ?? ??????????? ?? ?????? ?? ???????

h) ?? ??????? ??????????? ?????? ??????????? ?? ???? ??????????????? ?? ???? ??????????????? ?? ???? ???????????????
?????????? ?? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????????? ?????? ?????? ?????? ??????..»

14 ?? ?????? 4, ??????????? 1, ??? ?? ??? ?????????????????? ?????????????? ?????? ?
Saudaçor ??????? ???. ??? ?? ??????? ??????, ??? ?? ?????????????? ????????????, ??? ??
?????? ??????? ???. ??????????? ?????????????? ????????????, ??? ?? ??????????? ?? ?? ???????????
?????? 558/99 (Decreto-Lei n.º 558/99), ??? 17?? ?????????? 1999 (*Diário da República* I,
????? A, ?????. 292, ??? 17?? ?????????? 1999, ?. 9012), ??? ?? ?? ?????????? ??????. ???
?? ?????? 4, ?????????? 2, ??? ?? ??? ?????????????? ????????????, ? Saudaçor, ??? ??????
?? ?????????????? ???, ??????? ?? ??? ?????? ????? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ?????????? RAA.

15 ?? ?????? 10 ??? ??????????????? ?????????????? ?????????????? 41/2003/A ?????????? ??,
???? ?????????? ??? ?????????? ???, ? Saudaçor ??? ???? ?????????? ?????????? ??????????
?? ?? RAA ??? ??????? ???????, ??????????, ?????????? ?? ??????, ?????? ??? ??????
?? ??????? ?? ?????????? ?? ??????????????.

16 ????. ?? ?????? 7, ??????????? 3, ??? ?????????????? ?????????????? 558/99, ????.
?????????????, ?? ??????? ?????????????? ?????????? ?? ????. ??? ??????????????, ????.
??? ??????, ????. ?? ?????? ??????. ?????????????? ??????? ?????????????? ?? ????. 9,
?????????? 2, ??? ?????????????? ?????????????? ?????????????? 7/2008/A, ??????? ?? ??
????????? ?? ?????????????? ??? ?????????? ?????? ??? ?????????? ?????????????? ????.
(Decreto Legislativo Regional n.º 7/2008/A, Regime do sector público empresarial da Região
Autónoma dos Açores), ??? 5?? ?????? 2008 (*Diário da República* I, ????. A, ?????. 58, ???
24?? ?????? 2008, ?. 1649), ????. ?????? ??? ?????????????? ?????????? ??????????????.

17 ? Saudaçor ?????? ??? ???????????????? ??? ??? ?????? ?????????????? ?????????? ??????????
???? ???????????, ??? ?? ??? 21, ?????????? 1, ??? ?????????? ???, ?? ??? ?????????
??? RAA, ?? ??? ?????? ?????????, ?????, ?? ?????????? ?? ?????? ?? ?????? ??? ?????? ???
??? ?????????? ??? ??? ?????????? ??? ?????????????? ??? ?????????? ??????, ??? ??? ???
????????????, ?????????? «????????????? ??????», ??? ?????? ?? ?????????? ? ??
???? ?????????? ?? ?????????? ??? ??? ?????? ??? ?????????? ?????? ??? ??? ??? ??????
??? ?????? ?????????? ??? Saudaçor.

18 ?????, ??? ?????? ?????????????????? ??????? ?????????? ??? 23 ??????? 2004,
?????????? ?? ?????? 2004-2008, ? ?????? ?????????? ??????? ?????????????? 15 905 000
????, ??? ?? ?????? ?? ??? 3 990 000 ??? ?????????? ?? ??? 2007 ??? ?? ??? 4 050
000 ??? ??????? ?? ??? 2008. ? ?????? ??' ????. 5 ??? ?? ??? ?????????? ??? ??
????????? ??? ?? ?????????? ?? ?????????????? ?? ?????? ?????? ??? ??
????????? ??? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ?????????? ??????????

???? ????????????, ?? ?? ??? ????? ???? ????? ?????????? ?????????? ??? ?? ???? ?????????? ??? ?? ???? ?????????? ??? ?? ???? ??????. ??? ??????? ?????????????? ?????? ?????????? ??? 1? ?????????? 2009, ?????????? ??? ?????? 2009-2012, ? ?????? ?????????? ?????? ?????????????? 8 500 000 ???, ?????? ??? ????? ?????????????? ?????? ??? ??? ?????????? ??? ?????????????? ????? ?????????????? ??????. ?? ?????? ??????? ??? 8?? ??????? 2010 ??? ?????? ??? ?????????? ??? RAA ??? ??? ?????????? ??? ??? ??? ??????, ?? ?????? ??? ?????????? ??? 6 599 147 ??? ??? ?? ??? 2009.

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

19 ????? 2 ??????? 2011, ?? ?????? ?????????? ?????? ??????? ??????? ?? ?? ?????
????????? ?????????? ??????? ?? ??? ?????????? ?? ?? ???? Saudaçor ??? ?? ?? ??
?? 2007 ?? 2010 ??????? ?? 4 750 586,24 ???.

20 ????? 6 ?????????? 2011 ?????????? ? ?? ????? ??????? ??????? ?????? ??? ?????? ???
Saudaçor.

23 ? Saudaçor ?????? ??????? ?????? ??? Tribunal Administrativo e Fiscal de Ponta Delgada (?????????? ?? ?????????? ?????????? ??? Ponta Delgada) ??? ?? ?????????????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 2007 ??? 2010, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 5 157 249,72 ???.

24 ?? ??? ??????? ???, ?? ?? ??? ?????????? ?????????? ??? ?????????? ??? ?? ??
?????????, ????, ??? ?? ??? ?????????? ??? ?????? ??? ?? ?????????? ??? ?? ???
?????????? ?????????? ???????, ??? ?????????? ??? ?????? 13, ?????????? 1, ?????? ??????,
??? ?????? 2006/112, ??? ?????????? ?? ?????? ?????? ? ?????? ??? «????????? ?????? ???
?????», ??? ?? ??? ???????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???????, ???
????? 1, ?????????? 9, ??? ?????? 2004/18, ?????? ? ?????? ??? ?????? ?????? ??????
?????, ??? ? ?????? ??? «????????? ?????? ??????», ??? ?????? ??? ?????? 13,
????????? 1, ?????? ??????, ??? ?????? 2006/112, ?????? ?? ?????????? ??????????
??? ?????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ???, ?????? ??????
????????? ??? ?? ??? ?????? ?????? ??? ?????????? ??? ??? ?????????? ??????????????.

25 ??? ?? ??? ???????????, ?? ?? ??? ?????? ??? ?? ?????????? ??? ?? ??? ??????
????????? ??? ? Saudaçor ? ????, ??????? ?????????? ??? ?? RAA, ??? ? ?????? ???????,
????????? ??? ?? ???????????, ?????????? ?????? ?????? ?????? ?????? ?????? ???
????????????? ??? ?????????? ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??????????.

26 ?? Tribunal Administrativo e Fiscal de Ponta Delgada ?????? ?????? ??? ?? ??????????
??? ?????? ? Saudaçor ??? ?????? ??? ?????????????? ?????????? ??????????
????????????? ?????????????? ?????? ?????? ?????????? ?? ?????????? ??????. ?? ??????????
??? ?????? ? RAA ?????????????? ?? ?????????? ??? ?? ?????????? ??? ?????? ??????
Saudaçor ??? ?? ??? ?????? ?? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??????
????????? ??????????.

27 ?????????? ?????????? ?????????? ??? ?????????? ??? ?? ?????????? ??????, ?? ?????? ??????????
????? ??? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ???
????? ??? ??????? ??? ? Saudaçor ?????? ?? ?????????? ??? ?????? ??? ?? ??????????
????? ??? ?????????? ?????? ???, ??? ?????????? ??? ?????? ??? ?????? 2, ?????????? 2, ???
????? ??? ???, ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? 13, ?????????? 1, ???
????? 2006/112, ??? ??? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????
??? ??? ?????????? ?????????????????? ?????? ?????? ?????? ??????????.

28 ??? ?? ?????? ??????????, ??????? ??? ?????? ??? ?????? ?????????? ??? ?? ?????????? ???
????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?? ?????????????? ???
????????? ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ???, ? ?????????? ???
??? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
??? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????
????? ?????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????
??????. ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????
????????? ??? ?????? ??? «????????? ?????? ??????», ??? ??? ?????? ??? ??????
????? 1, ?????????? 9, ??? ?????? 2004/18, ??? ?????? ??? ?????? ??? ??????
????????? «????????? ???».

29 ??? ?? ??????? ???, ?? Supremo Tribunal Administrativo (????????? ??????????)
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ???
????????? ?? ??? ?????????? ???:

«1) ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???, ??? ?? ??? 13,
????????? 1, ????, ???, ??? ?????? 2006/112, ?????????? ??? ?????? ??? ?????? ???
“????????? ?????? ???” [??? ??? ??????] ??? ?????? 1, ?????????? 9, ???
????? 2004/18;

2) ??????? ??? ?????? ??? “????????? ?????? ???” ? ?????? ?????? ??

?????? ???? , ??? ? ?? ????? 13, ?????????? 1, ????? ???? , ??? ?????? 2006/112,
????????? ?????????? ?? ?????? ??????, ?? ?????????????? ?????? ?????? ??? ??????
????????? ??? ?? [RAA], ?????? ??? ?????? ?????? ?????? ?????????????? ???
????????????? ?????????????? ?????? ?????? ??? ?????????????? ?????????? ???
??? ?????? ??? ???? ?????????? ???, ?? ?????? ?????????? ?? ?????? ???
????????????? ?????????? ?????????? ?? ??? ???? ?????????? ???, ??? ??? ?????? ???
????????? ? ?????? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ???? ????
????? , ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??? ?????? ??? ??????
????????? ??????;

3) ???? ???? , ?????????? , ?????????? ?????? ??? ?????? ??? ?????????? ??? ???? ???? ???? , ??? ?
????????? ?? ?????? ?????????? ?? ??? ???? ?????? , ?????????? ??? ???? ???? ????
????????? ?????????? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ???
????? ?????? ??? ???? ?????????? ?????? , ??? ???? ?????? ?? ?????? ??? ?????? ???
????????? ?????? ???;

4) ?? ?????????? ?????????? ?????????? , ?????? ? ?? ??? ?????? ?????? ??? ??????????
????????? ??? ???? ???? ?????????? ??? ?????? ??? ?????? ??? ???? ???? , ? ??????
????????? ??? ???? 13, ?????????? 1, ??? ?????? 2006/112;»

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

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

30 ?? ?? ??? ?????? , ?? ?????? ?????? ?? ?????????? ??? , ?? ?????? ??????????
????? , ???' ?????? , ??? ???? 9, ?????????? 1, ??? ?????? 2006/112 ??? ???? ???? ????
??? ?????? ?????????? ?????????? , ??? ???? ?????? ??? ?????????? ??? ,
????????????? ??? ???? ?????? ?????? ??? , ?????????? ??? ?????? ??? ?????????? ???
????? ??? ?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ???
????????????? ?????????? ?????? ?????? ?????????????? ??? ?????????? ???
????? ??? ???? ?????? ??? ?????? ??????.

31 ?? ?????????? ??? ?????? ??? , ??? ?????????? ??? ???? ???? ?????? ??? ???? ????
??? ?? ??? ?????? , ??? ???? ??? ???? ???? ???? ?????? ?? ?????? 13 ??? ?????? ???
??? ?????? ?????? ??? ???? ?????????? ???? ?????? , ??? ?????????????? ??????????
????? ?????? , ???' ?????? , ??? ???? . ?????????? ??? ???? , ??? ?????? ??? ??????
?? ?? ?????? 2, ?????????? 1, ??? ?????? 2006/112, ?? ?????? ?????????? ?? ??????
????? , ?????????????? ??? ???? ?????? ??? ?????? ??? ?????????? ??? ?????? ??????
?? ?????? 9 ??? 13 ??? ?????? ??? ?????? ??? ???? ???? ?????? ??? ?????? ??????
??? (????? ?????? ?????? ??? ?????? Serebryannay vek, C?79/09, EU:C:2010:171, ??? 76 ??? ???
????????? ??????).

32 ? ?????????? ?????????? ??? ???? ???? ?????? ?????????? ?? ?????? ??? ???? ????
????? ?????????? ??? ???? ???? ?????? ?????? ?????? ?????? ??? ?????? ??? ???? ???? ???? ????
????????? ?????????? , ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ???? ???? ???? ???? ????
??? ?????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ??? ???? ???? ???? ???? ???? ???? ????
????????? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ???? ???? ???? ???? ???? ????
(??., ?????? ???, ?????? Serebryannay vek, C?283/12, EU:C:2013:599, ??? 37 ??? ???
????????? ??????).

33 ?????????? ??? ???? ???? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ???? ???? ????
?? ?????????? , ?????????? ??? ???? ?????? ?????????? ?? ?????????? ??? ?????? ???

????? ????? ??????????????? ?????? ??? ?????????? ??? ????? ?????????? ?? ???????????
(????? Fazenda P?blica, C?446/98, EU:C:2000:691, ??? 23, ??? ?????? Gmina Wroclaw,
C?72/13, EU:C:2014:197, ??? 18).

34 ?? ??????????, ?????????? ??? ?????? ?????????? ?? ?????????? ??? ???? ??
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????? Saudaçor ??? ??? RAA ?????? ??? ?? ?????????? ??? ??
????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???, ?? ??
??????, ??? ?????????? ?????????? ??? ?????? ?? ?????????? ???, ?? ?????????? ???
????????? ??? ?????????? ???, ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??
????????? ??? ?????????? ???, ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??
????????? ??? ?????????? ???, ?? ?????????? ?????????? ??? ?? ?????? ??? ?????? ???
????????? ???, ?? ?????????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???.

35 ??????, ??? ??? ?? ??? ?????? ?????????, ??? ?? ?????????? ??? ?? ???
????????, ??? ? RAA ??? ?? ?????????? ?? ?????????? ??? Saudaçor, «?? ??????????» ???
?? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????? ??? ?????? ?????? ?? ?????? ? Saudaçor, ??????????, ??????????
«????????????? ??????», ?? ??? ??? ?????? ?????? ??? ?? ??? ?????? ???.

36 ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
Saudaçor ??? ?????? ?????????? ??? ?????????? ???, ?? ?????? ??? ? ?? ??? ?????????? ???
????????? ??? ?? ?????????? ?? ?????????? ?????? ?????? ???' ?????? ??? ??
????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???, ???
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ??????????????????
????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?? ??? ?????? ???
????????? ?? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? (??., ??? ??? ???
????, ?????? Le Rayon d'Or, C?151/13, EU:C:2014:185, ?????? 36 ??? 37).

37 ? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?? ?????????? ??
??? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Saudaçor ??? ??? RAA
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

39 ? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???
Saudaçor, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????.

40 ??????????, ??? ?? ??? 9, ?????????? 1, ??? ?????? 2006/112, ?? ??????????

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

41 ???????, ??????? ? ?????? ??? ?????????? ?????? ?? ??????? ??????? ??? ??????????
?????????? ?????? ?? ?????? ?????????????????? ???' ?????? ??? ?????????? ?????? ??????
????? ??? ?????? ??? ?????? ??????????? ???, ??? ?????? ???, ?????? ??? ?????? 132,
????????? 1, ??? ? ? ?????? ??????, ?????????? ?????????? ?????????? ?????????? ??????????
??????????, ????, ??? ?????????? ?????? ???????, ?????? ? ? ?????????????? ??? ??
???, ??? ?????????????? ??? ? ??????? ??? ?????? ??? ?????????????? ?????????? ???
?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??
????????? ????.

42 ??????? ??? ????????????, ??? ?????? ??????? ?????? ?? ?????? ? ??????? ??? ??
????? 9, ?????????? 1, ??? ?????? 2006/112 ??? ?????? ??? ?????? ??? ?????????????? ??? ??
?????? ??? ?????? ???, ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ?????? ?????? ?? ?????????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
??? ?????? ??? ?? ??? ??????????.

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

43 ?? ? ? ?????, ??????? ??? ??????? ???????, ?? ?????? ?????? ?? ?????????? ???
????????? ??? ??????, ?? ?????? ?????????? ???' ?????? ??? ?? ?????? 13,
????????? 1, ??? ?????? 2006/112 ??? ?????? ??? ?????? ??? ?????????? ??? ?? ??????
????? ????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????
?? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??
????? ??????????, ??????? ??? ?????? ??? ?? ?????? ??? ?????? ???, ??? ?????????? ???
?? ??? ??????, ??? ?????????? ??? ?? ??? ?????? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? 9, ?????????? 1, ??? ?? ??? ?????? ????.

44 ??? ?????? ???, ?? ?????? ?????????? ???, ??? ?????? ?????????? ? Saudaçor, ?
????? ??? «????? ?????????? ??? ??????», ??? ?????????? ??? ?? 13,
????????? 1, ??? ? ? ??????, ??? ?????? ?? ?????????? ?? ?????? ??? ?????? ???
????? ??? «????????? ??????» ??? ?????? ??? ?????? 1, ?????????? 9, ???
????? 2004/18.

45 ??? ?????? ??????? ??? ?????? 13, ?????????? 1, ??? ?????? 2006/112 ??? ??
?? ?????? ???.

46 ???????????, ??????? ??? ?????? ??? ?????? ??? «????????? ???
?????» ???, ??? ???????, ??? ??? ?????? ??? «????????? ???», ?? ?????? 1,
????????? 9, ??? ?????? 2004/18 ??????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????, ????, ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????, ????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

48 ??????????????, ? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
???, ??? ????????, ????????, ????????, ???????, ??? ?? ?????? ?????? ??? ?? ?????? ??? ?? ??????
?????????? ?? ?? ?????? ??????? ?? ?? ?????? ??????, ?????? ?? ?????? ?????? ??? ?? ?????? ?? ??
????????? ?? ?? ?? ?? ?????? ??????? ?? ?? ?????? ?????? ?????? ?????????????? ??? ?? ?????? ??
????????? ??????? ?? ?? ?????? ??????, ?????????????????? ??? ?? ?????? ???
????????? ??? ?? ??? ?????????? ?????? ?????? (??., ??? ?? ?????? ???, ????, ????)
????????? ??? ?? ??? ?????? C?79/09, EU:C:2010:171, ?????? 76 ??? 77).

49 ?? ??????????? ???. ??? ???. ?????? ???. ?????? ???. ?????? ???. ??? ???. ?????? ???.
?????????? ???. ???. ???. 13, ??????? ???. 1, ??? ???. 2006/112 ???. ???.
?????????? ???. (?.., ???. ???. ???. ???. ???. Isle of Wight Council ..?, C?288/07,
EU:C:2008:505, ???. 60, ???. ???. ???. ???. Gmina Wroc?aw, C?72/13, EU:C:2014:197,
???. 19).

50 ????????, ????????, ?????????? ???, ?????? ??, ?????? 13, ?????????? 1, ??? ??????
2006/112, ?????? ?? ?????? ?????? ? ?????? ? ?????????? ??, ? ?????? ??, ?????? ??????, ?????? ??,
? ?????? ??, ????????, ??, ???, ?????? ???????, ???, ?????? ???????, ???, ???, ???????????, ??, ??, ??,
?????? (??., ???' ????????, ??????? Isle of Wight Council ??., C?288/07, EU:C:2008:505,
????? 25).

51 ????? ???? ????? ?????????? ??? ??????????????, ??? ??? ?????? ??? ?????? 13, ??????????
1, ??? ??????? 2006/112 ??? ?? ?????? ??? ?????? ??? ?? ??? ?????? ?????????? ?????????? ???, ???
?? ?????? ?????????? ? ??????? ??? ?????????? ??? ?? ???, ?????? ?? ??????????
????????? ??? ?????????????: ?????? ?????????????? ??? ?????????? ?????? ??? ?????????? ??????
??? ?????????????? ??? ?????? ?????? ??? ?? ?????????? ??? ?? ?????????? ?????? (??. ???
??? ?????? ????, ????, ????, ????, Mihal, C?456/07, EU:C:2008:293, ????? 16 ??? ???
????????????? ??????????, ????? ??? ?????? ?????????? ??? ?????? ???, C?79/09,
EU:C:2010:171, ????? 79).

52 ??????????, ??? ?????? ?????? ?????????? ??? ??????????????, ??? ??? ?????????????? ???
??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? (??., ?????? ???, ?????? Fish Legal ??? Shirley, C?279/12, EU:C:2013:853,
????? 42).

53 ??????????? ?? ???? ? ??????????? ?? ?? ?????? 13, ??????????? 1, ??? ?????? 2006/112
??? ??????????? ?? ???? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??????.

54 ????? ????????, ?? ?????? ??? ?????????????????? ??? ?????? ???, ?????? ??
?????? ?? ? ?????? ?? «?????? ?????????? ?????? ??????», ?????? ?? ????????????,
?? ??????? ?? ??????. ?????????? ?? ??????????.

55 ???????, ??????, ??? ?????????????? ??? ?????? 49 ??? ??????? ??????????, ?? ????
13, ?????????? 1, ??? ?????? 2006/112 ??????, ?? ?????????????? ??????, ??
????????????? ???????????, ?????? ?? ????? ?????? ??? ? ?????????? ??? ??????????????

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

56 ????? ?????? ??????? ?? ?????? ??? ?????? ??? ???? ?????????????? ??? ?????? 13, ???????????
1, ??? ?? ??? ??????????, ?????? ??? ?????????? ?????? ?? ??? ?????????? ??? ?????? ?????????? ???????????,
??????????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???????, ?? ??????
????????? ??? ?????? ?????? ?????????? ?????????, ??? ?????? ?????? ???????????, ??? ??????
????????? ??? ?????? ?????? ??? ?????? ?????????? ?????????, ??? ?????? ??? ?????????????? ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? (?? . ?? ???? ?? ?????)
????, ?????? ?????, ?????? Mihal, C?456/07, EU:C:2008:293, ????? 18 ??? ???
????????? ?????????).

59 ???????, ?? ?????? 10 ??? ?????????????????? ?????????????? ?????????????? 41/2003/A
????????? ??? ? Saudaçor ????????, ??? ??? ?????????? ??? ?????????? ???, ?? ???
????????? ??????? ?????????? ??? ?????????? ??? ? RAA ??? ?????????? ??? ???????,
??????????, ??????? ??? ?? ??????? ???, ?????? ??? ??????? ??? ?? ??????? ??
????????? ?? ???????????????.

60 ??????????, ??? ???? ?????????? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ??? ?????????? 56
??? ?????????? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????????? ??? ?????????????? ??????? ???????, ???
?????? ?? ????????????, ??? ??? ?????????? ??? ?????????????? ??? ?? ????????????, ??? ?? ?????????? ???????????,
?? ?????????? ?? ?????????? ??? ? Saudaçor ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????? ??? RAA.

61 ???????, ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?
Saudaçor, ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ??????????
????????? ?????????? ??? ?????????????? ??? ?????????????? ?????????????? ??? ?????????????? ??? ??????????
?????????????, ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ???.

62 ??????, ??? ??????? ?? ???? ?????????? ?? ???? ?????????????? ?? ???? ?? ???? ?????? ???????????,
????????? ?????????????? ?? ???? Saudaçor ?????????? ?? ???? ?????????? ?? ???? ?? ???? ???????????
?? ???? ?????????? ?????????? ?????????? ?? ???? ?? ???? ?????? ?? ???? 13, ?????????? 1, ???
?????? 2006/112.

63 ??????????????, ? ?????????? ?????????? ??? Saudaçor ????? ?????????????? ??? ???
??? ?? ??????? ???, ??? ?? ?????? ?????????? ??? ?????????? ??? ???????, ??????????
???? 100 % ??? ?? RAA. ? ??????. ?????????? ??? ?????? ??? ?????? ??? ?????? ???

????????? «?????????????????» ????????????????, ??? ??? ?????? ??? ?????????????? ???
????? ?????????????? ???????, ????? ? ????? «????????» ????. ??? ???? ?????? ???
????????? ??? ? RAA ????? ?? ??? ?? ?????????? ?????????????? ??? ?????????????? ???
Saudaçor.

64 ?????? ?????????????????? ??? ??? ?? ??????? ???, ??????? ?? ?? ?????? 3, ????????? a,
??? ?????? ??? ?? ?????????????? ?????? ?????????? ??? ?????? ? Saudaçor ??? ? RAA, ???
????????? ?? ?? ?????? 3, ?????????? 1, ??????? a, ??? ?????????? ??? ?? ?? ?????? ??????????,
? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????????? ?????? ???
????????? ? RAA, ??? ???, ??????? ??? ?????? 3, ????????? h, ??? ?????? ??? ??? ??????????
????? ??? ??? ?????? 3, ?????????? 1, ??????? g, ??? ???????, ? ?? ??? ??????????
????????? ??? ?????? RAA.

65 ???????, ?? ??? 4, ?????????? 1, ??? ???
41/2003/A ?????? ??? ? Saudaçor ?????????? ??? ??? ?????? ???, ??? ?? ??????????????
?????????????, ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??????????????????, ????
????????????? ?? ?? ?????????? ?????????? 558/99 ??? ?? ?????????? ??????. ??????? ???
?? ?????? ??? ?????????????? ?? ??? ?????? ?????, ? ??? ?? ?????? ?????????? ??????? ???
????????????? ?? ?????? ?? ??? ?????? ?????? ?????????? ??? ?????????? ?? ?????? ?????????? ???
Saudaçor ?? ??????? ??????????????.

67 ???????, ??????? ?? ??????? ?????? ??? Saudaçor ??? ??? RAA ??? ?? ??????????
??????, ??? ???? ?? ?????? ??? ? ?????? ?????? ????? ?????????? ?? ?????????????? ?????? ??????????
??? ??? ?????????? ?? ??? ???? ?????????????? ?? ?????? ??? ?????? ??? ?????? ?????????????? ???
«????????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? », ??? ?????????? ???
?? ?????? 2, ?????????? 1, ??? ?????????? ?????? ?????????? ?????????? 41/2003/A.

68 ????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ?????? ??? ?? ???????
???????????, ??? ?????? ?????????? ?? ????????????, ?????? ??? ?????????? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? Saudaçor, ??
????????? ?? ?? ??? ????? ?????????? ??? ?????????? ??? ? Saudaçor ?????? ??
????????????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? 13,
????????? 1, ??? ?????? 2006/112.

69 ??????, ??? ?????????????? ?? ?? ??? 51 ??? ?????????? ??????????, ??? ?? ?????????? ???? ?? ???? ?? ??????????,
????????? ?? ?????????? ?? ?? ??? ?????????? ?? ?? ??? ?????????? ?????????? ?? ?? ??? ?????? ?? ?????????? ????, ??????? ?
????????? ?? ?? ?????????????? ?? ?? ??? ??? ?????? ?? ?????????????? ?? ?? ?????????????? ?? ?? ?????????????? ?? ?? ?????????????? ?
????????? ?? ?????????? ?? ?????????? ?? ??????????.

70 ????? ?????? ??????????? ?? ???? ????????????, ?? ??????? ??????????????? ???????
?????? ?? ???? ??????????? ?? ???? ?? ???? ??????????? ?? ???? ??????????? ?? ???? ??????????? ?? ????
?????????? ?? ??????? ??????????? ?? ???? ??????? ??' ??????. ??????????????? ??

????????????????? ??? ?????? ??? ?????? ?????? ?????????? ?????????????? ?? ??????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? . ?? ?????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? (?? . ??? ??? ?????? ????, ?????? ????, ?????? Fazenda P?blica, C?446/98, EU:C:2000:691, ?????? 17, 19 ??? 22).

71 ???? ??????? ??, ?? ?????????? ?????? ?? ? ??????? ?? ???? ?????????? ??
????? 13, ??????? 1, ????, ????, ??? ?????? 2006/112 ?????? ?????? ??
????????????? ?? ???? ?????????? ?? ???? ?????? ?????? ?? ???? ??????
??????, ?? ?????? ??, ?? ?????????? ??, ?? ?????????? ??, ?? ?????????? ?? ???? ?? ????
?????? ?????? (????? Isle of Wight Council ???., C?288/07, EU:C:2008:505,
????? 31).

72 ?????, ? ??????? ?????? ????? ?????????????? ??? ?????????? ??? ?????? 13, ?????????????? 1, ?????
???????, ??? ?? ??? ????? ?????????? ??? ?????????????? ???, ??? ?????????????? ? ??????????????
?????????? ??? ?? ??? ????? ?????????? ??? ?????????????? ??? ?? ??????? ???????????, ??
????????? ?????????? ?????????? ??? ?????????? ? Sondaçor ??????? ??? ??????? 10 ???
????????????? ?????????? ?????????? ?????????? 41/2003/A ??? ?????????? ??? ?? ??????? ??
????????????? ? ?? ??? ????? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ???
??????????????, ?????? ??? ?????????????? ?????????? ??? ?????????? ??? ?????????????? ???
????????????? ?????? ??? ?????? ??? ?????????????? ??? ?????????? ??? ?????????? ???, ??,
????? ??? ????? ?????????? ??? ?????? ??? ?????? ??????????????.

74 ???????, ?? ?????????? ??? ?????????????? ??? ?? ?????????? ?????????? ?????????? ??
????????????? ??? ?????? ?????? ?????? ? ?? ?????? ??? ?????????? ?????????? ?????????? ??
????????? ?? ?????? ?????? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?? ?????????? ??
????????????? ?? ?? ?? ?? ?????? ?? ?????????? ?????? ?????, ?? ?????????? ?? ??????
?? ?????? ?? ?????????? ?????? ?????????? ?? ?????? ?? ?????? ??????????, ?????? ?? ??????????
?? ?????????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ?? ?? ??????
????????? (??????, ???????, ???, ???, ???, C79/09, EU:C:2010:171, ??? 91).

75 ?????? ??? ??????? ????????, ??? ?????, ??????? ????? ??????? ??????? ?????? ??
????? ? ??????? ??? ?? ?????? 13, ?????????? 1, ??? ?????? 2006/112 ??? ?? ??????
??? ?????????????? ??? ? ??????? ??? ?????? ???, ? ?????? ?????????? ??? ?????? ???
?????? ??? ?? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? , ?????????? ???
????? ??? ?? ??????? ??? ??, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? , ??? ??????????
??? ? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????
9, ?????????? 1, ??? ?? ??? ?????? ???, ???, ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????
?? ?????????? , ?????? ?? ??????? ??? ? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ,
??? ?????? ??? ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??????

????????????????? ??? ??????? ?? ?????????? ?? ?????????????? ?????????????? ??? ??????????????.
??? ??????? ????, ? ?????? ??? «?????? ?????????? ?????????? ??????», ??? ??????? ????
????? 13, ?????????? 1, ??? ???? ?????? ??????, ??? ?????? ?? ?????????? ??? ???? ???
????? ??? ?????? ??? «????????? ?????? ??????» ??? ???? 1, ?????????? 9, ???
????? 2004/18.

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

76 ?????????? ??? ? ?????? ?????????? ?????? ?? ??? ?????? ?????? ?????????? ??? ?????? ??????
??? ?????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ???, ?' ???
????????? ?? ?????????? ??? ???? ?????????? ??? ?????? ?????? ?????? ??????????
???? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ??????????.

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

1) ?? ????? 9, ?????????? 1, ??? ?????? 2006/112/?? ??? ??????????, ??? 28??
????????? 2006, ??????? ?? ???? ?????? ?????? ?????? ?????????????? ????, ???
??? ?????? ??? ?????????? ??? ???? ?????? ??? ?????? ???, ? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ??????
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ??????????.

2) ?? ????? 13, ?????????? 1, ??? ?????? 2006/112 ??? ?????? ??? ?????? ???
????????????? ??? ???? ?????? ??? ?????? ???, ? ?????? ?????????? ??? ??????
??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? 9, ?????????? 1, ??? ???? ??????, ???, ?????? ??? ?????? ???
????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???.

??? ?????? ???, ? ?????? ??? «?????? ?????????? ?????? ??????», ???
????????? ??? ???? 13, ?????????? 1, ??? ???? ??????, ??? ?????? ??
????????? ??? ???? ?????? ??? ?????? ??? ?????? ??? «????????? ?????? ??????»
????? ??? ???? 1, ?????????? 9, ??? ?????? 2004/18/?? ??? ??????????
????????? ??? ???? ?????? ??? ?????? ??? 31?? ?????? 2004, ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ???.

(?????????)

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