

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

??? 26?? ??? 2016 (*)

«????????????? ?????????? – ??? ?????? ?????? ?????? ?????????????? ?????? – ??????
2006/112/?? – ?????????? – ?????? 135, ?????????? 1, ?????????? ?? – ?????????? ?? ??????
????????? ?????????? ??? ?????????? ?????????? – ?????? – ?????? ?????????? ??????????????
????????????? ? ??? ?????????????? – ?????? ?? ?????????? ? ?????????? ?????? – ??????????
“????????????? ??? ?????????? ?? ?????”»

???? ?????? C-607/14,

? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ??? ??????
?????? ?? First-tier Tribunal (Tax Chamber) [????????? ?????????? (????????? ????)],
?????? ??????] ?? ?????? ??? 22? ?????????? 2014, ? ?????? ?????? ????
????????? ??? 29 ?????????? 2014, ??? ?????? ??? ??????

Bookit Ltd

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Commissioners for Her Majesty's Revenue and Customs,

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

? ?????????? ??? ??? M. Ileši?, ?????? ???????, C. Toader, A. Rosas, A. Prechal ??? E.
Jaraši?nas (?????????), ????????,

? ?????? ??????????: M. Campos Sánchez-Bordona

? ??????????: L. Hewlett, ?????? ?????????? ????????????,

? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???
16?? ?????????? 2015,

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

– ? Bookit Ltd, ?????????????? ??? ??? N. Gardner ??? ??? S. Mardell, solicitors, ???
??? ??? ?? Z. Yang, barrister, ??? ??? A. Hitchmough, QC,

– ? ?????????? ??? ?????? ??????????, ?????????????? ??? ??? M. Holt,
????????????? ??? ??? K. Beal, QC,

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

– ? ?????????? ??????????, ?????????????? ??? ??? L. Inez Fernandes, ??? A. Cunha
??? ??? R. Campos Laires,

– ? ?????????? ??????????, ?????????????? ??? ??? L. Lozano Palacios ??? ??? R. Lyal,

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

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

?????????

1 ? ??????? ?????????????? ?????????? ?????? ??? ???????? ??? ?????? 135, ???????????
1, ?????????? ?, ??? ??????? 2006/112/? ? ? ??????????, ??? 28?? ?????????? 2006,
????????? ? ? ? ? ?????? ??????? ?????? ?????????????? ?????? (?? L 347, ?. 1, ??? ????: ??????
??? ??? ???).

2 ? ? ? ???? ?????? ?????????? ??? ??????? ?????????? ?????????? ?????????? ??? Bookit Ltd
??? ??? Commissioners for Her Majesty's Revenue and Customs (??????????? ??? ???????????
???? ??? ??????? ?????????? ??? ??????? ?????????? ??? ??? ??????? ?????????? ???
????: ?????????? ???) ??????? ? ? ???? ?????? ??? ???? ?????? ?? ?????????? ??? ???
???? ?????????????? ??? (???) ?????????? ??????? ?????????? ??? Bookit.

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

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

3 ???? ? ? ???? 2, ?????????? 1, ?????????? ?, ??? ??????? ????, ??? ???? ????
?????????? «?? ??????? ?????????? ??? ?????????????? ?? ?????????? ?????? ??? ??????
???? ???? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ??? ???».

4 ? ? ????? 135, ?????????? 1, ?????????? ?? ???, ??? ? ? ???? ?????? ??????????, ??
????????????? ?????? ??????????, ??? ?????????? ??? ?????????????? ?????????????? ???
????? 13, B, ?????????? ?, ?????? 1 ??? 6 ??????????, ??? ?????? ?????? 77/388/??? ???
??????????, ??? 17?? ????? 1977, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???,
??? ?????????? ?? ??? ?????? ?????? ?????? – ??? ?????? ?????? ??? ?????????????? ???
????: ?????????? ?????????? ??? (?? ????. ????. 09/001, ?. 49).

5 ???? ? ? ???? 135, ?????????? 1, ?????????? ?, ??? ??????? ??? ? ? ??:

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

[...]

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

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

6 ? ? ????? 31 ??? Value Added Tax Act 1994 (????? ??? 1994 ??? ?????? ??????????????
?????, ??? ????: ?????? ??? 1994) ????????, ??? ?????????? 1, ??? «? ??????? ?????? ? ?
????? ?????????? ?????????? ??? ?????????? ??? ?????????? ? ???? ?????????? ? ???? ??????????
??? ?????????? 9».

7 ??? ?????????? 9 ??????????????? ?? ??? ?????? ??? ?????? ??? ?????????? ???
????????????? ??? ??? ??. ? ??????? 5 ??? ?? ??? ?????????? ??? ?????? ???
????????????????? ????. ?????????? ??? ?????????????? ?? ?????????? ??? ??????????:

«[...]

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

[...]

5. ? ?????? ?????????? ??????? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? 1,
2, 3, 4 ? 6 (????????? ??? ? ? ?????????? ??? ?????????????? ???) ??? ?????? ???
????????? ??? ? ? ?????????? ??? ??????????.

[...]»

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

8 ? Bookit ????? ?????? ??????? ?? ?????????? ??? Odeon Cinemas Holding Limited
(??? ????: Odeon), ? ?????? ??? ???? ?????????? ??? ?????????????? ??? ??????
????????????? ??? ?????????? ??? ?????????? . ? ?????????? ?????????? ?????????????? ??? Bookit
????????? ??? ?????????? ??? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? (??
????: ?????????? ??? ?????????? ?? ??????) ??? ?????????????? ??? ?????????? ??? ??????
????????? ??? Odeon. ??????, ?????????????? ?????? ?????????????? ?????? ??? ??????????
??? Odeon. ?? ?????? ??? ?????? ??? Bookit ?????????? ?????????????? ??? ?????? ???
????????? ??? ?????? ?????????? ?????? ??? ?????? Odeon ??? ?????? ???
????????????? ??? ?deon.

9 ?? ?????? ??? 24?? ?????????? 2009, ? ?????????? ??? ?????? ??? ?? ?????? ???
Bookit, ??? ?????? ??????? ?? ?????? ?????????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????????????? Odeon ?? «????????? ??? ??? ?????????? ???
????????? ?? ?????», ??? ?????????? ?????? ?????????? ?????????????? ??? ??? ??? ??????
??? ??????? 5, ??? ?????????? 9, ??? ?????? ??? 1994. ? Bookit ?????? ?????????? ???
??? ?? ??? ?????? ?????? ??? First-tier Tribunal (Tax Chamber) [?????????]
????????? (????????? ???), ?????? ??????].

10 ?? ?? ??? ?????? ?????????? ?????????? ??? ?? ?????????? ?????????? ??? ??
????????????? Odeon ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???
????????? ??? ?????????? ???, ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????????? ???, ?
????? ??? ??? ??????.

11 ?? ??????? ??? ?????? ?????????????? ??? ?????? ?????????? ??? Odeon. ??? ??
?? ??? ???????, ??? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ?????? ??? ?????? ?????????????? , ? Bookit ?????? ??? Odeon ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ??
???? ?????? ??? ?????? ??? Odeon, ??? ?????? ?????? ????. ?? ?????? ??? ?????? ???
???? ?????? ?????? ?????? ??? ?????? Bookit, ?? ??? ?????? ??? ?????? ??? ??????????
??? Odeon. ??? ?? ??? ??? ?????? , ? ?????? ?????????? ?? ?????????? ? ?????????? ???
????????? ??? ?????? , ??? ??? ?????? , ??? ?????????? ??? ?????????? , ??? ?????? ??? ??
?? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? , ? ?????????? ??? ?????? ?????????? ??? 0,65 ??? 0,75 ?????????? ????

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

12 ?? ?????? ?????????? ?????????? ???, ???' ??? ?? ?????? ????????, ?? ??????? ??
?? ?????????? ??? ?????????? ?????? ??? ?????????????? ??? ??? Bookit ??? ??? ??????? ??
?????? ?????????? ?????????? ??? ??? ?????????????? Odeon ?????? ?????????????? ???
??? ?????????? ???????, ??????? ?????????? ??????? ?????????? ????????. ? ?? ??? ???????
????????? ??? ?????????? ??????? ?? ??? ?????? ??? ?????? ?????????? ??? Bookit ??????? ??
????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ??? ?????? ??? ?????????? ???
?????? ?????????? ??? ?????????? ?? ??????. ???????, ?????????? ??? Bookit ?, ????????
??? ?????????? ?, Odeon ??????????, ???????, ?? ?????? ??? ??? ?????????? ??? ???????,
?????? ?????????? –?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ???????, ??? ??
«????????? ??????», ? ??????, ???' ??????, ?????????? ??? ? ?????? ?????? ?????? ??? ??
?????? ?????? ?????????? ?????????– ??? ???? ??? ?????????????? ??? ?????? ?????? ??? ??
????????, ?? ?????????? ??? ?????????? ?????? ?????????????? ??? ???????, ??????????
«????????????? ??????», ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ???????, ???
?? ?????? ?????? ?? ?????????????? ??? ?? ??? ?????????? ???????, ??? ?????? ??? ??????? ??
?????? ??? ??? ?????????? ??? ???????.

13 ? Odeon ??? ? Bookit ?????? ?????? ?????? ??????? ??????? ?????????? ??? ??
DataCash Limited, ?????? ??? ?????? ? DataCash ?????? «????????? ?????????? ??????????
?? ?????????? ??? ». ?? ?? ??? ?????? ?????????? ?????????????? ?? ??? ?????? ??????????
?? ?????????? ??? ??? ?????????? ??? Bookit, ??? ??? ?????????? ??? ?????????? ??????????
????????? ?????????? ??? ?????????? ?????? ??? ?? ??? ?????????? ???' ????, ????
??? ??? ?????????? ??? ?????????? ??? ?????????? ???????, ?? ?????? ?????????? ??????? ??
????????? ??? ?? ?????????? ?????????????? ??? ??? ??? ??? Odeon ????
????????????? ??? ?? ?????????? ??? Bookit, ?????????? ?? ??? ?????????? ?
????????? ??? ?? ??? ?????????? ??? ???????.

14 ?? ?????? ?????????? ?????????? ???, ??? ?????, ? ?????? ??????????
????????????? ??? ?????????? ? ??? ?????????? ?????????? ??? ?????????? ??? ???????.
??????, ? ?????? ?????? ??? Bookit ?? ?????? ?????? ??????? ?? ??? ?????????? ?
??? ?????????? ??? ?????? ???????????, ??? ?? ?????? ??? ?? ?????????? ??? ??????? ???,
??? ?????? ??? ??? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ???, ??
Bookit ?????????? ?? ?? ??? ?????? ???????, ??? ??? DataCash, ??? ?????????? ??????. ?
????????? ?????? ?????????? ?? ?? ??? ?????? ?????????? ??? ?????????? ?????? ???, ???
?? ?????? ?????, ???????? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ??????
????????? ??? ?????????? ??????. ? ?????????? ???????, ??? ??? DataCash,
????????? ??? ?????? ?????? ??? Bookit ? ?????, ?? ?? ?????? ???, ?????? ??? ??????,
????????? ??? ?? ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ?. ??
????????? ???????, ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????????? ?? ?? ??? ?????, ??? ?????????? ?????? ??? ??? ??? Odeon ??????????
??? ??????????, ??? ?????? ?????????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??
??? ?????????????? ??? ??? ?? ?????????? ???????, ?????? ??? ?????????????? ??? ??
????? ?????????? ??? Bookit ?? ?????? ???????.

15 ?? ???????, ??? ?? «????????? ??? ?????» ?? ??? ??????????????, ? Bookit
????????? ??? DataCash ?? ?????? ??? ?????????? ??? ?????? ??????????????, ??? ?? ???
????????????? ??? ?????? ??? ?????? ??????????????, ??? ?????? ??????????, ??? ??????????
?????? ?? ??? ?????? ?? ?????, ?????????????? ??? ?????? ?????????? ??? ?????????? ???
????????? ???????, ??? ?? ?????? ??? DataCash ?????????? ??? ?????????? ??????
????????? ??????? ?? ??? ?????? ?????????? ?? ?????? ??? ?????????? ??? ??????????????????
????? ??? ??????, ?????????? ??? ?????? ??? ?????????? ??? ?????? ??????????

???????, ??? ?? ?????????? ? ?????????????? ??? ???????? ??? ?? ?????????? ?????? ??? ?????????? ????????.
????????????? ??????? Bookit ?? ?????????? ?????????? ????. ?????, ? Bookit ?????????? ???
Odeon ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ???.

16 ?? ?????? ?????????? ?????????? ??? ?????? ??? Bookit ??????????, ???????,
??????, ?? ??? ?????? ?????????? ?? ??? ?????? ??? ?????????? ??? ?????????? ??? Odeon ??? ??
??? ?????? ?????????? ???, ???????, ??? ?????? ??? ?????? ?????????? ??? ?? ???
????????? ?????????? ?????????? ??? ?????????? ??? ??????, ??? ?????? ??? ?????????? ???
?????? ??? ??? ??????, ?????????? ??? ?????????? ??? ????? ?????????? ???????, ???
??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ??? ?????? ??? ?????????? ?????, ??? ?????????? ??? ?????????? ??? ??????
????????????? ??? ?????? ??? ?????????? ???.

17 ?? ?????? ?????????? ?????????? ???, ????, ??? ?????? ?? ?????????? ??????, ?
????????? ???, ???, ?? ??? ??? ?? ??? ?? ?????? ??? ?????????? ??? ?????????? ???
??????, ? Bookit ??? ?? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ???
?????? ??? ?????? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??????. ??????, ? ?????? ??? ?????????? ??? DataCash ??? ?????? ???
??? Bookit, ?????????? ?? ?????????? ??? ?????? ?? ?????????? ??? ?????????? ???
????????????? ??? ?? ?????? ??? ??????. ??????, ?? ?????? ?????????? ?????????? ???
????? ? ?????????? ??? DataCash ??? ?????? ?? ??? ??? ?????? ?????????? ??? Bookit
?????????. ??????, ?? ?????? ?????????? ?????????? ??? ?? ?????? ?????? ???
Odeon, ??? Bookit ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? Odeon, ???
??? ?????? ???, ??? ?????? ?? ?????? ??? ?????? ?????????? ???, ?? ?? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? Bookit ?? ?????????? ??? ??????
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???.

18 ?????? ??? ?????????? ?????????? ?, Bookit ???????? ??? ? ???????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???
????????????? Odeon ?????? ??? ?????? ?????????? ?????????? ??? ??? ?????? ???
????????? 9, ?????? 5, ?????? 1, ??? ?????? ?? 1994 ??? ??? ?????? 135, ??????????
1, ??????? ??, ??? ?????? ??? ??? ??, ?????????? ??? ? ?????????? ??? ??????????
?????? ??? ?????????? ??? ??????, ?????????????? ??? ?????? ?????? ??????????, ??? ??
????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? Bookit
???? ?????????? ???.

19 ???????, ? ?????????? ??? ?????????? ??? ? Bookit ??????? ?????????? ??
?????? ??? ?????? ??? ?????? ??? Odeon ??? ?? ?????? ??? ?????????? ???
?????????, ?????????? ??? ? ?????? ?????????? ??? ?????? ??? ?????? ???
??????, ??? ?????? ??? ?????????? ??? ??????. ???????, ??? ?????? ?????????? ???, ??
????????? ??? ?????? ?????? Bookit ?????????? ?? ?????? ?????????? ???.

20 ?? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ???????, ?? ?????????? ?????? ?????? ?????????????? ?????????? ??? ?????????? ???
????? ?????????? ??? ?????? 135, ?????????? 1, ??????? ??, ??? ?????? ??? ???.

21 ??? ??? ?????? ??????, ?? First-tier Tribunal (Tax Chamber) [????????? ??????????]
(????????? ???), ?????? ??????] ??????? ?? ?????????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????????? ??? ?????????? ?? ?????? ?????????? ???:

«1) ????? ?????? ??? ???????? ??? ???, ??? ???? 135, ?????????? 1, ?????????? ?,
?? [??????? ??? ??], ??? ???? ??? ?????????? ??? ?? ?????????? ??? ?????? ???
5?? ?????? 1997, SDC (C-2/95, EU:C:1997:278), ????? ???? ?????????? ??? ?????? ???
????????????? ?? ? “????????? ?????????? ?????? ?? [?????]” (???? ? ?????????? ??
????????? ??????) ??? “?? ?????????? ?? ?????? ?????? ??? ?????? ??? ??????????
????? ??? ?????????? ??????”, ??? ??? ?????? ??? ?????? 66 ??
????????? ??????;

2) ????? ???? , ???????, ?? ?????????? ??? ?????????????? (?) ??? ?????? ???
????????? ??? ?????? ?????????????? ???????, ??? ???? ??? ?????? ??? ?????? ??
????????????? ? ???????, ??? ???? ??? ?????? ??? ?????? [????? ??? ?????? ???????
C-350/10, Nordea Pankki Suomi (C-350/10, EU:C:2011:532)], ??? (?) ??? ??????
????????????? ???????, ? ?????? ???, ??? ?????, ?? ?????????? ?? ?????? ?????? ??
?? ???????, ??? ?????? ??????? ?? ???, ?????? ?? ??? ?????? ?????? ?? ?????? ??
????? ?????? ?????? [????? ??? ?????? ?????? ?? ??? ?????? ?????? ??? 5?? ?????? 1997, SDC (C-
2/95, EU:C:1997:278 ??? 66)];

3) ?????????? ??? ?????? ??? ?????????? ?????????????? ??? ?????? ??? [?????]:

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

?) ?????????? ? ??????? ??? ?????????? ??? ?? ? ?????? ??? ?????????? ?????? ??????
????? ??????? ??????? ?????? ??? ??? ?????? ?????? ?????? ? ??? ?? ??? ?????? ???
????? ?????? ?????? ??? ??? ?????????? ?????? ??? ??? ?????? ?????? ??????;»

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22 ?? ?????? ?????????? ?????? ??? ?????? ??? ?????????????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ???, ??? ??????
????? ? Bookit ?????? ?????? ?? ??? ?????? ?????? ?? ?????????? ?????????????? ???
Odeon ???????, ??? ??? Bookit, ?????????? ?? ??? ?????? ?????????? ?? ?????????? ? ??????????
????, ??????? ?????? ?????? ?????????? ?????????? ??? ?????????? ?? ??? ??? ?????? ?????? ??? ??
???? ??????????.

23 ???????, ?? ?????????? ??? ?????? ??? ?? ?????????????? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ???, ?? ?????????? ???, ?? ?????? ?? ??? ?????? ?? ?????? ??? ?????? ??????????
????????????? ?? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????????????? ???
????????? ??? ?????? ?? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????????????? ?
????????? ?????? (??., ??' ?????? ??? ?????, ?????? ??? 2?? ?????????? 2010, Everything
Everywhere, C?276/09, EU:C:2010:730, ????? 32).

24 ??????, ?? ?????????? ???, ???????, ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??????
??? ??? ?? ??? ??????, ???????, ??? ??? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
????? ?? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???

?????? ? ?? ?????? ??????????, ?? ???? ?????? ?????????? ??????????? ?? ???? ? ?? ??? ??
?? ??????? ?? ? ?? ?????? ?? ?????? ?????? (??., ??' ????? ?? ?????, ??????? ??
?? ?????????? 2010, Everything Everywhere, C-276/09, EU:C:2010:730, ??? 27).

25 ?? ???????, ?? ?????????? ?????????? ?? ???? ?????? ???????, ??? ???? ?? ?
?????????? ?? ?, ?????????? ?????? ?? ??? ?????? ?????? ?????????? ?? ??????? ?? ??????,
?? ???? ?? ?????? ?????? ?? ?????? ?????? ?????? ?????????? ?? ??? ???? ?????? ?? ???????
?????? ?? ??????? ?? ??? ?????? ?????? ?????? ?????????? ?????????? ??????????? ?? ??????? ?
?????? ?? ??? ?????? ?? ?????? ?????? ?????? ?????????? ??????, ?????????? ???, ???????, ???
?????? ?????? ?????? ?? ?????? ?????? ?????? ?????????? ?????? ?????????? ?? ??? ???? ?????? ?? ???????
????????? ?? ?????? ?????? ?????? ?????????? ?????? ?????????? ?? ??? ?????????, ??? ???? ?? ???? ?
?? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????????? ?????? ?????????? (??., ??' ??? ?
?? ??????, ?????? ?? 2?? ?????????? 2010, Everything Everywhere, C-276/09,
EU:C:2010:730, ??? 28).

26 ???? , ?? ?????????? ?????????? ?? ???? ?????? ?? ???? ?????????? ?????????? ??
?????? ?? ?????? ?????? ?? ?????? ?????? ?????????? ?????? ?? ??? ???? ?????????? ??
????????????? ?? ?, ?????? ?? ???? ?? ??? ?????????? ?????? ?? ??????? ?? ????
????????????? ?? ??? ?????????? ?????? ?????? ?????, ??? ?????? ?????????????? ????????,
????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ???????????
????????? ?? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ?? ??? ?????????? ?? ???????????
?? ? ?????????? ?????? ?????????? ?? ??? ?????????? ?????? ?????? ?? ??? ?????? ??? ???????????
?????? ?? ??? (??., ??' ??? ???? ?? ?????, ?????? ?? 2?? ?????????? 2010, Everything
Everywhere, C-276/09, EU:C:2010:730, ??? 29 ??? ??? ?????????? ??????????).

27 ??? ?????? ?????????? ?? ???????????, ??? ?????? ?????? ?????????? ?????????? ??
????????? ?? ???? ?????? ?? ?????? ?? ?????? ?????? ???????????, ??? ?? ?????? ?? ????
????????? ?? ???? ?????? ?? ?????? ?? ?????? ?????? ?????????, ??? ?????? ?????? ???????,
????????? ?? ???? ?? ?????? ?????????? ?? ?????? ?????????? ?????????? (??., ??' ??? ???? ??
?????, ?????????? ?? 21?? ?????????? 2008, Part Service, C?425/06, EU:C:2008:108,
????? 54, ??? ?? 20?? ?????? 2013, Newey, C?653/11, EU:C:2013:409, ?????? 42 ?? 45),
????????? ?? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? (??., ??' ??? ?
?? ??????, ?????? ?? 2?? ?????????? 2010, Everything Everywhere, C-276/09,
EU:C:2010:730, ??? 26 ??? ??? ?????????? ??????????).

28 ?????? ?? ??????, ?? ?????? ?????????? ?????????? ?? ?????????? ?? ???? ?????????? ??
?????? ?? ?????? ?? ?, ?????????? ?????? ?????????? ?? ?????? ?? ?????? ?? ???? ????
????? ? Bookit ?????? ?? ???????, ??? ?????? ?? ?????? ?? ?????? ?? ???? ??, ?? ??????????????
????????? ?? ??? ?????? ?? ?????? ?????? ?????????? ?????????????? ?, ???????????, ??
????????????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? Bookit ???
????????? ?? ??? ?? ??? ??????????, ???, ?.?, ? ?????? ? ? ?? ??? ?????????? ?? ??
????????? ?? ?????? ?????? ?????????? ?????? ?????? ?????? ?? ??? ?????? ?? ??
????? ?? ??? ?????? ?????? ?????, ??? ?????? ?????, ?? ?????? ?????? ? ?????? ?????? ?? ??
????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?? ??? ?????? (??.,
??' ??? ???? ?? ?????, ?????????? ?? 25?? ?????????? 1999, CPP, C?349/96,
EU:C:1999:93, ??? 32, ??? ?? 16?? ?????? 2015, Wojskowa Agencja Mieszkaniowa w
Warszawie, C-42/14, EU:C:2015:229, ??? 31).

29 ?? ?? ?????????? ??, ?? ?????????? ?? ?????, ?? ?????????? ?? ???? ???? ??
????????? ?? ?? ?????? ?????????? ?????? ?? ?????? ?? ???? ???? ?? ?? ?????.
?? ?? ??????

30 ?? ?? ?????????? ???, ?? ?????? ??????? ?? ?????????? ??? ??????, ?? ?????? ?????????? ???, ??' ??????, ?? ?????????????? ?? ?? ?????? 135, ?????????? 1,
????????? ??, ?? ???? ?????? ??? ?????? ??? ?????? ??? ?????? «????????????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ???
???? ?????? ??? ?????? ??? ?????? ???, ? ?????? ?????????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
???? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
???? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ?????? ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

31 ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ? ?????? ?????? ?????????????? ???
????????? ?? ?????? ?????????? ??? ??????, ??? ?????? ??? ?????? ??? ??????, ??? ?????? ??? ?????? ???, ??? ??????
????????? ?? ?????? ??? ?????? ??? ?????? ??? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???, ??? ??????, ??
?? ?????? ???, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

32 ??????????????, ?????????????? ??? ?? ??? 135, ?????????? 1, ?????????? ?? ??? ??,
??? ?????? ??? ?????? ??? ??????????????, ?????? ?? ?????????? ???' ??????, ??? ?????????? ???
????????? ??? ?????????? ??? ?????? 13, ?, ?????? ??, ?????? 1 ?? 6, ??? ??????
????? 77/388. ?????? , ? ?????? ???' ?????? ??? ?????? ?????? ?????? ?????? ??? ??????
??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

33 ??? ?????? ?????????? ??? ?????????? ?? ?????????? ??? ?????? 135, ?????????? 1,
??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ??? ?? ??? ?????? ??? ?????? ??? (??., ?????? ???, ?????? ??? 10?? ??????
2011, Skandinaviska Enskilda Banken, C-540/09, EU:C:2011:137, ?????? 19 ??? ???
????????? ??? ?????? ??? 22?? ?????? 2015, Hedqvist, C-264/14, EU:C:2015:718,
????? 33 ??? ??? ?????????? ??? ??????).

34 ??????, ??? ????? ??????????, ?? ??? ???? ?????????????? ??? ??? ??????????????
??? ?????????? ?????? ?????? ?? ?????????????? ??????, ?????????? ??? ??????????
????????????? ??? ?? ?????? ??? ???? ?????????????? ??? ??? ?????? ?????????? ???
????????????? ??? ?? ?????? ??? ?????? ?????? ??? ??? ?????? ??? (??., ????, ????,
??? 28?? ?????? 2011, Nordea Pankki Suomi, C-350/10, EU:C:2011:532, ??? 23, ??? 23,
??? 22?? ?????? 2015, Hedqvist, C-264/14, EU:C:2015:718, ??? 34 ??? ???
????????? ??????????).

35 ??? ?????? ???, ?????????????? ??? ?? ??? 135, ?????????? 1, ?????????? ??, ???
????????? ??? ?????? ??? ?????????? ??? ?? ??? ?????? ??? ?????????????? ??? ??? «??? ??????,
????????????? ??? ?????????????? ??? ?????????????? ??? ?????????? ?????????? ?????????? ???
????????? ???, ??????, ?????? ??????, ?????????, ?????????? ??? ?????? ??? ?????? ?????????? ???,
?? ?????? ??? ?????? ??????».

36 ??????, ?? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??? ?? ?????? ???
????? ? ??? ?????? ??? ?????????? ??????, ? ?????????? ??? ??? ?????? ??? ?????????? ???
??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ???
????????? ??????, ?????? ?????????? ??? ?????????????? ?????? ?????? (?. ?????? ???
28?? ?????? 2010, Axa UK, C-175/09, EU:C:2010:646, ??? 26 ??? ??? ?????????? ???
?????????).

37 ?? ??????????, ?????? ??? ???? ???? ???? ???? 135, ?????????? 1,
????????? ?, ??? ?????? ??? ??? ??? «??? ?????? [...] ?? ?????? ?????? [...]
????????? [???] ?????????? ??????» ?????? ?? ??? ?????? ?????????? ??? ?????? ??? ??????
?????.

38 ??????, ?? ?????????? ??? ?????? ??? ???? ???? ?????? ??? ?????????? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????? . ? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ??? ?????????? ???, ??????, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ???, ?????? ??? ?????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? 135, ?????????? 1, ?????? ??, ??? ?????? ??? (??.,
??' ?????? ??? ??????, ?????????? ??? 5?? ?????? 1997, SDC, C-2/95, EU:C:1997:278, ???
53, ??? ??? 28?? ?????? 2011, Nordea Pankki Suomi, C-350/10, EU:C:2011:532, ??? 25).

39 ????????????, ?? ?????? ??? ?????? 135, ?????????? 1, ???????? ??, ??? ??????
????? ??? ???? ????????, ????????, ?? ???? ??????? ? ?????? ?????????? ????????
????? ?????? ????????, ?? ???????, ??? ?????????? ????, ?????????? «????????? ??
????? ?????? ????????, ?? ?????? ??? 5?? ?????? 1997, SDC, C-2/95, EU:C:1997:278, ????? 64).
????? ??? ??????? ?? ??????????? ?? ?????????? ?? ?????????? ?????????? ?? ??????????? ??
????????? ?? ??????? ?? ?????????? ?????????? ?????????? ??? ?????? ???????, ??????????
????????? ??? ?????? ?? ?????? ?????? ?????? ?? ?????? ?????????? ??? ?????????? ??????
????????? ???????????, ??? ?? ?????? ???' ?????????? ?????????? ??? ?????????? ???
????????? ?????????? (??., ???' ?????? ??? ??????, ???????, ??????? ???
5?? ?????? 1997, SDC, C-2/95, EU:C:1997:278, ?????? 66 ??? 68).

40 ??? ?? ??????????? ?? ?????????? ???, ??? ?? ?????????????? ?? ?????? ??? ??????
????????? ??????? ?? ?????? ??? ?????? ??? ?????? 135, ?????????? 1, ???????? ??, ???
????? ??? ??, ?? ??????? ?????????? ?????? ?? ?????????? ?????????? ???????,
????????? ???????????, ?? ?????? ?????????? ??? ?????? ??? ?????????? ?????????????? ???
????????? ??????? ?? ??????, ??? ??????, ??? ?? ?????????? ?? ?????????? ?? ??????????
????????? ?????? ??? ?? ?????? ?????????? ??? ?????????? ?????????????? ??????????. ???????,
????? ?? ?????????? ? ?????????? ?????????? ?????????, ??? ?? ?????? ??? ?????????? ??? ???????,
??? ?? ?????????? ?????? ?????? ?????? ? ??? ?????? ?????? ?????????? ??????????. ??? ??,
????? ?????? ?? ?????????? ? ?????? ??? ?????? ??? ?????????? ??????????, ?????? ?? ??
????? ?? ? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?? ?????????? ?? ?????????? ???
????? ?????? ?????????? ??? ?????? (??., ???' ?????? ??? ??????, ???????, ??????? ??? 5??
????? 1997, SDC, C-2/95, EU:C:1997:278, ?????? 66, ??? ?? 28?? ?????? 2011, Nordea
Pankki Suomi, C-350/10, EU:C:2011:532, ?????? 24).

41 ?????? ?????? ?? ?????????????? ???, ?????????? ??? ?? ?????????????? ?????? ????
????????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ????
????? ??? ?????? 135, ?????????? 1, ???????? ??, ??? ?????? ???, ?? ?????????? ??
????? ?????? ?????? ?? ??????? ?????? ?????? ? ?????? ??? ?? ?????????? ??
????????? ?????????? ?????? ??? ?? ?????????? ?????? ??? ?????????????? ??????????
????? ?? ?????? ??? ?????????? ??? ?????????? ?????? 38 ??? 40 ??? ??????????
?????????, ??? ?? ?????, ??? ???????, ?????? ??? ?????? ?????? ?????????, ??? ??????? ?
????? ??? ??? ?????? ?????????? ???, ???, ??? ?????????? ?? ?????, ?????????? ??? ??? ?
????????? ?????? ?????????, ??? ?????? ?????????? ???, ??? ?????????? ?? ?????, ?????????? ??? ??? ?
????????? ?????? ?????????, ???, ???, ???' ?????????, ?????????? ??? ?????? ???
????????? ?????????? ?????? (??., ???' ?????? ??? ??????, ???????, ??????? ??? 28??
????? 2011, Nordea Pankki Suomi, C-350/10, EU:C:2011:532, ?????? 33).

42 ??????, ?????? ?? ??????? ??? ? ?????? ?????? ?????? ?????????? ?????? ? ??????????
????? ?? ?????? ??? ??????????, ?, ????, ?????, ?????????? ??? ?????????? ?????? ??????????
??? ?????? ??????????, ??????, ???????, ??????? ? ?????? ??? ?????????? ??? ?????????? ??? ?
????????? ??? ?? ?????? ??? ? ?????????? ?????? ?????????? ?????????? ??? ??? (??., ???'
????? ??? ??????, ?????? ??? 13?? ?????? 2014, ATP PensionService, C-464/12,
EU:C:2014:139 ?????? 80, 81 ??? 85), ?????????? ?? ?????? ??? ? ?????????? ??? ??
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??? ??
??? ?????? ??? ?????? ???????, ??????? ??? ? ?????? ??? ?????????? ??? ?????????? ??? ??
????? 38 ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??
????????? ?????????? ??? (??., ???' ?????? ??? ??????, ???????, ?????? ??? 13?? ?????? 2014,
ATP PensionService, C-464/12, EU:C:2014:139, ?????? 80).

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

49 ?????? ?????? ?? ?????????????? ??, ??? ?????????? ?? ???? ??? ?????? ?? ?
??????????, ? ??????? ?????????? -??? ?????? ?????? ?????? ?????? ?????? ?????, ??????????
??? ??????????????, ??? ??? ?????? ??? ?????, ??????, ??? ??????- ? ??????
????????????? ??? ?????? ???, ?????????? ?????? ??? ?????? ?????????? ?????????????? ???
?????????, ??? ?????? ? ?????? ?????????? ??????, ??? ??? ?????? ?????? ?????????? ??????????, ???
????? ??????. ??? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?????????, ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ??????, ??? ?????? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??????
??? ?????? ??? ??????, ??? ? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???, ?????? ??? ????
????? ??????.

50 ??????, ??? ?????????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????????????? ?????? ??? ?????? ?????? ??? ?????? 135, ?????????? 1, ?????? ??, ???
????? ??? ???, ???, ???????, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??????
??? ??? ?????????? ???, ??? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ???, ?? ?????????? ?????? ??? ?????? ?????? ???, ?????????? ???, ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? ?? ??????, ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?????? ??? ??????.

51 ??? ?? ?????? ??? ?????? ?????? ?????? ??? ? ?????? ??? ????
????????? ??? ?????? ?? ??????, ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????
????? ??? ???? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??????
????? ??? ???? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? 135,
????????? 1, ?????? ??, ??? ?????? ???, ??? ?????? ???, ??? ?????? ?????? ??? ?? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ?????? ??? ?????? ???.

52 ??????, ?????????? ??? ???? ? ?????????????? ?????? ?????? ?????? ?????? ???
??? ?????? ?? ?????? ??? ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ??? ???? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??

? ?????????? ?? ??? ???? ?????????? ?????????? ???, ??? ???? ??????, ??? ?????????? ??? ????
????????? ??? ???? ?????? ?????? (??., ???' ??? ???? ??? ??????, ?????? ??? 5?? ?????)
1997, SDC, C-2/95, EU:C:1997:278, ??? 37).

53 ????????, ????????, ?????????? ?????????? ??? ????????, ??? ???? ???? ????
?????? ??? ???? ?????? ?????, ????????????, ???' ??????, ??? ?????????? ?????????? ??????
??? ?????? ??? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????????? ??????
????????? ?? ??? ???? ?????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? 135, ?????????? 1, ??????? ?, ??? ?????? ??? ??? ???,
? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ???.

54 ??? ?? ????, ??????, ?????? ?????????? ??? ?????? ?? ????????, ??? ???? ??
?????? ???, ?????????????? ??? ?????? ??? ?????? ??? ?????? 135, ?????????? 1,
????????? ?? ??? ?, ??? ?????? ??? ?, ?????? ?????? ?? ?????????? ??? ?????? ??????
????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ???
?????????, ??? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??? ???.

55 ????????, ?? ?? ?????????? ? ????????, ??? ?????? 135, ?????????? 1, ????????, ??,
?? ?????? ??? ?? ?????? ??? ?????? ?????? ??? ????????, ?? ??????, ??? ???? ????
????? ?????? ??? ?????? ??? ?, ?? ?????? ??? ?????? ??? ?????????? ?? ???
????????? ??? ?????????? ?????? ??? ?????? ???, ?? ?????? ?????????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ??????
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????????? ?????? (?????? ??? 19?? ?????? 2007, Velvet & Steel Immobilien, C-
455/05, EU:C:2007:232, ??? 24, ??? 24, ??? 14?? ??? 2008, Tiercé Ladbroke
??? Derby, C-231/07 ??? C-232/07, ?? ???????????, EU:C:2007:332, ??? 24).

56 ????????, ? ?????? ??? ?????? ??? ?????????? ?????????? ??? ????????, ???
? ?????? ??? ?????? ??? ?????? ??? ??????, ?? ?????????? ??? ?????? ??????????. ??? ???? ?
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????????? 1, ??????? ?, ??? ?????? ??? ??? ???.

57 ?????? ??? ?????? ??? ?????????? ???, ??? ?????????? ?????? ??? ?????? ?? ???? ?
????????? ??? ?? ??? 135, ?????????? 1, ??????? ?, ?? ?????? ??? ?????? ???, ??? ???? ?
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????????? ?? ???», ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ??? ?
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ?????? ???, ??? ?
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?
? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ? ??? ?
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58 ?????????? ??? ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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?? ??? ????? ?????? ??????, ?? ?????????? (?????? ?????) ??????????:

?? ????? 135, ?????????? 1, ??????? ?, ??? ?????? 2006/112/?? ??? ????????,
?? 28?? ?????????? 2006, ??????? ?? ?? ????? ?????? ?????? ?????????????? ????,
???? ??? ?????? ??? ? ??? ?????????????? ?????? ??? ?????? ??????????????
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? ?????????? ???», ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??????????
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(?????????)

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