

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

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

«????????????? ?????????? – ?????? ????? – ?????????? ?????????????? ??? ?????????? – ??????????
?????? ?????????? – ?????? 69/335/?? – ?????? 2, 4, 10 ??? 11 – ?????? 85/611/?? – ?????
10 ??? 293 ?? – ??????? ?????? ??? ??? ?????????? ?????????????? ?????????????? – ?????
????????? – ?????? ??? ?????????????? ????? ?????????? ?????????????? ?????????????? ??????????????
?????????»

???? ??????? C?48/15,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ??? ??????
cour d'appel de Bruxelles (????????? ??????????, ??????) ?? ?????? ??? 23? ?????????? 2014,
? ?????? ?????????? ??? ?????????? ??? 6 ?????????? 2015, ??? ?????? ??? ???

État belge, SPF Finances

????

NN (L) International SA, ????? ING International SA, ???????? ??? ING (L) Dynamic SA,

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

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

??????? ??????????: M. Bobek

?????????: V. Tourrès, ???????? ??????????

?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ?????????????? ???
28?? ?????????? 2015,

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

– ? NN (L) International SA, ?????????????? ??? ??? J. Malherbe ??? M. Bertha, avocats,

– ? ?????? ????????, ?????????????? ??? ??? M. Jacobs ??? J.-C. Halleux,
????????????? ??? ??? A. Gillet, avocat,

– ? ?????? ????????, ?????????????? ??? ??? W. Roels ??? C. Soulay,

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ??????????
??? 21?? ?????????? 2016,

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

???????

1 ? ?????? ?????????????? ?????? ??? ?????? ??? ?????? 2, 4, 10 ??? 11
??? ?????? 69/335/?? ??? ??? ??????????, ??? 17?? ?????? 1969, ??? ??? ?????????? ????

??? ?????????????? ??? ?? ?????????????? ?????????? (?? 1969, L 249, ?. 25), ??? ????
????????????? ??? ?? ?????? 85/303/???, ??? ?? ??????????, ??? 10?? ?????? 1985 (?? 1985,
L 156, ?. 23) (???, ????: 69/335), ??? ?????? 85/611/???, ??? ??????????, ??? 20??
????????? 1985, ??? ?? ?????????? ??? ??????????, ?????????? ??? ?????????? ??? ??????????
????????? ??????? ?? ?????????? ?????????? ?????????? ?????????? ?? ?????????? ???
(?????) (?? 1985, L 375, ?. 3), ?? ?????????? ?? ?? ?????? 10 ?? ??? ?? ?????? 293, ???????
?????????, ??, ????? ?? ?? ?????? 49 ?? ?? 60 ??, ?? ?????????? ?? ?? ?????? 10 ?? ???
?? ?????? 293, ??????? ??????????, ??.

2 ?? ?????? ??? ?????????? ??? ?????? ?????????? ?????????? ???????, ??????, ???
????????? ????????, ?????????? ??? SPF Finances (????????????? ?????????? ??????????),
???, ????????, ??? NN (L) International SA, ??? ING International SA, ?????????? ???
????????? ??? ?????????? ??? ING (L) Dynamic SA (???, ????: NN (L)), ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ?????????? (??), ???
185 739,34 ????, ??? ?????? ?????? NN (L) ??? ?? 2006.

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

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

3 ?? ?????? 2, ?????????? 1, ??? ?????? 69/335, ? ?????? ?????????? ??? ?? ?????
2008/7/?? ?? ??????????, ??? 12?? ?????????? 2008, ??? ?? ?????? ??? ??
????????????? ??? ?? ?????????? ?????? ?????? ?????????? ?????????? (?? 2008, L 46, ?. 11), ????:
«?? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ???
?? ?????? ?? ?????? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????????? ???
????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???..

[...]»

4 ?? ?????? 4 ??? ?????? ?????? ?????? ?? ????:

«1. ??? ?????? ??? ?????? ??? ?????? ?? ?????? ????:

?) ?? ?????? ??? ?????????? ????:

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

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

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

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

?) ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????:

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

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

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

2. ?? ?????????? ??????? ??????? ?? ?????????? ?? ?????????? ??? ?????? ??? ???????,
?????? ?????????? ??? ?????? ?????????? ?????????? 1 % ??? 1? ?????? 1984:

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

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

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

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

[...]»

5 ??? ?? ????? 10 ??? ?? ????? ??????:

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

?) ??? ??? ???????, ?? ?????? ?????????? ??? ?????? 4?

?) ??? ??? ???????, ?????? ? ???????, ??? ?????????????? ??? ?????? ???
?????? ??? ?????????? ??? ?????? 4.

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

6 ?? ????? 11 ??? ?????? ?????? ??? ?????? ?? ???:

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

?) ??? ???????????, ??????, ??????? ?? ?????????????? ?? ?????? ?? ??????????? ?
????????????? ??????, ??????? ? ?????? ?????? ?????? ?????, ?????? ??? ??
?????????????, ?? ??????????? ??? ?????? ?????, ?????? ??? ?? ?????? ? ?????? ??? -

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

7 ?? ???????, ???? ??? ?????? ??????????? ?????? ??? ?????? 85/611, ? ????
?????????? ??? ???? 2009/65/?? ??? ?????????? ?????????????? ??? ?? ???????????,
?? 13?? ??????? 2009, ??? ??? ?????????? ??? ???????????, ?????????????? ???
?????????? ?????? ??? ?????? ?????????? ?????????? ?????????? ?????????? ?????????? ??
????????? ??? (?????) (?? 2009, L 302, ?. 32), ?????? ?? ????:

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

??? ? ??????? ??? ?????? ??? ?????? ??????????? ??? ??? ??? ??????????? ??? ?????
????????? ??? ??????? ??? [??] ??? ?????? ??? ??? ? ??????????? ??? ??
????????? ??? ?????????? ??? ?????? ?????????? ??????????????.

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

[...]».

8 ?? ????? 44 ??? ?????? 85/611 ??? ?? ????:

«1. ?? [????????? ?????????? ?????????? ?? ?????? ??? (?????)] ? ?????? ???????
?? ?????? ??? ?? ??? ?????? ?????? ?? ?????? ??? ?????? ??? ???????????, ??????????? ???
????????? ?????? ?? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ??? ??? ?????? ??? ??????.

[...]

3. ?? ?????????? ??? ?????????? 1 ?? 2 ?????? ?? ?????????? ??? ?????? ??????????.

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

9 ?? ??????? ??? ?????? ???????????, ??? ?????? ?????????????? ??? ??? ?????????????? ???
?? 22?? ?????????? 2003 (*Moniteur belge* ?? 31?? ?????????? 2003, ?. 62160, ??? ????:
?????? ?????? ???????????), ?????????????? ??? ?????? Ilbis, ?? ??? «?????? ?????? ???
??? [??], ??? ?????????? ?????????? ??? ??? ?????????? ??????????» (??? ????:

????????? ?????? ??? ??? ????). ?? ??? ?? ??? ?????????????????? ????, ? ?????? ?????? ?? ???
??? 1? ??????????? 2004, ? ?????? ????, ? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??????
???, ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

10 ?? ????? 133ter ??? ?????? ?????? ?????????????? ?????????? ??? ? ?????????? ??????????
?????? ?? ??????????, ?????? ??? ?????? ?? ?????????? ????????, ??? ?????????? ???
????????????? ?? ?????????? ??? ?????? ??????, ??? ?????????? ?????? ??? ?????? ???
????????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???, ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????.

11 ??? ???? 161 ??? ?????? ?????? ??????????????:

«????????? ?? ?????? ??? ???? 1? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
?????????, ?????????? ??? ?????????? ??????:

1° ?? [??] ??? ?????? ?????????? ????, ?? ?????? ?????????????? ??? ?????? 108,
????? 1, ?????? 1 ??? 2, ??? ?????? ??? 4?? ?????? 1990, ??? ??? ??????????????????
?????? ??? ??? ?????????????????? ????.

2° ?? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? [??] ??? ??????
????????? ????, ?? ?????? ?????????? ??? ?????? 108, ?????? 1, 1° ?? 2°,
??? ?????? ??? 4?? ?????? 1990, ??? ??? ?????????? ?????? ??? ?????? ??? ???
????????????? ????.

3° ?? ?????????? [??] ?? ?????? ?????????? ??? ?????? 137 ??? ?????? ??? 4??
????????? 1990, ??? ??? ?????????? ??? ?????? ??? ??? ?????????? ???
??????, ??? ??? ??? ?????? ?????? ??? ?????? ??? ??????.

[...]»

12 ??? ???? 161bis ??? ?????? ??????:

«1. ??? ???? ?? ??? ?????????? ??? ?????? ??? ?????? 161, ?????????? | ??? 2, ? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 31
????????? ??? ?????????? ???.

??? ??? ?????? ??? ?????? 1:

1° ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

2° ??? ???? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? 162, ? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? 31 ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

2. ??? ???? ?? ??? ?????????? ??? ?????? ??? ?????? 161, ?????????? 3°, ? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 31
????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ??????.

??? ??? ?????????? ??? ?????????????? 1:

1° ?? ???? ???. ??????????????? ?? ???. ??????? ???. ?????????????? ???. ?????????????? ???. ?????????????? ???. ?????????????? ???.
????????????????? ???. ?????????? ???. ?????????? ???. ?????????? ???. ?????????? ???. ?????????? ???. ?????????? ???.
????????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???.
????? ???.

2° ????? ? ?????????? ?????????? ?????????? ?? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ???
????????? ?????????? ??? ??? ?????????? ??? ??????, ??? ?? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? 162, ? ?????? ?????????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????
??? ?????? ??? ??? 31 ?????????? ??? ?????????? ??? ??????. ?? ?????????? ??????? ??????? ??????.
?? ?????????? ?? ??????? ??? ?????????? ??? ?????????? ??????? ??? ?????????? ??? ?????????? ??? ?????.

[...]»

13 ?? ?????? 162 ??? ???? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ??????????????
????????????? ??? ?????????? ??? ?????? ??? ?????, ??????????:

«?????? ?????????? ????. ????. ????. ?????????????? ????. ????. ?????? 161 ?? ?????????? ????. ????. ?????? |
???????. ?? ?? ?????????? ????. ????. ????. ?????????? ??????, ?? ???. ??????????, ????.
?????????, ????. ??????. ??????. ????. ????. ??????.

????? ?? ??????????? ??????????? ????? ?????? ?????? ?? ?????? 161, ??????????? 3,
?????????? ?? ?????????? ??? ?????????? ??????????, ?????? ?? ????? ??????????? ??
????????? ??????? ?????????? ?????????? ?????????? ?? ?????? ??? ?????????? ??? ?????? ???. ?
????????? ??? ?????????????? ??? ????? ?????????? ??????????, ??? ??????????, ??????????
??? ?????????? ???????, ?????? ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
????????? ?????????? ??? ?? ??????? ??? ?? ?????????? ?????? ??????????, ??? ?????? ?
??? ?????? ??????? ??? ?? ?????? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ??
?????»

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

14 ? NN (L), ??????? ?? ??? ???? ??????????????, ??????? ?? ?????? ?????????????? ??????
??? 2006 ??????? ?? ?? ?????? ??? ?????????????? ??? ?????? ?????? ??? 31 ??????????
2005 ??? ??????? ?????????????? ??? ?????? 185 739,34 ????. ??? ??????? ??????????
?????? ??? tribunal de première instance de Bruxelles (????????????? ??????????, ??????)
????????????? ?? ?????????? ??? ?? ??? ?????? ?????? ?????? ??? ?????? 69/335, ??? ?????? 56
??? 60 ??, ??? ?????? 85/611 ??? ??? ?????? 10 ??, ?????? ???, ??????????????, ??? ?????? 22
??? ?????????? ??? ?????????? ??? ?????????????? ??? 17 ?????????? 1970 ??? ?? ??????
??? ?? ?????? ??????? ??? ??????????????, ??? ??? ?????? ??? ?????? ?????????? ??????? ??
?????? ?????????? ?????? ?????????? ?????? ?? ?????? ?????? ?????????? ?????????? ??? ??????????
(?? ???: ?????? ??????-?????????????).

15 ?? ??????? ?? 23?? ?????????? 2011, ?? tribunal de première instance de Bruxelles
????????? ?? ?? ?????????? ?? ??????? ?? ??????? ?? ??????? 69/335 ??????, ??? ?????? ??
????????? ?? ?????????? ?? ??????? ?? NN (L), ?? ??????? ?? ?????????? ?? ??????????
????????-??????????????.

16 ?? ??????? ???????, SPF Finances, ?????? ?????? ??? ?????????? ?????? ??????
??? ?????????? ???????????, ?? ??? ?????? ?????? ?? ?????????????? ??? ? ?????? ???
??? ??? ??? ??? ?????????? ??? ?? ?????? ??????????????????????, ??? ?? ?????? 160 ??.

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

17 ? NN (L) ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ???????????. ??????
?????????, ?????????? ??? ?????? ??? ?????? ??? ?????????? ?? ?? ?????? ?? ??????????
????????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? 69/335 ??? ??
????????? ??? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ???
????? ??? ??????. ??????, ? NN (L) ?????? ??? ?? ?????? ?????????? ?? ??????
????????? ?????? ??? ?????? ?? ??????????.

18 ?? ?????? ?????????? ???, ?????????? ??? ?? ?????????? ?? ?? ?????????? ?????? ???
? ?????? ?????? ??? ?? ?????? ?? ?????????????? ?? ?????????? ? ?? ??? ?? ?????? ??????????
?? ?????????? ??????-?????????????, ? ?????? ?????? ?? ?????????? ??? ?? ??????
????????? ??? ?????????????? ??? ?????????? ?????????? ??? ?? ?????? ??
????????? a priori ??? ?? ?????????? ??? ?????? 69/335 ?????? ?????? ??????.

19 ??' ?????? ??? ????????, ?? cour d'appel de Bruxelles ?????????? ?? ?????????? ??
????????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ??????????????
?????????:

«1) ?????????? ? ?????? 69/335, ??? ?? ?????? ?????? ??? ?????????????? ?? ?? ??
????????????? ??????????, ??? ?????????? ?? ?? ?????? ?? 2, 4, 10 ?? 11, ??? ??????
????????? ?????????? ??? ?????? ?? ?????? 161 ?? 162 ?? ?????????? ?????? ??
????????? ?, ??? ?????????????? ?? ?? ?????????????? ??? ?? 22?? ?????????? 2003
???? ?? ?????? ?? ?????? ?? ?????????? ?????????? ?????????? ??? ?? ?????? ?? ?? ??
????? ?????? ?????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?? ?????? ?????????? ??
?? ?????? ?????????? ??? ?????? ?? ?????? ?????? ??? ?????? ?? ?????????? ?? ?? ?????? ??
??? ??????, ??? ?? ?????????? ??? ?????? ?? ?????????????? ??? ?????? ?? ?????????? ??
????????? ??? ?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?? ?????????? ??
????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????????? ?? ?? ??
?????????;

2) ?????????? ?? ?????? 49 ?? 55 ?? 56 ?? 66 ??, ?????????? ?????????????? ??
????????? ?? ?? ?????? 10 ?? ?? 293, ??????? ??????????, ??, ?? ?????????? ??????????
?? ?? ?????? ?????? ?? ?????? ?????????? ?????? ?????? ?? ?????? ?? ?????????? ?? ??
????? 161 ??. ?? ?????? ?????? ?????? ?????? ???????????, ?????????? ??? ?? ?????????? ??
????????????? ?? ?????????? ?????? ?????????? ?????? ?????????? ?? ?? ?????????? ?? ??
????????????? ?? ?????????? ?????? ?????????? ?????? ?????????? ?????? ?????????? ?? ??
????????????? ??????, ?????????? ?????? ??? ?????? ?????? ??? ?? ?????? ?? ?????????? ??
????????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?? ??
????????????? ??? ?? ?????? 162, ?????????? 3, ?? ?????? ?????? ?????? ?????? ?????????? ??
????? ??? ?????? ??? ?????????? ??????????????;

3) ?????????? ?? ?????? 49 ?? 56 ?? ?????? ??, ?????????? ?????????? ??
????????? ?? ?? ?????? 10 ?? ?? 293, ??????? ??????????, ??, ?? ?????? ?????? ??
????????????? ??????, ?? ??????, ??? ?? ?????? ??? ?????????? ?????? ?? ??????????
???? ?? ?? ?????????? ?? ?????? ?????? ?????? ?????????? ???, ?????? ??????????
????????????? ?????????? ?? ?????? ?????? ?????? ?? ?????? ?????? ?????, ?????????? ??????
????????????? ?????????? ?? ?????? ?????????? ?? ?????? ?????? ?????? ?????? ?? ??
????????? ?????????? ?????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ?? ??

4) ?????????? ?? ?????? 85/611, ?????????? ?????? ?? ?????????? ?? ?? ?? ??

10 ??? ?? 293, ??????? ??????????, ??, ?? ??? ???? ????? ?????? ??? ?????????????? ???????, ???
?? ?????? ??? ? ?? ??? ????? ?????????????? ??? ?????? ?????? ??? ?????? ??? ??????, ? ??????
????????????? ??? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ???;

5) ?????????? ?? ?????? 49 ??? 56 ?? ??? ?????????????? ??????? ??? ?????????????? ?
????????? ????, ???? ?????? ??? ?????????????? ????, ???? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????;

6) ?????????? ?? ?????? 49 ??? 56 ?? ??? ?????????? ??????? ??? ?????????? ??? ?????? ???
????? 162, ?????????? 2, ??? ?????? ?????? ?????? ?????? ??????????????, ???? ?? ?????? ???
????? ? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????? , ?????? ?? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
????? ?? ?????????? ?????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? 31 ?????? ???
????? ? ?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ?????????????? ??????;»

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

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

20 ? ?????? ?????????? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?, ?? ?? ??????, ???? ?????? ??????????.
????????? , ??????, ??? ?? ?? ????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ???
????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?? ?????????? ??? ?????? ?????????? ???.

21 ?????? ?? ?????????? ???, ?????????? ??? ?????????????? ??? ?? ?????? ??? ?????? ??
??? ?????? ?????????? ??? ?????? ?????????? , ?? ?????????? ??? ?????? ?? ?????????? ?????? ???
????????? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???
??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ???
?? ?? ?????????? ?? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? , ???? ?? ?????????? ???
????????? ?????? , ?????? , ???? ?? ?????????? ??? ?????? ?????? ?? ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ?????????? ?? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? (??., ?????? ?????, ?????? ??? 16?? ?????? 2015, Gauweiler ?..,
C?62/14, EU:C:2015:400, ????? 25).

22 ??? ?????? ?? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? , ?? ?????? 94 ??? ??????????
????????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ? ?????? ?????????? ?????? ?????? ???
?? ?????????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????? , ?????? ??? ?????? ???
????????? ?????????? ?????? , ? , ?????????? , ?????? ??? ?????? ?????? ?????? ???
??? ?????? ?????????? ?? ?????????? , ?? ?????????? ??? ?????? ?????? ?????? ?????? ???
????????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
?? ?????? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? , ?????? ??? ?????? ??? ?? ?????? ?????? ?????? ?????? ???
??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ?????? ??? ?????? .

23 ?? ?????????? , ? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
??? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???

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

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

24 ?? ?? ???? ??? ???????, ?? ?????? ??????????? ????, ???' ??????, ??? ?? ??? 2, 4,
10 ??? 11 ??? ?????? 69/335 ?????? ??? ?????? ??? ??????????? ?? ?????????? ???????
?????? ? ?????? ??????? ?????? ??? ?? ???, ??? ? ??????? ?????? ??? ??????? ???
????? ??????, ? ?????? ?????????? ?????? ??????????? ??? ?? ??? ?????????? ??????? ???
????? ?????? ????.

25 ???????, ?????????????? ??? ???? ?????? ??? ?? ??? ?????????? ?? ??????
??? ?? ??????? ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ?? ?????? 4 ??? ??????
69/335, ?? ??????, ??? ?????????? ?? ?????????? ??? ?? 20 ??? ?????????? ??? 27??
????????? 1998, Nonwoven (C?4/97, EU:C:1998:507), ?????????????? ??? ?? ??????
????????? ? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ??????
????????? ?????????? ? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ??????
????????? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ??????
????????? ?????? «????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ???» ??? ?????? ?????????? ?? ?? ??? ??????. ? ?????? ?????? ??? ?????? ???
????? ?????? ??? ?????????? ??? ?? ??? 10 ??? ?????? 69/335, ??? ?????? ???,
?????, ??? ?????????? ?? ??? ?????? ??? ?? ?????????? ?????? ??? ?????????? ??? ??????
4 ??? ?????? ????, ??? ?????? ?????????? ?? ?????? ??? 10, ?????????? ?? ??? ??, ???,
?????????, ??? ?????????? ?? ?????? ??? ?????? ??? ?? ?????????? ??? ?????????? ???
????????? ? ?????? ?????????? ?????????? ??? ?? ?????? ??? ??????????????, ??? ??
????? ??? ?????? 10, ?????????? ??, ??? ?? ?????? ??????. ??????, ? ?? ?????? ??? ??
????? ?? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? 11 ??? ?????? ??????.

26 ?? ?? ??????, ? ?????? ?????? ??? ?? ??? ?? ??? ?????? ??? ?????? ?????????? ???
?????? 69/335. ? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?? ??? ??
????? ?????????? ???.

27 ???????, ??? ?????? ?????? ??? ?? ??? ???? ? ?????? ??? ?? ?????? 2, 4, 10 ??? 11
??? ?????? 69/335 ?????? ??? ?????? ??? ?? ?????????? ?? ?????? ??? ?????? ???????
? ?????? ?????????? ?????? ??? ??, ??? ? ?????? ??? ?????? ??? ?????? ??? ??????
?????, ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ??????
????? ???.

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

28 ?? ?? ?????? ???????, ?? ?????? ?????????? ????, ???' ??????, ??? ?? ??????
85/611, ?? ?????? ?????? ?????????? ?? ?? ??? 10 ?? ??? ?? ??? 293, ?????? ??????????,
??, ??? ?? ?????? ??? ?????? ??? ?????????? ?? ?????? ?????? ?????? ??? ?????? ??????????
????? ??? ??, ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

29 ? ?????? ?????????? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ??????????, ?????? ?? ??????
????????? ??? ?????? ??? ?????? ??? ?????? 85/611 ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ?????????? ?????? ?????? ??? ??
????????? ??? ?????? ???.

30 ??????, ??? ?????????? ??? ?? ?????????? ??? ?????? ?????? ??????, ?? ??????
????????? ?????? ??? ?????? 85/611, ?? ?????? ??? ?? ??? 10 ?? ??? ?? ??????

293, ??????? ??????????, ??, ?????????? ?? ?????? ?????, ????? ? ??????? ?????, ?????
? ?? ??? ????? ????? ?????????????? ?? ?????? ?????? ??? ?????? ?????? ?????, ? ??????
?????????? ??? ?????????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? . ??
????????? ??? ????? ?????? ??? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ??? ??????
????????? ?? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????? ?????. ?? ?? ?????, ?? ?????? ?????? ??????.

31 ??? ??? ?????, ??? ?????????? ?? ??????, ?????? ??? ?????? ??????????????
????? ??? ?????? 85/611, ??? ?? ?????????? ? ?????? ?????? ?????? ??? ?????????? ???
????? ?????? ??? ?????, ? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ??????
????? ?????, ??? ?????? ???, ??????, ?? ?????? ?????? ??? ?????? ?????? ?????????? ??? ???
????????? ??? ?????? ??? ?????? ?????? ???, ??????, ?? ?????? ?????? ??? ?????? ?????????? ??? ???
????????? ??? ?????? ??? ?????? ?????? ???, ??????, ?? ?????? ?????? ??? ?????? ?????????? ??? ??
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ???, ?? ?????? ???, ?? ?????????? ?????? ??? ?????? ??? ?????? ?????? ???
????? ??? ?????? (?????? ??? 11?? ?????????? 2014, Gruslin, C?88/13,
EU:C:2014:2205, ??? 33).

32 ?????????? ? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????? ??? ?????? 85/611, ? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ??????
?? ??? ?????? ??????. ?? ??? ?????? ?????? ??, ?? ?????? 44, ?????????? 3, ??? ?????? ??????
????? ??? ?? ?????????? ??, ?????????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????? ?????? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ???
????? ?????? ?????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

33 ??? ???????, ? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????? 85/611 ???, ??????? ??, ?? 10 ?? ?????? ??? ?? ?????? 293, ??????
??????????, ??, ??? ?????? ?? ?????????? ?? ?????? ?????? ???, ? ?? ??? ?????? ??? ??
?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???, ??? ??? ??????????
??? ?? ??????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ??????.

34 ??????, ??? ?????? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? 85/611, ??
????????? ?????????? ?? ?? ?????? 10 ?? ??? ?? ?????? 293, ?????? ??????????, ??, ???
??? ?????? ??? ??? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??????
????? ??? ??? ???, ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????, ? ?????? ??????????
????? ?????????? ??? ??? ?????????? ?????? ?????? ??? ?????? ?????? ?????, ??? ??? ??????????
??? ? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ??????.

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

35 ?? ?????? ??? ?? ?????? ??????, ?? ?????? ?????? ?? ?????????? ??? ??????,
??????, ??????, ?? ?????? 49 ??? 60 ??, ?? ?????? ?????? ?????????? ?? ?? ?????? 10 ?? ???
?? ?????? 293, ?????? ???????, ??, ?????? ???, ??????, ?? ?????? 49 ??? 56 ??, ??
????????? ?????????? ?? ?? ?????? 10 ?? ??? 293, ?????? ?????? ???????, ??, ??????????
????? ? ?????????? ??? ?????? ?? ?????? 49 ??? 56 ?? ?????? ?????? ??? ??? ?????????? ???
????????? ???.

36 ??????????, ??????, ?? ?????? 50 ?? ??? 55 ??, 57, 59 ??? 60 ?? ??? ?????? ??????
????? ??? ?? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ?? ?????????? ???
????????? ??? ??? ?? ??? ?????? ?????? ?????? ?????? ?????? ??? ??? ??????.

38 ??????, ?? ?????? 10 ??, ??? ?????????? ??? ?????? ?????????? ??? ?????? ??????, ??
?????? ?? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??
?? ?????? ???, ? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????? 49, 56 ???
293 ??.. ??????????, ?? ????? 293 ?? ??? ?????????? ??? ?????? ?????? ?????? ?? ??????
????????? ?? ?????? ???????????, ??? ?????????????? ??? ?????? ??? ?????? ?? ??????
????????????? ??? ?? ?????????? ?????????? ??? ??????. ?????? ?????????? ??? ??????
????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?? ?????? ??? ?????? ??? ??????
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? (??., ??? ?? ?????? ???,
?????? ?? 19?? ?????????? 2012, Levy ??? Sebbag, C?540/11, EU:C:2012:581, ??????
26 ??? 27 ?????? ??? ?????? ?????????? ??????????).

39 ???????, ?????? ?? ??????????? ???, ??? ???? ?????? ?????? ?????? ?????????????? ??
????????? ?????? ?????????? ??? ?? ?????? ?????????? ??????????, ?? ??????????
????????? ?? ??????? ??????, ???' ?????, ??? ?? ?????? ??? ?????? ??? ?? ??? ?? ?????
??????????, ??? ?????????? ???, ??? ??? ?????? ??? ?????????? ??? ???????, ? ???
?? ??? ?????????? ??? ?????? ????? ?????????? ?????????? ?? ?????? ?? ??? ??? ??? ??? ?????
?? ?????????? ?? ?????? (??., ??? ??? ?????? ???, ?????????? ??? 3?? ?????????? 2006,
Fidum Finanz, C?452/04, EU:C:2006:631, ??? 34, ??? ??? 1?? ?????? 2010, Dijkman ???
Dijkman-Lavaleije, C?233/09, EU:C:2010:397, ??? 33).

40 ????? ?????????? ? ??????? ?????????????? ??? ?????? 48 ??? 49 ??? ?????????? ???, ?
?????? ?????? ??? ???, ??????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ??????????
??? ?????????? ???, ?????????? ?? ??? ?????? ?????????? ??? ?????????? ?????????? ??????????
????????? ??????????, ?????????? ?? ?? ??? ??????????????. ? ?????? ??? ??????????????
???? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ?, ?????? ?? ???
«[?]????????? ??? ???????? [??]», ??? ???????? IV ??? ?????????? I ??? ??????
88/361/??? ??? ??????????, ??? 24?? ?????? 1988, ??? ?? ??? ?? ??? ?????? ??? ?????? 67
??? ?????? [(????????????? ?? ?? ?????? ??? ??????????)] (?? 1988, L 178, ?. 5), ?? ??????
«????????? ??? ???????? [??]», ??? ??? ?????? ?? ?????????? ??? ?????? ??? ???
????????? ???????? (??., ??? ??? ?????? ???, ?????????? ??? 7?? ?????? 2012, VBV –
Vorsorgekasse, C?39/11, EU:C:2012:327, ??? 21, ??? ??? 21?? ??? 2015, Wagner-Raith,
C?560/13, EU:C:2015:347, ??? 23 ??? 24). ???????, ? ?????? ?????? ?????????? ???
????????? ?????????? ??? ??????????.

41 ?????????? ? ?????????? ??????? ?????????? ??????? ?????? ?????? ?? ?????????? ??? ??????????
????? ? ??????? ?????? ??? ???, ??????? ?????? ?? ????? ?????????? ???
????????????????? ?????????? ??? ?????????? ??? ?????? ???, ?????? ?
????????? ??? ?????? ??? ?????????? ??? ?????? ?? ????? ?????? ??? ?????????? ???, ?????? ?
????????? ??? ?????? ??? ?????????? ??? ?????? ?? ????? ?????? ??? ?????????? ???

42 ????? ???? ?????????? ??????, ?????? ?? ?????? ?????? ???, ?? ?? ???????? ??? ??????
???????, ?? ?????? ?????????? ??????, ???' ??????, ??? ?? ?????? 56 ?? ?????? ??? ?????? ???
????????????? ?? ?????????? ??????? ?????? ??? ?????????? ?????? ??? ?????? ??? ??? ???, ??? ?
????????? ??? ?????? ??? ?????? ??? ??????, ? ?????? ?????????? ?????? ?????? ?????????? ??? ???
????????? ?????? ??? ?????? ??? ?????? ???.

43 ???????, ?????? ?? ??????????? ???, ??? ????? ??????????? ??? ???????????, ??
????? ??? ?????????? ?? ?????? ??? ??????????? ??? ?????? ??? ?????? ??? ??????????
????????? ?? ?????? ??? ?????? ???, ?? ??? ??????????? ?????????? ??? ?????? ???
? ?????? (??., ?????? ???, ?????? ??? 23?? ??????????? 2016, ??????? ??? Hongrie,
C?179/14, EU:C:2016:108, ??? 171 ??? ??? ??????????? ??????????).

44 ???? ?????? ??? ?????????? ??????????? ??? ??????????, ??? ?????? ?????????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? 56,
????????? 1, ??, ?? ?????????? ??? ?????????? ??????????, ?????????????? ??? ??????
??? ?????? ?? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ??????????????
????????? ?? ?????? ??? ?? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ???
??? ??? ?????????? ??? ?????? ??? (??., ??? ??? ?????? ???, ?????? ???
10?? ?????????? 2011, Haribo Lakritzen Hans Riegel ??? Österreichische Salinen, C?436/08
??? C?437/08, EU:C:2011:61, ??? 50 ??? ?????? ?????????????? ??????????).

45 ?????? ??? ?????? ????????, ? NN (L), ? ?????? ?????? ??? ?? ?????????? ??? ????????
??????, ?? ??? ?????? ?????? ??? ??????? ?????? ??? ?? ?????? ?????????? ???, ?????? ??????
?????????? ?????????? ?????? ??? ??????? ?????????? ??? ?? ?????? ?????????? ????????, ?????????? ??? ?
????? ?????? ?????? ?????? ?????????? ??? ??????? ?????????? ??? ?? ?????? ?????? ?????????? ??? ?
?????????, ???? ?????? ??? ?? ????????, ??? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ??? ?
?????????? ?????????? ??? ?????? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ?????????? ???
?????????. ????????????, ??????, ?? ?????? ???, ?????? ??? ?????? ??? ?? ?????? ?????? ???,
????? ?????? ??? ?????? ??? ?? ?????? ??? ??????, ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?
? ?????? ??? ?? ?????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?
??????. ????????, ? ?? ??? ?????? ?????? ?????????? ?????????? ?????????? ?????????? ??? ?????? ??? ?
?????????? ???, ? ?????? ????????????, ??? ?????? ??? ?????? ?????? ?????????????? ???, ??? ?????? ??? ?
???????????, ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?
???????????, ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?
??, ????????, ???? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?
?????????.

46 ??????????, ?????????? ???, ?????????? ??? ? ??????? ?????? ??? ??? ??? ???
????????? ?????? ?? ?????? ???, ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? , ? ???
????????? ?????? ?????? ?????? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????? ???, ?? ??? ?
??? ?????? ??? ??? ??? ??? ???, ?????? ?? ?????? ???, ??? ??? ?????? ?????? ???, ?
????? ??? ??? ??? ??? ??? ?????? ??? ?????? ??? ??? ?????? ??? ??? ?????? ??? ??? ?
????? ??? ??? ??? ??? ??? ???.

47 ????????????????? ????, ?????????????????? ??????? ???, ??????, ?????????? ?????????????????? ???
????????? ??? ??????, ?? ?????????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???
????????????? ?????????????? ??? ?????????? ?????? ?????? ??? ?????????? ?????? ?????????? ?????????????? ???
????????? ??????????, ?????? ? ?????? ??? ?????? ??? ?????????????? ?????????? ?????????? ??????????
(????????? ??? 8?? ?????????? 2011, Banco Bilbao Vizcaya Argentaria, C?157/10,
EU:C:2011:813, ????? 38 ??? ????? ?????????????? ??????????, ?????? ??? ??? 21?? ??????????
2013, X, C?302/12, EU:C:2013:756, ????? 28) ???, ????????, ?? ?????? ??? ???? ???
????????????? ?? ??????????????, ????????????, ?????, ?? ?????????? ?? ?????? ??????????,
?? ??? ????? ?????????? ?????? ??? ?????????? ?????????? ?????????? ??? ?????? ?????? ??????
(??., ??? ??? ?????? ???, ?????? ??? 12?? ?????????? 2009, Block, C?67/08,
EU:C:2009:92, ????? 31).

48 ???????????, ? ?????? ??? ?? ???? ?????? ?? ??????? ?? ?????????? ?? ???????????
?? ??????? ?????????? ??? ???????.

49 ???????, ??? ?????? ??? ?????? ?????? ?????? ?????? ?? ?????? ? ??????? ?? ??????
56 ?? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??????
????????? ?????? ???, ??? ? ?????? ?????? ??? ?????? ?????? ??? ?????? ???, ??? ??? ???, ?
????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???.
?? ??? ??? ????? ??????????

50 ?? ?? ??? ?????? ???????, ?? ?????? ?????????? ??????, ???' ??????, ??? ?? ?????? 49 ?? 56
?? ?????? ??? ?????? ??? ?????????????? ?? ?????? ???????, ??? ?? ?????? 162, ???????
??????, ??? ??????? ?????? ?????? ???????????, ?? ??? ?????? ?? ?????? ?????? ?????? ???????
?????? ???????, ?????? ??? ???????????, ?? ?????????? ???????, ?????? ?????????? ??? ??
????????? ?????? ??? ???????, ?? ?????????? ??? ???????, ?? ?????????? ??? ?????? ?????????? ??? ??
????????? ??? ?????????? ??? ???????, ?? ?????????? ??? ???????, ?? ?????????? ??? ?????? ?????????? ??? ??
????????? ??? ?????????? ??? ???????, ?? ?????????? ??? ???????, ?? ?????????? ??? ?????? ?????????? ??? ??
????????? ??? ?????????? ??? ???????, ?? ?????????? ??? ???????, ?? ?????????? ??? ?????? ?????????? ??? ??

51 ? ?????????? ??? ?????? ?????????? ??? ?? ??????? ?????? ??? ?????? ??????
?????????. ???' ????, ??????? ??? ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?????? ??? ?????????? ??? ?????? 162, ??????? ??????, ??? ??????
????? ??????????, ??? ?? ??? ?????? ??? ?????? ?????? ??? ??? ??? ??? ?????? ? NN
(L) ??? ?? 2006, ?? ?? ??? ?????? ??? ?????? ?????? ??? ?????? ?? ?? ?????????? ???
????????? ??? ? ?????? ?????????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ???
?????????.

52 ??????, ??? ?????????? ??? ?? ??????? ?????? ?????? ???????????, ? NN (L) ??????????, ??
?????? ??? ??????? ??? ?????? ?????, ?? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????????? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ???
????? ??? ?????? ?? ?????? ?????????? ??? ???????, ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ?? ?????? ?????????? ??? ???????, ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????????? ??? ???????, ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????????? ??? ???????, ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????????? ??? ???????, ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????????? ??? ???????, ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????????? ??? ???????, ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????????? ??? ???????, ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????????? ??? ???????, ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????????? (??., ??? ?? ??? ?????? ???, ??????? ??? 13? ?????? 2007, Unibet,
C?432/05, EU:C:2007:163, ??? 64). ?? ?? ??????, ?? ?????? ?????? ??? ?????? ??????????.

53 ? ?????? ??? ?????????? ??? ?? 162, ??????? ??????, ?? ?????? ??????
??????????, ??????? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ??????? ???
??????, ???????, ??? ?????????? ? ?????? ?????????? ??? ?????? 65 ??? ?????????? ???,
?? ?????????? ?? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????.

54 ? ??????? ???????, ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
??' ?????????? ??????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?????????? ??? ?????? 133ter ??? ?????? ?????? ?????? ???????????, ??? ??????
????????? ?? ?????? 161, ??? ?????? ???, ??? ?? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????
????????? ??? ??? ?????? ?????????? ???.

55 ???????, ??????? ??? ?? ?????????? ??? ?? ?????? ??? ?????????? ???, ? ?????? ???
?????????? ??? ?????? 133ter ??? ?????? ?????? ?????? ?????????? ??? ?? ?????? ???
?????????? ??? ?????? 162, ??????? ??????, ??? ?????? ?????? ??? ?????? ??? ?????????? ???

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

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

57 ??? ?? ??????????? ?? ??????????? ?? ???????????, ? ??????? ??????????
?????????? ?? ??? ?? ??????????? ?? ??????? ?????????? ?????????????? ??? ?? ??? ??????????
????? ??????? ?? ??????? ?????????? ?? ??? ????????????, ??? ? ?????????? ?? ?
????????????? ?? ??? ??? ??????????? ??' ??????? ?? ?????? 133ter ??? ?? ??? ?????? 162,
????? ????, ??? ?????? ?????? ????????????, ?????? ??? ?????????? ?? ??????????? ??
????? ?????????? ?? ??? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ??????????
????????????????? ??????????? ?? ??? ??? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ??? ?????? ???????, ??? ? ?????????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ??? ?????.

58 ??????? ?? ???????????, ???????, ??? ??????????? ?? ?????????? ??????? ?????????? ???
?????? ?? ??? ?????? ?????? ?? ?????????????? ?? ?????????? ?????? ?????????? ???????
???????????. ???????, ?? ??? ?????? ???????, ? ??????? ??? ?????????? ??????? ?? ?
????? ?? ??? ?????? ??????? ?? ??????????? ?? ?????????? ??? ?????????? ??????? ??
?? ??? ?????????? ?? ?????????? ??? ?????? (?????? ?? 18?? ?????????? 2012, X,
C?498/10, EU:C:2012:635, ??? 36 ??? ??? ?????????? ??????????).

59 ?? ?????????? ??? ?????? ??? ?????? ??? ? ?????? ?????????????? ??? ?????????????? ???
?????????? ?? ??? ?????? ??? ?????? ?? ??????? ?????????? ??? ?????????? ?????????? ??? ?? ?
????????????? ?????????? ??? ?????????? ?????? (????????? ?? 18??
????????? 2012, X, C?498/10, EU:C:2012:635, ??? 39, ??? 19?? ?????? 2014,
Strojírny Prost?jov ??? ACO Industries Tábor, C?53/13 ??? C?80/13, EU:C:2014:2011, ???
46). ?????????? ?????? ??? ? ?????? ???????, ?????????????????? ??? ??????????
????????, ?????? ?? ??????? ??????? ??? ?????? ??? ? ?????????? ??? ?????????????? ??????????
????????? ???????, ??? ??? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?? ??? ???
????????????? ?????? ??? ?????????? ??? ?????? (?????? ?? 3?? ?????????? 2014, De Clercq
?.., C?315/13, EU:C:2014:2408, ??? 73 ??? ??? ?????????? ??????????).

60 ?? ???????????, ? ??????????? ??????? ?????? ?????? ?????? ?????????? ??? ?? ??? ??
?????? ?? ?????????? ??????? ??????? ?? ?????????? ??? ?????? ?????????? ??? ?? ??? ?? ?
?? ??? ?? ?????????? ? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ?? ??? ?? ?
????????? ??? ??? ??????? ??? ?????? ???.

61 ??????, ??? ?? ??? ?????? ?? ?????????? ?? ?????????? ???????, ??? ?????? ???
?????????? ??? ????? ?????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

??????, ??? ???? ?? ??????????? ??? ?????? 162, ??????? ??????, ??? ?????? ??????
??????????, ?????????? ?? ??????? ?????? ??? ??? ??????? ??? ?? ??? ??????, ???
????? ??? ? ?????? ??? ?????? ?????? ?????? ?? ??????? ??? ?????????? ??? ??
????????? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ??????
????????? ??? ?????? ??? ?????????? ??? ??????????.

62 ???????, ??? ??? ?????? ?????? ?? ?????? ? ??????? ? ??????? ??? ?? ?????? 49 ?? ??? ??
????? ??? ?????????? ?? ?????? ???????, ??? ?? ?????? 162, ??????? ??????, ???
????? ?????? ???????????, ?? ??? ?????? ?? ?????? ?????? ?????????? ?????? ??????,
????? ???????????, ?? ?????????? ???????, ?????? ?????????? ??? ?? ??? ??????????
????????? ?????? ?? ?????????? ?? ?????? ??? ?????????? ??? ?????????? ?????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?? ?? ?????????? ??
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63 ??????? ?? ? ??????? ?????????? ??? ?? ??? ?????? ??????? ??? ?????? ???
?? ?????????? ?????????????? ??? ?????? ?????? ?????? ?????????? ??????????????, ?' ???
????????? ?? ?????????? ??? ?????? ?????????? ??????. ?? ?????? ??? ?????? ??????????
????? ?????????? ?????????????? ??? ???????????, ??? ??? ?? ??? ??????????, ??? ??????????.

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

1) ?? ?????? 2, 4, 10 ??? 11 ??? ?????? 69/335/??? ??? ???????????, ??? 17??
?????? 1969, ??? ??? ?????? ?????? ??? ?????????????? ??? ?? ??? ???????????????
??????????, ??? ??? ?????? ?????????? ??? ??? ?????? 85/303/??? ??? ???????????, ???
10?? ??????? 1985, ??? ??? ?????? ??? ??? ?????????? ??? ?????????? ???????
????? ? ?????? ?????????? ?????? ??? ??? ???, ??? ? ?????? ?????? ??? ???????
??? ?????? ?????, ? ?????? ?????????? ?????? ?????? ?????????? ?????????? ?????.
????????? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????.

2) ? ?????? 85/611/??? ??? ???????????, ??? 20?? ?????????? 1985, ??? ??
?????????? ??? ???????????, ?????????????? ??? ?????????? ?????????? ??????????
?? ?????????? ??????????? ?????????? ?????????? ??? ?????? ?????? (?????),
?????????? ?? ?????????? ?? ?? ?????? 10 ?? ??? ?? ?????? 293, ??????? ???????????,
??, ??? ??? ?????? ??? ??? ?????????? ?? ?????????? ?????????? ?????? ?????? ??
????????? ?????? ???, ??? ? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????, ??? ??
????????? ?????????? ?????????? ?, ?????? ?????????? ?????? ?????? ??????????
????????? ?????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??????
????, ??? ??? ?????????? ??? ? ?????????? ??? ?????? ?????????? ?????? ??????????
?????????.

3) ?? ?????? 56 ?? ??? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ???????
????? ? ?????? ?????????? ?????? ???, ??? ? ?????? ?????? ??? ?????? ??? ??????
????, ??? ??? ?????????? ?????????? ?????????? ?, ?????? ?????? ?????????? ???
????????? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ???
????? ?????? ???.

4) ?? ?????? 49 ?? ??? ??? ?????? ??? ?????????? ?? ?????? ???????, ??? ??
????? 162, ??????? ??????, ??? ?????? ?????? ?????? ???????????, ??? ??
?????????? ??? ??? ?????????? ?????? ??? 22?? ?????????? 2003, ?? ??? ??
?? ?????? ?????? ?????? ?????? ??????, ?????? ???????????, ?? ??????????
??????, ??? ?????? ?????????? ?????????? ?????????? ?????????? ??? ??????????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???

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(?????????)

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