

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

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

??? 8?? ??????? 2017 (*)

«????????????? ?????????? – ????? ?????????? – ?????????? ?????????????? ?????? ?????? –
????? ?????????? ?????? – ?????????? ??' ?????????????? – ?????????? ?????? ?????? ??
????? ??? ?????????? ????? – ?????? 90/434/?? – ?????? 11, ?????????? 1, ?????????? ??
– ?????????? ? ?????????? – ?????????? ??????????»

???? ??????? C?14/16,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ???
?????? ?? Conseil d'État (????????? ??? ???????????, ??????) ?? ??????? ??? 30??
????????? 2015, ? ????? ?????? ??? ?????????? ??? 11 ?????????? 2016, ??? ???????
??? ????

Euro Park Service, ??????? ??????? ??? SCI Cairnbulg Nanteuil,

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Ministre des Finances et des Comptes publics,

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

????????? ??? ??? R. Silva de Lapuerta, ?????? ???????, E. Regan, J.?C. Bonichot, C. G.
Fernlund (????????) ??? S. Rodin, ???????,

?????? ??????????: M. Wathelet

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

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

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

– ? Euro Park Service, ??????? ??????? ??? SCI Cairnbulg Nanteuil, ??????????????
?????? ??? ??? N. Boullez, avocat, ?? ??????? ??, ??? ??? N. Boullez ??? M. Castro,
avocats,

– ? ??????? ???????, ?????????????? ?????? ??? ??? D. Colas ??? ??? S.
Ghiandoni, ?? ??????? ??, ??? ??? D. Colas ??? ??? E. de Moustier ??? S. Ghiandoni,

– ? ??????? ???????, ?????????? ??? ??? W. Roels ??? L. Pamukcu,

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
??? 26?? ?????????? 2016,

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

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1 ? ?????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 49 ??? ???? ???? ????
?????? 11 ??? ??????? 90/434/??? ??? ??????????, ??? 23?? ??????? 1990, ??????? ?? ??
????? ?????????? ??????? ??? ??? ???????????, ??????????, ??????? ?????????? ???
????????? ??????? ??? ?????? ?????????? ?????????? ?????? ?????? (?? 1990, L 225, ?.
1).

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

3 ? ?????? 90/434 ??? ?? ????, ??? ?? ?????? ?????????????? ????, ??, ??
????????????? ??? ?? ??????? ?????? ?????????? ?????????? ?????????????? ??????,
???? ?? ?????????????, ?? ??????????, ?? ?????? ?????????????? ??? ?? ??????????
????? ?? ?? ?????????????? ??? ?????????? ?????????????, ?????????????? ? ??????????????
?? ?????????? ??? ?? ?????????????? ?????????? ??? ??????.

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

5 ?? ??????? ?????? ?????????????? ??????? ???? ? ?????? ?????????????? ?????? ???
?????? 90/434 ????:

«????????????? ??? ?? ??????????????, ???????????, ?????????? ?????????????? ??? ??????????????
????????? ??? ??????? ?????????? ?????????????? ?? ?????????????? ?????? ??? ?????? ?? ?????
????????? ??? ?? ?????????????? ??? ?????????? ?????????? ?????????? ?? ??? ?????????????? ??
?? ??? ?????????? ??? ?? ?????????? ?????? ?? ?????????????? ??? ? ?????????? ??? ?????? ?????????? ???
????????? ??? ?? ?????????? ??? ?? ?????????? ?????? ?? ?????????? ??? ? ?????????? ??? ?????? ??????????
?????????????, ?????????????? ?? ?????????? ??? ?????????? ??? ? ?????????? ??? ??? ??????????????
????????? ??? ?????? ?????? ???, ??? ??????????, ??? ??? ?????? ?????? ?????? ?????????????? ??
????????? ?????????? ?????????? ?????????? ?? ??? ??? ??? ??????????, ??? ?? ??? ??????????
?? ?????????? ?? ?????????????? ??? ?????????? ??? ? ?????????? ??? ?????? ??????, ?? ?????????? ???
????????????? ??? ??? ?? ?????????? ??? ? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????

[?????????] ??? ?????????? ?????????????? ?????????? ?????? ?????? ?? ?????????????? ???
??? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ??????
??????? ??? ?????????????? ?? ?????????????? ??? ? ?????????? ?????? ??????????????

[?????????] ??? ??? ????? ?????? ?? ?????????? ? ?????? ?????? ?? ??? ?????? ??

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

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

[...]

[?????????] ??? ?????? ?? ?????????? ? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????? ???
????????? ??? ?????????? ??? ??????? ??? ???? ????? ??????-????????-????????-????????
????????? ? ?????????? ?????? ??? ?? ?????? ?? [?????????] ?? ?? ?????????? [...]».

6 ?? ?????? 4, ??????????? 1, ??? ?? ????? ??????? ??????? ?? ????:

7 ?? ?????? 11, ??????????? 1, ?????????? ?, ??, ??? ?????? ?????? ?????? ?????? ??????:

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

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

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

9 ?? ?????? 210 A ??? CGI ??????? ?? ????:

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

[...]

3. ?????????????? ?????? ?????????????? ??? ??? ??? ???? ? ?????????????? ???????
???????????, ??? ?????? ??????????????, ?? ?????? ?? ?????? ??? ?????????? ??????????????:

[...]

b. ?????????????? ??????? ?????????????? ??? ??? ?? ?????????????? ?????????? ???
????? ??? ?????????????? ??? ?????????????? ? ?????????????? ??? ?????? ??????????
????????? ??? ??? ?????? ??? ?????????? ??? ??????????

c. ??????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ???
????????? ??? ?????????? ?? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????
????? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ?????????? ??????????

d. ??????? ?? ?????????????? ??? ?????????? ??? ?????? ?? ?????????? ??? ?????????? ???
??? ?????? ?????????? ??? [...]».

10 ?? ????? 210 B, ?????????? 3, ??? ?????? ??? ?????? ?????????? ?? ????????:

«[...] ? ??????? ??????? ??? ?????????? ???, ?????????? ?????? ??? ?????? ??? ?????????? ?? ?????
?????????:

a. ? ????? ?????????????? ??? ?????????????? ??? ?????? ??????????????, ????, ???
?????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????????? ?????????????? ? ??
????????? ??? ???????, ???? ??? ??? ?????? ?????????? ?????? ??? ?????????????? ???

b. ? ?????? ??? ??? ?? ?????? ?????? ?? ??? ?????? ??? ?????? ?????? ?????????? ?? ?????????? ???
? ?? ????????????

c. ?? ??? ?????????? ??? ?????? ?????????? ?????? ?? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????? ? ?????????? ?????????? ?????? ?????? ???.

11 ??? ?? ?????? ??????????, ?? ?? ??? 210 C ??? CGI ?????????? ??? ?????????? ???
????? ??? ? ?????? 90/434. ?? ?????? ??? ?????:

«1. ?? ?????????? ??? ?????? 210 A ??? 210 B ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

2. ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????????? ??? ?????? ??? ?????? 3 ??? ?????? 210 B ??????????»

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

12 ??? 26 ??????? 2004, ? Cairnbulg, ?????? ?????? ???????, ??????, ????, ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????????? ??? ??? Euro Park, ?????? ?????????? ?????? ??????. ??? ?????? ???,
Cairnbulg ??????, ?? ??? ?????????? ?????? ??? ?????? ??? ?????? ???, ??? 25? ?????? ???
2005, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? 26 ??????? 2004, ?? ??????
????????? ?????????? ??? ?????? 210 A ?. ??? CGI. ??? ??????, ??? ?????? ???
????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? Euro Park.

13 ?? ?????????????? ??? 19? ?????? 2005, ?? ?????? ??? Cairnbulg
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???, ??? 9 387 700 ??. ?? ??????
????? ?????????? ??? ?????? ??? Euro Park ??? SCI IBC Ferrier ??? 15 776 000
???, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 26

?????????? 2004.

14 ? ??????? ???????, ? ?????????? ??? ?????????????? ?? ?????????? ??????? ???
?????? ??????? ??????? ??? ??????????????, ???????, ???????, ? Cairnbulg ??? ??? ???????
??? ?????????? ??????? ??? ?????????? ?? ?????? 210 C ??? CGI ???, ???????, ? ?? ???
?????? ??? ?? ???????, ?? ??? ???????????, ??? ?????????? ??????, ?????????? ??? ?
????? ??? ?????????????? ??? ?????????????? ??????, ?????? ??? ?????? ?? ?????? ?? ??????????
? ?? ??????????. ?? ?? ??????, ??????? ?? ?????? ??? Euro Park, ?????????? ?????????? ???
Cairnbulg, ?????????? ?????? ?????? ?????? ??? ??? ?????????? ?????????????? ??? ?????,
????? ??? ?? ?????????? ?????? ??? ?????? ?????????? ? CGI ?? ?????????? ???????????
?????????? ?? ??????????.

15 ? Euro Park ?????????? ??????? ??? tribunal administratif de Paris (???????????)
????????????? ???????, ??????) ?? ?????? ??? ??????? ?? ?????? ??? ?????? ?????? ???
?????????. ?????????? ??? ?? ?????????? ??? ?????????? ?? ?????? ?????? ??? Euro Park, ?
????????? ??? ?????? ?????? ?????? ??? cour administrative d'appel de Paris (???????????)
????????? ???????, ??????), ?? ????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????.

16 ? ??????? ???????, ? Euro Park ?????? ??????? ??????? ??? Conseil d'Etat (???????????)
?? ???????????, ??????), ??????????? ?? ?? ?????? 210 C, ?????????? 2, ??? CGI,
????????????? ?? ?????????? ?????????? ?????????? ?????????? ?????? ??? ??????????
????? ?????????? ???????, ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????
????? ???????, ??????? ?????????????? ?????????? ??? ?????? 49 ??? ???, ?? ?? ???,
??? ?????? ??? ?????????? ????????????

17 ??? ??? ???????, ?? Conseil d'Etat (???????????) ??? ?????????? ??
?????????? ??? ??????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ?? ???????
???????????:

«1) ?? ?????????? ??? ?????????? ??????? ?????? ??? ?????? ??? ?????????? ??????? ???
?????????? ??? ?????? ??????? ?? ?????? 11, ?????????? 1, ??? ?????? 90/434, ???
??????, ??? ?? ?????? ??? ?????????? ?????? ??? ?????????? ???????, ??? ??????? ???
?????????? ??? ??? ?????? ??? ?????????? ??? ???????;»

2) ?? ?????????? ?????????? ??????? ??? ?????? ??? ?????????? ??????? ??? ?????? ??
????? 49 ??? ??? ?????? ??? ?????????? ?? ?????? ?????????? ??? ???????, ? ?????, ??? ???
?????????? ??? ?????????? ??? ?????? ?????????? ?????? ?????????? ??? ?????????? ??? ???
????????????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ?????
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????
????????? ??? ?????? ??????;»

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

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18 ?? ?? ?????? ??????? ??, ?? ?????? ?????????? ??????, ???' ??????, ??
????????????? ?? ?? ?????? ??? ?????? ?????????? ?? ?????????? ? ?????????? ???????????
?????? ??????????, ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ??????? ??
????????? ??????, ?????????? ? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ???
????????? ?????? ?? ?????????? ??? ?????? ??? ?????? 11, ?????????? 1, ??????? ??, ???
?????? 90/434.

19 ????? ?????? ??????????, ????. ?????? ?????? ?????? ?? ?????? ? ?????? ?????????? ???
????????? ?????? ?????? ?????????? ????. ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ?? ?????? ????. ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ?????? (?????? ?? 12?? ?????? 2015, Visnapuu, C?198/14,
EU:C:2015:751, ????. 40 ????. ?????? ?????????? ??????????).

20 ????? ????????, ?????? ?? ?????????? ?? ?? ?????? 11, ?????????? 1, ?????????? ??, ??
?????? 90/434 ??????? ?? ?????? ??????????.

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

22 ????????, ????????, ????. ?????????? ?? ?????? ?? ?????? ???, ? ?? ??? ?????? ??????? ???????
??? ?????? ????. ?????? ?? ?????????? ?? ????. ?????????? ?? ?????? ?? ?????? ????. ??????? ???????
??? ?? ????. ?????? ?? ?????? ?? ?????????? ?? ?????? ?????????? ?????????? ?? ?? ?????????? ??
????? ????. ?????? ?????? ?????? ?????? ??, ????. ?????? ?????? ?????????? ?? ??
????? ?????? ?????? ?????????? ?????? (????? ?????????? ?????? ??????????), ????. ??
????? ?????? ?? ?? ?????? ????. ?????? ?????? ?????? ?????? ?? ?????????? ?? ?? ?????????? (??.,
???????, ??????? ?? 17?? ?????? 1997, Leur-Bloem, C?28/95, EU:C:1997:369, ????. 38).

23 ?? ????????, ????. ?????? ?????? ?????? ?? ?????????? ??????????????, ? ?? ?????? ???????
????????? ????. ?????? ?? ?????? ?????? ?? ?????????? ?????? ?????????? ?????????? ?? ?
????????? ?????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?? ?????????? ?????????? ??
????? (??., ????????, ?????? ?? 17?? ?????? 1997, Leur-Bloem, C?28/95, EU:C:1997:369,
????? 39).

24 ?????, ????. ?????? ?????? ?? ?????? ?? ?????? ?? ?????????? ?????? ?? ?????? ??????? ??
????????? ????. ????. ?? ?????????? ?? ?????? ?????????? ?? ?????????? ??, ??????? ??
????????? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
??????, ????. ?????? ?????? ?????? ?? ?????????? ??, ?????? ?? ?????? ?? ?? ??
??????????????, ????. ?????? ?????????? ?? ?????? 11, ?????????? 1, ?????????? ??, ??
????? 90/434 (??., ????????, ?????? ?? 17?? ?????? 1997, Leur-Bloem, C?28/95,
EU:C:1997:369, ????. 43).

25 ????. ????. ?????????? ??????, ?????????????? ?? ?? ? ?????? ?????? ????. ????. ?????????? ????.
????? ?? ?????? ?????? ?? ?? ?????????????? ?? ?? ?????????????? ?? ?? ????. ????. ?????????? ????. ??
????? ?????????? ?? ?????? ??????.

26 ????. ????????, ????. ?????? ?????????? ?????? ?? ?????? ?? ?????? ?? ?????????? ????,
?????? ?? ?? 11, ?????????? 1, ?????????? ??, ????. ?????? 90/434 ????. ?????????? ??
????? ??????????, ?? ?????? ?? ?????? ?????????? ?? ?? ?????? ?? ?????? ?? ?????? ??
????? ??????????, ????. ????. ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ??, ?? ?????? ??
????? ?????????? ??????, ?????? ?? ?????? ?????? ?? ?????? ?? ?????? ??, ?? ?????? ??
????? ?????? ?? ?????? ?? ?????? ?? ?????? ??, ?? ?????? ?? ?????? ??, ?? ?????? ??.

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

27 ????. ????. ?????????? ?????? ????, ?? ?????? ?????????? ??????, ???'. ??????, ??
????????????? ?? ?? ?????? 49 ????. ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?? ?????? ??
?????????, ????. ????. ?????? ?????? ?? ?????? ?? ?????? ??, ?? ??????, ????. ?????? ??
????????????? ?????? ?????????? ??, ?????? ?? ?????? ?????? ?????? ?? ?????? ??
????. ????. ?????? ?????? ??, ?? ?????? ??, ?? ?????? ??, ?? ?????? ??, ?? ?????? ??, ??

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

28 ?????????????? ??? ?????? ??? ???? ?????????? ??? ?????? ?????????????? ??? ????
????????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ????
????????????? , ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ????
????? ??? ??? ?? ?? ?????? , ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ????
??? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? (??., ?????? , ??????
??? 13?? ?????? 2005, SEVIC Systems, C?411/03, EU:C:2005:762, ??? 19).

29 ?????????? ??? ???? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?
??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? , ?????? ?????? ???? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? , ? ?????? 90/434, ???
????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???, ??? ?????? ?????? ??????
????????? ?????? , ?????? ?????? ?????? ?????? ?????? ?????? , ??? ?????? ?????? ??????
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ???? ?????? ?????? ?????? ?????? ??????
????? ?????? ?????? ?????? ??????.

30 ??? ?????? ???, ?? ?????????? ??? ???? ???? ?????? ?????? ??? ?????????? ??? ???? ????
????? ?????? ?? ?????????? ??? ???? ???? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ??? ???? ?????? ?????? , ??? ???? ???? ?????? ?????? ???? ???
????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???? ?????? ?????? ? ? ?????????? ???
????? ??? ?????? 11, ?????????? 1, ?????? ??, ??? ?????? ?????? (????? ??? 11??
????????? 2008, A.T., C?285/07, EU:C:2008:705, ??? 30).

31 ?????? ?? ?????? ?????????? ??? ???? ?????? ?????? ?????? ?????? ?????? ?????? ??? ????
????????? ?????? ?????? ?????? ?? ?????? ?????? ??? ?????? ?????? ?????? ??? ???? 90/434 ???,
????????? , ?? ?????? ??? 11, ?????????? 1, ?????? ??, ??? ?????? , ?????? , ?? ?????? ???
????????? ?? ? ?????? ?????? ?????? ?????? , ??? ?????? ???? ?????? ?????? ?????? ???
????? ?????? , ?????? ?? ?????? ?????? ??? ?????? ???, ?? ? ???? , ?? ? ????
????????? ?????? ?????? ??? ???? ?????? ??????.

??? ??? ?????? 11, ?????????? 1, ?????? ??, ??? ?????? 90/434

32 ?????? ??? ?????????? ??? ?????? ?????? ??? ???? ?????? ?????? ?????? ?????? ?????? ??? ????
????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ????
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? , ?????? ?????? ?? ??????
?? ?????? ?????? ???, ? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??????
????????? , ?????? ?????? ?? ??? i) ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? , ??? ii) ??? ??? ??? ?? ?????? ?????? ?? ??? ??? ??? ?????? ?????? ?????? ?????? ???
??? ?? ?????? ??? ? ?? ?????? ??? iii) ??? ?? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ? ?????? ?????? ??????.

33 ?????????? ??????? ?? ?????? ?? ?? ?????? 11, ?????????? 1, ?????????? ??, ???
?????? 90/434 ?????????? ??? ?????? ??? ?????????? ???.

- ??? ?? ?????? ?????????? ?????????????? ??????????????

34 ??? ?????? ??? ?????? ?????????????? ??????????????, ?????? ?? ?????????? ??? ?
?????? 90/434 ??? ?????? ?????? ?????????????? ?????????? ??? ?????? ??? ?????? ??
?????? ?? ?????? ??? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????????? ???
?????? ???.

35 ????? ?? ?? ?????? ?????? ??? ? ?? ?????? ?????? ?????????? ??? ?????? ??? ??
????????? ??? ?????? ???????, ? ?????????????? ??? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ?????? ??? ??? ?????? ???.

36 ??????? ?????????? ?????????????? ?????????? ??? ??????, ?? ?????????????? ??? ??
?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?? ?????????? ??? ??
????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????
??? ?????????? ??? ?????????? ??? ?????? ??? ?????, ??? ??? ?????????? ??? ?????, ??? ?? ???
????? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??????????
????????? ?????????? (????? ??? ??????????) ??? ??? ??? ?????????? ?????????? ??????????
? ?????????? ??????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????
(????? ??? ??????????????????) (????????? ??? 18? ?????????? 2012, Pelati, C?603/10,
EU:C:2012:639, ????? 23 ??? ??? ?????????? ??????????).

37 ??? ?????? ??? ?????????? ?? ??? ?????? ?????, ?????? ?? ?????????? ??? ??????
?????? ?? ?????? ?? ?????? ?????????? ?????? ?????? ?????????? ?????? ?? ??????????
?????? ?? ?????? ?? ?????? ?????????? ??? ?????????? ?????? ?????? ?????? ??? ??????
????? ??? ??????, ? ?????????? ?????? ?? ?????????? ?????????? ?????? ?????, ??????????
??? ?????? ??? ?????? ?????????? ?? ?????? ?????? ?????????? ?????? ??????, ?????? ???
????? ?????????? ?? ??? ?????? ?????????? ?????? (??., ???????, ?????????? ??? 27??
?????? 2013, Agrokonsulting, C?93/12, EU:C:2013:432, ????? 48, ??? ??? 6?? ??????????
2015, Târ?ia, C?69/14, EU:C:2015:662, ????? 36).

38 ?? ?????????? ??? ?????????? ?????? ??? ? ?????? ?????? ??? ?????????? ??????
?????? ?? ?????????? ?? ?????????? ?????????? ?????? ?????????? ??? ?????????? ???
????? ?????????? ?? ??? ?????????? ?????? ?????????? ?????? ??? ?????? ??? ?????????? ???
????????????? ?? ?????????? ?? ?????????? ?????? ?????? ??? ?????? ??? ?????????? ???
????? ?????????? ??? ?????? ??? ?????????? ?????? (??., ???????, ?????????? ??? 21??
????????? 2006, Halifax ?.??., C?255/02, EU:C:2006:121, ????? 72, ??? ??? 9?? ??????
2015, Cabinet Medical Veterinar Dr. Tomoiag? Andrei, C?144/14, EU:C:2015:452, ????? 34).

39 ?? ???????????, ??? ???? ?? ???? ?? ???????????, ? ??????? ???????????
??????????, ??? ???? ??' ??????????? ????????, ??? ? ??????????? ??????????? ??? ????
?????????? ? ??????? ??????? ????? ?????? ?????? ??????????? ???????????, ???????,
?????????? ??? ?????? ????? ?????? ?????? ?????? ??????????? ????????????. ??????? ???????,
?? ??????????? ??? ???, ??????, ??? ??????? ??? ??? ?? ??????? ??????????? ??????????? ??? ????
???? ?????? ??? ??????????? ??? ?????? ?????? ?????? ?????? ?????? ??????????? ???????????
?????????? ??????????? ?? ??????????? ?? ?? ??????? ??? ?????? ??????????? ??????????? ???????????
?????????? ??????????? ??????????????? ??? ?,?? ??????? ??? ?????? ??????????? ????????????. ??? ????
?????????? ???????????, ??????????????? ??? ?????? ??????????? ??? ?????? ??????????? ??? ????
????????? ??????????????? ??????????????? ??? ??? ?????? ??????????? ??????????? ???????????,?
??????????, ?? ??????????? ?? ? ??????????? ??? ?????? ??????????? ?? ??? ?? ??? ???.

40 ??? ?????? ??? ??? ?? ???????????????????, ? ??????? ??? ??????????? ???
?????????? ??????? ??????????? ?? ??????????????? ??? ??????????? ??? ??????????? 90/434,
?????????? ?? ??? ?????? ??? 11, ??????????? 1, ????????? ??, ?? ?????? ???????????
??????????, ?????? ??? ???????????, ??? ?? ?????????? ? ??????????? ??? ????
?????????????? ?? ?????????? ??? ?????? ??????????? ??? ??????????? ??? ????
?????????????? ??? ?? ??????? ?? ?????? ??? ?????? ??? ??????????? ??? ??????????????? ??
?????????????? ??? ?? ?????? ??? ?????? ?? ?????? ??? ??????????? ??? ??????????????? ???
?????????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????????? ??? ???????????????, ?? ??
?????????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????????? ??? ??????????? ??? 28??
?????????????? 1991, ??????? ??? ?????? ?????? C?131/88, EU:C:1991:87, ??? 6, ??? 10??
????????? 2009, Heinrich, C?345/06, EU:C:2009:140, ??????? 44 ??? 45, ??? 15?? ???????
2010, ??????? ??? ?????? ?????? C?582/08, EU:C:2010:429, ??????? 49 ??? 50, ???
?? 18?? ??????? 2012, Pelati, C?603/10, EU:C:2012:639, ?????? 36 ??? ??? ???????????????
??????????).

41 ?? ???????????, ???, ??????????????? ??? ???? ?? ??????? ??? ??????? ??? ??????? ???
?????????? ??? ??????????????? ??? ?????? ??????????? ??? ??????? ??? ???????????
???????????. ??? ???? ??' ??????????? ????????, ??????????????? ??? ??????? ??? ???????
?? ???????????, ? ??????? ????????, ??????????????? ??? ?????? ??????? ??? ??????? ???
?????????? ???, ?????? ?????????? ??????????? ??? ??????????? ??? ?????? ?????? ??????. ?
?????????? ??? ??????????? ???, ?????? ?????????? ??? ?????????? ??????????? ??? ??????????? ???
?????????? ??? ?? ?????????? ??? ??????????? ??? ???????????, ??? ??? ?? ?????????? ???
?????????? ? ??????????? ???, ??? ?? ?????????? ??? ??????????? ??? ??????? ?? ??????????? ???
?????????? ??? ??????????? ????. ???????, ? ?? ??? ?????? ??????????? ??????????? ???,
???? ?? ??? ??? ??? ???????, ??? ? ?????????? ??????????? ??????????? ??????????? ???
?????????? ??? ?????? ??????????? ????????????. ???????, ? ??? ??? ???, ??????
?????????? ?????? ??? ?? ?????????? ?????? ??????????? ??? ??? ??????????? ???, ?????? ??
?????????? ??? ?????? ?????? ??????? ??? ??????????? ???.

42 ??????, ??? ??????????? ? ??????? ??????????? ??? ??????? 30 ??? 34 ??? 57 ???
?????????? ???, ??????????????? ??? ?? ??????????? ??? ??????? ??? ??????? ??? ??????? ???
????? ??????????? ??? ???????????????, ??????, ??? ??????? ??? ??????????? ? ??????????? ? ???????????
???, ??????? ??? ??????? ?? ??????????? ??????????? ?? ??? ??????? ??? ??????? ??? ??????? ???
?????? 11, ??????????? 1, ??????? ??, ??? ?????? 90/434. ?? ?? ???????, ?? ??? ??? ??????? ???
????? ??????? ???????, ?????? ??? ???????????, ??? ?? ??????????? ??????? ??? ??????? ???
?????????????? ?? ?????????? ?????? ?????? ?????? ??? ?????? ??????????? ???, ?????? ?? ???
????????? ??? ?? ??????? ?????? ??? ??????????? ?? ??? ?????? ??????????? ??? ??????? ??
?????????? ??? ?? ??????? ??? ?? ??????????? ???.

43 ??????, ??? ??' ??????????? ??? ???????, ? ??????? ??????????? ??????????? ???

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

44 ?????????????? ??? ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????.

45 ???????, ??????????? ?? ??? ? ??????????????? ?? ??????????? ?? ???????????
?????????? ?? ??? ?????? ??????????????? ?? ??? ??????????????? ?? ??????? ?? ??? ???????
90/434 ??? ?? ?????????? ??????????? (??., ???????, ?????????? ?? 10?? ??????? 2009,
Heinrich, C?345/06, EU:C:2009:140, ??????? 44 ??? 45, ??? ??? 15?? ??????? 2010, ???????
???? ??????? ???????, C?582/08, EU:C:2010:429, ??????? 49 ??? 50), ????? ??????? ??
????????????? ?????? ?????????????? ?????? ??? ?????????????? ?????? ?? ?????? ??????????????
????????????? ?????? ??? ?? ?????? ??????? ?????? ?? ?????? ?????? ???????????????, ???
????? ?? ??????? ? ??????????????? ?? ??????? ?? ?????? ??? ?????? ?????? ??? ?????? ???
????? ??? ??? ?????? ?? ??????????????? ?? ??????? ?? ?????? ??? ?????? ?????? ???????????????, ??
??????????, ?? ??????????? ?? ??????? ?????? ?????????? ?????? ?????????? ???????????????.

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

– ??? ??? ?????????? ??? ?????? ?? ?????????? ??? ??? ?????? ?????? ?????????? ???????????????
????????????? ?? ?????? ?????????? ? ?????? 90/434

47 ??? ??? ?????? ??? ?????????????? ??? ?????? ?? ??????????? ??? ??? ?? ??? ?????? ???????????,
????????????? ??? ?? ??????????? ??? ?????? ??????????? ?? ??????????????? ??? ?? ???
????????????? ??????? ?? ?????? ??????????? ?? ??? ?????? 90/434 ??? ?? ???
????????????? ??????? ?? ?????? ??????????? ?????????????? ?????????????? ??????????? ?? ??? ???
????? ??? ?????????? ??? ?????? ??????????? ??? ?? ??? ?????? ?????? ?????? ???????????????,
??? ??? ?????? ?????? ?????????????????? ??? ?? ??? ?????? ?????? ?????? ???????????????,
????????? ? ?????? ?????? ?????????? (??????? ?? 20?? ??? 2010, Modehuis A.
Zwijnenburg, C?352/08, EU:C:2010:282, ????? 41 ??? ??? ?????????????? ???????????).

48 ?? ?????????? ??? ?????? ?????????? ??? ?????? ???' ?????????? ??? ?? ???????
?????????? ?? ??? ?????? ?????? ???????, ?????? ??? ?????? 11, ?????????? 1, ?????????? ??, ??
?? ??? ???????, ?? ?????????? ?? ?????????? ?? ?????? ?? ?????? ??? ?????????? ?? ???
????? ??????? ? ?? ?????????? ??????????? ??? ?????????? ??? ?????? ??? ?????????? ??
(??????? ?? 20?? ??? 2010, Modehuis A. Zwijnenburg, C?352/08, EU:C:2010:282, ????? 45
?? ??? ?????? ?????????? ???????????).

49 ??????? ??? ?? ??????? ??? ?????????? ?????? ??????????? ??????????? ??? ?? ??? ??????? ???
????? ? ?????? 90/434, ?????? ?? ?????????? ??? ?????? ?????????? ??????????? ??? ??????????? ??
????? ??? ??????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ???
? ?? ??? ?????? ?????? ?? ?????????? ?????????? (??., ???????, ??????? ?? 20??
????? 2010, Modehuis A. Zwijnenburg, C?352/08, EU:C:2010:282, ????? 46).

50 ??????, ???, ?????? ?? ?????????? ???, ?? ??????????, ?????????? ? ?????? 90/434
????? ?? ??? ?? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ??????????? ??
?? ?? ?????????? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?? ??? ?????? ??????????, ?????????? ?? ?????????? ??? ?????????? ?????? ??? ?????????? ???
????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???

????????????? (??., ????????, ??????? ?? 17?? ??????? 1997, Leur-Bloem, C?28/95, EU:C:1997:369, ??? 45), ? ??????? ?? ?????????? ?? ??????? ?????? ?????? ?????????? ??????? ?? ?????? ??? ?????? ?? ?????????????????? ???????, ?????? ?? ? ? ?????????????????? ?????? ?????? ?? ?????????? ? ?????? ??????? ?? ?????????? ??????.

51 ????????, ?????? ? ?? ??? ?????????????? ?????? ??? ?????? ??? ?????????????????? ????
??? ?? ? ?????????? ?? ????? ?????????????? ??? ?????????????? ??? ?????? 32 ???
????????? ??????????, ??????????, ??? ?????????? ? ?????? ?????????? ??? ?????? 34 ???
36 ??? ?????????? ???, ??? ??? ??? ?????? ?????? ?????? ?????????? ??????????????, ? ???
????????????? ??? ?????????? 22 ??? 23 ??? ?????????? ??????????, ?????? ??? ??? ??????????
?? ??? 11, ?????????? 1, ??????? ?, ??? ?????? 90/434.

52 ???????, ??? ?????????????? ? ??????? ?????????????? ??? ?????? 36 ??? ?????????? ???
??? ?????????? ????, ??, ?????????????? ? ??????? ??????????, ? ?????? ?????????? ???
????????? ? ??????? ??? ?????????? ??? ?????????? ??? ?????? ??????????, ?????????????? ?? ??? ??
????? ??? ??????? ??? ?????? ?? ?????????????? ?? ?????????????? ?????????? ??? ?????????? ???
????? ? ?????????? ?????????? ???????, ?????????? ??? ?????? ??? ??????????, ???????,
? ?????? 90/434, ??? ?????? ?? ?????????????? ?????? ??? ?????????????? ???
????????? ??? ?????????? ??????????, ?????????? ??? ? ?????? ?????? ?????? ?????????? ???
????????? ??? ?????????? ?????????????? ??? ?????????? ? ?????? ??????????.

53 ????????, ??? ????? ?? ?????????? ??? ?????????????? ??? ???????????????, ??? ???????????????, ??? ??
????? 11, ?????????? 1, ??????? ??, ??? ?????? 90/434, ?????????????? ??? ? ??????
???? ?????????? ??? ?????? ????? ?? ?????????? ?????? ?????? ?????????????? ???
????????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????????????? ??? ?????? ??????????
????????????? ??? ?????? ?????????? ?????? ?????????? ???, ?? ?? ??????, ???
????????????? ??? ?????????? ?????? ?????? (??., ????????, ?????????? ??? 17??
?????? 1997, Leur-Bloem, C?28/95, EU:C:1997:369, ??? 45, ??? ?? 10?? ??????? 2011,
Foggia – Sociedade Gestora de Participações Sociais, C?126/10, EU:C:2011:718, ??? 36).

54 ???????, ??? ?? ?????????? ??? ?????????????? ?????????? ??? ?? ?????? ??? ??
???????, ??? ?? ??????? ??? ?????? 11, ?????????? 1, ??????? ??, ??? ?????? 90/434,
?? ?????? ????? ?????? ?????? ?????? ? ?????????? ? ?????????????.

55 ???????, ?? ?????????? ??? ?????????????? ?????? ???, ?????????? ??
????????? ??? ? ?????????????? ?????? ?????? ?????????? ?? ?????????????? ? ??????????????, ??
????????? ?????? ?????? ??? ?????? ?? ?????????? ?????? ?????? ?????????? ??????
????????????????? ??????????, ??? ?????? ?? ??????????, ??? ??????????, ?? ??????
????????? ??? ?????? ?????, ?????????? ??? ? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????????? ?????? ??? ? ?????????? ?????? ?????? ??????
??? ?????????? ??????????????, ?????? ?? ?????????? ?????? ?? ?????? ?? ?????? ?? ??????
????? ?????????? ? ???????????, ?? ?????? ?????? ??? ?????? ??? ?????????? ?????? ??? ???
????????? ??? ?????????? ? ?????????? ??? ? ?????????? ??? ?? ?????????? ??? ?????????? ???
????????????? ?? ??? ?????? ?????? ??? ?????? (??????? ??? 10?? ?????????? 2011, Foggia –
Sociedade Gestora de Participações Sociais, C?126/10, EU:C:2011:718, ??? 37).

56 ???????, ????, ? ??????? ?????? ?????? ?????? ?????? ?????? ??????????? ???????, ??? ??
?????? ??? ??????????????? ??? ??????? ?????????????? ??? ???????????, ????? ??? ??????
90/434, ????, ?????? ??? ????? ?????? ???????????, ?? ?????????? ? ?????????????? ??? ?
?????? ??? ????? ?????????????? ??? ?????????????? ??? ?????? ??? ??? ??? ??? ?? ?????? ???
? ?? ??? ??? ??? ????? ?????? ??????? ??? ?? ?????????????? ? ?? ???????????, ????? ?
?????????? ??? ?? ??????????? ?? ?????????? ??? ?????? ??? ??? ??????????? ??? ??? ??? ??
??? ??????????? ?????? ?????? ??????????? ??? ? ?????????? ??? ?????? ??? ??????????? ??? ??

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

57 ?????????????? ?????? ??? ??????????????, ?????????????? ??? ?? ?????? 11, ??????????
1, ??????? ??, ??? ?????? 90/434 ??? ?????? ??? ?????????????? ??? ?????? ?????? ??????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

??? ??? ?????? 49 ????

58 ??? ?????? ?????? ??????????, ?? ??? 49 ??? ?????? ?????????? ??? ?????????? ??? ??????????
??? ?????????? ?????????????? ?? ?????????? ?? ??? ?????????? ?????????????? ??????????
??? ??????? ??, ???????, ??? ?? ?????? ???, ?????????? ?? ?????????? ??? ?????????? ??? ??????
??? ??????? ?????? ?????? ?????? ??? ?????????? ?????? ?????????? ??? ?????????? ??????????
????? ??? ?????????? ?? ?????????? ?? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ??????????
????? ??? ?????? ??? ?? ??? ?????? ??? ? ?????? ?????? ?????? ?????????? ?????? ??? ?????????? ??
????? ?????? ??? (??????? ??? 29?? ?????????? 2011, National Grid Indus, C?371/10,
EU:C:2011:785, ??? 35 ??? ?????? ?????????? ??????????).

59 ?????? ?? ?????????????? ?? ?????????? ??? ?????????? ?????? ?????????? ??????????????
????????? ?????? ?????? ??????, ?????????? ? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? (??????? ??? 29?? ?????????? 2011, National Grid Indus, C?371/10,
EU:C:2011:785, ??? 36 ??? ?????? ?????????? ??????????).

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

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

62 ? ?????????? ??? ?????? ?????? ?????? ?? ?????????? ??? ?????? ?? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ???????, ?? ?? ??????,
????????? ??? ?????? ??????.

63 ? ?????????? ??? ?????? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?? ??????????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? ?? ?????? ??? ?????? ??? ?????? . ??????????, ??????, ??? ?????? ???, ???, ???
? ?????????? ?? ?? ?????? ?????? ??? ?????? ?????? ?????? ??? ??? ?????? ??? ???
????????? ??? (??????? ??? 29?? ?????????? 2011, National Grid Indus, C?371/10,
EU:C:2011:785, ??? 42 ??? ?????? ?????????? ??????????).

64 ??? ?? ?????? ?????? ?, ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
?????.

65 ?????????? ??? ?????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??????
????? ?????? ?????? ??????, ?????????? ?? ?????????? ?????? ?????? ??? ??????
?? ?????? ?????? ?????? ??? ?????? ?????? ? ??????, ??? ? ?????????? ???
????????? ??? ??? ??? ?????????? ??? ??? ? ?????? ?????? ?????? ??? ??????.

?????????? ??? ??????????? ???????? ?????? ??? ?????? ?????? (????????? ??? 5?? ??????? 2012, SIAT, C?318/10, EU:C:2012:415, ??????? 36 ??? 37 ??? ??? ?????????????? ??????????).

66 ????? ?????? ??? ??????? ?? ??? ?????? ??????, ??????, ??????, ?? ??????????????, ???
????? ??? ? ??????? ??????????? ?? ??? ?????? 39 ??? ?????????? ???, ??? ? ?????? ???
????????????? ??? ??? ??? ?????? 90/434.

67 ????????, ??? ?? ?????????? ??? ???????????, ??? ??? ?????? ??? ?? ???
????????? ??? ?? ?????? ??? ?????? ?????? ??? ?? ??? ?? ??? ?????? ??????????
????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?? ? ? ?????????? ??????????
????????? ????????, ?? ????, ?????????? ?? ?????????? ?????? ??? ??? ??? ??? ??
????????? ???????????, ?????????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
??? ?????????? ????????, ?????????? ?? ?????????? ??? ?????????? ??? ?? ??? ?????? ?????? ???
????? ??? ??? ?????? ??? ?? ?????????? (?????? ??? 19?? ?????????? 2012, 3D I,
C?207/11, EU:C:2012:818, ??? 28).

68 ?? ?? ???????, ? ?? ??? ?????? ???, ???????????, ??? ??????????? ??, ??????????????? ??, ??????????????? ??
?????? ??, ?? ??????????????? ??, ??????????? ??, ??????????????? ??.

69 ????? ?????? ??? ??????????? ????? ?????? ?????????????? ? ?????? ?????? ?????????? ???
????????????????? ??? ?????????????? ? ??? ??????????????, ??? ?????? ?? ?????????????, ????
?????? ??? ? ??????? ?????????????? ??? ?????? 72 ??? 73 ??? ?????????? ???, ??? ? ??????
????? ??? ?? ??? ??????????????, ??? ?????????? ?????????? ??? ??? ?????????? ??? ??????????
??? ?????? 11, ?????????? 1, ???????? ??, ??? ?????? 90/434 ? ??? ?????????? ???
????????????? ?????????? ??? ??? ?????????? ??? ?????????????? ??????. ?? ?? ??????, ??
????????????? ??? ?????? 54 ??? 56 ??? ?????????? ??????????, ??? ?????? ??? ??????????
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????????? ??? ?????????? ?? ??
????????? ???, ??????? ??? ??? ????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?? ?????????? ??? ?????????????? ??????????????. ????????, ??????????
?????????, ??? ? ??????? ??? ?????? ??? ?????? ???, ?? ??? ?????? ??????????
?????? ?????????? ??? ?????????????? ? ??????????????, ?????? ?????? ??? ?????????? ???
??? ??? ?????????? ??? ?? ??? ?????? ???, ??????, ??? ?????? ?? ??????????????
????????? ??? ?????????? ?????.

70 ?????????????? ?????? ??? ??????? ??? ??????????????????, ??? ?????????? ??????????
????????? ?????? ?? ?????? ? ???????? ??? ?? ?????? 49 ???? ???? ?? ?????? 11, ?????????????? 1,
????????? ??, ??? ??????? 90/434 ?????? ??? ?????? ??? ?????????????? ?? ?????? ?????????? ??????????
????? ? ??????? ??? ?????? ??? ?????? ??? ?????, ? ?????, ??? ?????????? ?????????????? ??? ?????
????????? ??????????????, ?????? ??? ?????? ?????????????? ?????????????? ??? ?????
????????? ??? ?????? ??? ?????? ??? ?? ?????? ???????, ?? ?????????????? ?? ??? ?????? ?????? ???
????????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????????? ??? ?????? ?????? ???
????????????? ??? ?????????? ?????????? ??? ?????? ?????????? ?????????????? ??? ?????? ?????? ???, ???
??? ?????????? ?? ?????????? ?????????????? ??????????????, ??? ?????????? ??? ??????,
????????????? ?? ?????????? ? ??????? ???, ? ?????????????? ?????????????? ??? ??????????
??? ? ??????? ??? ?????????????? ??? ?????? ?????????? ??????, ??? ??? ?????? ?? ?????? ???
???? ??? ??? ?????? ?????? ??? ?? ?????????? ??? ?? ?????????????? ??? ??? ??? ?? ???
????????????? ??? ?????? ?????? ?????????? ??? ?? ?????????? ??? ?? ?????????????? ??? ??? ??? ?? ???
??? ?????????? ??? ?????? ?????? ?????????? ??? ?? ?????????? ??? ?? ?????????????? ??????????????
????????????? ??? ?????????? ??? ?????? ?????????? ??? ??????????, ?????????, ??? ??????????
????????????? ?????? ?????????? ??????????????, ? ?????? ??? ?????? ?????????????? ?????????? ??? ?
????????????? ?????? ?????????? ??? ?????? ??????????????

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71 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ????? ?????????? ??? ?????? ?????? ??????
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ??????????????, ?' ???
????????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ?????? ??? ?????? ??????????????
???? ?????????? ?????????????? ??? ?????????? ?????? ??? ?? ??? ?????????, ??? ?????????????.

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

1) ?????? ?? ??? 11, ?????????? 1, ??????? ??, ??? ?????? 90/434/??? ??
??????????, ??? 23?? ?????? 1990, ??????? ?? ?? ?????? ??????????? ?????????? ??
??? ???????????, ??????????, ?????????? ?????????? ??? ?????????? ?????????? ??
??? ?????? ?????????? ?????????? ?????? ?????, ??? ?????????? ?? ??????
??????????, ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??????
????????? ?????? ??????????, ??? ??? ?????? ?????? ??? ?????? ??? ??????
?????, ?? ?????? ?? ?????????? ??????, ?????????? ? ?????????? ?????? ??????????
??? ?? ?????????? ??? ?????????? ?????? ?? ?????????? ??? ?????????? ??? ??
?????? ???.

2) ?? ??? 49 ??? ?? ?? 11, ?????????? 1, ??????? ??, ??? ??????
90/434 ?????? ??? ?????? ??? ?????????? ?? ?????? ??????????, ??? ? ??????
????? ??????? ?? ?????? ?????, ? ?????, ??? ?????????? ?????????????? ??????
??????????, ?????? ??? ?????? ?????????? ?????????? ?????????? ??? ??????
????????? ??? ?????? ?????? ??? ?? ?????? ???????, ?? ?????????? ?? ???
????????? ??? ?????????????? ??? ?????????? ??? ?????????? ?? ?? ??????????
????????? ?? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??????????????
?? ??? ?????? ?????, ??? ??? ?????? ?? ?????????? ?????????????? ??????????,
??? ?????? ??? ??????, ?????????? ?? ?????????? ? ?????? ??? ?,
????????????? ?????????? ?? ?????????? ??? ? ?????? ?????? ?????? ??????????????
?? ?????????? ?????, ??? ??? ?????? ?? ?????????? ??? ?????? ??? ??????
????????? ??? ?? ?????????? ?? ?? ?????????? ??? ??? ?? ?????? ?????????? ???
????????? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??????????, ??????, ???
????????? ?????? ??????, ?????????? ?????? ?? ?????????? ??? ?????? ??????????
????????? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ?????????? ???.

(?????????)

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