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

?? 7?? ?????????? 2017 (*)

«????????????? ?????????? – ????? ?????????? – ?????????? ?????????????? – ??????????
????????? ??? ?????????? – ?????????? ?????? ??? – ?????? 90/435/??? – ????? 1,
????????? 2 – ????? 5, ?????????? 1 – ?????????? – ?????????? ??? ?????????????? ???
????????????? ??? ?????????? ?????? ?????????? ?????? ?? ?????????????? ??? ?????????? ??????
?????????, ? ????? ?????? ?????? ?????? ?? ?????? ?? ?????????? ?????? ?????? – ?????????? –
????????? ?????, ?????????? ??? ?????????? ?????? ?????????? ?????»

???? ?????? C-6/16,

? ? ?????????? ?????? ?????????????? ?????????? ?????? 267 ????, ???
?????? ?? Conseil d'État (????????? ??? ??????????, ??????) ?? ??????? ??? 30??
????????? 2015, ? ????? ?????? ??? ?????????? ??? 6 ?????????? 2016, ??? ??????
??? ????

Egiom SAS, ??? Holcim France SAS,

Enka SA

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Ministre des Finances et des Comptes publics,

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

????????? ??? ??? E. Regan, ?????? ???????, A. Arabadjiev ??? C. G. Fernlund
(?????????), ???????,

?????? ??????????: J. Kokott

?????????: V. Giacobbo-Peyronnel, ?????????? ??????????,

?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??' ?????????? ?????????? ???
30?? ?????????? 2016,

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

- ? Egiom SAS ??? Enka SA, ?????????????? ??? ??? R. Alberti, avocat,
- ? ?????? ???????, ?????????? ??? D. Colas ??? S. Ghiandoni,
- ? ?????? ???????, ?????????? ??? C. Thorning ??? M. Wolff,
- ? ?????? ???????, ?????????? ??? T. Henze ??? R. Kanitz,

- ? ?????????? ??????????, ??????????????? ??? ??? ?. Rubio González ??? ?? V. Ester Casas,
- ? ?????????? ??????????, ??????????????? ??? ??? G. Palmieri, ??????????????? ??? ??? E. De Bonis, avvocato dello Stato,
- ? ?????????? ??????????, ??????????????? ??? ??? W. Roels ??? L. Pamukcu, ????? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ??????????? ??? 19?? ?????????? 2017,
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1 ? ?????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 49 ??? 63 ???,
????? ??? ?? ?????? 1, ?????????? 2, ??? ?????? 90/435/??? ??? ??????????, ??? 23??
?????? 1990, ?????? ?? ?? ????? ?????????? ?????????? ?? ?????? ?????? ??? ???
????????? ??? ??? ?????????? ?????????? ?????????? ?????????? ?????? (?? 1990, L 225, ?. 6),
???? ?????????????? ?? ??? ?????? 2003/123/?? ??? ??????????, ??? 22?? ?????????? 2003
(?? 2004, L 7, ?. 41) (?? ????: ?????? ??? ??? ?????????? ??? ??? ?????????? ??????????).

2 ? ?????? ??? ??????????? ?? ?????? ??????? ??????? ???????, ??????, ?????, ??? Eqiom SAS, ????? Holcim France SAS, ??????? ?? ????? Euro Stockage, ??? ??? Enka SA ???, ???????, ??? ??????? ??????????? ????? ?? ??????????? ????? ?? ??????? ????? ?? ??????? ?? ?????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ? Euro Stockage ??? Enka, ?????? ??? Euro Stockage.

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3 ? ?????? ??? ? ?????? ?????????????? ?????? ??? ?????? ??? ???? ?????? ??? ???? ?????? ??? ????
????????????? ?????? ?????? ?????? ?? ??????:

«[?????????] ??? ?? ??????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????????? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ?????? ???
????????? ??????? ??? ??? ?????? ?????? ??? ?????? ??? ?????, ??????, ???????, ?????????? ??????????
??? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????????? ??????????
????????????? ??? ??? ?????? ?????? ?????- ???, ?????????? ??? ?????????? ?????, ? ??????????
?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ??????????
????? ?? ?????????? ?? ?? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ??????- ??? ?????? ??
????????? ??? ? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ??
????????????? ??? ?? ?????????? ?????????? ??? ?????? ??? ?????? ?????-

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

4 ?? ?????? 1 ??? ??????? ?????? ?????? ?????? ?? ????:

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

– ????? ?????????? ??????? ?? ?????? ?????????????????? ??? ?????? ?????????? ?????? ??? ???????
??? ?????????????? ??? ?????????????? ??? ?????? ?????? ?????? ??????,

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

[...]

2. ? ??????? ??????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????????? ? ??????????
????????? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ?????? ?????????? ?????? ???
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5 ?? ?????? 5, ?????????? 1, ??? ?? ??? ????? ?????????? ?????????? ?? ??????????:

«?? ??? ?? ?????? ? ?????? ?????????? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????
????????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ????»

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

6 ? Code général des impôts (????????? ?????????????? ???????, ??? ????: CGI), ??? ??????
????? ??? ?????? ??? ?????????????? ?????????????? ??? ?????????? ??? ?????? ????, ????
??? ?????? 119bis, ?????????? 2, ??? ?????? ????, ?? ??????????:

«??? ?? ?????????? ??? ?????????????? ??? ?????? 108 ?? 117bis ?????????????? ????
????? ??? ?? ?????????? ?????????????? ??? ?????? 187, ?????? ??? ?????????? ???
????????? ??? ?? ?????? ?? ?????????? ?????????? ??? ? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???.
?? ??????????»

7 ?? ?????? 119ter ??? CGI ?????????? ?? ??????????:

«1. ? ?????????? ??? ?????? 2 ??? ?????? 119bis ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? 2 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

a) ? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ???.

b) ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? [????????? ??? ???
????????? ??? ??? ?????? ??? ?????? ???].

c) ?????????? ????, ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????????? ???
????????? 25 % ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?

?????????? ?? ?????????? ?? ?????????? ????? ?????????????? ??? ?????? ??? ??????????????
????, ??? ? ? ??????, ??? ???? ????? ?????????? ??? ?????? ?????? ?????????, ??? ??????????
??? ? ? ????? ?????????? ??? ???? ?????????? ??? ?????????????? ??? ?????? ??? ?????????? 1,
?? ?????????? ?????????? ??? ?????????? ???,

?? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????????? ?????????? ?? 20 % ??? ??
????????? ??? ?????????? ?????? 1????????? 2005 ??? 31?? ?????????? 2006, ?? 15
% ??? ? ? ?????????? ??? ?????????? ?????? 1????????? 2007 ??? 31?? ??????????
2008 ??? ?? 10 % ??? ? ? ?????????? ??? ?????????? ??? 1????????? 2009.

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

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2bis. ?? ?????????? ??? ?????????? 1 ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? 2,
?????? ?? ?????? ?????? ?????? ?????????????? ?????????? ??? ?????? ?? ??? ?????? ?????? ???
??? ?????????? ??????????.

3. ?? ?????????? ??? ?????????? 1 ??? ?????????? ??? ?????? ?? ?????????? ??????????
?? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????????
?????? ?? ?????? ??? ?????????? , ??? ?? ?? ??? ?????? ?????? ?????? ?????????? ??? ?
????????? ?????????? ??? ?????? ?? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?
????????? ?????? ??? ?????? ?????????? ??? 1.

[...]»

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

8 ? Eqiom, ??? Holcim France, ?????? ??? Euro Stockage, ?????? ??????
??????, ??? ?????? ??? Enka, ?????? ?????????? ?????, ??? ??????
????? ??? ?????? 100 %. ? ?????? ??? ?????? ?????? ??? ?????? ??? 99 %
???? ?????? ?????? ?????? Waverley Star Investments Ltd, ? ?????? ?????????? ???
????? ?????? ??? ?????????? ??? ?????? ?????? ?????? Campsores Holding SA.

9 ??? ?? ??? 2005 ??? 2006 ? Euro Stockage ?????? ?????? ??? ?????? ???
????? Enka. ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? Euro Stockage, ?
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????? ??? ?????? ??? 119bis, ?????? 2, ??? CGI.

10 ?? ??? ?????? ?????? ?? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ???,
????????? ?? ??? 119ter ??? ?????? ????. ? ?????????? ??? ?????? ??? ?????? ???
????????? ?? ??? ?????? ??? ?????? ??? ?????? 119ter, ?????? 3, ??? ?? ??? ?????? ???,
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

11 ?? ??? ?????? ?????? ??? tribunal administratif de Montreuil
(????????? ?????? ??? Montreuil, ???) ?? ?????? ??? ?????? ??? ??
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

28?? ?????????? 2011, ??????? ?????? ?????? ??????? ??? cour administrative d'appel de Versailles
(????????????? ??????? ???????????, ??????), ?? ?????? ?????????? ??? ????????????
??????.

12 ?? ?????? ?????????? ??????? ??? ?????? ?????????? ??? Conseil d'État (?????????????
??? ????????????, ??????) ?????????????? ??? ? ?????? ?????????? ?????????? ??? ??????
?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ???????.

13 ??? ??? ?????????????? ????, ?? Conseil d'État (?????????? ??? ??????????????) ??????????
?? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ?? ??????????
????????????? ??????????:

«1) ??? ?????? ?????? ?????????? ??????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??
????????? ??? ?????? ?????????? ?? ?????? 1, ?????????? 2, ?? ?????? 90/435, ???
?????? ? ??????, ??? ? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ???,
??? ?????? ? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ???;
;

2) ??? ?? ?????????? ??? ?????? 1, ?????????? 2, ?? ?????? ?????? ???, ?? ??????
????????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ?? ?????????? ???
????????? ??? "????????? ??? ?? ?????????? ?????? ?????????? ?????? ??? ?????????? ???,
??? ?????? ??? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ???
????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ???
????? ??? ?????? ??? ?????? ??????, ??? ?? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ??? ?????? ??? ??????;»

3) ?) ?? ?????????? ??? ? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? [?????? 49 ???],
???? ?? ?????? ??? ? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
;

) ?? ?????????? ?????????? ?????????? ??? ?????????? ??? ???????, ?????? ?
????????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ??? [?????? 63 ???];

4) ??? ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??????;»

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

14 ?? ? ? ?????????? ???, ?? ?????? ?????? ?? ?????????? ??? ??????, ?? ??????
????????? ???, ???' ??????, ?? ?????????? ??? ?????, ??????, ?? ????? 1,

? ?????????? 2, ??? ?????? ??? ???? ??????? ??? ??? ?????????? ?????????? ???, ????????,
?? ????? 49 ? ?? ????? 63 ??? ????? ??? ?????? ??? ?????????? ?? ?????? ?????? ??????
??????????, ??? ? ?????? ??? ?????? ??? ?????? ?????, ? ?????? ?????? ?? ??????
??? ?????????? ??? ?????? 5, ?????????? 1, ??? ?????? ?????? ?????? ??????????
????????????? -??? ? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?? ?????????? ??? ?????? ???
????????? ???????, ?????? ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ? ?????? ???
????? ? ?????????? ?????? ?????? ?????- ??? ? ?? ?????????? ?? ?????? ??? ?????? ???
????????? ??? ? ?????? ?????? ?????? ??? ?????? ?? ?????? ?????? ?? ? ???? ??? ?????? ???
????????? ??? ??? ?????? ?????? ??? ??? ??? ?????? ??????.

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15 ??? ?????? ??? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ?????? ?? ?????? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ?? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? (????? 8?? ?????? 2017, Euro Park Service, C-14/16,
EU:C:2017:177, ??? 19 ??? ??? ?????????? ??????), ?????? ?????????? ??
????????? ??? ?????? ?????? ??? ?????? ?? ?????? 1, ?????????? 2, ??? ?????? ??? ???
????????? ??? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ?????? ??????.

16 ??? ?????????? ???, ??? ?????? ?????? ???, ??? ?????? ?????? ??? ?? ?????? ??? ??????
?????, ??? ?????? ??? ?????? ??? ?????? ?? ??????.

17 ???, ?? ??? 1, ?????????? 2, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

18 ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????, ? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 1,
????????? 2, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

??? ??? ?????? 1, ?????????? 2, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
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19 ??? ?????????? , ??? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???
????????? ??? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 5,
????????? 1, ??? ?????? ???.

20 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? . ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

??????????, ??? ??????? ?????? ??? ??? ?????????????? ?? ?????? ?????? ?????? ?????? ?????? ?????
????????????? ?? ??? ?????? ?????? ?????? ??? ?????? (?????? ?? 8?? ?????? 2017,
Wereldhave Belgium ?., C-448/15, EU:C:2017:180, ????? 25 ????? ?? ??? ????? ??????????????
?????????).

21 ??? ??? ??? ????? ??, ? ?????? ??????????? ?????? ??? ?? ??? ?????? ?????? ?????? ???,
?????????? ?? ??????????? ? ??????????? ?????? ???????????, ?????? ?? ??????????? ???
??? ??????????? ??? ?? ??? ?????? ??? ? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???.

22 ?? ??? ?? ???????, ??????????? ?? ??????????? ???? ?????? ???????????, ?? ??? 5,
????????? 1, ??? ??? ?????? ?????? ?????? ?????? ??? ?? ??? ??????????? ???
????????????? ??? ?? ??? ?????? ?????? ??? ?????? ?????? ?????????????? ?? ??? ??? ??????
????? ?????????? ??? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
(?, ?, ?, ?, ?, 17?? ??????? 1996, Denkavit ?, ?, C-283/94, C-291/94 ?? C-
292/94, EU:C:1996:387, ????? 22, ????? ?? ??? 25?? ?????????? 2003, Océ van der Grinten,
C-58/01, EU:C:2003:495, ????? 83).

23 ??????????? ??? ??? ?????? ??? ?? ?????????? ?? ?????????? ?????? ??? ??? ??? ???
????? ??? ?????? ? ??????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?? ??? 5, ?????????? 1, ??
????? ??? ??? ?????? ??? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ???
????? ??? ??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????????? ???
????? ??? ??? ?????? ?? ?????????????? ?? ??? ?????? ?????? ?????? ?????? ?????? (?, ?, ?, ?,
????? ??? 1?? ??????? 2009, Gaz de France – Berliner Investissement, C-247/08,
EU:C:2009:600, ????? 38).

24 ?? ??? ?? ?????? ??, ?? ?? ??????, ?? ?????? ?????? ?????????? ?????????? ??????????
????? ??? ?? ??????? ?? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????? 5, ?????????? 1,
????????? ?????? ??? ?? ?????????? ??? ?????? (?, ?, ?, ?, ?, 4??
????? 2009, KBC Bank ?? Beleggen, Risicokapitaal, Beheer, C-439/07 ?? C-499/07,
EU:C:2009:339, ????? 38 ??? ????? ?????????? ??????????).

25 ???????, ?? ??? 1, ?????????? 2, ??? ?????? ??? ?? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

26 ??? ?????? ? ?????? ?????????? ??? ?????? 24 ?? 25 ?? ?????????? ???, ???
?? ??? 1, ?????????? 2, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
(?, ?, ?, ?, ?, 25?? ?????????? 2003, Océ van der Grinten, C-58/01,
EU:C:2003:495, ????? 86).

27 ???????, ? ?????????? ??? ?????? ?? ?????? 1, ?????????? 2, ??? ?????? ???
????????? ??? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (?, ?, ?, ?, ?, 25??
????????? 2003, Océ van der Grinten, C-58/01, EU:C:2003:495, ????? 86).

28 ??????? ?? ??????????? ??????? ???, ??? ?????????? ??? ?? ?????? ???, ?
????????????? ??????? ?????????? ?????????????? ??? ?????????? ?????????? ??????????
????????? ??????? ????????? «??? ?????? ?????????» ??? ??? ????? ???.

29 ??????? ??????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????????.

30 ??? ??????? ???, ?????? ?? ?????????? ???, ??? ?? ?????????? ??? ?????? ??????????
?? ??????? ??? ?????????? ??? ?????? ??? ???????????, ? ??????? ??? ?????? ?? ?????? ??
????? ? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??????????
??????????, ?????? ??? ?????? ?????????? ???????????????, ?? ?????? ??? ??????
????????????? ?????????? ?????????? (??., ??????, ?????????? ??? 12??
????????? 2006, Cadbury Schweppes ??? Cadbury Schweppes Overseas, C-196/04,
EU:C:2006:544, ??? 55, ??? 5?? 5?? 2012, SIAT, C-318/10, EU:C:2012:4153,
????? 40).

31 ???????, ??? ?????? ??????? ??? ?????? ??? ?????????? ??? ?????? ??????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???????, ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??????? ??? ??????
????????? ? ?????? (????????? ??? 26?? ?????????? 2000, ?????????? ??? ??????????,
C478/98, EU:C:2000:497, ??? 45 ??? ??? ?????????? ??????????, ?????? ??? ??? 5??
????? 2012, SIAT, C-318/10, EU:C:2012:4153, ??? 38).

32 ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ?? ?????? ??? ??
??????????, ?? ??????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????????????? ???
????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ?? ?????????? ?? ??????????
????????? ?????????? ??? ?????? ??????. ? ?????????? ?????????? ?????? ?????? ?????????? ??????
??? ?????????? ?????????? ??? ?????? ?????????? ?????????? ?????? ??? ??? ?? ??
????????? ??????????, ??? ? ?????????? ??? ?? ?????????? ?? ?????? ??? ?????????? ???
??? ??? ?????????? ? ?????????? ??? ?? ?????????? ?? ?????? ??? ?????? ??? ??????????
????? ??? ??? ?????? ?????? ??? ?????? ?????????? (??., ??????, ?????? ??? 8?? ??????
2017, Euro Park Service, C-14/16, EU:C:2017:177, ??? 55 ??? 56).

33 ?? ??????????, ?????????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?? ??????????
????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ???
????? ???, ??? ?????????? ???, ?????? ??????.

34 ??? ???, ??? ?????? ? ?????? ?????????? ??? ?????? 27 ??? 28 ??? ??????????
??, ? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ?????? ???
????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ??????????, ??? ?????? ???, ??? ?????? ???
????? ?????????? ??????????, ??? ?????? ??? ?????? ?????????? ??????????????, ???
????????????? ?? ?????????? ??? ?????? ??? ?????? ?????????? ?????????????? ??????????????
?????????????.

35 ???????????, ?????? ?? ?????????????? ???, ?? ??? ?????????????, ??? ??????
????? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????????? (??., ??????, ?????? ??? 12?? ?????????? 2002, Lankhorst-Hohorst,
C-324/00, EU:C:2002:749, ??? 37 ??? ??? ?????????? ??????????).

37 ? ?? ??? ?????????? ???. ??????????? ???. ?? ? ??????? ???. ? ?????? ??????? ???.
????????? ???. ?????. ? ?????? ???. ???. ? ?????????????? ???. ?????????? ???. ? ??????. ???. ?????.
????? ? ?????????? ???. ???. ? ?????? ???. ?????????? ???. ???. ? ?????? ???. ??????. ???. ?????.
????????? ???. ???. ? ?????????? ???. ?????????? ???. ???. ? ?????????? ???. ??????. ???. ?????.
????? ?????. ? ?????????? ???. ?????????? ???. ??????. ???. ? ?????????? ???. ???. ?????.
????????? ???. ? ?????????? ???. ? ???. ? ???. ? ???.

38 ?????????????? ?????? ??? ??????? ?????????, ?????????????????? ??? ?? ?????? 1,
????????? 2, ??? ?????? ??? ?? ??????? ??? ?????? ?????????? ??? ?? ?????????? ?????? ???
????? ??? ?????????????? ?? ?????? ?????????? ??????????, ??? ? ?????? ?????? ?????? ??????
??? ?????? ????, ? ?????? ?????? ?? ?????????? ??? ?????????????? ??? ?????????????? ??? ?? ?????? 5, ??????????
1, ??? ?????? ??? ?????? ?????????? ?????????????? -????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????? ??????
????????? ??? ?????? ?? ?????????????? ??? ?????? ?????? ???????, ?????? ? ??????
????? ?????? ?????????? ??? ? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??????
????? - ??? ??? ?????????? ?? ?????????? ? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????
?? ?????? ?????? ?? ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ??? ??
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39 ??? ?? ?????????? ??? ?????????? ?????????? ??? ?? ?????? ??? ?????????? ??????????????
????????????? ??? ?????????? ?????????? ?? ??????? ??? ?????? ??? ?????????? ?????????????? ???
??? ?? ?? ?????????? ?????????? ??? ?????????? (????????? ?? 15?? ?????????? 2011,
Accor, C?310/09, EU:C:2011:581, ??? 30 ??? ??? ?????????? ??? ??????????).

40 ?? ???? ?? ???? ?????? ??? ??????? ?????????? ?????????? ??? ??? ? ??? ???? ???
????????? ??????????, ?????? ?? ?????????? ?????? ?? ?????????? ??? ??????????
????????? (?????? ?? 15?? ?????????? 2011, Accor, C-310/09, EU:C:2011:581, ??? 31
?? ?? ?? ?????????? ??????????).

42 ?? ???????????, ??? ??? ??????? ??? ?????????????? ??????????? ??? ? ??????? ???
?????? ??? ?????? ??? ?????????? ?????????? ?????????? ?????????? ??? ?? 2005 ?? 2006
???? ??????? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??
?????????? 20 %. ????????, ? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??
???? ?? ?????? ??? ?????????? ???.

43 ????? ??????? ? ?????? ?????????????? ??? ?????? 42 ??? ?????????? ???, ??? ??????
????????? ??? ?????????????? ???' ?????? ??? ? ?????? ??? ??? ?? ?????????? ???
????????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ?? ?????????? (??.,
???????, ??????? ??? 13?? ??????? 2000, Baars, C-251/98, EU:C:2000:205, ??? 20).

44 ??? ??????? ????????????, ??? ???? ?? ??????????? ????? ?? ??????????? ?????????? ???
????????????? ?????????? ?????????? ?? ?????????? ?? ? ?????????? ????? ?????????? ???
????? ??? ???? ?????? ??? ??? ? ??? ????? ??? ??? ??? ?? ??? ?????????? ?????????? (??.,
??????, ?????? ??? 13?? ??????? 2012, Test Claimants in the FII Group Litigation, C-
35/11, EU:C:2012:707, ?????? 93 ??? 94).

45 ????? ?????? ?? ??????? ?????? ?????? ?????? ?????? ??????????? ????????????, ???
?? ??????????? ?? ??????????? ?? ??????????? ?????? ??????????? ???, ????? ?? ?????? ???
?????????? ???????????, ? Enka ??????? ?? ??????? ?????????? ??? ?????????? ???
??????????, Euro Stockage.

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

47 ?????????? ???, ??????? ? ? ?????????????????? ???, ?????????? ???, ??, ?? ???????????
? ??????? ??????????, ?? ??????? ??? ? ?????????????? ?? ?????? ?????? ?????? ?????????????? ???
?? ??????? ?????????? ??????? ??????? ??????? ?????????? ?????? ? ?????? ??? ???? ?
????????????? ??????? ??????? ?????? ?????? ??? ?????? ??? ???? ???? ?????? ??? ???????
?? ?????????? ??? ?????????? ???.

48 ????????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????????? ??? ? ?????????? ??? ???????, ??????? ? ??????? ???????, ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ???
??? ??? ?????? ??? ??????? ?? ??? ?????? ??? ??? ??????, ?????? ??? ?????? 54 ????, ??
????????? ??? ??? ??? ?????????????? ??? ?????? ??? ??? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????
?????????, ??? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? (???????) ??? 1??
????????? 2014, Felixstowe Dock and Railway Company ?.., C-80/12, EU:C:2014:200, ????

40).

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

50 ? ?????????? ??? ?????? ??? ?????? ??????? ?? ?????? ?? ?????????? ??? ??? ?????????????? ???
????????????? ??? ?????? 99 ??? 100 ??? ?????????? ??? 13?? ?????? 2007, Test Claimants
in the Thin Cap Group Litigation (C-524/04, EU:C:2007:161), ?????????? ???, ?????????? ???
????? ??? ??????????, ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????
??? ?????????? ???.

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

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

52 ? ?????????? ??????????????, ??? ?????? ?? ??? 49 ??? ?????????????? ??? ?????? ??????
??? ??????, ??????? ?? ?????? ?? ?????????? ?????????? ??? ?????????? ?? ??????????
?????????????, ????? ?? ?????????? ??? ?????????? ?????????????? ??? ?????????? ?? ??? ??? ???
????????????? ?? ?????? ??? ?????????? ??? ?????????? ? ?????????? ??? ?????? ?????? ??????????????
??? ????? ?????? ??? ??????. ? ?????????? ??? ??????????????, ??? ?? ??? 54 ???, ???
??? ?????????? ??? ?????? ?????????? ??? ?? ??? ?????????? ??? ?????? ?????? ?????? ??? ??
????? ??? ?????? ??? ?????????? ??? ?????, ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ??????, ?? ?????????? ?? ?????? ?? ?????????????? ??? ???
????? ??? ?????? ??? ?????? ?????? ?????????? ??????, ?????????????? ?????? ??? ??????????
(????? ??? 17?? ?????? 2014, Nordea Bank Danmark, C-48/13, EU:C:2014:2087, ??? 17
??? ??? ?????????? ??????????).

53 ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????????, ??? ?? ??????????
??? ?????????? ?????????? ???, ?????????? ??? ?? ??? 49, ??? ?????? ??????, ??????
?????????, ??? ?????????? ??? ?????? ??? ?????????????? ?? ?????????? ?????????? ??? ??????????
????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ??????, ?
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????????? ?????? ??? ??????
????????? ?????????? ?????????? (????? ??? 17?? ?????? 2017, X, C-68/15, EU:C:2017:379,
????? 40 ??? ??? ?????????? ??????????).

54 ??????, ??? ?? ?????????????? ?? ?????????? ??? ?????????? ?????????????? ??????????????
????????? ?????? ??????????, ?????????? ? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? (????? ??? 8?? ?????? 2017, Euro Park Service, C-14/16,
EU:C:2017:177, ??? 59 ??? ??? ?????????? ??????????).

55 ??? ?? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ? ?????????? ???
??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ???? ?? ?????????? ?
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ? ?????? ?????? ?????????? ??? ??? ?? ???
????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ? ?????????? ?????? ??? ?????? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????? ?? ?????????? ?? ?????? ??????????.

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

57 ? ?????????? ??? ?????? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ??
????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???
????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?? ??? ?????? ?????? ??? ?????? ?????? ???
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?? ??? ?????? ?????? ??? ?????? ?????? ???
????? (????? ??? 17?? ?????? 2015, Timac Agro Deutschland, C-388/14,
EU:C:2015:829, ?????? 26 ??? 29 ??? ?????? ?????? ??????).

58 ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???, ?????? ??
????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? 22 ??? ?????? ???
????? ???, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???.

59 ?????? ?? ?????????? ??? ??????, ?? ?????? ?? ?? ?????? ??? ?????????? ???
????? ??? ?? ?????? ?? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???, ??? ?? ???
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??
14?? ?????? 2006, Denkavit Internationaal ??? Denkavit France, C-170/05, EU:C:2006:783,
????? 34 ??? 35 ??? ?????? ?????? ??????).

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

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

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

62 ?? ?????? ??? ?????? ??? ?????????????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????????? ?????? ?? ?????????????? ??? ?????? ?? «treaty
shopping» ??????? ??? ?????????? ?????? ?????????????? ?????? ?????????? ?? ??? ?????? ???
????????????? ?? ??? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ???
????????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???.

63 ?????? ?? ?????????????? ???????, ??????, ??? ? ?????? ?????????????????? ???
????????????? ??? ?????? ??? ?????????????? ??? ? ?????? ?????????????? ??? ??????????
????????? ??? ?????????? ?????????????? ??? ?????? ??? ?????? ?????? ?????? ??????????????
(????????? ??? 17?? ?????????? 2015, Timac Agro Deutschland, C-388/14, EU:C:2015:829,
????? 47 ??? ?????????????? ??????????) ???, ???????, ??? ?????? ?????? ??
????????????? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????????????? ???
????????, ?????? ?????????? ?????????????? ?????? ?????? ?????????? ?????????? (????????? ??? 8??
????????? 2017, Euro Park Service, C-14/16, EU:C:2017:177, ??? 65 ??? ??? ??????????????
?????????).

64 ??????, ?????????????? ? ?????????? ??? ? ?????? ?????????????? ??? ??????????????
????? ??? ??? ?????????????? ??? ??? ???? ??????????, ?????????????? ??? ?? ??????
????????? ??? ???' ?????????? ??? ?????? 1, ?????????? 2, ??? ?????? ??? ??? ?????????? ???
??? ?????????? ?????? ?? ??? ?????????? ??? ?????????????? ?????? ?????????????? ???
????????? ??????. ?? ?? ??????, ?? ??? ?????????? ??? ?????? ?????? 30 ??? 36 ???
????????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

65 ??????, ? ?????? ?????????????? ??? ?????????? ??? ?????? ??? ??? ??????????????
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66 ?????????????? ?????? ??? ?????????????? ???????, ??? ?????????????? ??????????
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??? ??? ?????????? ???????, ??????, ??? ?? ?????? 49 ???, ???????, ?????? ??? ??????
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????? ??????, ? ?????? ?????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? 5, ?????????? 1,
??? ?????? ??? ?????? ?????? ?????????? ?????? -????? ??? ?????? ??? ??? ??????????
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67 ?????????? ??? ? ?????? ?????????? ??? ???? ???? ?????? ?????? ??? ?????? ???
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??? ??? ?????? ??????, ?? ?????????? (????? ????) ????????????:

?? ??? 1, ?????????? 2, ??? ?????? 90/435/??? ??? ??????????, ??? 23?? ??????
1990, ??????? ?? ?? ????? ?????????? ?????????? ?? ?????? ?????? ??? ?? ??????????
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??? ?????? 2003/123/??? ??? ??????????, ??? 22?? ?????????? 2003, ??????, ??? ??
????? 49 ????, ????????, ????? ??? ?????? ??? ?????????? ?? ??????
?????????? ??????????, ??? ? ?????? ??? ?????? ??? ?????? ?????, ? ??????
????? ?? ??????? ?? ?????????? ??? ?????????? ??? 5, ?????????? 1, ??? ??????
????? ?????????? ?????????????? -??? ??? ?????? ??? ??? ?????????? ???
????? ?? ?????????????? ??? ?????? ?????? ??????, ?????? ? ?????? ???
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(?????????)

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