

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

??? 9?? ?????? 2015(\*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? – ??? ?????  
77/388/??? – ?????? 2, ?????? 1, ??? 4, ?????????? 1 – ?????????? ??? ????? – ?????????????? ???  
????????? – ?????? ?????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ??????????  
??? ?????? ?? ?????????? ??? ?????????? ????? – ?????????? ??? ?????? ??? ?????? ??? ??????  
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???? ?????? C-331/14,

? ? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???  
?????? ?? Vrhovno sodiš?e (?????????) ?? ??????? ??? 12?? ?????? 2014, ? ????  
????????? ??? ?????????? ??? 8 ?????? 2014, ??? ?????? ??? ??????

**Petar Kezi?, s.p. Trgovina Prizma**

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**Republika Slovenija,**

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

????????? ??? ??? R. Silva de Lapuerta, ?????? ???????, J.?C. Bonichot (?????????), A.  
Arabadjieva, J. L. da Cruz Vilaça ??? ?. ???????, ???????,

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

? ? ??????????: A. Calot Escobar

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

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

– ? Petar Kezi?, ?????????? ????????, Trgovina Prizma, ?????????????? ??? ??? B.  
Ozimek, odvetnica,

– ? ?????????? ????????, ?????????????? ??? ??? A. Grum,

– ? ?????????? ????????, ?????????????? ??? ??? L. Lozano Palacios ??? B. Rous Demiri,

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

????????? – ????? ??????? ?????? ?????????????????? ??????: ?????????????? ?????????????? ??? (???. ????. 09/001, ?. 49, ??? ?: ??? ??????).

2 ? ?????? ??? ?????????????? ??? ?????? ?????????? ?????????? ?????? Petar Kezi?, s.p.  
Trgovina Prizma (Petar Kezi?, ?????? ??????? ??? ?????? ?? ?????????? ??? ??????????)  
????????? ??? ??? ?????? «Trgovina Primza») ??? ??? Republika Slovenija [????????????? ???  
?????????] ?????????????? ??? ?? Ministrstvo za finance (????????? ??????????),  
??????? ?? ??? ?????? ??? ?????? ?????? ?????? ??? (?? ????: ???).

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3      ?? ?????? 2 ??? ?????? ??????? ?????????? ?? ????:

«???? [??] ???????????:

1.     ????????????? ?????? ?? ??????? ??????????, ??? ?????????????????? ??  
????????? ?????? ?? ?????????? ?? ?????? ?? ?????????? ??, ??? ?????? ??  
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[...]]».

4      ????? ?? ?????? 4, ??????????? 1 ??? 2, ??? ?????? ?????;

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

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

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5 ? ????? ??????? ?????????? ??? ?????????? ??????? ?? ??? ????? ????? ?????  
????????????? ??? (Zakon o davku na dodano vrednost, Uradni list RS, št. 89/98, ?, 8433), ?  
??????, ??? ??? 3, ?????????? 1, ?????????? ??? ?????????? ??? ??? ??????????????  
???? ?? ?????????? ??? ?? ?????????? ?????????? ??? ?????????????????? ??  
????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???  
?? ??????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???

6      ????. ?? .????? 27 ??? .????? .?????, ? .?????????? .????????? .????????????? .????? .???,  
?? .????????? .?? .????? .????????? .????????? .????????? .????????? .????? .?? .????????? .?????????  
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? ??????? ?? ???? ?? ???? ?? ? ? ?????????????? ?? ???? ??

7 ? P. Kezi? ??????????????????. ??? ?? 1995. ?? ?????????????????????????? ??? ?????

?? ?????????? ??? ?? ???? ??????? ??? ??????? ??????? ?? ?? ???? ??????? ???????  
«Trgovina Prizma».

8 ??? ??? ?????? ??? ?????????? ??? ?????????? ???, ??? ??? ?????? 1998-2002, ? P.  
Kezi? ??????, ??? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ????????, ???  
????? ??? ??????. ??? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ????????, ???  
????????? ??? ??? 1998 ??? 2000, ??? ?? ?????? ??? ?????????? ??? ?????????? ???  
???????, ??? ?? ?????? ??? ??? 2001 ??? 2002. ? P. Kezi? ??? ?????????? ??  
????????? ??? ??? ??? ?????? ???.

9 ??? ??? ?????? 2001 ??? 2003, ? P. Kezi? ??? ??? ?????????? ??? ?????? ??  
????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??  
???????, ?? ?????????? ??? ???????, ?????? ??? ?????????? ??? ?????? ???  
??? 2003.

10 ??? ?????? ??? 2003, ? P. Kezi? ?????? ?? ??? ?????? ?????????? ?????????? ???  
????????? ??? ?????????? ???, ??? ?????? ?????????? ??? ?????? ??? ?????? ???  
????????????? ??? ?????????, ?? ??? ??? ?????? ?????????? ??? ?????? ???  
??? (??? ????: ?????? ??????).

11 ??? ?? ?????? ??? ?????? 2004, ? P. Kezi? ?????? ?? ?????? ?????? ??? ?? ???  
????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???,  
??????, ?? ?????????? ??? ???????, ?????????? ??? ?????? ?????? ??? ??? ???????, ?? ???  
??? ?????????? ??? ?????? ??? ?? ?????? ?????? ??? ??? ?????? ??? ?????? ?????? ???  
??? ???, ???????, ?? ?????? ?????? ???, ?? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ???' ????, ??? ?????? ???  
??? ??? ??????.

12 ?? ?????? ??? 26?? ?????????? 2004, ?? ?????? ?????????? ???????, ?????????? ???  
? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
P. Kezi? ??? ??? ?????? ??? ?????????? ??? ?????????? ???, ?????? ??? ?????? ???  
??? ??? ??? ??? ??? ??????.

13 ??? 18 ?????? 2007, ?? ?????? ?????? ?????????? ?????? ?? ?????? ??? ??????  
??? ?????? ? P. Kezi? ??? ??? ?? ??? ??????.

14 ?? Upravno sodiš?e (????????? ??????????) ?????????? ??? ?????? ???, ??  
????????? ??? 25?? ?????? 2011, ?? Vrhovno sodiš?e (????????? ??????????) ?????????? ???  
????? ?????????? ??? P. Kezi?. ? ?????? ??? ?????? ?????? ??? ?? Ustavno sodiš?e  
(????????? ??????????) ?? ??????, ?? ?????? ??? 21?? ?????????? 2013, ?????????? ???  
????? ?????? ??? Vrhovno sodiš?e ??? ??? ?????? ??? ??????????.

15 ?? ?????? ?????????? ??? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
?? ?????????? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????????? ?? ??????????  
????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????????? ???  
????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????????.

16 ??? ??? ?????? ???, ?? Vrhovno sodiš?e ?????????? ?? ?????????? ?? ??????????  
??? ?? ?????? ??? ?????????? ?? ?????? ??? ?????????? ??????????:

«????? ?? ?????????? ??? ?????? 2, ??? 1, ??? 4, ?????????? 1, ??? ??? ?????? ???  
????? ???, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,

????????????? ??? ?? ?????????? ??????, ?? ?????????? ?????? ??????????, ??????? ??????,  
????????? ??? ?????????? ?????? ?????? ?????? ??? ?????????? ??? ?????? ?? ??? ?????? ??????  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??????  
?? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????  
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ???? ??  
??? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????;»

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

17 ?? ?? ?????? ???, ?? ?????? ?????????? ??????, ???' ??????, ?? ?????????????? ?? ??  
????? 2, ?????? 1, ??? 4, ?????????? 1, ??? ?????? ?????? ?????? ??? ?????? ??? ?? ??  
??????????, ??? ?????? ??? ?????????? ??? ?????? ?????, ??? ?????? ?????????? ??? ??  
???? ?????? ?????? ???????, ?????????? ??? ?? ?????? ?????????? ?????? ?????? ??? ????????  
??? ?? ?? ?????? ?????????? ??? ?????????? ???, ??? ?? ?????? ??? ?????? ??? ?????????? ???  
??????????, ??? ?? ?????? ??? ?????????? ??? ?????????? ???, ?????????? ?????? ?? ?? ??  
????? ?? ?????? ??? ???????, ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?? ??  
??????, ? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

18 ?? ?? ?????? ??? ?????? 2, ?????? 1, ?? ?????? ?????? ?????????? ??? ?? ?? ??  
?????? ? ?????? ??? ? ?????????? ??? ?????? ?????? ?? ?????? «??? ?? ???????  
?? ?? ??». ???????, ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?? ?? ?? ??  
??????, ??? ?????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?? ?? ?? ?? ??  
??? ?????? ??? ?????? ?????? ??? ??? (??., ??????, ?????? Armbrecht, C?291/92,  
E?:C:1995:304, ?????? 16 ?? 18, ??? Bakcsi, C?415/98, E?:C:2001:136, ?????? 24).

19 ?????? ?????? ?? ?????????? ???, ??? ?????? ?????????? ??? ?????????????? ? ?? ??  
?? «????????? ???» ?????? ?? ?????? ?? ??? ?????? ?? «????????? ???  
????????? ???» ? ??, ??? ?? ?????? 4, ?????????? 2, ??? ?????? ??????,  
????????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???  
????????? ???, ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???  
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (??., ??????, ?????? S?aby ??., C-  
180/10 ?? C?181/10, E?:C:2011:589, ?????? 43 ?? 44).

20 ??????, ?? ?????????? ??? ?????????? ??? ?????? ?????????????? ??? ?? ??  
????????? ??? ?? ?????? ?????? ??? ??????, ?? ?????????????? ??? ??, ?? ?? ??  
????????? ??? ??, ??? ?? ?????? ?? ?????? ??? ?????? ?????????? ??? ?? ??????????  
?? ?????????? ??? ?? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?? ?? ?? ??  
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? (??.. ?????? Charles ??? Charles-Tijmens,  
C?434/03, E?:C:2005:463, ?????? 23). ??????, ?? ?????? ??? ?????? ?? ?????????? ??? ??  
????????? ??? ?? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ??????????  
????????? ??? ?? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?? ?????? ??? (??.. ?????? Bakcsi, C?415/98, E?:C:2001:136, ?????? 27).

21 ??????, ?????????? ??? ?? ???, ? ?????? ?????? ???, ?????? ??? ?????? ???  
????????? ?? ?????????? ??? ?? ?????? ??? ??????, ?? ?????? ??? ?? ?????? ??? ?? ?? ??  
????? ?? ?????? ??? ?????? ??? (??., ??????, ?????? Armbrecht, C-291/92,  
E?:C:1995:304, ?????? 24). ??????, ? ?????????? ??? ?????? ?????? ?? ?????????? ???  
????? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?? ?????? ???, ??? ?????? ??? ?? ?? ?? ??  
????? ?? ?????? ??? ?????? ??? ?????? ??? (??., ??????, ?????? Armbrecht, C-

291/92, E?:C:1995:304, ?????? 21).

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

23 ??????, ??? ??? ?????? ?????? ??? ? ?????? ?????? ??? ?????? ??? ?????????????? ?????????????? ???  
??? ??? ??? ??? ??? ??????, ??? ??????, ?? ?????????? ??? ?????? ?????????? ??????????  
????????????? (??., ??????, ?????? S?aby ???., C-180/10 ??? C?181/10, E?:C:2011:589,  
????? 36). ??????, ??? ??? ?????? ???, ?? ?????? ??? ? ?????????????? ??? ??? ?????? ??????????  
?? ?????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ??????????.

24 ??????????, ??? ??? ?????? ??? ?????? ?????????? ??? ?????? ??????????, ?? ?????????????? ???  
??? ?????????????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ?? ?????? ??? ?  
????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????????????? ??????????????  
????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
????????? ? ?????? ??????????, ??? ??? ?????? ??? ?????? ??? ?????? 4, ?????????? 2, ??? ??????  
????????, ???, ?????? ?????, ? ?????????? ??? ?? ?????? ?????????? ??????????????????  
????????? ??? ??? ?????????? ??? ?????? ??? ? ?????????????? ?????????????????? ???  
????????? ?????????????? (??., ??????, ?????? S?aby ???., C-180/10 ??? C?181/10,  
E?:C:2011:589, ?????? 39 ??? 40). ??????, ?? ?????????????? ??? ??? ?????? ??????????  
????????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??????  
????????????? ??? ?????????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ?????????? ??  
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??? ?????? ??? (??., ??????, ??????  
S?aby ???., C?180/10 ??? C?181/10, E?:C:2011:589, ?????? 41).

25 ??? ?????? ?? ?????????? ??? ?????????? ?? ?????? ??????????, ??? ?????????? ??  
?????? ???, ??????, ? P. Kezi? ?????? ?? ??? ?????? ?????????? ?? ?????? ?????????? ??????  
??????, ??? ??? ?????? 1998-2002, ???????, ??? ?? ?????? ?????? ??? ??????????????, ???  
??????, ?????????? ?????????? ??? ?????? ?????????, ??? ??? ??? ??? 2003, ??? ??????????  
?????? ???, ??????, ??? ? P. Kezi? ?????????????? ?????? ??????????????, ??? ??????  
??????, ??? ??? ??? 48 000 ???, ?????? ?? ?????????? ??? ??? ?? ?????????? ???  
????????? ??? ? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??? ??? ??? ???  
P. Kezi? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????????? ???  
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26 ?????????????? ??? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????????? ???  
????????? ??? ?????? ?? ?????????? ?? ?????????? ?? ?????? ??? ?????? ?????????? ?? ??????  
????????? ??? ?? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????? ?????????? ???  
????? ? P. Kezi? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
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27 ??? ??? ?????? ???, ??? ??? ??? ?????????? ??? ?????????????? ??? ?????? ???  
?????? ? ? ?????? ?? ?????? ?????????? , ? P. Kezi? ?????? ?? ?????????? ??? ?????? ???  
????????? ??? ??? ??? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???  
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28 ??????? ??? ???????, ??? ?????????? ??????? ??? ????? ? ??????? ??? ??  
????? 2, ?????? 1, ??? 4, ?????????? 1, ??? ????? ?????? ?????? ??? ?????? ??? ??  
????????????? ??? ????? ??? ?????????? ??? ?????? ?????, ??? ??? ?????? ??????????????  
???? ??? ????? ??? ??????, ?????????? ??? ?? ????? ?????????? ??? ?????? ??? ??  
????????? ??? ??? ????? ?????? ?????? ??? ?????????? ???, ??? ??? ?????? ??? ??????????  
????? ??????????, ??? ??? ?????? ?????? ??? ?????????? ??? ?????? ???, ?????????? ?????? ??  
????? ?????? ??? ??????, ?????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??  
????????? ????, ???? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ??? ? ?????????? ??? ??  
???? ?????????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ??? ? ?????????? ??? ??  
???? ????, ??? ??? ?? ??? ?????, ?????????? ??? ??? ?????? ??? ?????? ??? ??.

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

29 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ?????? ?????????? ??? ?????? ???  
??? ?????????? ?????????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??' ???  
????????? ?? ?????????? ??? ??? ?????????? ??? ?????? ??????. ?? ?????? ??? ?????? ??????????  
???? ?????????? ?????????????? ??? ?????????? ???, ??? ??? ?? ??? ?????????, ??? ???????????.  
??? ??? ?????? ????, ?? ?????????? (??????? ????) ??????????:

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

(?????????)

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