

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

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

??? 29?? ??????? 2017 (*)

«????????????? ?????????? – ?????? 2006/112/?? – ????? ?????????????? ????? (???) – ????? 146, ?????????? 1, ??????? ?? – ?????????? ??? ?????? – ?????? ?????????? ?????? ?????????? ?????? ?????????? ?? ??? ?????? ?????? ? ?? ??? ?????????? ?????? – ??????»

???? ??????? C-288/16,

? ? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ??? ?????? ?? Augst?k? tiesa (???????, ????????, ????????) ?? ?????? ??? 17?? ????? 2016, ? ????? ?????? ??? ?????????? ??? 23 ????? 2016, ??? ?????? ??? ?????

«L.?» IK

????

Valsts ie??mumu dienests,

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

????????? ??? ??? R. Silva de Lapuerta (??????????), ?????? ????????, E. Regan, J.-C. Bonichot, A. Arabadjiev ??? C. G. Fernlund, ????????,

?????? ??????????: E. Sharpston

?????????: A. Calot Escobar

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

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

– ? ?????????? ????????, ?????????????? ??? ??? I. Kalni?š ????? ??? ??? D. Pelše ??? A. Bogdanova,

– ? ?????????? ????????, ?????????????? ??? ??? M. Owsiany?Hornung ??? ??? E. Kalni?š,

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

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

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1 H ?????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? 146, ?????????? 1, ??????? ?, ??? 2006/112/?? ??? ????????, ??? 28?? ??????? 2006, ?????? ?? ?? ?????? ?????? ?????? ?????? ?????? (?? 2006, L 347, ?. 1).

2 ? ?????? ??? ??????????? ?? ?????? ?????? ?????? ?? «L.?» IK ??? ?? Valsts ie??mumu dienests (?????????? ??, ??????) ?? ??????????? ?? ?????? ?? ?????????????? ?? (???) ??? ?????? ?????????????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????????? ?? ?? 2008 ?? 2010.

?? ?????? ???

3 ?? ?????? 131 ??? ??????? 2006/112 ??????????:

«?? ?????????? ?? ?????????????? ?? ?????????? 2 ?? 9 ?????????????? ?? ?? ??????????
????? ?????????? ?? ?????????? ?? ?? ?????????????? ?? ?????????? ?? ?? ?????? ?? ??
?? ?????????? ?? ?? ?????? ?? ?? ?????? ?? ?? ?????????? ?? ?? ?????? ?? ?? ??????????????
????? ?????????? ?? ??????????, ?????????? ? ??????????»

4 ?? ?????? 146 ???. ??????? ??????, ??? ?????????????????? ??? ?????????? 6, ?? ??????
????????????? «????????? ??? ???? ??????», ??? ?????? ??? IX, ?????????? ??? ??????????
1:

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

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

?) ??? ??????? ??????????, ?????????????????? ??? ?????????? ??? ??? ??????????????
???????, ????, ??? ?????? ??? ?????????????? ?????? ?? ???? 132 ??? 135, ???
????? ??? ?????????????? ?? ??? ?????? ? ?? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ?? ??? ?????? ?????????????? ??? ?????? 61 ??? ??? ?????? 157, ?????????? 1,
????????? ?».

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

5 ??????? ?????????? ?? ?????????? ???????????, ? «Atek» SIA ??????? ?? ???????
????????????? ?? ?????????? ?? ?????????? ?????????????????? ?? ??????? ?? ??????? ?? ???????
(????????) ??? ???????????.

6 ??????? ???. ???? ????????, ? «Atek» ??????? ???. «L.?..» ??? ?????????? ????????

7 ? ?? ????? ?????????? ?????????????? ?? ??????? ?????????????? ??? «Atek» ?? ?????? ???
????????????? ??? «L.?», ??? ?????? ?? ?????????????? ?? ?????????????? ??? ???? ? «Atek»
????????? ?? ?????????????? . ?? «L.?» ??????? ?? ?????????, ??? ?????????? ?? ??? ??????????
?? ??????? ?? ?????????? ?????? ?????? ??? ??? ?????????????? ?????????????? ??? ??????
????????????? ??? ???????, ?? ?????? ??? ??????????????, ?? ??????? ??? ??? ??????????????
?? ??? ?????????? ?????????? ?????????? ??? ?????????? ???.

8 ??????????? ???. ???. ????????. ???????????. ??????????????. ???. ???. ??????????????, ? «L.?..»
????????? ??'. ???. ??????. ??????????. ???. 0 %.

9 «L.?» ?????????????? ?????????????? ?????????? ??? ?? ?????????? ??? ??? ??????????

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

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

???

10 ?? ??????? ??? 21?? ??????????? 2011, ? ?????????? ??? ??????????? ???
?????????? ????, ??? ??? ??? ? «L.?» ??? ?????????? ?? ?????????? ??????????? ??? 0
% ??? ?????????? ????, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
«Atek», ?????????? ???, ??????, ???????? ?????? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??????, ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????????? ?????? ??? ?????? ???, ???????, ? «L.?», ??
????????? ??? ?????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ???, ??? ?????? ???, ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ???.

11 ? «L.?» ?????? ??????? ??? ?? ??? ?????? ?????? ??? administrat?v? rajona
tiesa (?????????? ?????????? ???????????, ???????), ?? ????, ?? ?????? ??? 11??
????????? 2012, ??? ??????.

12 ??????? ??? ??? ??????? ??? ?????? ??? ?????????? ??? ??????, ?? Administrat?v?
apgabaltiesa (?????????? ?????????? ???????, ???????), ?? ?????? ??? 29?? ???
2014, ??? ?????? ?? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ???????, ?? ??????????
???? ??????? ???, ??????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ? ??? ?????????? ???
????????? ??? ?? «L.?», ?? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? «Atek», ??? ??? ? «L.?», ?????? ?????? ??? 0 % ???
????????? ??? ?????? ??? ?????? ? «L.?».

13 ? «L.?» ?????? ?????? ??? Augst?k? tiesa (????????? ???????????, ???????) ??????
????????? ??? ?????? ??? ?????????? ??? Administrat?v? apgabaltiesa (?????????? ??????????
??????), ??? ?????? ??? ?????????? ??? ?????? ???.

14 ?? ?????? ?????????? ??? ?????? ??? ??????? ?????????? ?? ??? ??? ?????? ???
?????? 146, ?????????? 1, ??????? ?, ??? ?????? 2006/112. ??????????, ?? ?? ???
????????? ?????????? ???, ??? ?? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ? «L.?»
????????? ?? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ???
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ???, ?? ??? ?????? ? «L.?» ??? ??? ?????? ???, ???
????????? ??? ?????????? ??? ?????? ??? ?????? ???, ??? ?????? «Atek», ?????? ???
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????.

15 ??? ?????? ???, ?? Augst?k?s tiesa (????????? ???????????) ?????????? ?? ??????????
??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????????? ?? ?????????? ??? ??????????
?????????:

«1) ??? ?? ?????? 146, ?????????? 1, ??????? ?, ??? ?????? [2006/112] ??? ?????? ???
????????? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
? ??? ?????? ??? ??????;

2) ?? ??? ?????????? ??????? ?? ??????????????? ? ???? ?? ?????? ?????? ?????? ????,
????? ???? ?????????? ??????????? ?? ??? ?????? ? ?????? ?????????? ?? ?????? ????
????? ?????????? ???? ???;».

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

16 ?? ?? ??? ?????????? ???, ??? ?????? ?????????????? ? ??? ?????? ???????, ?? ??????
????????? ????, ???' ??????, ??? ?? ?????? 146, ?????????? 1, ?????????? ??, ??? ??????
2006/112 ?????? ?? ?????????? ???? ??? ?????? ??? ? ?????????? ??? ?????? ??????????
????????? ???? ?????????? ?? ?????? ???? ? ?????? ????, ??? ?????? ????
????????? ?????????????? ?????????? ?? ?????????? ?????? ???, ?????? ????
????? ??? ?????????? ?????????? ???? ?????????? ????, ?????? ???? ??????????
????? ??? ?????????? ?????????? ???? ?????????? ????, ?????? ???? ??????????.

17 ??????????, ?? ?????????? ???? ?????? ?? ?????????????? ???? ? ?????????? ???
????????? ????, ? ???? ?????? ?? ?????? ??? ?????? ?????? ?????????? ?? «????? ????
?????????» ?? ??? ?????? ?? ? ?? ?????? ?????? ????, ??? ?????? ?????? ????
?? ??? ??????, ?????????? ???? ??? ?????? ?????? ?????? ??????, ??? ?????? ??
????????? ?????????????? ??????, ?????? ??? ?????? ??? ?????? ????
????????? ? ??? ?????????? ???? ?????? ?????? ?????????? ???.

18 ??????, ?????? ?? ?????????? ???? ?? ?????? 146 ??? ?????? 2006/112 ?????? ???
????????? ???? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????. ??????????,
??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ?????? ?????? ??? ?????? ????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ????,
????? ???? ?? ?????????? ???? ??? ???, ?????????? ??? ?????? ?????? ??? ?????? ????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? [??., ????
????? ?? ?????? 15 ??? ?????? 77/388/??? ??? ??????????, ??? 17?? ?????? 1977,
???? ?????????? ??? ?????? ?????? ??? ?????? ????, ??? ?????? ??? ?????? ??? ?????? ????
????????? – ??? ?????? ?????? ?????? ?????? ?????: ?????????? ?????????? ??? (??
???. ???.. 09/001, ?. 49), ?????????? ??? 18?? ?????????? 2007, Navicon, C-97/06,
EU:C:2007:609, ?????? 29, ?????? ??? ?? 22?? ?????????? 2010, Feltgen ??? Bacino Charter
Company, C-116/10, EU:C:2010:824, ?????? 16].

19 ? ?????? ??? ?????? 146, ?????????? 1, ?????? ??, ??? ?????? 2006/112
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 146, ?????????? 1,
????????? ??, ??? ??????, ???? ??? ? ?????? ??? ?????? ??? ??????, ?? ?????????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????
????????? ??? ?????? ??? ?????? ??? ?????? ???.

20 ??? ??????, ?? ?? ??? ?????? 146, ?????????? 1, ?????? ??, ??? ?????? ????
?????, ??? ?? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ?? ??? ?????? ????
????? ??? ?????? ?????????? ??? ???.

21 ??? ?????????? ??? ?????? ??? ?? ??? ?????? ??? ?????? ???, ? ?????? ?? ??????????
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????
????????? ??? ?????? ??? ?????? ??? ?????? 131 ??? ?????? 2006/112.

22 ??????, ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

?????? ? ?????? ?????? ?????????????? ??? ?????? ?????????????? ??????? ??? ?? ???? ?????? ??????????
?????????? ??? ?????????????????? ?? ??????? ?????? ??? ?????????????? ??? ?? (??.,
?????? ?????, ?????????? ??? 26?? ??????? 1990, Velker International Oil Company, C-185/89,
EU:C:1990:262, ??? 19? ?? 16?? ?????????? 2004, Cimber Air, C-382/02, EU:C:2004:534,
????? 25? ?? 14?? ?????????? 2006, Elmeka, C?181/04 ??? C-183/04, EU:C:2006:563,
?????? 15 ?? 20, ????? ?? 19?? ?????? 2012, A, C-33/11, EU:C:2012:482, ????? 49).

23 ???????, ??? ?? ?????? ??? ?? ?????? ??? ?????? 146, ?????????? 1, ????????, ??,
??? ?????? 2006/112 ?????????? ??? ? ?????? ??? ?????? ?? ?????????? ??? ?? ????????, ??
??? ? ?????? ?????? ?????? ?????????? ??? ?????? ???, ?? ??? ?????????? ???, ??
?????? ??? ?????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ??? ???????, ??
?????????, ??? ?????? ??? ?? ?????????? ?????? ?????????? ??????????, ??? ??????????,
???? ??????, ??? ?????????? ? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?
?? ??? ?????? ??????.

24 ?? ??????????, ?? ?????????? ??? ?????? ?????? ?????? «L.?» ????, ??????, ???????,
??? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????
?????????. ??????????, ?? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ?????????? ? ??
????????? ??? ?????????? ???, ??? ?? ?????????? ?????? ?????? ?????????? ??? ?????? ??? ??????????, ???
???? «Atek».

25 ???????, ??? ?????????? ??? ?? ?????? ??? ?????? ?????? ???????????, ?? ?? ??? ?????? ??????????
????????????? ??? ?? ?????? ?????????? ?????????? ??? «Atek», ? ?????? ?????????? ??
????????? ??? ?????? ??? ?????????? ??? ?? ??? ??????????????.

26 ?? ?? ??????, ?? ?????????? ??? ?????? ?????? ?????? «L.?» ??? ?????????? ??? ??
????????? ??? ?????????? ??? ?????? ??? ?????? 146, ?????????? 1, ????????, ??, ??
????? 2006/112.

27 ??? ?? ??????? ??????, ??? ?????? ?????????? ?????? ? ?????????? ??? ?? ???????
146, ?????????? 1, ????????, ??, ??? ?????? 2006/112 ?????? ?? ?????????? ??? ??
????? ??? ? ?????? ??? ?????? ?????????? ? ?????? ??? ?????? ?????????? ??? ?????? ???
?????????, ??? ? ?????? ??? ?????? ???, ? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??
????????? ???, ??? ?????? ?? ?????????? ?????? ??? ?????? ?????????? ?????????? ???
????????? ? ??? ?????? ???.

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

28 ?????????? ??? ? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????????? ??? ?? ??????
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ???, ?' ???
????????? ?? ?????????? ??? ?????? ?????????? ??????. ?? ?????? ??? ?????? ??????????
???? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

? ???? 146, ?????????? 1, ????????, ??, ??? ?????? 2006/112/? ? ? ? ??????????,
?? 28?? ?????????? 2006, ?????? ?? ?? ?????? ?????? ?????? ?????? ?????????????? ????,
????? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ? ?????? ??? ?????? ?????????? ?
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
????, ? ?????? ??? ?????? ?????? ?????????? ?????? ?? ?????????? ?????? ???, ?????? ??
????????? ??? ?????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
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(???????????)

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