

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

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

??? 6?? ??????? 2017 (*)

«????????????? ?????????? – ????? ?????????????? ????? (???) – ?????? 2006/112/?? – ?????? 199, ?????????? 1, ??????? ?? – ?? ??????? ??? ?????? ??? – ?????????? ??? ?????????? – ?????????? ??? ?????????? – ?????????? ?????????? ??? ?????????????? ?????????? – ?????????? ??? ?????????? ?????????? ??? ?????????? ??????????»

???? ??????? C-392/16,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ??? ?????? ?? Curtea de Apel Bucure?ti (?????? ??????????????, ????????) ?? ??????? ??? 25?? ??????? 2016, ? ?????? ??????? ??? ?????????? ??? 13 ??????? 2016, ??? ??????? ??? ???

Dumitru Marcu

????

Agen?ia Na?ional? de Administrare Fiscal? (ANAF),

Direc?ia General? Regional? a Finan?elor Publice Bucure?ti,

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

????????? ??? ??? E. Juhász, ?????? ???????, C. Vajda ??? ?. ??????? (?????????),
???????,

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

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

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

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

– ? ?????????? ????????, ?????????????? ??? ??? R.-H. Radu ??? ??? ??? L. Li?u
??? C. M. Florescu,

– ? ?????????? ????????, ?????????????? ??? ??? L. Lozano Palacios ??? L. Radu
Bouyon,

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

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

???????

1 ? ?????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? ?????????
77/388/??? ??? ??????????, ??? 17?? ???? 1977, ??? ?????????????? ??? ?????????????? ???
?????? ??????, ??? ?????????? ?? ??? ????? ?????? ?????? ?????? – ??? ?????? ?????????? ???
????????????? ?????: ?????????? ?????????? ??? (?? ????. ???.. 09/001, ?. 49), ??? ???
????????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ???
????????? ????? ?????????????? ??? (?? 2006, L 347, ?. 1), ?????? ?? ??? ?????????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ???.

2 ? ??????? ??? ???????????? ??? ??????? ???????? ?????? ??? Dumitru Marcu ??? ???
Agen?ia Na?ional? de Administrare Fiscal? (ANAF) – Direc?ia General? regional? a finan?elor
publice Bucure?ti (???????, ???????????, ???????????, ???????????, ??????????) (ANAF) - ??????
????????????? ?????????? ?????????? ?????????????? ?????????????? ?????????????? , ?????????? , ??? ????:
????????????? ????, ??????? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?? ???
????? ?????????? ??? ?????????????? ? ?????????? ?? ?????????? ??? ?????????? ?????????? ??? ???
????????????? ??? (???) ??? ?????????? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ?
????????? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
?????????.

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

3 ?? ?????? 2 ??? ??????? ???? ??? ????? ?????????????? ??? ?????????????? ???
?????????? ??? ???? ?????????? ??? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ? ?????????? ??? (EE 2005, L 157, ?. 203) ?????????? ?? ????:

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

? ?????? 2006/112

4 ?? ?????? 9, ?????????? 1, ??? ?????? 2006/112 ?????????? ?? ????:

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

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

5 ?? ?????? 12 ??? ??????? ??? ?? ?????? ?? ???:

?) ??????? ??????? ??? ??????????.

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

?? ????? ??? ??????? ?? ?????????? ??? ?????????? ?????? ??? ?????????? ???
????????? 1, ??????? ??, ??? ?????????? ?????? ??? ??? ??? ?????? ???
"????????? ?? ??? ??????".

[...]

3. ??? ??? ??????? ??? ?????????? 1, ??????? ??, ?? "????? ??? ??????????"
????? ? ?????? ? ?????????? ? ?????????????? ?????? ???, ??? ?????????? ??? ?? ??? ?????? ???»

6 ?? ????? 135, ?????????? 1, ??? ?? ??? ????? ?????? ??? ?? ????:
«?? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????:

[...]

?) ??? ?????????? ??? ?????? ? ?????????? ?????? ??? ??? ?????????? ?? ??? ?????? ???,
????? ??? ??? ?????????? ??? ?????? 12, ?????????? 1, ?????????? ??,
?) ??? ?????????? ?? ?????????????? ??????, ??? ??? ?????? ??? ?????????? ???
??? ??? 12, ?????????? 1, ?????????? ??,

[...]».

7 ?? ????? 137, ?????????? 1, ??? ??? ????? ?????? ??? ?? ????:
«?? ??? ??? ?????? ?? ?????? ?????? ?????? ?????????? ??? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ??????:

[...]

?) ??? ?????????? ??? ?????? ? ?????????? ?????? ??? ??? ?????????? ?? ??? ?????? ???,
????? ??? ??? ?????? 12, ?????????? 1, ?????????? ??,
?) ??? ?????????? ?? ?????????????? ??????, ??? ??? ?????? ??? ?????????? ???
????????? ??? ??? 12, ?????????? 1, ?????????? ??,

[...]».

8 ?? ????? 193 ??? ?????? 2006/112 ??? ????:
«? ??? ?????????? ??? ??? ?????????? ??? ?????? ??? ? ?????? ?????????????? ??????????
????????? ??? ??? ?????? ??????????, ??? ??? ?????????? ??? ? ??? ?????? ?????????? ???
??? ?????? ??? ??? 194 ??? 199 ??? ?? ?????? 202».

9 ?? ????? 199, ?????????? 1, ??? ?????? ??? ?????? ??? ?????? ?? ????:
«? ??? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ? ??? ?????? ??? ?????????? ???
??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

[...]

?) ????????? ??????????, ??? ???? ?????? ??? ?????? 135, ??????????? 1, ?????????? ?? ???
??, ??? ??????????? ??? ???? ?????? ???? ?????? ???? ?????????? ??? ?????? ?? ?????????? ???
????????? ?????? ?? ???? 137,

[...]».

10 ?? ?????? 395, ?????????? 1, ??? ???? ?????? ?????? ?? ????:

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

[...]»

11 ?? ?????? 411 ??? ?????? ?????? ????:

«1. ?? ?????? 67/227/??? ??? [????] ?????? 77/388/??? ?????????????? ?? ??? ??????????
?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ??
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???, ????.

2. ?? ?????????? ??? ?????? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ??????
????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??
????????? ???.

12 ?? ?????? 413 ??? ?????? 2006/112 ?????? ?? ????:

«? ?????? ?????? ?????? ?? ??? 1? ?????????? 2007.»

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

? ?????? 571/2003 ??? ?????? ?????? ??? ?????????? ??????

13 ?? ?????? 127 ??? ?????? 571/2003 ??? ?????? ??? ?????????? ??? ?????????? ?????? (??? ????:
????????? ????) ?????? ?? ????:

«????????? ??? ?????? ??? ?????? ?????????? ?????????? ????

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

2) ??? ??? ?????? ??? ?????? ??? ??????, ??? ?????????? ?????? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

14 ?? ?????? 160 ??? ?????????? ????, ?? ?????? ??? ?? ??? 2007, ?????? ?? ????:

«????? ??????????????

1) ?? ?????????????? ??? ?? ?????????? ?????? ? ?????????? ?????? ??? ?????? ?????? ???????
????? ??? ?????????? 2 ?????????????? ?? ?????????? ?? ?????????????? ??? ?????? ??????
????? ??????????????. ? ?????????? ??? ?????? ?????? ?????????? ??? ??? ??????????
????????? ?????????? ??? ??? ? ?????????? ??? ??? ? ?????????? ?? ?????? ?? ??????
????????? ??? ??? ?????? ???, ?????? ?? ??? 153.

2) ?? ?????? ??? ?? ??????????, ??? ??? ?????? ?? ?????? ?????????????? ?????? ?????? ??????
????? ?? ??????:

[...]

b) ?? ?????? ??? ?? ?????? ?????? ?????? ??? ?? ?????? ??? ??????, ?? ??? ?? ???
????????? ??? ?????? ?????? ?????? ?????????? ?? ?????????? ??????????????

[...]

3) ?? ?????????? ?????????????? ?? ?????????? ??? ?????????? “????????????? ???
?????????” ??? ??? ?????????? ??? ?????????? ??? ??? ?????????? ??? ??? ?????????? ???
????? ?????? ??? ?????? ?????? 2, ?????? ?? ?????????? ??? ?????????? ??? ?????? ???.
????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???
?????????, ??? ??? ?????? ?????????? ?? ??? ??? ?? ??? ?????????? ??? ?????? ???
?? ??? ??? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ??? . ?????? ?????? ???
????????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??????????.

[...]

5) ? ???????? ??? ???????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
??? ??? ??? ??????????. ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???
????? “????????? ??? ??????????” ??? ??? ?????????? ??? ??? ?????????? ???
????????? 2 ?????? ? ?????????? ??????????, ? ?????? ?????????? ?? ?????????? ???
????????? ??? ??????????, ?? ?? ?????????? ??? ??? ?????? ??????????, ?? ?????????? ??
????? ??? ?????????? ??? ?????? “????????? ??? ??????????” ??? ??? ??????????
??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??? ?????????? 3.»

? ?????????? ?????? ????. 44/2004 ?????? ?? ??? ?????????? ?????? ???
????????? ????

15 ??? ?????????? ??? ?????? ??? ?? ??? 2007, ?? ?????? 62, ?????????? 2, ???
????????? ????. 44/2004 ?????? ?? ??? ?????????? ?????? ???
????????? ???? ???:

«?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?
?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ?? ?? ??? 153 ??? ?????????? ????, ?? ?????? ?????????? ????

a) ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ?????????? ???
????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?? ?? ??? 153 ??? ?????????? ????, ?? ??? ???
????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????? ??? ????? ?? ??????? ?????????? ?? ?????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??????? ?? ??????? ?? ?? ??? 153 ??? ?????????? ??? ??????, ??? ?? ??????
????????? ??? ?????????? ?????? ??? ?????????? ??? ????? ?? ?????? ?? ??????????????
????????? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????????
????? ??? ?????????? ??? ??? ??? ?????????? ??? ??? ?????? ??? ?????????? ??? ??? ??? ???
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ???????, ??
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? 153, ?????????? 7, ??? ?????????? ?????.

[...]»

16 ?? ?????? 82 ??? ?? ??? ?????????????? ??????????, ?? ?????? ??? ?? ??? 2007, ????
?? ????:

«? ?????????? ??? ?????????? ?????????? ??? ??? ?????????? ??? ?????? ?? ?????? 160,
????????? 1, ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??????????????,
????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ??? ?????? ? ?????????? ???
??? ? ?????? ?? ?????? ?? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ?? ?? ?????? 153
??? ?????????? ??? ?????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????
?????. [...]

[...]

9) ?? ?????????? ??? ?????? ?????????? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ??????
????????? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????
????????? ??? ?????????? ?' ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??? ?????? ??? ??????
????? ??? ?? ?????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ???
????????? ??? ?????? ??????.

[...]»

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

17 ??? ?? ?????? ?????????? ?????? ??? ?????????? 2005 ??? ?? ?????????? 2009, ? D.
Marcu ????, ?? ??????, ?? 35 ?????????? ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ???, ??? ?? ??????
??????, ?? ?????????? ??? ?????? ???, ??? ??? ?? ?????? ?????? ?????????? ?????????? ???????,
????????? ??? ?????? ???, ??? ??? ?????????? ?????, ? D. Marcu ??? ?????????? ???
????? ??? ??? ??? ??????.

18 ??? ?? ?????? ??????????, ??? ?? 7 ??? ?? 35 ?????? ?????????? ??? ?????????? ??
????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????????.
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ???, ??? ?? ?????? ??????????
????? ??? ?????????? 2006 ??? ?? ?????? 2007, ?? ?????? ?????? ??????????
????? ?? ?????? ?????? ?????????? ??? ?????? ???.

19 ??????? ??????? ?????????????????? ??? ?? ??? 2010, ? ?????????????? ??? ??????????????
??? ?????? ?? ?????????? ?? ??????? ?????????????? ?????????? ??? ?? ??? ????? ??????????????
??? ?????????????? ?????????????? ?? ?????????????? ?? ?????????????? ?????????????? ??? ?????????? ???
??? ??? ??? ? D. Marcu ??? ?? ??????? ??? ?????????????? ??? ?? ??? ?????? ?????????????? ??? ?????????????? ???
????????? ?? ??????? ??? ?????????????? ??? ?? ??? ?????? ?????????????? ?????????????? ??? ?????????????? ???
????????? ??? ?????????????? ??? ?? ??? ?????? ?????????????? ??? ?????????? ??? ?????? ??? ?????????? ???
??? ??????? ?????.

20 ???????, ??? 29 ?????????? 2010, ? ?????????? ??? ?????????? ??? ??? ??? ???
????????? ? ?????????? ??????? ??? ?????? ???, ??? ????? ?????? ? D. Marcu ??? ?? ???
????? ?????? ?? ?????????? ?????? ??? ????? ?????? ??? ?????????? ??? ?????????? ???
????????? ?????? ?????????? ??? ??? ??? . ???????, ? ?? ??? ????? ????? ???????? ??? ? D. Marcu
???? ?????? ?????? ??? ??? ??? ??? 1? ?????????? 2006 ??? ?????? ???
????????? ??? ?????????? ???, ? ?????? ?????? ?? ?????????? ?????????? ??? ??? ??? ???
????????? ?? ?????? ?????????? ??? ?????? ? D. Marcu ??? ????? ??? ??? ??????
?? ?????? ??? ?? ?????????? ??? ?????? ??? ?????.

21 ? D. Marcu ?????????????? ?? ??????????? ??? ?? ??? ????? ?????????? ?????????????? ?????????? ???
Agen?ia Na?ional? de Administrare Fiscal? – Direc?ia General? de Solu?ionare a Contesta?ilor
(????????? ?????????????? ?????????????? ?????????????? – ?????? ?????????????? ?????????? ??????????,
?????????) ??? ?????? ??? ??????????, ??? ??? ?????????? ??? ?????????????????? ??? ?????? ??? ??
??? 2006 ??? 2007 ?? ??????? ?? ?????? ?????? ?????? ?????????????? ??? ?????? ???, ???
????????? ?????????????? ??????????????, ??? ??? ?????????? ??? ?????? ?????????? ???
?????????????, ? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????????? ?????????????? ?????????????? ???
????????? ??? ?????????? ?? ?????? ?????????? ?????? ?????????? ??? ?????? ?????????????? ??? ???, ??????
??? ?????????? ??????????????.

22 ????. ??? D. Marcu, ??? ?????? ??? ? ??????????? ??? ????? ?????????? ?????????? ???
????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??? 1? ?????????? 2006, ??
????? ??? ?? ??????, ??????, ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?? ?????? ?? ??? ?? ??? ??????????. ? D. Marcu ?????????? ??? ? ??????
??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

23 ? Agen?ia Na?ional? de Administrare Fiscal? – Direc?ia General? de Solu?ionare a Contesta?iilor (????????? ??????????? ??????????? ?????????? – ?????? ?????????? ?????????? ??????????) ????????? ?? ?????????????? ??? D. Marcu ??????? ?? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???, ?? ??? ?????????? ???, ??????? ???, ??????? ??? ?????????? ?????????? ??? ?????????? ???, ?? ????? ??? ??? ?? ??? 2006 ??? 2007, ? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???, ?????????? ??? ?????? ??? D. Marcu, ? ?????????? ??? ?????? ??? ?????????? ???.

24 ??? ??????? ??? ??????? ???????????? ??? ??????? ??? ??????? ??? ?? ??? ???????
??? Agen?ia Na?ional? de Administrare Fiscal? – Direc?ia General? de Solu?ionare a
Contesta?iilor (????????? ??????????? ?????????????? ??????????? – ?????? ?????????? ??????????
?????????), ? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????????.
????????? ??? ?????????? ??????????????, ? D. Marcu ?????????? ??? ?? ?????? ?? ?????????? ??
????????? ?? ??? ?? ?? ???? ????? ?????? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??
?? ???.

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

26 ??? ?? ?????????? ???, ?? Curtea de Apel Bucure?ti (?????? ??????????????,
?????????) ?????????? ?? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??
????????? ?????????? ??????:

«??? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????? ???, ?????????? [? ????
?????? 77/388 ??? ? ?????? 2006/112] ?? ?????? ?????????? ?????? ? ??????????
????????? ??? ?? ?????? ? ?????????? ?????????? ??? ?????????? (?????
?????????????), ? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????????? ?????????? ???
????? ??? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????????? ???, ??? ???
????????? ?? ?????????? ??? ?? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ?? ??????
????? ?????????? ?????????? ??? ?? ?????? ???, ?? ? ? ?????????? ??? ?? ?????? ???
????? ??? ?? ?????? ?????? ??? ??????????, ??? ?? ?????????????? ??? ?????????? ? ??? ?? ???
????????? ?????????? ??? ?????? ???;»

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

27 ?? ?? ?????? ???, ?? ?????? ?????????? ???, ???' ??????, ?? ?????????????? ?? ?
????? ?????? 77/388 ??? ? ?????? 2006/112 ?????????? ?? ?????? ??? ?????? ??????????
?? ?????? ?????????? ??????????, ??? ?? ?????? ?????? ??? ?? ?????? ??? ?????? ??????????
????????? ?????????? ??? ?????????? ?????? ?????? ?????? ??? ?? ?????????? ??? ?? ?
????????? ??? ?????????? ?????? ??? ?? ?????? ??? ?? ?????? ?????? ??? ?? ?????????? ??? ??
????????? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ??
????????? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ??
????????? ?????? ??? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ??
????????? ?????? ??? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ??
????????? ?????? ??? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ??
????????? ?????? ??? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ??
????? ?????? ???.

28 ?? ??? ?? ?????????? ??? ?????????? ?????????????? ??????????, ??????????????
?????????, ??????, ??? ? ??? ?? ??? ?????? ?????????? ?? ?????? ?????????? ??? ?? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ?? ?????? ?????????? ??? ?? ???
????????? ??? 13 ?????????? 2006, ??? ?? ??? ?? ?????????? ??? ?????????? ??? ?? ???
????????? ???, ? ?????? ??? ?? 1? ?????????? 2007.

29 ?? ?????????? ?????? ?????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ??
??? ?????? ??? ?????? ?????? ?? ??? ?????? ?????? ??? ?? ?????? ??? ?????? ??????????
??? ?????? ?????? ??? (??., ??????, ?????? ??? 10?? ?????????? 2006,
Ynos, C-302/04, EU:C:2006:9, ??? 36 ??? ?????????? ??????).

30 ??? ???????, ?? ?????????? ?????? ?????????? ?? ?????? ?????????? ??? ??????????
?????? ?????? ?? ?? ??? ?????? ?????? ??? ?? 13 ?????????? 2006 ?????? ??????.

31 ????????, ?????????? ? ?????????? ??? ?? ?????????? ?????? ?????? ??????
???? ?? ?????? ?????? ??? ?? ?????? ?????? 77/388 ??? ?? ?????? ?????? 2006/112.

32 ???????, ?????? ?? ??????????? ??? ?? ??????? ?????????? ?????????? ???
?????? ?? ?????? ??? ?????? ?????? ?????? ?????????????? ??? 1?? ?????????? 2007, ??????????
???? ?? ?????? ? ?????? 2006/112, ??????? ?? ?? ?????? ??? 411 ??? 413, ?????? ?? ???
??? ?????????? ??? ??? ?????? 77/388. ???????, ??? ?? ?????? 411, ?????????? 2, ??? ???
?????? 2006/112 ??????? ??? ?? ?????????? ??? ?????? 77/388 ??????? ???
??????, ??? ?? ??? ?? ?????????? ??? ??????, ??? ?????? 2006/112.

33 ???????, ??? ? ??????? ?? ?????????? ?? 2006/112 ????? ??????? ??
?? ??????? ?? ?????????????? ???.

36 ????? ???? ?????????? ??????, ?????? ??? ?????????????? ??? ? D. Marcu ??? ????? ???
????????? ??? ?????????????? ?? ??????? ??? ?????????????? ?????????????? ??? ???? ???
????????? ??? ??????? ??????????????, ?????? ?? ?????? ?????? ??? ?? ??? ???? ????
???????????, ?? ??? ?????? ?????????????? ????????????, ?????? ?????? ?????? ?????????? ??? D.
Marcu, ?????? ??? ?????????? ??? ?????????? ?????? ?? ??? ?????? ?????????????? ???
????????? ?????? ??? ???? 9 ??? ?????? 2006/112.

37 ???? ?? ??????? ????????, ???, ??? ???? ??? ?????, ? ?????? ??????????????
????????? ?????? ??????????.

38 ??????, ????????, ???????, ?? ?????? ?????????? ???????????, ??? ???????????, ????? ???????
????????? ?? ? ?????????? ?????????? ?? ??????? ?? ??????? ?? ?????? ?? ?????? ?? ?????? ?? ??
????????? ?? ?? ?????????????? ?? ?????????? ?? ??????? ?? ?????, ?? ????? ?? ?????????? ?? ??
????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ??????? ?? ??????? ?? ?????????? ?? ??
????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ??????? ?? ??????? ?? ?????????? ?? ??
?????????, ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????? ?? ??????? ?? ?????????? ?? ??
?? ?????????? (??., ???????, ??????? ?? ?? 2017, Pérez Retamero, C-97/16,

EU:C:2017:158, ?????? 22 ??? ??? ?????????????? ??????????).

39 ???????, ?????? ?? ???????????? ?? ?? ?????????????? ??????? ?????????? ?????
????????? ??? ? ?????????? ??? ?????????????? ??? ??????????????, ??? ?????? ?????? ??????????
??? ??? ?????? 2006/112, ?????? ?? ??? ????? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????.

40 ????, ??? ?? ???????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ? ?????????? ??? ?????????? ?? ??? ??????????, ??? ?????? ??? ?????? 395 ???
????????? 2006/112, ?? ?????????? ??? ?????????? ??? ?????????????? ??? ?????????????? ??
????????????? ?? ?????????????? ?????? ??? ??? ?? ??? ?????? ?????.

41 ??? ???????, ?????? ?? ?????????? ?? ?? ?????????? ?? ?????? ?????? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????????? ???
????????????? ??? ?????? ??? ?????? 199, ?????????? 1, ?????????? ?, ??? ?????? 2006/112.

42 ?? ??? 199 ??? ?????? 2006/112 ??????? ?????????? ??? ??? ??? ?????? ??? ??????????
?? ?????? 193 ??? ?? ??? ??????, ??? ?????? ??? ?????? ? ??? ?????????? ??? ???
????????? ??? ?????? ??? ?????? ?????????????? ?????????????? ?????????? ?????? ??? ??????
?????????. ?? ?? ??? ?????? 199 ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??
????? ???, ??? ?????????????? ?? ??? ?????? ?????????????? ??? ?????? ?????? 1, ?????????? ??
?? ??, ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????? ??? ?????? ?????????? ??
??? ??? ?????? ? ?????????????? ??? ?????? ?????????? ??? ?????? ?????? ? ?????? ?????????? ???
??? (??., ???????, ?????? ??? 13? ?????? 2013, Promociones y Construcciones BJ 200, C-
125/12, EU:C:2013:392, ?????? 23).

43 ???????, ?????? ?? ?????? 199, ?????????? 1, ?????????? ?, ??? ?????? 2006/112,
?? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ? ?????????? ???
????? ?????????? ?????????? ??? ??????, ??? ??? ?????? ??? 135, ?????????? 1,
????????? ?? ??? ???, ??? ?????? ???, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ? ??????????
????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? 137 ??? ?? ??? ?????? ??????.

44 ?????? ?? ?????????? ?? ??? ?? ?????? 135, ?????????? 1, ?????????? ?? ??? ???, ???
????????? 2006/112 ?????????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ???
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ?? ??? ?????? ???, ???
????? ??? ?????????? ??? ?????? 12, ?????????? 1, ?????????? ?, ??? ?????? ???, ??? ?????? ???,
????? ??? ??? ?????????? ?? ?????????? ??? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ??????????
?? ?????????? ??? ?????? 12, ?????????? 1, ?????????? ?, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??
????? ??? 12, ?????????? 1, ?????????? ?? ??? ?, ??? ?????? ?????????? ??? ?????? 135,
????????? 1, ?????????? ?? ??? ?, ??? ?????? 2006/112, ?????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????? ??? ??? ?????? ?????????? ??? ?????, ??? ?????? ??? ?????? ?????????? ??? ?????? ???
?????????.

45 ???????, ??? ?? ???????? ??? ?? ?????? ?????????? ?????????? ???, ??????, ??
????????? ?????? ? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?? ??? ?????? ??????, ???
????? ??? ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ?? ??? ?????? ???,
????????? ?? ?????? ??? ?????? ?????????? ??? ??????, ??? ?????? ??? ?????? ??? ?????? ??????????
??????, ???????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

46 ??????, ?? ??? 137 ??? ?????? 2006/112 ?????? ??? ?????? ??? ?? ?????????? ??
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ???
??????, ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 135,

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

47 ?????? ?????? ?? ?????????????? ?????? ?????? ??? ?????????? ?? ?????????? ?? ??????
???? ?????????????? ??? ???? ?? ?????????? ?????? ??? ?????????? ??? ???? 137 ???
?????? 2006/112 ??? ?????? ??? ???? ?? ??? ?????????????? ??? ???? ??? ????
????? ??? ???? ?? ?????????? ??????, ??? ?????? ?? ?????? ?????? ?????? ??? ???? 135,
????????? 1, ??????? ?? ??? ?, ??? ?????? ?????? ?????? ???? ???? ?????? ???
????????? ??? ?????????? ?? ?????? ?????? ?????? ?????? ??? ???? ?????? ?????? ???
????? 199, ?????????? 1, ??????? ?? ?, ??? ???? ??????.

48 ???????, ?????? ?? ?????????? ??? ???? ?????? ?????????????? ?????????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ???? ?????? ??? ???? ?????? ???
??????.

49 ??????, ?? ??????, ??????, ??? ? ? ?????? ?????? ??? ?????? ?????? ?????? ??????
??????, ??? ???? ?????? ??? ???? 135, ?????????? 1, ??????? ?? ??? ?, ??? ??????
2006/112, ?? ??????, ???????????, ? ??????? ?? ??? ??????????, ??? ?????????? ???, ??
????????? ?????????, ? ?????? ?????????? ??? ???? 137 ??? ?????? ??????, ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ?? ?????????? ??? ???? ??????????
????????? ??????. ???, ??? ???? ?????? ?????????? ??? ?????????? ??? ???? ?????? ???
?????????, ??? ???? ?????? ?????? ?????? ?????????? ??? ???? ?????? ??? ???? ?????? ???
?????????, ??? ?????????? ???, ??? ???? ??????.

50 ??????, ?????? ?? ?????? ??? ???? ?????? ??? ???? ?????? ?????? ?????????? ???
????????? ??????, ??? ???? ?????? ?????????? ??? ?????????? ?????????? ?????? ??? ? D.
Marcu ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
??????, ??????, ??? ???? ?????????? ??? ?????? ??? ?????? ???, ??? ?????? ???, ??? ?
????????? ??? ?????? ?????? ?????????? ??? ???? ?????? ?????? ??? ???? ??? ??? ????
????? ?????????? ??? ?????? ??? ???? ?????? ?????? ?????? ??? ???? ?????? ??? ?
????????? ??? ???? ??????.

51 ??????, ??? ???? ?? ?????? ??? ???? ?????? ??? ?????? ?????? ???? ?????? ??? ????
?????? ??????, ??? ???? ?????? ??? ???? 135, ?????????? 1, ??????? ?? ??? ?, ???
?????? 2006/112, ???????, ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ??????, ???
????????? ???, ??? ?????????? ??? ???? 137, ?????????? 1, ??????? ?? ??? ?, ???
????? 2006/112 ?????? ?????? ?? ?????? ??? ???? ?????????? ??? ???? ??? ???? ???
????????? ?? ?????? ??? ?????? ??? ???? ?????? ??? ???? ???? ???? ???? ???? ???? ?
????? ??? ?????? ?? ?????? ??? D. Marcu, ??????? ??? ???? ???? 137 ??? ??????
????, ?? ?????????? ??? ?????? ??? ???? ??? ???? ?????? ???, ??? ?????????? ??
????????? ??? ???? 199, ?????????? 1, ??????? ?? ?, ??? ???? ?????? ??? ???? ??????
??, ??? ?????? ???, ? ?????????? ??? ???? ?????????? ??? ???? ?????????? ??? ???? ????
????????? ??? ???? ??? ???? ??????, ??? ?????? ??? ???? ??????.

52 ?? ??????, ??????, ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ?????? ??? ????
???? ???? ?????? ??? ???? 12, ?????????? 1, ??????? ?? ??? ?, ??? ?????? 2006/112, ?
????????? ??? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ??????, ?? ?????? ??????
?? ???? ???? ??????, ?????? ??? ???? ?????????? ??? ???? ?????? ??? ???? ??????
?? ?????????? ??? ???? ?????? ??? ???? 199, ?????????? 1, ??????? ?? ??? ?, ???
????? 2006/112.

53 ?????????? ??? ???? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ???? ?
????? ??? ?????? ??? ???? 2006/112 ?????? ??? ???? ???? ?????? ???

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

54 ??? ?????? ??? ?????? ??? ???????, ??????????? ? ?????????? ??? ? ??? ?????? ????
????????????? ?????????? ?????? ???????????.

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55 ??? ??????? ?? ? ?????? ??? ?????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????? ???
?? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???, ?' ???
????????? ?? ?????????? ??? ??? ?????????? ????. ?? ?????? ??? ?????? ?????????? ???
????? ?????????? ?????????????? ??? ???????????, ??? ?????? ??? ?????? ?????????? ??? ???????????.

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

? ?????? ?????????????? ??? ?????? ?? Curtea de Apel Bucure?ti (???????
?????????????, ????????) ?????? ??????????.

(?????????)

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