

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

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

??? 23?? ?????????? 2017 (*)

«????????????? ?????????? – ?????????????? – ?????????? ?????? ?????????? – ??????????
????????? ?????? ??? ?????????????? ?????? ?????????? – ?????????? ??????????
????? ?????????? ?????? ??? ?????????????? ??? ?????????? – ?????? ??????????
?????? ??? ??? ??? ? ????? ?????????????? ??? (???) ?????????? ?? ??? ??? ??? ???
????? ?????????? ??? ?????????????? ??? ??? ?????? ?????????? ??????????????»

???? ?????????????????? ?????????? C?427/16 ??? C?428/16,

????????????? ??????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ???
?????? ?? Sofiyski rayonen sad (????????????? ?????????? ??? ??????, ??????????) ??
????????? ??? 26?? ??????? 2016, ?? ?????? ?????????? ??? ?????????? ??? 1? ???????
2016, ??? ?????? ??? ????

«Chez Elektro Bulgaria» AD

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Yordan Kotsev (C?427/16),

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«FrontEx International» EAP

????

Emil Yanakiev (C?428/16).

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

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

?????? ????????????? N Wahl

???????????: M Aleksejew ????????????

????????? ?????? ??? ??????? ?????????? ??? ??????? ??? ??' ?????????? ??? ?????????? ???
1?? ??????? 2017

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

– ? «CHEZ Elektro Bulgaria» AD, ?????????????? ??? ??? K. Kral, ????? ??? ??? K. Stoyanova.

- ? «FrontEx International» EAD. ?????????????? ??? ?? A. Grilihes.

- ? ?????????? ??????????, ??????????????? ??? ?? ?. ?????,
- ? ?????????? ??????????, ??????????????? ??? ??? L. Malferrari ??? I. Zaloguin, ????
??? ??? ??? P. Mihaylova,
?????? ??? ??????? ??? ??????, ??? ?????? ??? ?????? ???????????, ?? ?????????? ???
?????? ??? ?????? ??????? ??? ???????,

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

???????

1 ?? ?????????? ?????????????? ?????????? ??? ?????????? ??? ??????? 56,
????????? 1, ??? ?? ?????? 101, ?????????? 1, ???, ??? ?? ??? ?????? 77/249/???
??? ??????????, ??? 22? ?????? 1977, ??? ?????????????? ??? ?????????????? ??????????
??? ?????????? ?????? ?????????? ??? ?????????? (?? ????. ????. 06/001, ?. 249), ??? ??
?????? 2006/112/?? ??? ??????????, ??? 28? ??????? 2006, ??????? ?? ?? ???
?????? ??? ?????? ?????????????? ??? (?? 2006, L 347, ?. 1).

2 ?? ?????????? ?????? ?????????????? ??? ??????? ?????????? ??????? ??? «CHEZ
Elektro Bulgaria» AD ??? ??? Yordan Kotsev (C?427/16) ??? ?????? ??? «FrontEx International»
EAD ??? ??? Emil Yanakiev (C?428/16), ?? ?????????? ?????????? ??? ?? ?????? ??????????
????????, ?????? ????, ??? ??? ?????? ?????? ?????????? ??? ?????????? ?????????? ??????
????????.

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

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

3 ?? ????? 78, ????? ??????, ???????? ??, ??? ??????? 2006/112 ?????????? ?? ????:
«?? ??? ?????? ??????? ??? ?????? ??????????????? ?? ????????:

?) ?? ????, ??????????, ?????????? ??? ?????, ?? ???????? ??? [????? ???????????????
????? (???)],

[...]».

4 ??? ?? ????? 1, ?????????? 1, ??? ?????? ????, ??? ??????? 77/249:

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

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

5 ?? ????? 78 ??? Grazhdanski protsesualen kodeks (?????? ?????????? ???????????, ??
?????: GPK) ?????? ?? ????:

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

[...]

5. ??? ? ?????????????? ??? ??????? ?????????? ?????? ??? ?????? ?????????? ?????? ??
????? ?? ???? ?????? ??? ?????????? ?????????? ??? ????????, ?? ?????????? ??????
????????? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ?????????? ?????? ??
????????? ??????, ?????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ??
????????? ?????? ??? ?????? 36 [??? Zakon za advokaturata (????? ??? ??????????)].

[...]

8. ?? ?????????? ?????????? ??? ??????? ??? ?????????? ?????? ??? ?????? ??????????
????????? ?????? ? ?????????????? ??? ?????????? ??? ?????????? ??? ?????? ??????.

6 ?? ?????? 36, ?????????? 1 ??? 2, ??? ?????? ??? ?????????? ?????? ?? ???:

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

2. ?? ??? ?????? ?????? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????. ? ?? ??? ?????? ?????? ???
????? ?????? ??? ?????????????? ??? ??? ?????? ??? ?????? ?????????? ??? ???
????????????? ??? ?????????? ??? Vissh advokatski savet [(????????? ??????????)
?????????, ?????????]) ??? ?? ?????????? ?????? ??????..»

7 ?? ?????? 118, ?????????? 3, ??? ?????? ??? ?????? ?????????? ?? ???:

«????????? ?????? ?? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ?? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

8 ?? ?????? 121, ?????????? 1, ??? ?????? ??? ?????? ?? ???:

«?? ?????? ?????????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ?? ???
??? ?????? ?????????? ??????.

9 ??? ???? 132 ??? ?????? ???:

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

[...]

5) ? ?????????? ?? ??? ?????? ?????? ?????? ?????????? ??? ??? ?????????? ??? ??????????
????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?? ?????????? ??? ??????.

10 ?? ?????? 1 ??? Naredba no 1 za minimalnite razmeri na advokatskite vaznagrazhdenia
(????????? 1 ??? ?????? ?????? ?????? ?????? ???, ??? ????: ?????????? 1) ?????? ??
????:

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

11 ???? ?? ?????? 7, ??????????? 5, ??? ??????????? 1, ?? ?????????? ?? ??? ??????????? 2,
 ?????? 1, ??? ?????? ??????????, ?????????? ??? ? ???????? ?????? ??? ?????????? ???
 ?????? ??? ?????? ?????? ?????? ?????? ?? 300 ?????????? ??? (BGN) (?????? 154 ???).

12 ?? ?????? 2a ??? ?????????????????? ?????????? ??? ?? ??? ????? ?????????? ??????? ?? ????:

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

?????? C?427/16

13 ? CHEZ Elektro Bulgaria ??????? ??????? ??? ?????????? ?????????????? ???????
?????? ?????? ??????? ???????, ??????? ?? ?????????? ? Y. Kotsev ?? ??? ???????,
????? ????, ?? ??? ???? 60 BGN ??? ?????????? ???????.

14 ?????????? ?? ? ?????? ?????? ????? ?????????????? ??? ?????? ?????????? ?? ? ?????????? ?
?????????? 1, ?? ?????? ?????????? ?????????? ??? ?????? ?????? ?? ? ?????? ?????? ??????????
??? ??? ?????????? ??? ?????? ?? ???? ?????? ?????????? ?????? ?????????? ?????????? ?????? ???
????? ??? ?????? ??????. ??????? ?? ?????????? ?????????? ??????, ??? ?????? ??? ?????? ??? ??????????
? ?????????? ??? ?????? ?????? ?????????? ?????? ?? ???? ?? ???? ?????? ??? ??????????
????????????? ??? ?????? ??????, ?? ?????????? ??? ?????? ??????, ??? ?????? ??? ??????????
????????? ????, ?????????? ??? ?????? ?? ?????????? ????, ?????????? ?? ??? ????.
?? ?????? ?? ?????????? ??? ?????? ??????.

15 ?? ?????? ??????????? ??????????? ??? ? ??????? C?427/16 ??????????????? ??
????? ?? ??? ?????????? ??? ??? ?????? ?????????? ?? ?????????? ??? 5?? ?????????? 2006,
Cipolla (C?94/04 ??? C?202/04, EU:C:2006:758), ??? ??? 19?? ?????????? 2002,
Arduino (C?35/99, EU:C:2002:97). ????????, ? ??????? ?????????? ?????????? ?????????? ??
?????? ?????????? ????????, ??? ?? ??? ??? ?????? ?????? ?????? ?????????? ??? ??????????
?? ??? ?????????? ???, ?? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ??
?????? ??????.

16 ????????? ??????????? ?????????????? ?? ??? ???? ?? ?????? ?????? ??? ?? ??????
?????????? ?????????? ??????? ?? ?????? ??????????????.

17 ??????, ?? ??????? ??????????? ?????????? ???, ?????? ??? ?????? 2a ???
????????????????? ?????????? ??? ?????????? 1, ?? ????? ??? ?????? ??? ?????????? ??? ???
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ??? ??????????????
??? ??? . ??? ??? ????? ?????????? ??? ?????? ?????????????? ??? ?????? ??? ???, ? ???
????????????? ??? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????????????? ??? ?????? ??? ?????????????? ???
??? ??????? ???????, ? ?????? ?? ?? ?????? ?????????????? ?? ??? ??? ???, ?? ?????????? 20
%. ??????? ???????, ? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ???, ????
????????? ??? ?????????????? ? ??? ?????? ?????? ??? ?????? ??? ?????. ?? ?????? ?????????? ??????

??? ??? ?????? 2a ??? ??????????????? ?????????? ??? ?????????? 1 ?????????? ?? ??? ??
????? 1 ??? ?????? 2006/112 ?????? ??? «?????» ??? ?????????? ??? ??? «?????». ??? ??
????? ???, ?? ??? ????? ?????? ??? ?????? ??? ?? ??? ?????? ??? ??? ??? ?????? ???.

??????? C?428/16

18 ?? ?????? ??????? ????????, ? FrontEx International ?????? ??? ?? ??????
????????? ?? ?????????? ??? E. Yanakiev ?? ??? ??????? 200 BGN ??? ?????? ??????
????? ??????.

19 ?? ?????????? ??? ??????????? ??? ?????????? ??? ?????????? 300 BGN, ??? ??
????????? ? ?????????? 1.

20 ?? ?????? ?????????? ?????????? ??? ?? ?????????? ??? ?????????? ?????????? ??????
????????? ?????? ?????????? ??? ?????????? ??? ?????????? . ??? ?????????? ?? ??????
?? ? ?????? ??? GPK ? ????? ?????????? ?? ?????????? ??? ?????????? ?????????? ???
????????? ?????????? ?????? ?? ??? ?????? 77/249, ????? ??? ?? ?? ?????? 101,
????????? 1, ???.

21 ??? ??? ?????? ??? Sofiyski rayonen sad (????????????? ?????????? ???
?????, ??????) ??????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ???
????????? ?? ???, ?????????? ??? ??? ??? ??? ??????, ?????????? ??????????:

«1) ??? ?????? 101, ?????? 1, ??? (????????? ??? ?????????? ???
????????? ??? ???? ?????? ??? ??????????) ?? ?????? 36, ?????????? 2, ??? [?????
???? ??????], ??? ?? ?????? ??? ?????????? ?? ?????? ?????? ?????? ??????????
????????? (???? ?? ?????? ?????????? ??????????) ??????, ??? ?? ??????????
????????? ??? ??? ??? ?????????? ??? ?? ??????, ?? ?????????? ?????????? ??? ???
??? ??? ?????????? ??? ??? ??? ?????????? ?????????? (????????? ???);

2) ?? ?????????? ?????????? ??? ?????????? ??? ??? ?????? ??????????: ?????????? ??
????? 78, ?????????? 5, in fine, ??? [GPK] (????? ?? ?????? ??? ???? ?????? ???
????????? ?????? ??? ?????????? ??? ?????? ??? ??? ?????????? ?????????? ???) ???
????? 101, ?????????? 1, ???;

3) ?? ?????????? ?????????? ??? ?????????? ??? ??? ?????? ??????????: ?????????? ??
????? 132, ?????? 5, ??? [????? ??? ??????] (????? ?????? ??? ?????????? ??? ?????? 136,
????????? 1, ??? ??? ???) ??? ?????? 101, ?????????? 1, ???;

4) ?????????? ??? ?????? 56, ?????????? 1, ??? (????????? ?????????? ???
????????? ??? ?????? ??????) ?? ?????? 36, ?????????? 2, ??? [????? ??? ??????];

5) ?????????? ?? ??? 78, ?????????? 8, ??? [GPK] ??? ?????? 101, ?????????? 1, ???;

6) ?????????? ?? ??? 78, ?????????? 8, ??? [GPK] ??? ?????? [77/249] (????? ?????? ??
????????? ?????? ?????????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ??????????
????????? ???);

7) ?????????? ??? ?????? [2006/112] ?? ??? 2a ??? ?????????? ?????? ???
[????????? 1], ?? ??? ?????? ??? ?????? ?? ?????? ? [??] ?? ?????????? ??? ?????? ???
??? ?????????? ??? ?????? ?????? ?????????? ?????????? ?????????? (????? ?????? ???
????????? ??? [??] ?? ?????? ??? ?????????? ?????????? ??????????);»

22 ?? ?????? ??? 14?? ?????????? 2016, ? ?????? ??? ?????????? ?????????? ??

????????????? ??? ???????? C?427/16 ??? C?428/16, ??? ??????????? ??? ?????? ???
??? ?????????? ??? ?????????? ??? ??? ????? ?????? ?????? ?????? ??????.

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

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

23 ? ?????????? ???????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????????????
?????????.

24 ? ?????????? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ?? ?????????? ??????????
????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ?????????? ?????????? . ??????????, ??????????????
??? ?? ?????????? ??? ? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????????? ??? ??????????
????????????? ??? ??? ?????????? 1 ?????? ?????????? ?????????? ??? ?????????? , ??? ??????????
????????? ??? ?????????????? , ?????? ??? ??? ?? ?????????? ?????????? ??? ?????????? ?? ??????
????????????? ??????????????.

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

26 ??????, ??? ?????? ?? ??????, ?? ???????, ?? ??????, ?? ?????? ?? ?????? ??? ?? ???
????????????? ??????, ?????????????? ???, ??? ?????? ??? ?????????? ?????????? ?????? ???
????????????? ??? ??? ?????? ?????????? ??? ?????? ?????????? ?? ?????? 267 ???,
????????????? ?????????????? ??? ?????? ?????????? , ?? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ?? ???????, ??
????????? , ?????????? ??? ?????? ??? ?????????? ??? ?????????? , ??? ??? ??????????
????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ??
????????? ??? ?????????? ??? ?????????? ??? ?????????? . ??????, ?????? ??
????????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????, ?? ??????????
????????????? ?????????? ?? ?????????? (????????? ??? 26? ?????? 2017, Persidera, C?112/16,
EU:C:2017:597, ??? 23 ??? ?????????????? ??????????).

27 ??????, ?? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
????????? ?? ?????? ?????????? , ?????? ??? ?????????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? , ?????????? ??? ?????? ?????????? ?????????? . ?? ?????????? ?????? ??? ??????
?? ?????????? ?? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ?????????? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????
????? ?? ?? ?????????? ? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? , ??? ?? ??????
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????
????? ?????? ??? ?????? ?????? ?????? (????????? ??? 26? ?????? 2017, Persidera, C?112/16,
EU:C:2017:597, ??? 24 ??? ?????????????? ??????????).

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

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

30 ???????, ??? ?????????? ??? ?????????? ?? ?????????? ??????? ??????????,
????????? ??? ??? ?????????????? ??? ?????? ?????????? ?????????? ??? ??????????????
????????? ??? ?????? ?????????? (??????? ??? 14?? ?????? 2017, Online Games
??., C?685/15, EU:C:2017:452, ??? 45 ??? ?????????????? ??????????).

31 ????????????, ?? ??? ?????? ?? ?????? ?????????? ?????????? ?? ??????? ?????????
????????? ??? ?????? ?????????? ??? ?????? ?? ?????? ?????????? ?????? ?????? ?????????
????????? ??? ??? ?????? ?? ?????????? ??? ?????? ?????????? ?? ?????????? ??? ??? ??????
? ?????? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??? ??????
????????? ??? ?????? ?????.

32 ??? ????????, ?? ????, ?? ??????, ?? ??????, ?? ?????, ?? ?????? ??? ?? ??? ??????????????
????????? ??? ?????? ??????????.

33 ???????, ??? ?????? ?? ?????? ?????????????? ???????, ?? ?????? ??????????
????? ?? ?????????????? ?? ?? ??? 56, ?????????? 1, ??? ?????????????? ?? ??????
????????? ??? ??????, ??? ? ?????? ??? ?????? ?????, ? ?????? ??? ?????????? ???
????????? ??? ??? ?????? ??? ?? ?????????? ?????? ?????? ?????????? ??? ??? ?????????? ???
????????? ?? ?????????? ??? ?????? ?????? ?????????? ?????? ?????????? ??? ??? ?????????? ???
????????? ??? ?????????? ??????.

34 ???????, ??????? ?? ?????? ?????? ?? ?????? ?? ?????? ??? ?????????? ??? ?????? ??????
????????? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??????? ??????????,
????????? ?? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?? ?????????? ??? ??????
?? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? (???????
?? 8?? ?????????? 2016, Eurosaneamientos ??., C?532/15 ?? C?538/15, EU:C:2016:932,
????? 45 ??? ??? ?????????? ??????????).

35 ?? ?????????? ??? ?????? ??? ?? ?????????? ?????? ??? ?????????? ??? ?? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??????????
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ?????? (?????? ?? 8?? ?????????? 2016, Eurosaneamientos ??.,
C?532/15 ?? C?538/15, EU:C:2016:932, ??? 46 ??? ??? ?????????? ??????????).

36 ??? ???????, ??? ?????? ?????????? ??? ?????? ??? ?? ?????????? ??????????????
?? ?????????? ??? ??? ?????? ?????? ??????, ??? ?????? ?????????? ?????????? ??
????????? ??? ??????????, ?????? ?? ??? ?????? ??? ?????? 94 ??? ??????????
????????? ??? ??????????, ??? ?????? ??? ?????? ??? ?????? ?????? ?? ?????? ??? ??????????
??????, ??? ??? ?????? ?????????? ?????? ?????????? ???, ?????????? ??? ??????????
??????, ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???, ??
????? ??? ?????? ?? ?????????? ?????????? ?????????? ?????????? ??? ?????? ??? ??????????
??????, ??? (?????? ?? 8?? ?????????? 2016, Eurosaneamientos ??., C?532/15 ??
C?538/15, EU:C:2016:932, ??? 47 ??? ??? ?????????? ??????????).

37 ?? ??????????, ??? ??? ?????? ?????????? ?????????? ?????????? ??? ?????????? ? ???
????????? ??? ?????????? ??? ?????? ??? ??????, ?????? ?? ??? ?????? ?????????? ?? ??? ???
????????? ???, ?? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????????? ?????????, ??? ??? ?????? ?????????? ?????? ?????? ?????? ?????????? ???,
????????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ?????? ?????????, ?? ?????? ?????? ?????????? ?????? ?????? ?????????? ??? ??????

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

38 ??? ??? ??????? ????, ??????????? ? ?????????? ??? ?? ??????? ???????????????
?????????? ??? ?????????? ?????????????? ??????? ??? ?????? ?? ?????? ??????? ??
?????????? ??? ?? ????? 56 ??? ????? ?? ????? ?????????? ??? ?????????????? ???
????????? ??? ?????? ????.

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

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

40 ?? ?? ??? ?????? ?????? ?????????????? ???????????, ?? ?????? ?????????????? ????, ???' ??????,
?? ?????????????? ?? ?? ?????? 101, ?????????? 1, ????, ?? ?????????? ?? ?? ?????? 4,
????????? 3, ???, ??? ?? ?????? ??? ?????????? ?? ?????????? ?? ?????? ?????????? ???????, ???
? ?????? ??? ?????? ?????? ??????, ?? ?????, ??????, ??? ?????????? ??? ?????????? ???
????????? ??? ?? ?????????? ?????? ?????????? ?? ?????? ??? ?????????? ??? ?????????? ??
????????? ??? ?????? ?????? ?????????????? ?????????? ??????????, ??? ?? ??????
????????? ??????????, ??' ?????? ?????? ?????????? ?????????????? ?????????????? ??? ?????? ???
????????? ?????, ???, ???????, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??????.

41 ??? ?????? ?????????? ??? ???????????, ?????????? ?????? ?????? ??? ?? ?????? 101
????? ??? ?????? ?????????????? ?? ??????????? ??? ?????????????? ??? ?? ?????????????? ???
?? ?????? ??? ?????????? ?? ?????????? ???, ?????????? ?? ?????? ???, ?? ?????????? ??
?? ?????? 4, ?????????? 3, ???, ?? ?????? ?????? ?????? ?????????? ?????????? ??? ?????? ???
??? ??? ?????? ????, ?????????? ??? ?????? ??? ?????? ??? ?????????? ?? ?? ?????????? ?? ?? ??
????????? ?? ??? ?????, ??? ?? ?????????? ?? ?????????????? ??????, ?????? ???
????????????? ??? ?????? ?????? ?????????????? ??? ?????????????? ??? ?????????????? ???
????????? ?????????? (????????? ??? 21?? ?????????? 2016, Etablissements Fr. Colruyt,
C?221/15, EU:C:2016:704, ??? 43 ??? ????? ?????????? ??? ??????????).

42 ?????????? ?????????? ??? ?????? 101 ????, ?? ?????????? ?? ?? ?????? 4, ?????????? 3,
??, ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ?????????? ?????????? ???
?? ?????? 101 ??? ? ?????? ?? ?????????? ???, ??? ?????? ??? ?? ?????? ???
????????? ??? ?????? ??? ?????? ??? ??????, ?????????? ?? ?????? ??? ?????? ???
????? ??? ?????? ?????? ?????????? ?? ?????? ??? ?????? (????????? ??? 21?? ??????????)
2016, Etablissements Fr. Colruyt, C?221/15, EU:C:2016:704, ??? 44 ??? ????? ??????????
?????????).

43 ??? ??? ?????? ?? ?????????? ??? ?? ?????? ?????????????? ?????????? ???
????????? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (??., ??' ??? ???
??????, ??????? ??? 4?? ?????????? 2014, API ?.??., C?184/13 ??? C?187/13, C?194/13,
C?195/13 ??? C?208/13, EU:C:2014:2147, ??? 31).

44 ??? ???, ??? ?????, ?? ?????? ?? ? ?????? ??? ?????? ?????? ?????? ??????????????
?????? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??????????????
????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???.

45 ? ?????????? ??????? ?? ?????????????? ??????? ???????, ??????, ?? ??? ??????????
?????????, ????? ?? ??? ?? ?????????????? ?????? ????? ?????????????????? ??????????????
??? ?????????????? ?????????????? ?????? ?????????????? ?????? ?????? ?????, ?? ?????????????? ???
????????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????????????? ??? ? ??? ??????
????????? ?????? ??? ?????? ??? ?????, ????? ?? ??? ?????? ?????????? ??? ?? ??????????
??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ?????? ??????????
??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (????????? ???
4?? ?????????? 2014, API ?.??., C?184/13 ??? C?187/13, C?194/13, C?195/13 ??? C?208/13,
EU:C:2014:2147, ????? 34 ??? ????? ?????????? ??????????).

46 ?????????? ?? ?????????????? ??? ?? ??? ?????????? ?????????????? ?????????????? ??????????????
????????? ?????????? ?????????? ?? ?? ?????? ?????????? ?????????, ? ?????? ?????? ?? ?????????? ??
????????? ?????????? ?? ?????????? ??? ?????????? ?????? ??? ?????? ?? ?????????? ??????????????
????????? ???????, ????? ?? ?????? ?????? ?????? ?????????? ?? ?????????? ?????? ??? ?? ??????
(??., ??' ???? ??? ?????, ??????? ??? 4?? ?????????? 2014, API ?.??., C?184/13 ???
C?187/13, C?194/13, C?195/13 ??? C?208/13, EU:C:2014:2147, ????? 41).

47 ?? ??????????, ? ?????? ??? ?????? ?????? ?????? ?????????????? ??????? ??? ??????????????
?????? ?????????????? ?????????? ?????? ?? ?????????? ??? ?? ?????????? ?????? ??????????????
?????? ??? ?????????????? ??? ?? ?????? ?????????? ?????????? ?????? ?????? ?????????? ???
????????????? ?????? ?? ?????? ?????? ??????. ??????????, ? ?????????? ???
?????? ??? ?????????? ?????? ??? ??? ?? ?????????????? ??? ?????? ?????????? ???
????????? ?? Varhoven administrativen sad (????????? ?????????? ??????????, ??????????), ??
?????? ??? 27?? ?????? 2016, ???????, ?????? ???, ?? ??? ?????? ??? ?????? ???
??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?? ??? ?????? ?????? ??????????
???? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?? ??? ?????? ??????????.

48 ??? ???, ??? ??????, ?? ??????????, ?? ?????? ?? ?? ?????????? ?????????? ?????? ???
????????? ??? ?????????????? ??? ?? ?????? ?????? ?????????? ??? ?????????? ?????????? ??????????
?? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ?????????? ?????????? ???
? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ??????????
????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? Varhoven
administrativen sad (????????? ?????????? ??????????), ? ?? ?????? ??? ?????????? ???
????? ?? ?? ?????????? ??? ?????? ?????? ?????? ??? ?? ?????????? ?????????? ??? ?? ???
????????? ?????? ??????.

49 ??? ?? ?????????? ?????????? ???, ?????????????? ?????? ??? ?????????? ??????????
?????? ?? ?????????????? ??? ?? ?????? ?????? ?????????? ?????????? ?????????? ?????????? ??
????????? ?????????? ??? ?????? ??? ?????? ?????? ?????????, ??? ?? ?????? ?????????? ??????????
?????? ??? ?????????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ?? ??????????
????, ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ?????? ??
????????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? 101 ????, ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ??????.

50 ???????, ??? ?? ?????? ?? ??? ?????? ?????????????? ?????? ??? ?????? ?????????? ???
?????? ??? ?????? ?????? ?????????????? ???????, ?????? ? ?????? ??? ?????? ??? ??????
?? ?????????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? (??., ??' ??????????,
?????? ??? 4?? ?????????? 2014, API ?.??., C?184/13 ??? C?187/13, C?194/13, C?195/13
??? C?208/13, EU:C:2014:2147, ????? 42).

51 ?????????????? ?? ??? ?? ?????? ??? ?????? ?????? ??? ?????????? ?????????? ??????????????
??????, ??? ?????????? ?????? ?????????? ?? ??? ?????? ?????? ?????? ???????, ??? ?? ??????
???? ?????? ?????, ?????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????

?????? ?????????? ??? ?? ????????, ?????????? ??? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? (??., ??' ??? ?? ?????? ???????, ??????? ?? 4?? ?????????? 2014, API ?.., C?184/13 ?? C?187/13, C?194/13, C?195/13 ?? C?208/13, EU:C:2014:2147, ??? 43).

52 ?????????????? ?????? ??? ??????? ????????, ?????????????? ??? ?????? ??????????????
???????, ??? ? ??????? ??? ?????? ?????, ? ?????, ??????, ??? ?????????? ??? ?????? ??????
??? ??? ??????? ??? ?? ?????????? ?????? ?????????? ??? ??? ?????? ??????? ???
?????????? ?? ?????????? ??? ?????? ??????? ?????????????? ?????????? ??????????, ??? ??
?????? ?????????? ??????????, ??' ?????? ?????????? ?????????????? ?????????????? ??? ??????
??? ?????????? ????, ???, ???????, ??? ?????????? ??? ?????????? ?? ?????????? ???
????????? ???? ?????????????? ??????? ??? ?????????????? ??? ??????????, ?????? ?????? ??
????????? ??? ?????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 101,
????????? 1, ???.

53 ?????????????? ?????????? ??? ? ?????? ?????? ?????? ?????? ?????? ?????????????? ????????,
????? ?????? ?????????? ??? ?????? ?????? ?????? ?????????????? ??? ?????? ?? ?????? ? ??
????????? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????? ?????????? ??? ??????
??? ?????????????? ? ??? ?? ??? ???? ??? ?????? ???' ?????? ??? ?????? ?????????? ???
????????? ??? ?????????? ??? ?? ?????? 101, ?????????? 1, ????, ?? ?????????? ?? ??
????? 4, ?????????? 3, ??? (??????? ??? 4?? ?????????? 2014, API ??., C?184/13 ???
C?187/13, C?194/13, C?195/13 ??? C?208/13, EU:C:2014:2147, ????? 46).

54 ????????, ??? ?? ?????????? ??? ?????????? ?????? ??? ?????????????? ??????????????,
?????? ?????????? ?? ??????? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ? ??????
??? ??????? ?????????????? ? ?????? ??? ?????? ? ?????? ?????? ?????? ?????? ?????? ??
????????????? ??? ??? ?????? ?? ?????? ???.. ??????????, ?????? ?? ?????????? ?? ?? ??
????? ?????????????? ??? ?????????????? ?????????????? ?????? ?????????????? ?? ??? ??????????
??? ?? ??? ?????? (????????? ??? 19?? ?????????? 2002, Wouters ?., C?309/99,
EU:C:2002:98, ??? 97? ??? 18?? ?????? 2013, Consiglio nazionale dei geologi, C?136/12,
EU:C:2013:489, ??? 53, ??? ??? ??? 4?? ?????????? 2014, API ?., C?184/13 ???
C?187/13, C?194/13, C?195/13 ??? C?208/13, EU:C:2014:2147, ??? 47).

56 ??????????, ?? ?????????? ??? ????? ?? ??? ?????? ?? ???????????, ?????? ??? ?????????? ???
??????????, ?? ?????? ?? ???????? ?????????? ??? ?????? ?? ?????????? ??????? ??????
?????????? ?????? ??? ? ?????? ?????? ?????? ?????? ??????, ? ?????? ??? ?????????? ???
????????? ??? ??? ?????? ??? ?? ?????????? ?????? ?????? ?????????? ??? ??? ??? ?????????? ???
?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ?????????? ??????????, ???? ??
?????? ?????????? ??????????.

57 ??????????? ?? ?????? ?????????? ?? ??????????, ??????????? ?? ??????
?????? ?? ?????? ?? ?????? ? ?? ??? ?????????? ?? ?????????? ?? ?????????? ?? ??????????
????????? ? ?????????? ?? ?????????? ??, ??, ?? ???? ?? ?????? ?? ????? ?? ?????? ??
????????? ????????, ?? ?????? ?? ?????????? ?? ?????? ?? ??????? ?? ?????? ?? ??????
????????????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?? ??????? ?? ??????

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

59 ?? ?? ??????? ?? ?? ????? ??????? ?? ?? ?????? ??????????? ?? ??' ?????? ?? ??
?????????????? ?? ?? ?? ????? 101, ??????????? 1, ????, ?? ??????????? ?? ?? ?? ????? 4,
?????????? 3, ??? ?? ?? ?? ?????? 77/249, ???? ?? ?? ?????? ?? ?? ??????????? ?? ?? ??????
?????????? ???????, ???? ?? ??????? ?? ?? ??????? ?????, ? ?????? ??????????? ?? ?? ??
?????????? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????????? ??????? ?? ?? ?? ???????
?????? ?? ??????? ? ??????????????? ?? ?? ??????????????? ?? ?? ??????? ???????.

60 ?? ???? ?? ??????? ???, ????, ?? ? ?????????? ??, ???, ???, ???, ???, ???, ???, ???, ???, ??
????, ?????????? ??, ???????, ?????????? ??, ???????, ??, ???????, ?????????? ??, ???????, ???????, ??, ??
????, 101, ???, ??, ???, ???????, ??, ?????????? ??, ???????, ???????, ???????, ???????.

61 ???? ????????, ?? ???? 101, ?????????? 1, ??? ???? ?????????? ?? ??????
????????????? ???????, ??? ? ?????? ?????? ?????? ?????? ??????, ? ?????? ?????????? ?? ?
????????? ?????????? ?? ???????, ?? ? ?????????? ?????? ?????? ?????? ?????? ?? ???? ??????
????????? ?????????? ? ?????????????????? ?? ? ?????????????????? ?? ???? ?????? ??????????.

62 ???????, ??????? ?? ? ?????? 77/249 ??? ??????? ?????? ??????? ? ?????? ??
?????? ?? ?????????????? ?? ??????????? ?????????? ?? ??????? ?? ??????? ?????????? ?? ???????
?????? ????????, ?????? ?? ?????? ?????? ??? ? ?? ????? ?????? ?????????? ?????????? ??
?????? ?????? ??? ???? ?????? ?????????? ??? ??????? 77/249.

63 ?????????????? ?????? ??? ??????? ????????, ??? ?????? ??? ???? ?????? ?????? ?????? ?????? ?????? ??????
?? ?????? ? ???????? ??? ?? ?????? 101, ?????????? 1, ????, ?? ?????????? ?? ?? ?????? 4,
????????? 3, ??? ?? ?????? ?????? 77/249, ???? ?? ?????? ??? ?? ?????????? ?? ?? ?????? ?????????? ?? ?? ??????
????????? ??????, ??? ? ?????? ??? ?????? ?????, ? ?????? ?????? ?????? ??? ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????
????????? ?????? ? ?????????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??????.

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

64 ?? ?? ?????? ??????? ?? ?????? ??????????? ?????? ?? ?????????????? ?? ? ??????
2006/112 ??? ?????? ?????? ?? ??????????? ?? ?????? ??????????? ???????, ??? ?
?????? ?????? ?????? ??????, ? ?????? ?????????? ?? ? ??? ?????? ??????????? ?????? ???
?????? ??? ?????????? ?? ???? ?????? ??????????? ?? ?????? ??? ? ?????????? ?? ????
?????? ??? ?????? ?????? ??? ???? ??????????? ??????.

65 ??? ?? ?????? 78, ?????? ??????, ??????? ??, ??? ?????? 2006/112, ??? ???
????????? ??? ?????? ???????????????, ?????? ???, ?? ???, ??????????, ?????????? ???
????, ?? ??????? ??? ???.

66 ?????????????? ??????? ??, ??? ?? ?????????? ?? ???????????, ? ??? ??
????????????? ???????????????, ? ?????? ??????? ?? ?????? ?????????? ???, ??????????? ??
????? ?????????? ?? ???? ?????????????? ?????????????? ??? ??????????? ??? (??.,
??' ??? ?? ??????, ?????????? ?? 23?? ??????? 2009, Puffer, C?460/07, EU:C:2009:254,
?????? 45 ?? 46, ??? ?? 22?? ?????? 2012, Klub, C?153/11, EU:C:2012:163, ??? 42).

67 ?? ??????????, ?????????? ?? ???? ?????? ?????????? ??????????? ?? ??? ??????
????????????? ?????????? ?? C?427/16 ??? ? ??????? ?? ?????? ?????? ?????? ??????
????????? ?????? ?? ???? ?????? ?????? ?? ?????? ?????? ?? ???? ?????? ?? ???? ??????????
??????, ?????????? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????? ?? ???? 78, ????
??????, ??????? ??, ??? ?????? 2006/112 ??? ?? ??? ?????? ??? ?????????? ??
????????? ??? ?????? ?? ?????? ??? ?????? ??? ?? ?????????? ?? ?????? ?????? ??? ???
?? ??? ?????????? ?? ?????? ??? ?????? ???.

68 ??? ?? ??????? ??, ??? ?????? ?????? ?????? ?? ?????? ?? ?????? ? ??????? ??
??? 78, ??? ??, ??? ?????? 2006/112 ??? ?? ?????? ??
????????? ?? ???? ?????? ?????????? ?? ??????, ??? ? ?????? ?????? ?????? ??????, ? ????
????????? ?? ???? ?????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ??? ??????
????????????? ?? ???? ?????? ??? ?? ?????????? ?? ?????? ?????? ?????? ??? ??????
?? ??? ?????????? ???.

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69 ??????? ?? ???? ?????? ?????????? ?? ?????? ?? ???? ?????? ?????????? ?? ?????? ???
?? ?????????? ?????????????? ?? ?????? ?????? ?????????? ?? ?????? ?????????? ??????, ?' ???
????????? ?? ???? ?????? ?? ?????? ?????? ??????. ?? ?????? ??? ?????? ??????????
???? ?????? ?????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ???
?? ??? ?????????? ???.

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

1) ?? ??? 101, ?????????? 1, ???, ?? ??????? ?? ?? ???? 4, ?????????? 3,
??, ??? ?? ?????? ?? ?????? ?????????? ???????, ??? ? ?????? ??? ??????
????, ? ???, ?????, ??? ?????? ?? ?????? ?????? ?? ?????? ??? ???? ?????? ??? ??
????????? ?????? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?????? ?? ??????
?? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
savet (????? ?????? ?????? ?????? ?????? ??????), ??' ?????? ??????
????????? ?????? ?????? ?? ?????? ?? ?????? ?????? ?????? ???, ???, ?????? ???,
????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ??????
?? ?????? ?????? ?? ?????? ?????? ?????? ?? ?????? ?? ?????? ?????? ?????? ??????
????????? ?????? ?? ?????? ?????? 101, ?????????? 1, ????. ??????????
?? ?????? ?????? ?? ?????? ?? ?????? ?????? ?? ?????? ?????? ?????? ??????
????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????

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2) ?? ??? 101, ?????????? 1, ???, ?? ?????????? ?? ?? ??? 4, ?????????? 3,
?? ??? ?? ?????? 77/249/?? ?? ??????????, ?? 22?? ?????? 1977, ??
????????????? ?? ?????????????? ?????????? ?? ?????????? ?????????? ??
?????????, ??? ?? ?????? ?? ?????? ?? ?????????????? ?? ?????? ??????????
????????, ??? ? ?????? ?????? ?????, ?? ?????? ?????????? ?? ?? ?????? ??????????
????????? ?? ?????????? ?? ?????????????? ?????? ?? ?? ?????? ?????????? ??????
????????? ? ?????????????? ?? ?????????????? ?? ?????? ?????????? ??????.

3) ?? ??? 78, ????, ?????, ??????? ?, ?? ?????? 2006/112/?? ??
?????????, ?? 28?? ??????? 2006, ??????? ?? ?? ?????? ?????? ??
????????????? ??, ??? ?? ?????? ?? ?????? ?????? ?????? ?? ?????? ??????????
??????, ??? ? ?????? ?????? ?????, ?? ?????? ?????????? ?? ???? ? ??????
????????????? ??, ??? ?????? ?????? ?????? ?????? ?? ?????? ?????????? ?? ???? ????
????? ?????????????? ?? ?????? ?????? ?????? ?????????????? ?????? ?? ?????????? ??
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(?????????)

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