

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

??? 12?? ?????????? 2017 (*)

«????????????? ?????????? – ??? 99 ??? ?????????? ?????????????? ??? ?????????? – ???
????????????? ??? – ?????? 2006/112/?? – ??? 2, 9, 26, 167, 168 ??? 173 – ?????? ???
????? ?????? – ?????????? ??? ???? ? ?????? ?????? ??? ?????????? ??? ?? ???? ??
????????? ?????????? – ?????? ?????????? ??? ?????? ?????? ?????????? ??? ??
????????? ??? ??? ?????? ??????»

???? ?????? C?28/16,

??. ?????????? ?????? ?????????????? ?????????? ?????? 267 ???, ???
????? ?? Kúria (????? ??????, ??????) ?? ?????? ??? 7?? ?????????? 2016, ?
????? ?????? ??? ?????????? ??? 18 ?????????? 2016, ??? ?????? ??? ???

MVM Magyar Villamos M?vek Zrt.

????

Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatóság,

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

????????? ??? ??? E. Regan, ?????? ??????, J.-C. Bonichot ??? C. G. Fernlund
(?????), ??????,

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

??????: A. Calot Escobar

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

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

– ? MVM Magyar Villamos M?vek Zrt., ?????????? ??? ??? Sz. Vámosi-Nagy ??? P.
Vaszari, ügyvédek,

– ? ?????? ?????? ??????, ?????????? ??? ??? M. Bóra, G. Koós ??? M. Z. Fehér,

– ? ?????? ??? ?????? ??????, ?????????? ??? ??? J. Kraehling,
????????? ??? ??? H. L. McCarthy, solicitor,

– ? ?????? ?????? ??????, ?????????? ??? ??? V. Bottka ??? ??? L. Lozano Palacios,

????? ??? ?????? ??? ???, ??? ?????? ??? ?????? ???????????, ?? ?????? ??
????????? ??? ?????? ??? ??? 99 ??? ?????? ?????????? ?????????? ???
???????????,

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

???????

1 ? ?????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? 2, 9, 26, 167, 168
??? 173 ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ??
????? ?????? ?????? ?????????????? ?????? (?? 2006, L 347, ?. 1).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? MVM Magyar
Villamos M?vk Zrt. ??? ??? Nemzeti Adó- és Vámhivatal Felleviteli Igazgatósága (?????????)
????????? ??? ?????? ?????? ?????????? ??? ??????????, ????????, ??? ????: ??????????
????), ??????? ?? ?? ??????? ??? MVM ?? ?????? ??? ??? ?????????????? ?????? (???)
?? ?? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??? ?????????? ???.

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

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

3 ?? ?????? 2, ?????????? 1, ??? ?????? 2006/112 ?????? ?? ????:

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

[...]

?) ?? ?????? ??????????, ??? ?????????????? ?? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??? ?????? ??? ???

[...]».

4 ?? ?????? 9, ?????????? 1, ??? ?? ??? ?????? ????:

«?????? ?? “????????? ????” ?????????? ????, ??? ?????? ?????????? ??? ??
????????? ????, ?????????? ?????????? ????, ?????????? ????, ??? ?? ?????????? ????, ???
?? ?? ?????????? ??? ?????????? ????.

?? “????????? ???????????” ?????????? ??? ?????????????? ??? ??????????, ???
????? ??? ?????????? ??????????, ?????????????? ??? ?????? ??? ?????????????? ???
?????????, ??? ?????????? ?????????????? ??? ?????? ??? ?????????????? ??? ??????????
?????????????. ?? ?????????? ?????????????? ??? ??????, ????, ? ??????????????
????????? ? ??? ?????? ????, ?? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ????.»

5 ?? ?????? 26, ?????????? 1, ??? ?? ??? ?????? ?????? ????:

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

[...]

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

6 ?? ?????? 167 ??? ?? ??? ?????? ????:

«?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ????.»

7 ?? ?????? 168 ??? ?????? 2006/112 ?????? ?? ????:

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

?) ??? ?????????? ? ?????????????? ??? ?? ??? ?????? ?????? ??? ?? ??? ?? ?????? ??? ??
????????? ? ?????????? ?? ??? ?????????? ??? ?? ??? ?????????? ??? ?? ??? ?????????? ??? ??
? ?????????? ?? ??? ?????????? ??? ?? ?????? ?????????? ??? ?? ??? ?????????? ??? ?? ???,

[...]».

8 ?? ?????? 173, ?????????? 1, ??? ?? ??? ?????? ?????????? ?? ????:

«???? ?????? ?? ?????? ??? ?? ?????????? ??? ?? ?????????????????? ??? ?? ?????????? ??? ??
??? ?? ?????????????? ??? ?? ?????????? ??? ?? ?????????? ?????????? ?????????? ??? ?? ??????????????
??? ?????? 168, 169 ??? 170, ??? ?? ??????, ?? ?????? ??? ?????? ?????????? ?????????? ??????????, ?
????????? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ??, ?? ?????? ?????????? ??? ?? ??? ?????? ??? ??
??? ?????? ??? ?? ?????? ??????????.

[...]»

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

9 ?? ?????? 2, 6, 14, 119, 120 ??? 123 ??? az általános forgalmi adóról szóló 2007. évi
CXXVII. törvény (????? ????. CXXVII ??? 2007 ??? ??? ???) ?????????? ??? ?? ??????????
????? ??? ?????????? ?? ??? 2, 9, 26, 167, 168 ??? 173 ??? ?????? 2006/112. ??
????????? ????. ??? ?????????? ??????, ???' ??????, ??? ?? ?????? ?????????? ?? ??
????? ??? ?? ??? ?????? ?????? ?? ??? ?????? ?????????? ??? ?? ?????? ?????? ??? ?? ???.

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

10 ? MVM ?????? ?????? ?????????? ?????? ? ??? ?????? ?????????????????? ??? ?? ?????? ???
?????????. ??????, ?????????? ?????? ?????????? ?????????? ?????????? ??? ?? ?????? ??? ??
????????? ????. ??????????, ????? ?????????? ?????? ?????????? ???, ??? ?? ?????? ???,
????????? ? ?????????? ?????????? ??????.

11 ?????????? ?? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????????? ??? ?? «?????», ??? ??
????? ?? ?????????? ??????, ? MVM ?????? ?????? ?????? ?????????? ?????????????? ??? ??
??? ?? ??? ?????? (??? ????: ??????). ? ?????? ??? ?????? ?????? ??? ?? ??? ??
?? ?????????? ?? ?????????? ?????? ?????? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ??
????????????? ??? ?? ?????? ??? ??????. ??????, ?? ??? ?????? ??? ?? ?????????? ??? ??
????????? ?????? ??? ?? ???.

12 ? ?????? ??? ?????? ?????? ??? ?? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ??
????????? ??? ?? ?????? ?????? ??? ?? ?????? ??? ?? MVM ??? ?? ??? 2008 ??? 2010.

13 ??? ?? ?????? ??? ?????????? ??? ??, ? MVM ??? ?????????????? ??? ?? ??? ??????????
????????? ??? ?? ??????. ??? ?? ??? ?????? ???, ?????????????? ?????? ???????, ??????????
????????? ?????????? ??? ?? ?????????? ?????? ?????????? ???????, ??????, ??? ?? ??? ??
????????? ??? ?? ?????????? ?????? ?????????? ?????????? ?????????? ??? ?? ??????????
????????? ???, ??? ???????, ?? ??????, ??? ??, ???????, ??? ?? ?????? ?????????? ??? ??
?????? ???, ??????, ??? ?????? ?????? ??? ?? ??? ?????? ??? ?? ?????? ??? ??.

????? ??? ???? ?????????? ?? ?????? ??? ?????????? ??????. ??????, ?????? ??? ????? ???????????????
??? ?? ?? ??? ????? ?????????? ?????????????? ?? ?????????? ?????? ?????? ??? ?????? ?
????????? ??? ????? ?? ??? ?????????????? ?????????????? ??? ?????? ?????? ??? ?? ???
??????, ? MVM, ??? ?????????? ??????????, ??? ?????? ??? ?????????? ?????? ???
????????? ??? . ? MVM ??? ?????? ??? ?????? ??????????, ??? ?????? ??? ?????? ???
?? ?????????? ??? ??????????, ?? ?????????? ? ?????????? ??? ?????? ?? ??????????????????
??????.

14 ? ?????????? ??? ?????? ??? ? ??? ??? ?????????? ??? ?????????? ???????????, ???
????????? ?????????? ?????????? ?????????? ??? ??? ?????????? ?????????? ?????????? ??? ???
?????????, ??? ??? ????? CXXVII ??? 2007 ??? ??? ???, ??? ?????? ??? ?????? ??? MVM
???? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ?????????? ???
????????? ?????????? . ???, ? ?? ??? ??? ??? ?????? ?? ?????????? ??? MVM ?? ??????? ???
??? ??? ?????????? ??? ??? ?????? ??????????, ??? ?????? ?????? ?????????????????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????????? ??????????
????????????? ?????????? ?????? ?? ??? ?????? ?????? ?????????? (??? ????: ??????????
?????????). ??????????, ??? ?????????????? ?????, ? ?????????? ?????? ?????? ?????? ??? MVM
????????? ??? ?????? ?????????? ??? ?? ??? ??????????.

15 ? MVM ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ?????,
????????????? ??? ?? ?????????? ?????????? ?????????? ?????????? ?????? ??? ??????????
?? ?????????? ?????????????? ???, ?????????? ??? ? ??? ?????? ??? ?????????? ???
????????? ??? ??? ? ?????? ??? ?????? ?????? ?????????????? ??? ?? ?????????? ???
??? ????. ??? ?????? ??? ?????????? ?????, ? MVM ?????????? ?????? ??? ? ?? ?????? ???
????????? ??? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ???.

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

17 ? MVM ?????? ?????? ?????????? ?????? ??? ?????????? ??????????????, ??? Kúria
(?????? ??????????, ???????).

18 ?? ?????? ?????????? ?????????? ???, ??? ??? ?????? ??? ?????? ??? ?? ?????? ???
????????? ??????, ? MVM ?????????? ?? ?????? ?????? ?????????? ?????????? ??? ??????
?????????, ??? ?????? ??? ?? ?????????? ??? ??? ??? ??????????, ?????????, ??? ???
?????????, ??? ?? ?????????? ?????? ?????????? ?? ,?? ?????? ??? ?????? ??? ?????? ???
????????????? ?????????? ??? ?????????? ??? ?????????? ??? ??????.

19 ?? ?????? ?????????? ?????????? ???, ??? ?????????? ??????, ? ?? ??????
????????? ?????????? ?????? ?????????? ??? ?????? ?????????? ??? ??? ?????????, ??? ???
????? ?????????? ?????? ???????, ??? ?????? ??? ??? ?????? ??????. ???????, ???
????????? ?????????? ??????????, ?????? ? MVM ?????? ?????????? ?????????? ??? ???
????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ???.

20 ??' ?????? ??? ???????, ?? Kúria (?????? ??????????) ?????????? ?? ?????????? ??
????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ?????????????? ??????????:

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

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

2) ?? ?????????? ?????????? ??? ?????? ??? ?????? ??????, ?????? ? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?? ??????, ??? ?????????? ?? ?????? ?????, ?? ??????
????????? ??? ? ?? ??? ?????? ?????? ?????? ?????? ??? ? ??? ?????????????? ??? ? ?? ??????
????????? ?????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????????????? ?????? ??????
?????????;

3) ?? ?????????? ?????????? ??? ?????? ??????, ?????? ? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?? ??????, ??? ?????????? ?? ?????? ?????, ?? ??????
????????? ??? ? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????????????? ??? ? ??
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????;

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

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

21 ??? ?? ??? 99 ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?? ?????????? ? ??? ?????? ??? ?????? ?????? ?????????? ?? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ??? ??????
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???.

22 ?? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??????.

23 ?? ?? ?????? ?????? ???, ?? ?????? ?????? ?? ??????????????, ?? ??????
????????? ???, ???' ??????, ?? ?????????????? ?? ?? ?????? 2, 9, 26, 167, 168 ?? 173 ??
????????? 2006/112 ?????? ?? ?????????? ??? ?? ?????? ??? ? ?????????? ??????????
?????????, ??? ? ?????? ??? ?????? ???, ??? ?????????? ??? ?????????? ???, ??
????????? ??? ??? ??? ??? ?????? ??? ? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ???, ??? ? ??? ?????? ???, ?????? ??? ?????? ??? «?????????
?????????», ??? ? ??? ?????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ??? ??? ?????? ??? ?????? ??? ?????? ???.

24 ???????, ?????????? ???, ?????????? ???? ?????? 2006/112 ?????? ?????????? ????
????????? ???, ??? ???? ?????? ?????? ?????? ??? ?????????? ??? ?????? ??? ??????
????????? ?????? (??., ??' ??? ???? ??? ??????, ?????? ??? 29?? ?????? 2009,
????????? ??? ??????????, C2246/08, EU:C:2009:671, ??? 34 ??? ?????? ??????????????
?????????). ??????????, ??? ???? 2 ??? ???? ?????? ?????????? ???, ??? ???
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???, ??? ???
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

25 ??????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????????
????????????? ?? «?????????» ?????? ?????? ?????? ?????? ??? ?????? ???
????????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
(????? ??? 29?? ?????? 2009, ?????? ??? ?????? C2246/08, EU:C:2009:671,

????? 37 ??? ????? ?????????????? ??????????).

26 ??????? ??????? ?? ??????????? ???, ??? ?????? ?????? ??????????? ??? ??????????????, ??
????????? ?????????? ??? ??, ??? ?????? ??????????? ??? ?????? 167 ??????? ??? ??????
2006/112, ??????? ?????????? ??? ?? ?????? ??????????? ??? ??? ??? ??? ??????,
?????????, ?? ??????????. ?? ??????? ??? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ?????? (??., ??' ??? ???? ??? ??????, ??????? ??? 15??
?????????? 2016, Barlis 06 – Investimentos Imobiliários e Turísticos, C?516/14,
EU:C:2016:690, ??????? 37 ??? 38 ????? ??? ??? ?????????????? ??????????).

27 ??????? ??? ??????????? ??? ?????????? ?????? ?? ?????????? ?????? ? ??????????????????
??? ??? ?????????? ??? ??? ????? ?????? ? ?????????????? ??? ?????? ??? ??
?????????? ?????????????? ????. ?? ?????? ??????? ??? ??? ???????????, ???????, ???
?????????? ?? ??? ?? ?????????? ?????????? ??? ??? ?????????? ???????????????,
?????????? ??? ?????? ? ??? ?????????? ???, ??? ??? ?????????? ??? ?? ?? ???
????????????? ?????????? ?????? ??? (??????? ??? 15?? ?????????? 2016,
Barlis 06 – Investimentos Imobiliários e Turísticos, C?516/14, EU:C:2016:690, ??? 39 ??? ???
????????????? ??????????).

28 ????? ?????? ??? ?????????????? ?????????????? ??? ?????????????? ??? ?? ?????? ???
????????????? ?????????? ??? ???, ??? ?? ????? 168, ?????????? ??, ??? ??????? 2006/112
?????????? ??? ?? ?????? ?? ???? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ?????????? ???
????????????? ?????? ?????? ?? ?????????????????? ??? ?????????????????? ?????? ??? ??? ???
????????????? ??? ?????? ??? ??? ?????? ??? ?????????? ??? ?????????????? ?????? ??? ??? ???,
?????????????, ?? ?? ??? ?????? ?????? ?? ?????????? ?????? ?? ?????????????? ??? ?? ????????????,
?????????????, ??? ?????? ?????????? ??? ?????? (????????? ??? 15?? ??????????? 2016, Barlis
06 – Investimentos Imobiliários e Turísticos, C?516/14, EU:C:2016:690, ????? 40 ??? ???
????????????? ??????????).

29 ???????, ?????????????? ???, ?????????? ?? ???? ?????????? ? ???, ?????? ??
?????? ?????? ?? ?????????????? ?????? ?? ?????????? ?????????? ?? ?????? ??
????????? ?????? ?? ??????. ????, ?? ?????????? ??? ?????????? ?? ??? ?? ??? ??
????????? ?????? ?? ?????????? ?? ?????????????? ?????? ?????????? ?? ??? ??
????????????????? ?? ??? ?? ?????????? ??? ?????? ?? ??? ?????????? ?????? ?????
?? ?????????? ?? ?????????? ?? ?????????? ?????? ?????????? ?????? ?? ??????
????????? ?????? (?????? ?? 16?? ?????? 2015, Larentia + Minerva ??)
Marenave Schiffahrt, C?108/14 ?? C?109/14, EU:C:2015:496, ??? 23 ??? ??
????????????? ??????????).

30 ????? ??????, ???????????, ?? ?????????? ??? ????? ?????? ?? ?????? ??? ?????
??????????, ?? ?????????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????????? ?? ?????
???, ??? ???? ??? ?????? ??? ?????? 9 ??? ?????? 2006/112, ??? ?????????? ??? ?????
????? ???? 167 ??? ?? ??? ??????, ?????? ?????????? ?????????? ?????? ??? ??????
????? ? ?????????? ?????? ??? ?????????? ?? ?????? ??????????????, ?????? ? ?????? ???
????????????? ??? ? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??????, ?? ??? ??????????
?? ?????????? ??? ??? ? ?? ??? ?????? ?????? ?????????? ?? ?????? ? ?????? (???????)
?? 16?? ?????? 2015, Larentia + Minerva ??? Marenave Schiffahrt, C?108/14 ??? C?109/14,
EU:C:2015:496, ????? 18 ??? ??? ?????????? ??????????).

31 ? ????? ?????????? ??? ?????? ?????????? ?????????? ?????????? ??? ?????? ?? ?????????? ??
????????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? 2006/112, ?? ??????
????????? ??? ?????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? .? ????
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????????? ?????? ?????? ?????????? ??????

????? ??? ?????? ??? ???????? ??? ?????? ?????????? ??????????, ?????? ?? ??????????? ????????,
?????? ??? ?????? ??? ???????????, ??????? ??? ?????? ??? ??? ?????????? ??? ??? ?
?????? (?????? ??? 16?? ??????? 2015, Larentia + Minerva ??? Marenave Schiffahrt,
C?108/14 ??? C?109/14, EU:C:2015:496, ??? 19 ??? ??? ??????????? ??????????).

32 ??? ???? ??? ?????? ??? ? ?????????? ??????????? ??? ?????? ? ?????? ? ?????? ?????????? ???
????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ??????????, ?? ??? ??????????
??? ?????????? ??? ??? ???? ? ?????? ??? ?????? ?????? ?? ?????? ? ?????? (??????
??? 16?? ??????? 2015, Larentia + Minerva ??? Marenave Schiffahrt, C?108/14 ??? C?109/14,
EU:C:2015:496, ??? 20 ??? ??? ?????????? ??????????).

33 ???????, ??? ???? ?????????? ??? ?????????? ?????????? ??? ? ?????? ?????????? ???
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? 9, ?????????? 1, ??? ??????
2006/112, ?????? ?????????? ?? ?????????? ?????????? ??? ?????? ?????????? ??? ???? ??? ??????
??? ?????? 2 ??? ?? ??? ??????, ??? ?????? ? ?????? ???????????, ??????????????????,
????????? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ??? ?????? ?????????? ???
(??., ??' ??? ??? ??? ??????, ??? 16?? ??????? 2015, Larentia + Minerva ??? Marenave
Schiffahrt, C?108/14 ??? C?109/14, EU:C:2015:496, ??? 21 ??? ??? ???????????
?????????).

34 ??????????, ? ??? ?????? ?????? ?????????? ?????????? ??? ?????????? ??? ???? ??????????
???, ??? ???? ?? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ???? 2 ???
?????? 2006/112, ??? ?????? ?? ?????? ?? «????????? ??????????», ??? ??
????? ??? ?????? 9, ?????????? 1, ??? ?? ??? ?????? (??., ??' ??? ??? ??? ??????, ???
??? 12?? ??????? 2001, Welthgrove, C?102/00, EU:C:2001:416, ?????? 16 ??? 17). ??????,
??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? 2006/112.

35 ?? ??????????, ??? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ???? ??? ??????
??? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ? MVM ?????? ??? ?????? ??? ?????? ??? ???
????????? ??? ??? ??? ???? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
?????. ???, ??? ??? ?????????? ??? ??????????, ??? ?????????? ??? ???? ?????? ???
MVM ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? «?????????
?????????», ??? ?? ??? ?????? ??? ?????? 9, ?????????? 1, ??? ?????? 2006/112,
????????? ?? ?????? ??? ?????? ?????????? ??? ??? ??????.

36 ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ?????????? ??? ?????????? ???
??? ??? ??? ?????? ? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??? ??? ???
??? ? ?? ??? ??? ?????? ?????????????? ?? ??????, ??? ??? ?? ?????????? ??? ??????????
???, ??? ?????? ??? ?????? ?????????? ??? ?????? 2006/112 (????????? ??? 13??
?????? 2008, Securenta, C?437/06, EU:C:2008:166, ??? 30, ??? ??? 29?? ??????? 2009,
SKF, C?29/08, EU:C:2009:665, ??? 59).

37 ?? ?????? ?????????? ??? ? MVM ??? ?????? ?? ?????? ??? ?????????? ?????????? ???
??? ??? ?????? ??? ??? ?????? ??? ??????????, ??? ?????? ??? ?? ?????????? ???
????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ??????
2006/112.

38 ? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ? ?????? ??? ? MVM ?????? ??? ???
?????????????, ??? ? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??????
????? ???, ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? 29 ??? ?????? ??? ?????? ??? ?????? ???, ?????? ??? ??????

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

39 ???????, ?????????????? ???, ??? ?????? ?? ?????????? ??? ????? 24 ??? ??????????
??? 16?? ??????? 2015, Larentia + Minerva ??? Marenave Schiffahrt (C?108/14 ??? C?109/14,
EU:C:2015:496), ? ?????? ?????????? ??? ?????????? ?????????????? ??? ??? ??????????????
???? ???, ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ? ?????????????? ?????????? ??? ?????? ??? ??????????
????????? ??? ??????, ??? ?? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???, ???????, ?????????? ??? ??????
??? ?????? ??? ?????? ? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????????? ??? ?????.
?????????, ?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ???.

40 ?? ???????????, ??? ???????????, ???, ??? ???? ?????? ???, ??? ???? ??, ??? ???? ??, ??? ???? ??, ???
?????? ??, ??? ???? ??, ? MVM ?????? ??, ??? ???????????, ???????????, ???????????, ???????????, ??????
???, ???????, ??? ???????, ???????, ???????, ???????, ???????, ??? ???????, ???????, ???????, ???????, ????.
??????, ??? ???????, ??, ??? ??, ??? ???????, ???????, ???????, ???????, ???, ???????, ???????, ??, ??? ??,
??????????????, ??? ??, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????,
??????????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ???, ???
??????????, ??? ???????, ??, ??, ??? ???????????, ??? ???????????, ??? ???????????, ??? ???????, ??? ???????????, ???
??????, ???, ???, ??? ???????, ??, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ???
??????????.

41 ????? ?? ??????, ? MVM ???????????, ????? ?????????????? ??? ?????????????? ?????????? ?????????? ???
?????????????, ???, ??? 1?? ??????????? 2015, ??? ?????????? ?????????? ??? ?????????? ??? ??????????
??? ??????? ?? ??????????? ?????????? ??? ?????????? ??? ?????????? ??? ????? ??????????.

42 ???????, ??? ? ?????????? ???, ??? ???? ??? ?????????? ??? ? ?????????? ???
?????? ?? ???????, ??? ??? ?????????? ??? ??? ???, ?? ?????????? ???????????, ??
?????? ??? ?????????? 2008 ??? 2010 ??? ??? ?????????? ??? ?????????? ??????????
??? ??????? ?? ?????????? ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ??? ???
?????????? ??? ?????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
???.

43 ??????? ?? ???????????, ? MVM ?????????? ?????? ?? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??, ?????????? ?? ?????????? ?? ?????????? ??, ?? ?????????? ?? ?????????? ??.

44 ??????? ?? ?????????????? ?? ?????????????? ?? ? ?????????? ?????????? ?? ?????????? ?? ?????????? ??
?? ?????????? ?? ?????????? ?? ???? ?????? ?? ?????????? ?? ???? ?????????? ?? MVM ?? ?? ?????????? ??
????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????????? ?? ?????????????? ?? ???? ?????? ?? ???????.

45 ???????, ?????????????? ???, ??????, ?? ?????????????????? ?????? ?? ?????? ??????????
?? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ??????
????????? ??? ??? ?????????????? ??? (??., ??' ???? ??? ??????, ??????? ?? 12??
????????? 2013, Le Crédit Lyonnais, C?388/11, EU:C:2013:541, ??? 46) ???, ???????, ?
???? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ??? ?
????? ??? ?? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?? ?????????? ?? ??? ??? ?
?? ?????????? ?? ?????????? ??? ?????? (?????? ?? 9?? ??????? 2001, Cantor
Fitzgerald International, C?108/99, EU:C:2001:526, ??? 33).

46 ??????, ?? ?? ?????? ??????????? ????????????, ??????? ?? ???? ??????????????? ???

? ??????? 38 ??? 40 ??? ??????? ?????????? ??????????, ??? ?????????? ??? ??? ??????? ???? MVM,
????????????? ??? ?????? ?????????????, ??? ??? ?? ??????????, ?????????????? ??? MVM,
????????????? ??? ?? ?????????? ??? ?? ?????????? 2006/112 ??? ?????????? ?????? ??? ???
????????? ?? ?? ?????????? ??? ?????? ?? ?????????? ?? ?????? ??? ??? ?? ??????
????????? ??? ?? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??? ?? ??????
????????? ??? ?? ?? ?????????? ?????? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?? ?? ??????????
????????????? (?????? ??? 13?? ?????? 2008, Securenta, C?437/06, EU:C:2008:166,
????? 33).

47 ??' ?????? ??? ???????, ?????????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ??
?????? ??? ?????? ?????????? ???????????, ??? ?????? ??? ?????????? ?? ?????????? ??
????????????? ??? ?????? ?????? ??? ???????, ?????????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ?????? ??? . ?????, ?? ?????? ??? ?????? ?? ?????? ??? ?????? ???
???? ?????????? ??? ?????? ?????? ??? ?? ?????????? ??? ?? ?????? ???
????????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?? ?????? ???
???? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?? ?????? ???
????????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?? ?????? ???
???? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?? ?????? ???
???? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?? ?????? ???
2008, Securenta, C?437/06, EU:C:2008:166, ?????? 34 ??? 37).

48 ????? ??? ??????? ???????, ??? ?????????? ?????????? ??? ?????? ?? ?????? ??? ???????
??? ?? ?????? 2, 9, 26, 167, 168 ??? 173 ??? ?????? 2006/112 ?????? ?? ?????????? ??
??? ?????? ???, ??? ? ??????? ??????? ???????, ??? ? ?????? ??? ?????? ???, ???
??? ?????????? ??? ?????????? ??? ?????? «????????? ??????????» ??? ??
????? ??? ?????? ???, ??? ??? ?????? ??? ? ?? ??? ?????? ?????????? ??? ??
????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ???
????? ???, ??? ?????? ?????? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ??? ??? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????? ??? ?? ?? ?????? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?? ??? ??????.

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

49 ??????? ??? ? ??????? ?????????? ??? ?? ?????? ??? ?????? ?????????? ??? ?????? ???
??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???, ?' ???
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????
???? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????.
??? ??? ?????? ????, ?? ?????????? (????? ????) ??????????:

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

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