

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

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

??? 28?? ?????????? 2018 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ??????
2006/112/?? – ??????? ??? ????? ?????? – ????? 183 – ?????????? ??? ??????????
????????? ??? – ?????????????? ?????? – ??? ????? ?????? ?????????? ??? ??????????
??? ?????? ??? ?????? ?????? – ?????? ??? ????? ?????? ??? ?????? ??????????
??? ??? ?????????? ??? – ?????????? – ?????????? ?????????? – ?????????? – ??????
??????»

???? ??????? C?387/16,

? ? ?????????? ?????? ?????????????? ?????????? ??????? 267 ????, ???
?????? ?? Lietuvos vyriausiasis administracinis teismas (?????? ?????????? ??????????,
?????????) ?? ??????? ??? 5?? ?????? 2016, ? ????? ?????? ??? ?????????? ??? 12
?????? 2016, ??? ?????? ??? ??????

Valstybin? mokes?i? inspekcija prie Lietuvos Respublikos finans? ministerijos

????

Nidera BV,

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

Vilniaus apskrities valstybin? mokes?i? inspekcija,

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

????????? ??? ??? T. von Danwitz, ?????? ???????, C. Vajda (????????), E. Juhász, K.
Jürimäe ??? ?. ???????, ???????,

????????? ??????????: M. Szpunar

?????????: R. Schiano, ?????????? ??????????,

????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ?????????? ???
8?? ?????? 2017,

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

– ? Nidera BV, ?????????????? ??? ??? I. Misi?nas ??? V. Vi?ius, ????? ??? ??? ??? I.
Pašvenskait?,

– ? ?????????? ???????, ?????????????? ??? ??? D. Kria?i?nas, ????? ??? ??? ???
R. Butvydyt? ??? R. Krasuckait?,

– ? ??????? ???????, ?????????????? ??? ??? M. Smolek ??? J. Vlá?il,

– ? ?????????? ????????, ?????????????? ??? ??? L. Lozano Palacios ??? J. Jokubauskait?,
???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? 5?? ??????? 2017,
?????? ??? ??????

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1 ? ?????? ?????????????? ?????? ??? ?????? ??? ?????? 183 ??? ??????
2006/112/?? ??? ????????, ??? 28?? ??????? 2006, ?????? ?? ?? ?????? ?????? ???
????????????? ??? (?? 2006, L 347, ?. 1, ??? ????: ?????? ???).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? Valstybin?
mokes?i? inspekcija prie Lietuvos Respublikos finans? ministerijos (????????? ??????????????
?????????????, ?????????? ??? ?????????? ?????????????? ??? ?????????????? ??? ??????????????
??? ????: ?????? ?????????? ??????????) ??? ??? Nidera BV ??????? ?? ?? ??? ??? ???
?????????? ?? ?????? ?????????? ?????? ??? ?????????????? ?????????????? ???
????????? ??? ?????????? ?????? ?????????????? ??? (???).

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

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

3 ?? ????? 183, ????, ??? ?????? ??? ?????? ?? ????:
«????? ?? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?? ??? ?????????? ???, ??
????? ??? ?????? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?? ??? ?? ?????????? ???
?????????..»

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

4 ?? ????? 91, ?????????? 10, ??? Lietuvos Respublikos prid?tin?s vert?s mokes?io
?statymas (????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????????? ???),
????? ?????????? ?? ??? ??? IX?751 ??? 5?? ?????? 2002, ?????? ??? ? ??????????
????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? Lietuvos Respublikos mokes?i? administravimo ?statymas
(????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????????? ???).

5 ?? ????? 8, ?????????? 3, ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ??????????, ??? ?????????? ??? ?? ??? X?1249, ??? 3?? ??????
2007 (?? ????: ????, ??? ?????????? ??? ?????????? ???), ?????????? ?? ???:
«??? ??? ?????? ??? ?????????? ??? ?????????? ???, ? ??? ?????? ??? ?????????? ??? ?????? ???
?? ?????? ??? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????????? ??? ??????..»

6 ??? ???? 87, ?????????? 5 ??? 7 ??? 9, ??? ?????? ??? ??????????????
??????????:

«5. ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????, ??? ?? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???,

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

6. ? ?????????? ??? ????? ?? ?????? ?? ?????? ??? ?????????? ?????????? ????.
????????? ?????????? ??? ?????? ?????????? ????, ?????? ?? ?????? ????.
??? ?????????? ??? ?????????? ??? ?????? ????. [...]

7. [...] ? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ????.
????????? ??? ?:

1) ? ?????????? ??? ?????????? ??? ?????? ?????????? ??? 30 ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 30 ?????? ?????????? ???
??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? [...]. ?? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? 2 ?? ?????? ?????? ??????????

2) ??? ?????????? ??? ? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ???
????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 20 ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? (?) ??? ?????? ??? (?, ?? ??? ?????? ??? ?????? ??? ?????? ???, ??
??? ??? ?????? ??? ?????? ??? ?????? ???).

[...]

9. ?? ? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? 7 ?? ?????? ??????, ?????????? ???
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
?????. ?? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ???
????? ??? ??????.

7 ?? ?????? 99 ??? ?????? ??? ?????????????? ?????????? ??? ?????? ?? ??????:

«? ?????? ??? ?????????? ??? ?????? ?? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ???, ?????????? ??? ?????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???.

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

8 ?????? ?????????? ??? ?????? ??? 2008, ? Nidera, ?????? ? ?????? ?????? ???
????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?? ?????? ??? ?????? ??? ?????? ???
????????? ?? 11 743 259 ?????? (LTL) (????? 3,4 ?????? ???). ??? ????
????? ??????, ? Nidera ?????? ?? ?????? ??? ?????? ?????? ?????, ?????????? ???
????????? ?????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????.

9 ??? 12 ?????? 2008, ? Nidera ?????????? ??? ?????? ??? ?????? ???

10 ?? ??????? ?? 19?? ??????? 2009, ?? ??? ????? ?????????? ? ?????? ?? ?????????????
???????, ? Vilniaus apskrities valstybin? mokes?i? inspekcija (?????????? ?????????? ??
????????????? ???????, ???????) ??????? ?? ?????? ?????????? ?? ?? ?????????? ??
??, ???, ??? ?? ????? ?? ??????? ?????????? ???????, ? Nidera ??? ?????? ?????? ??????
??, ???, ?????? ?? ?? ?????????? ??????, ??? ??? ?? ?????????? ?? ??????? ??
????????????? ??.

11 ??????????, ??? ???? ?????? ??? ?????????? ??? 21?? ?????????? 2010, Nidera Handelscompagnie (C?385/09, EU:C:2010:627), ? Mokestini? gin?? komisija prie Lietuvos Respublikos vyriausyb?s (????????? ?????????????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????) ??????????, ?? ??????? ??? 24?? ?????????? 2010, ??? ? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? Nidera ?? ?????????? ?????????? ???, ?? ??? ?????????? ?? 11 743 259 L?L (?????? 3,4 ?????????? ???).

12 ??? ????????, ? Nidera ?????? ??? ???????? ??? ?????????????? ??? ????? ??? ??
?????? ??????? ?? ??? ?????????? ?? ?????????? ?????? ????. ??? 11 ?????????? 2011,
? ?????????? ?????????? ??? ?????????? ?????? ?????? ??? Nidera ?? ??? ??? 214
902,27 LTL (?????? 60 000 ????) ??? ?????? ??? ?????? ?????????????????? ??????????
????????? ?? ??? ??? ?????? ?????? ??? ?????????????? ?????????????? ??? ??????
????????? ??? ?????????? ??? ??? ?????????? ?????? ??? ?????????? ??? ?? ??? ??????????
?????????. ????????, ? ?????????? ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ??
???????? ??? ??? ??? ?????????? ?????????????? ??? ??????????. ?? ??????? ??? 2??
????????? 2013, ? ?????? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
Nidera ??? ??? ?????????? ??????????.

13 ? Nidera ?????????? ??????? ??? Vilniaus apygardos administraciniis teismas
(????????????? ??????????? ?????????? ??? ???????, ??????????), ?? ?????? ???
?????? ??? ?????????? ??? ??????? ?????????? ?????????????? ?????? ??? ??
????????????? ??? ?????????? ??? ?????????? ?????????????? ??? ?????????? ???????,
????????? ?? ??? ?????????? ??? 3 864 706,66 LTL (?????? 1,1 ?????????? ???) ???
?????. ? ?????????? ??? ?????????? ??? ?? ????? ?????? ?? ?????????? ??? ??
????????? ??????? ??? ?????????? ???????, ??? ?? ??? 21 ???????? 2008, ???
??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ????. ?? ?????????? ???
?????? ?? ??? ??? ?????? ??? Nidera ??? ?????? ?? ?????????? ?????????? ???
????????? ??? ??????? ?? ??? ?????????? ?????? ??? ?? ?????? ??? ?????? ??? 17 ??????????
2009 ??? ??? ??? ?????? ?????????? ??????????. ? ?????? ?????????? ?????????? ???
????? ??? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??????????.

14 ?? ?????? ??????????? ??????????? ???, ??? ???????????, ?????? ????, ??? ??
?????? ?? 12?? ??? 2011, Enel Maritsa Iztok 3 (C?107/10, EU:C:2011:298), ?? ?????? 183
??? ??????? ???, ??????????? ?? ?? ?????? ??? ?????? ??? ?????????? ???????????????,
?????????? ?? ?????? ?????????? ??????? ??????? ?? ?????? ???? ?????????? ??????????
?? ?? ??????? ?? ?????? ?????????? ???, ??? ?? ??? ?? ??? ?????? ??? ?????? ??????????
????? ??????????? ?? ?? ?????????? ?????, ??????????? ?? ?? ?????????? ??????????
?????????? ?? ?????????? ??????. ?? ?? ??????, ??? ?? ?????? ???????????, ?????? ??
????????? ?? ?? ?????? ?? ?????? ?????????? ??? Nidera ?????? ?? ?????????????? ??? ??

?????????? ??? ?????????? ??? ???????????? ??? ??? ??? ????? 87, ?????????? 7, ?????? 2, ???
????? ??? ?????????????? ??????????, ??? ??? ??? 87, ?????????? 7, ?????? 1, ???
????? ????, ????, ??? ??? ?????????? ??? ?????????? ??? 30 ?????? ??? ??? ??????????
????????? ??? ?????????? ?????????? ??? ?????????? ?????.

15 ?????, ?? ?????? ?????????? ?????????? ?? ??? ?????? ??? ?????????? ??? ??????
?????, ?????????????????? ??? ??????????, ?? ?????? ??? ?????????? ?????????????? ?????,
????????????? ??? ?????? ?????????? ?????????? ??? ?????? ?????? ??????. ??????????, ??
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
??? ?????? ??? ?????? ?????? ?? ?? ?????????? ?????????? ?????????? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??????
????????? -?? ??????????, ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??????????
????????? ???-, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????? ????

16 ??? ?? ?????? ??????????, ??? ??? ?????? ??? 24?? ?????????? 2013, Rafin?ria
Steaua Român? (C?431/12, EU:C:2013:686, ??? 25), ?????? ?????????? ??? ?? ???
??? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????????? ?? ?????????? ??
????? ??? ?????? ??? ?????????? ??? ?????? . ??????, ??? ?????? ??? ?? ?? ??? ??????
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ? ?????????? ??? ?????? ???
??? ??? ??? ?????? ??? ?? ?????????? ?????????? ???, ?? ?????? ?????????? ??????
??? ? ?????? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ?? ?????? ??
????????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????????? ??????, ??? ??? ? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??????, ?? ?????? ?????????? ??? ??
????????? ???, ?????? ?? ?? ????? 8, ?????????? 3, ??? ?????? ??? ??????????????
????????? ??? ??? ??? ? ?????? ??????????, ?????? ?? ?????? ??? ?????????? ?? ?????? ???
????? ???.

17 ?????, ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ???, ??? ???
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??? ??
????????? ??? ?????????? ??? ?????? , ?? ?????? ?????????? ?????????? ??? ??
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?? ?????????? ??? ??
????????? ?????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??
????????? , ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?? ??? ?????? ??? ?????????? ???
? ?????????? ??? ???, ?? ?????? ?? ?????? ??? ?????? ??? ?????? , ??? ?????????? ???
????????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????????? ??? ??? ??,
????? ?? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??.

18 ??? ??? ??????? ????, ?? Lietuvos vyriausiasis administracinis teismas (???????)
????????? ??????????, ??????????) ?????????? ?? ?????????? ??? ?????????? ???
????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ?????????????? ??????:

«?????? ?? ??? 183 ?? ?????? [??], ??? ?? ?????? ?? ?????? ??? [??????????]
???????????????, ?? ?????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ??
????????? ?? ??????????, ?????? ?? ?????? ?????????? ??????????, ??? ?? ?????
??? (????????? ??????) ? ?????? ?? ?????????? (?????????) ???????, ??? ??
????? ?????? ?????????? ?????? ?????????? ??? ?? ?????????? ??? ?????? ??
????????? ????, ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ????, ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ???, ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ???, ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ???, ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ???, ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ???, ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??;»

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

19 ??????????????, ?????????????? ???, ??? ?????????? ??? ?? ?????????? ???
????????????? ??????????, ??? ?? ?????????? ??? ?????????? ??? 12?? ???? 2011, Enel
Maritsa Iztok 3 (C?107/10, EU:C:2011:298), ?? ?????? ?????????? ?????? ???, ??? ??
????????? ??? ?????? ??? ?????? ??? ??????????, ?? ?????? ?????????? ??? ??????????
??? Nidera ??? ?? ?????????? ?????? ?????????? ??? ?????? ?? ?????????? ???
??? ?????????? ??? ?????????? ??? ?????? 87, ?????????? 7, ?????? 1, ??? ?????? ???
????????????? ??????????, ??? ?????? ??? ?????????? ? Nidera ??? ? ??????????
????????? ??? ??' ?????????? ??????????. ???????, ?? ?? ????? ?????????? ??? ??
?? ?????????? ?? ?????????? ??? ?? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ???
????????? ???, ??? ?????? ?? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ???.

20 ?? ?? ?????? ???, ?? ?????? ?????????? ???' ?????? ?? ?????? ?? ?????????????? ?? ??
????? 183 ??? ?????? ???, ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???
?????????????, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ???' ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ?????????? ?????????? ???, ??? ?????? ?????????? ?? ?????????? ??
????????????? ??? ?????????? ???, ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????? ?? ?? ?????? ??? ?????????? ?????????? ???, ?? ?????????? ??? ??
????????? ???, ??? ?????? ?? ?????? ??? ?????????? ?????????? ??? ?????? ???.

21 ?????????? ???, ?????? ?? ?????? 183 ??? ?????? ??? ?? ?????????? ???
????????? ?????? ??? ?? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ?????? ???, ?????? ??? ?? ?????? ???
????, ??' ??????, ??? ?? ?????? ?? ?????????? ??? ?? ?????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???
??? ?????????? ?? ?????? ??? ?????? ?????? ??? ?? ?????? ??? ?? ?????? ???
??? ?????? (????????? ??? 12?? ???? 2011, Enel Maritsa Iztok 3, C?107/10, EU:C:2011:298,
?????? 27 ?? 28, ?????? ??? 24?? ?????????? 2017, Rafin?ria Steaua Român?, C?431/16,
EU:C:2013:522, ?????? 18).

22 ???????, ?????, ?????? ? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????? ??? ?? ?????? ?????? ??? ?????? ?? ?????? 183 ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ???, ? ?????????? ??? ?????? ???
??? ?????? ??? ?????????? ??? ?? ?????????????? (??., ??????, ?????????? ???
12?? ???? 2011, Enel Maritsa Iztok 3, C?107/10, EU:C:2011:298, ????? 29, ??? 19?? ????
2012, Littlewoods Retail ?.??., C?591/10, EU:C:2012:478, ????? 27, ?????? ??? 24??
????????? 2013, Rafin?ria Steaua Român?, C?431/12, EU:C:2013:686, ????? 20).

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

????????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????? 183 ??? ?????? ???,
????????????? ??? ?? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?? ?????? ??????
??? ??????? ??? ?????? ??? (????????? ??? 24?? ?????????? 2013, Rafin?ria Steaua
Român?, C?431/12, EU:C:2013:686, ??? 21, ??? 6?? ?????? 2017, Glencore Agriculture
Hungary, C?254/16, EU:C:2017:522, ??? 19).

24 ????????, ???????? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ?? ??? ???? ??? ??????????
??? ?????????? ?????????? ??? ?????????? ??? ?????????? ?????????? ???, ?????????? ? ?????????? ???
??? ?????? ?? ?????? ??? ?????? ?????????????? ??? ?????, ?????????????? ???
????????? ??? ?????? ??? ?????, ?? ??? ? ?? ?????, ?? ?????? ??? ?????? ?????. ??????????,
? ?????????? ?????????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ??
?????????, ??? ??? ?????????? ??? ?????, ?????? ??? ?????????? ??? ? ?????????? ?????? ??? ?????????? ??? ??
????????? ?????? ???, ?????? ??? ?????????? ??? ? ?????????? ?????? ?????? ??? ?????????? ??? ??
????????? ?????????? ??? ???, ?? ??? ? ?????????? ???, ? ?????????? ?????? ?????????? ?????? ??????????
??? ?????? ?? ?????????? ??? ?????? ?????????? ?????? ?????? ??? ?????????? ??? ?????? ?????????? ???
????? (????????? ??? 12?? ??? 2011, Enel Maritsa Iztok 3, C?107/10, EU:C:2011:298, ???
33, ??? ??? 6?? ?????? 2017, Glencore Agriculture Hungary, C?254/16, EU:C:2017:522, ???
20).

25 ??????, ??? ?? ?????????? ?????????? ??? ??? ?????????? ?????? ?????? ?????????? ???
??? ?????? ?????? ?????????? ???, ? ??? ??? ?????????? ??? ?????????? ?????? ??????????
??? ?????????? ??? ?????????? ???, ??? ??? ?????????? ??? ?????? ?????????? ???, ??? ??????????
????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
??? ?? ?????? ?????????? ????. ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??,
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ???
??? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???, ?????? ?? ?????????? ???
????? ?????? ??? ??? ?????? ?????????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ?????????? (??., ??????, ?????? ??? 12?? ??? 2011, Enel Maritsa
Iztok 3, C?107/10, EU:C:2011:298, ??? 33, 53 ??? 54, ??? 19?? ?????? 2012, Littlewoods
Retail ..??., C?591/10, EU:C:2012:478, ??? 27, ??? 53 ??? 24?? ?????? 2013,
Rafin?ria Steaua Român?, C?431/12, EU:C:2013:686, ?????? 22 ??? 23).

26 ??? ?????? ?? ?????? ??? ?????? ??? ?????, ?? ?????? ?????????? ?????????? ???,
??? ?? ??? 87, ?????? 9, ??? ??? ?????? ??? ?????????? ?????? ???, ?? ??????
??? ?????????? ??? ?????? ?? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ??? ?????? ??? ??????
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 99 ??? ?? ??? ?????? ???, ??
????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

27 ?? ?????? ?????????? ???, ?? ?????? ??? ? ?????????? ?????????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ???
?????????, ? ?????????? ??? ?????? ?? ?????? ?? ?????? ?? ?????? ??? ?????? ??? ??????????
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.
????????? ?? ???, ??? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ??? ?????? 8, ?????? 3,
??? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

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

28 ???????, ??? ?????? ?? ??????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ???
?????????? ???????, ???' ??????? ?? ??????? ???????, ?? ?????? ?? ?? ?????? ???
?????????? ???????, ???, ??? ?????????? ?? ? ??????? ??????????? ?? ?? ?????? 35
??? ???????, ??, ?? ?? ??? ?????? ?????? ?????? ?????????? ?????? ?????????? ???
????????? ?????????? ??????? ?? ??????? ?? ?????????? ??? ?????? ??????. ???????, ???
?????? ??? ?? ??? ?????? ?????? ?????????????? ?????????????? ??? ?????? ??? ?? ??? ?????? ???
????? ??? ?? ??? ?? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?? ???
????????? ??? ?? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ???????????
??? ? ??????? ?? ??? ?? ??? ???? ?? ?????? ??? ?????? ?????????? ???????????, ??????
?? ?? ??????? ?? ??? ?????????? ??? ?????? 24 ?? 25 ?? ??????? ??????????, ??
????????????? ?? ?? ?????????? ??? ?????? ?????? ?????????? ?????? ??? ?? ??????
????? ???????????.

29 ????????, ??? ????? ?? ????????, ??? ????????, ?? ????????????, ??? ??? ???????????
????? ?????????? ??? ? ????????, ??? ?????? ??' ?????? ?? ?????????????? ?????? ???
????? ????????????, ??????? ?? ??? ????? ??? ????? ?????????? ??????? ???
????????????? ??? ????????????, ??? ?????? ?? ?????? ?? ?????????? ??? ?????? ??? ??
????? ??? ?????? ??? ????????. ????????, ? ?????????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??
????????? ?? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??
????????? ????????, ?????? ??? ?????? ?????? ?????? ?????? ?? ?????????? ?? ?????????? ??
????????? ??? ??? ?????????? ??? ?????? ??? ????? ?????????? ??? ?????? ??? ?????????? ??
?????????.

30 ???????, ?????? ?? ?????????????? ??? ????? ? ?????? ?? ?????????? ??? ?????????? ??
????????? ?? ?????????? ??????? ??? ??? ?????? Nidera ??? ?? ?????????? ??
????????? ?? 21?? ?????????? 2010, Nidera Handelscompagnie (C?385/09, EU:C:2010:627),
?????? ?? ?????????????? ?????? ??? ?????? ??? ????? ??????????????. ????????,
?????????? ?? ??????? ??? ? ??????? ??? ?????? ?? ?????????? ?? ?????? ?? ?????
?? ??????, ?? ?????? ??????? ??? ?????????? ??? ?????????? ?? ?????? ?? ?????? ?? ????? 267 ???,
????????? ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ?????????? ?? ?????? ???, ???
????? ?? ?????? ?? ?????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????? ?? ?????? ?? ?
??? (????????? ?? 27?? ?????? 1980, Denkavit italiana, 61/79, EU:C:1980:100, ??? 16,
????? ?? ?? 14?? ?????? 2015, Manea, C?76/14, EU:C:2015:216, ??? 53 ??? ??
????????? ??????).

31 ????, ?? ??????, ??? ???????, ??? ?????????? ??? ?????????????? ????, ??? ??????, ??? ???????, ??? ?????????? ???
????????? ????, ??? ?????????? ????, ??? ???? ???? ?????????? ????, ??? ???? ?????????? ????, ??? ???? ?????????? ???,
????????? ????, ??? ?????????? ????, ??? ???? ???? ?????????? ????, ??? ???? ?????? ???, ??? ???? ?????? ???? ????
????????? ????, ??? ?????????? ????, ??? ???? ???? ?????????? ????, ??? ???? ?????? ???, ??? ???? ?????? ???, ??? ????
????????? ????, ??? ?????????? ????, ??? ???? ???? ?????????? ????, ??? ???? ?????? ???, ??? ???? ?????? ???, ??? ????
????????? ????, ??? ?????????? ????, ??? ???? ???? ?????????? ????, ??? ???? ?????? ???, ??? ???? ?????? ???, ??? ????
????????? ????, ??? ?????????? ????, ??? ???? ???? ?????????? ????, ??? ???? ?????? ???, ??? ???? ?????? ???, ??? ????
????????? ????, ??? ?????????? ????, ??? ???? ???? ?????????? 2013, Rafin?ria Steaua Român?, C?431/12,
EU:C:2013:686, ??? 25).

32 ????? ??????, ??????, ?? ?????????? ?????? ?????????? ?????????? ?? ??????? ?? ??? ???? ??
????? ?? ?????????? ?????? ???' ?????? ?? ??????? ??????, ?????????? ??
?????? ?? ????? ?? ?????????? ?????? ?? ?????? ?????????? ?????????? ?????????? ??
????? ?? ?, ??? ?? ?????? ?? ??????? ?? ???????, ??? ?? ??? ?? ?????? ??
????? ?? ?????????? ?? ?????????? ?? ??????? ??, ? ?????????? ?? ?????? ?????????? ??

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

33 ???????, ? ??????????? ?????????? ??????????????, ???????, ??? ?? ?????????? ???
????????????? ??? ????? 99 ??? ????? ????? ?????????????? ?????????? ??? ????? ??????????
???? ?????????? ??? ?????? ??? ?????? ? ?????????? ?????? ???, ??? ??????????????, ???
?? ?????? ??? ??????? ??? ????? ?????????? ?????? ?????? ?????? ?????????? ???
????????? ???????, ??? ?????????? ?????? ?? ?????? ?????? ??????????. ?????????????? ??
??, ??????? ?? ?? ????? 87, ?????????? 9, ??? ?? ????? ?????, ?? ?????????? ??? ?????? ???
?????? ?? ?????????? ??? ????? ?????????? ???, ?? ?????????? ?? ?????????? ???
????????? ?????????? ??? ?????? ??? ?????????????? ??????????, ?????????????? ???
????????? ??? ????? ?????????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??
????????? ?????????????? ???.

34 ????????, ?? ??????? ???? ?? ??? ?????? 99 ??????? ?????????????? ??? ?? ????
?? ?? ??????? ??????? ???? ?? ?????????????? ??? ?????????????? ??? ?? ?????????????? ??? ?? ???? ?,
????? ???????????, ??? ?????????????? ??? ?????????????? ?? ??????? ??? ?????????????? ??? ??????????????
??? ??? ?????????????? ??? ??????? ??? ?????????????? ??? ?????????????? ??? ??????? ??? ??????????????
????? ????. ? ??????????? ??? ??????? ??? ??????? ?? ?????? ??? ? ?????????? ??? ?? ???
????????? ?? ?????? ?? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????????????? ??? ?? ?????????? ??
????????????????? ??? ?????? ??? ?????? ??? ?????? ? ?????????????? ??? ?????? ??? ?????? ??
????????????????? ??? ?????????????? ???, ?? ?????????????? ??? ?????? ??? ?????? ??????????
????????????????? ??? ??????????????.

35 ???????, ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ?????????? ??
????????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ????
????? ?????? ?? ???? ?????? ?? ???? ?????? .. ???????, ??? ???? ?????? ?? ???? ?????????? ?? ????
????????? ?? ???? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ?????????? ?? ????
????????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ???? 19 ??? ?????? ?? ???? ??????, ??
????? ?????????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ???? ?????? ?? ???? ?????? ?? ???? ?????????? ?? ????
????? ?????? ?? ???? ?????????? ??' ??????? ?? ???? ?????? 87, ?????????? 7, ?????? 1, ???
????? ??? ???????????????, ?? ???? ?????? ?????????? 30 ?????? ??? ???
????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ???????, ??? ???? ??? ???? ?????????? ?? ???? ??????
??? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ?????. ??????, ?? ???? ?????? ?????????? ?? ???? ?? ????
????? ?? ???? ?????? ?? ???? ?????? ?? ???? ???????, ??? ???? ?????? ?????????? ?? ???? ?????? ?? ???? ??????
??? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ???????, ??? ???? ?????? ?????????? ?? ???? ?????? ?? ???? ??????
????? ?????????? (??., ???????, ??????? ?? ???? 12?? ????? 2011, Enel Maritsa Iztok 3,
C?107/10, EU:C:2011:298, ??? 38).

36 ?? ????? ??????????, ?? ?????? ?? ?????????? ??????????? ?? ??????????? ?? ???????????
?????? ?????????? ?? ?????????? ?? ?????????? ?????????? ?? ? ?????? ?????????? ?? ?? ???? 23
?? ?????????? ??????????, ?? ?????? ??? ?????? ??? ??????, ?????????? ?? ?????????? ?? ??????????
????????????? ??? ?????? ?????? ?? ?????? ? ?????????? ??? ? ?????? ?????? ?? ?????? ?? ??????
????????? ??? ?? ?????????? ???, ?? ?????????? ?????? ?????????? ???' ??????. ???
????????? ??? ? ?????? ?????????? ?? ?? ?????? 33 ?? ?????????? ???, ???????, ??
????????? ?????? ?????????? ??????????, ?? ??? ?????? ?????????????? ?????? ?????? ?????????? ??
????????? ?????? ??? ?????? ? ?????????? ???, ?????? ?????? ?????? ?????? ??????????
???? ?????????? ?????????? ?????????? ??? ?? ?????? ???' ?????? ?????, ?? ??????, ??
?? ??????, ?????????????? ?? ?????? ??? -????? ??? ?????? ??? ?????? ?????-
????????? ?? ?????? ? ?????????? ???, ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??????
?????. ? ?????????? ??? ?? ?????? ?????? ?????? ?? ?????????? ?????????? ?? ?????????? ?? ??????
????????? ? ?????????? ??? ?? ?????? ?????? ?????.

37 ??? ?????, ?? ??? ?????? ?????????? ??????, ??? ? ?????? ??? ?????? ???, ?? ?????? ?? ??????????
????????? ?? ?????????? ?????? ?????????? ???' ??????, ?? ?????? ?? ??????????
????????? ?? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ??
????????? ?????? ?????????? ?????? ?????????? ??? ?????????? ?????? ?? ?????? ?? ?????????? ??
????? ??? ?????? ?????? ??????????, ??? ?????????? ? ?????????? ?????????? ??????????
????????? ??? ?????? ?????? ?????????? ?????? ?????????? ?????? ?????????? ??????????
????????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? (??., ??' ??????, ?????? ???
12? ??? 2011, Enel Maritsa Iztok 3, C?107/10, EU:C:2011:298, ?????? 57 ??? 58).

38 ?????????? ??? ?????? ??? ?????? ??? ?????????? ?, ?? ?????? ??? ?????? ??
????? ??? ?????? ?????? ??? ?? ???? 183 ??? ?????? ???, ?????????? ???
?? ?????? ??? ?????? ??? ?????????? ?????????? ???, ??? ?????? ??? ?????? ??? ?????????? ??
????? ??? ?????? ??? ?????? ??? ?????????? ?????? ???' ?????? ??? ?????? ??? ??????
??? ??? ?????????? ?????? ??? ?? ?????????? ?????????? ???, ??? ??????
????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ???, ??? ??????
?? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ???,
? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ???.

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39 ?????? ??? ? ?????? ?????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
?? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??' ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? . ?? ?????? ??? ?????? ?????? ??????????
???? ?????? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???.
?? ??? ?????? ???, ?? ?????????? (?????? ???) ??????????:

? ? ?????? 183 ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????? 2006,
????????? ?? ?? ?????? ?????? ??? ?????? ?????????? ???, ?????????? ??? ?? ??
????? ??? ?????? ??? ?????????? ???, ?????? ??? ?????? ??? ?? ??
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???' ??
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ??????????

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

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