

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

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

??? 21?? ??????????? 2017 (*)

«????????????? ?????????? – ????? ?????????????? ????? (???) – ????? ?????? 79/1072/??? –
?????? 2006/112/E? – ?????????????? ??? ????? ?????????? ????? ?????? ?????? – ??????????
??? ??? ??? ?????????? ??? ????? ?????? ?????? – ?????????????? – ??????????????
????????? ?? ????? ?????????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?
????????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????????? ??? –
????????? ??????? ?? ?????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?
????????? ??????? ?? ?????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????»

???? ??????? C?441/16,

? ? ?????????? ?????? ?????????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Înalta Curte de Casa?ie ?i Justi?ie (?????? ?????? ?????????? ??????????, ???????) ??
?????? ?? 22?? ??????? 2016, ? ?????? ??????? ??? ?????????? ??? 8 ??????? 2016,
??? ??????? ??? ???

SMS group GmbH

????

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

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

? ? ?????????? ??? ??? M. Berger (??????????), ??????? ????????, E. Levits ??? F. Biltgen,
???????,

? ? ??????????: M. Campos Sánchez-Bordona

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

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

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

- ? SMS group GmbH, ?????????????? ??? ??? E. B?ncil?, avocat,
- ? ?????????? ????????, ?????????????? ??? ??? R. H. Radu, ????? ??? ??? ??? C.-M. Florescu ??? R.-?. Mangu,
- ? ??????? ????????, ?????????????? ??? ??? G. Palmieri, ?????????????? ??? ??? G. Galluzzo, avvocato dello Stato,
- ? ?????????? ????????, ?????????????? ??? ??? L. Lozano Palacios ??? L. Radu Bouyon,

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

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

?????????

1 ? ??????? ?????????????? ?????????? ?????? ??? ???????? ??? ?????? 2 ??? 6 ???
?????? ??????? 79/1072/??? ??? ??????????, ??? 6?? ?????????? 1979, ??? ??????????????
??? ?????????? ??? ?????? ?????? ??? ?????? ?? ??? ?????? ?????? ?????????? – ??????
?????????? ??? ?????? ?????????????? ?????? ?????? ?????????????? ??? ?????? ?? ?????? ???
????? ?????????????? ??? ?????? ?????????? ??? ?????? (?? ????. ????. 09/001, ?. 111, ??? ????:
????? ??????), ??? ??? ?????? 17, ?????????? 2 ??? ?????????? 3, ?????????? ?, ??? ????
?????? 77/388/??? ??? ??????????, ??? 17?? ????? 1977, ??? ?????????????? ???
????????? ??? ?????? ??????, ??? ?????????? ?? ??? ?????? ?????? ?????? ?????????? – ??????
????????? ??? ?????? ?????????????? ????: ?????????? ?????????? ??? (?? ????. ????. 09/001, ?. 49, ??? ????: ??? ?????).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ?????????? ?????? ??? ?????????? SMS
group GmbH ??? ??? Direc?ia General? Regional? a Finan?elor Publice Bucure?ti (???????)
?????????? ?????????? ?????????? ?????????????? ?????????????? ??????????????, ????????, ??? ????:
?????????? ???), ?????????? ?? ??? ?????????? ??? ?????? ?????? ?????????????? ?????? (???) ???
????? ? SMS group ??????? ??? ?????????? ?? 2009.

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

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

3 ? ??????? ??? ?????? ?????? ?????? ?????? ?????????????? ???, ?????????????? ??? 23
?????????? 2009, ??????? ?????????? ?????? ??? 14 ??????????? 2009. ????????, ??
?????????? ?????????? ??????????, ratione temporis, ? ?????? ?????? ??? ? ??????
2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ?????? ??????? ???
????????????? ??? (?? 2006, L 347, ?. 1, ??? ????: ?????? ???).

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

4 ?? ????? 1 ??? ?????? ??????? ??????:

«??? ??? ??????? ??? ?????? ??????, ?????????? ?? ?????????? ??? ?????? ??
????????????? ??? ?????????? ??? ?????? ? ?????????? [????? ????] [...] ? ?????? ???
????????? ??? ?????????? ??? ?????????????? ??? ?????? 7 ?????????? 1 ?????? ?????? ????
??? ??????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? [...] ??? ?
????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???

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

) ??? ??????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? [...].»

5 ?? ????? 2 ??? ?????? ?????? ??????:

«???? ?????? ?????? ??????????? ?? ??? ?????????????? ??? ??? ? ?????? ? ?????? ??? ????
?????????????? ?? ??? ?????????? ??? ??? ?????? ?????? ?????????????? ?? ??? ??? ???? ?????? ???,
??? ???? ?????? ??? ?????????????? ??????????, ??[?] [??] ??? ?????????? ?????????? ?? ??? ???
??? ?????????????? ?? ??? ???? ??? ?????????? ??? ?[?]?????? ??? ??? ???? ??? ??????
????????????? ??? ????, ? ??? ?????????? ??? ?????????? ?????? ??? ????, ?????? ??? ??? ??????
???? ??? ? ?????????? ?????????????? ??? ??? ?????? [??] ?????? ??? ??? ?????????? ??? ??????????
??? ??? 17, ?????????? 3, ?????????? ?? ??? ?, ??? ?????? ??????] [...]»

6 ?? ?????? 3 ??? ?? ??? ?????? ??? ?? ????:

«?? ? ? ?????? ?????????? ??? ?????????? ??? ???, ??? ?????????? ??? ??? 2, ?
?????? ??? ?????????????? ??? ?????? ?????????? ?????? ???? ??? ?????? ??????????
????????? ?? ?????????? ??? ?????????? ??? ??? ????, ??????:

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

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

?) ?? ?????????? ?? ?????? ??? ?????? ??? ??? ?????? ?? ?????? ?????????? ?????? ??? ??
?????? ?????????? ??? ?????????? ?? ?????????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?????????????? ??? ?????? 7 ?????????? 1 ?????? ?????? ??? ????
??? ?????? ????

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

7 ?? ?????? 4 ??? ?????? ?????? ????:

«?? ? ? ?????? ??? ?????????? ? ?????????? ??? ??? ? ?????????? ??? ??? 2, ?
????? ??? ?????????????? ??? ?????????? ??? ??? ?????? ?????? ?????? ?????? ???? ????
????? ?????????? ?????????? ?? ?????????? ??? ????, ??? ??? ?????? ??? ?????????? ??? ??????????????
??? ??? 1 ?????????? ?) ??? ?), ??????:

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

?) ?? ?????????? ?? ?????? ??? ?????? ??? ??? ?????? ?? ?????? ??? ?????????? ???
????????????? ??? ?????? 7 ?????????? 1 ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
?? ?????? ?????? ?????? ? ?????? ?????? ?????????? ?????????? ?? ?????????????? ??? ??????????????
??? ???, ??? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????? 1 ?) ??? ?).»

8 ?? ?????? 5, ?????? ??????, ??? ?????? ?????? ??? ?? ????:

«?? ??? ?????? ?????? ??? ?????????? ??????, ?? ?????????? ??? ?????????? ??? ???
????????? ??? ?????? ??? ?????? 17 ??? [?????] ?????? [...] ??? ??? ?????? ?????????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ??????...»

9 ?? ?????? 6 ??? ?????? ?????? ??? ?? ????:

«?? ?????? ??? ?????? ?? ??????? ?? ??????????? ?????? ?????????????? ?? ?????? ?? ?????? 2,
????? ??? ??????????? ??? ?????????????? ??? ?????? 3 ??? 4, ?????? ?????????? ?????? ???
??????????, ?? ?????? ???????????, ??? ?????? ??? ?????????? ?????????????? ??????????????
????????????? ?? ?????????? ?? ?????? ??? ?????????? ?????????????? ??????????????»

10 ?? ?????? 7, ?????????? 1, ??? ???? ?????? ??????:

«? ?????? ?????????? ??? ?????????? ??? ?????? 3 ??? 4 ?????? ?? ?????? ?????? ?????? ?
????????? ??? ??? ?????? ?????? ?????? ?????????? ? ?????????? ??? ??????
????????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ???
????????? ??? ?????? ?????????????? ????. [...]»

? ?????? ???

11 ? ?????? ??? ?????????? ??? ?????????????? ??? 1?? ?????????? 2007 ??? ???
?????. ??? ???? ?????????? ??? 1 ??? 3 ??? ?????? ???, ? ?????????? ???
????? ?????? ?????? ?????? ?????????? ??? ?????? ?? ?????????? ?????????? ??
????????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????????? ?????????? ???
??? ?????? ?????? ?? ?????????? ???' ?????? ?????????? ??? ??? ??????.

12 ?? ?????? 9, ?????????? 1, ??? ?????? ??? ??????:

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

?? “????????? ???” ?????????? ??? ?????????? ??? ?????????? ???, ???
????????? ? ??? ?????????? ???, ?????????? ???, ??? ??? ?????????? ???
?????????, ??? ?????????? ?????????? ??? ?????? ??? ??? ?????????? ???
????????? [...].»

13 ?? ?????? 70 ??? ?????? ??? ?????? ??? ??? ?????:

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

14 ?? ?????? 146, ?????????? 1, ??? ???? ?????? ??????:

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

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

[...].»

15 ?? ?????? 167 ??? ?????? ??????, ??? ?????? ? ?????? ?????? ?????????? ??? ?????? ???
????? 17, ?????????? 1, ??? ?????? ??????, ??????:

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

16 ?? ?????? 168 ??? ?????? ???, ??? ?????? ?? ?????????? ?????????? ???' ?????? ??
????? ??? ?????? 17, ?????????? 2, ??? ?????? ??????, ??????:

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

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

[...]

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

17 ?? ?????????? ??? ?????? 169 ??? ?????? ??? ?????????? ???' ?????? ?? ??????
??? ?????? 17, ?????????? 3, ??? ??? ?????? ??????. ?? ?? ??? ?????? 169 ??????:

«????? ??? ??? ?????? ??? ?????????? ??? ?????? 168, ? ?????????? ??? ?????? ???
????????? ?????????? ??? ??? ??? ?????????? ??? ?????? ???, ?????? ?? ?????? ???
????????? ?????????????????? ??? ??? ?????????? ??????:

?) ??? ?????? ??? ??? ?????????? ??? ?????????????? ??? ?????? 9, ?????????? 1,
????????? ??????, ?? ?????? ?????????????????? ??? ?????? ??? ?????? ?????? ???
????????? ? ?????????????? ? ?????? ?????? ??? ?? ?????????? ?????????? ??? ??????
????????????? ?????? ??? ?? ?????? ?????? ??????:

?) ??? ?????? ??? ?? ?????????????? ?????? ?? [?? ?????] 146 [...].

[...]»

18 ?? ?????? 170 ??? ?????? ??? ?? ??????:

«????? ?????????? ??? ??? ? ??????, ??? ?? ?????? ??? ?????? 1 ??? [?????? ??????] [...] ???
????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ?????? ??????
??? ?????????? ? ?????????? ??? ?????? ??? ?????????????? ?? ???, ?????????? ?????????? ???
????? ??? ??? ??? ?????? ??? ?? ?????? ??? ?? ?????????? ?????????????? ??? ??? ??? ???
?????????:

?) ?????? ??? ?????? 169,

[...]»

19 ?? ?????? 171, ?????????? 1, ??? ?????? ??? ??????:

«? ?????????? ??? ??? ?????? ?????????????? ??? ???, ??? ?? ?????? ?????????????? ???
????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ? ?????????? ?????? ???
????????????? ?? ???, ??? ?????? ?????????????? ?? ??? ?????? ?????? ???,
????????????? ??? ?????? ?? ??? ?????????? ?????????? ??? ?????????? ??? ?????????????? ??? ???
[????? ??????].

[...]»

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

20 ?? ?????? 147ter ??? Legea nr. 571/2003 privind Codul fiscal (????? 571/2003, ????)
????????????? ????, ?? ?????? ?????????? «????????? ?????? ?? ?????????? ????, ?? ?????????? ????, ?? ???? ?????????? ????, ?? ?????? ?????? ???, ?? ?????? ?????? », ??????:

«1) ??? ???? ?????? ??? ?????????????? ??? ??? ??? ????:

a) ? ?????????????? ??? ???? ??? ???? ???? ?????????????? ??? ???? ?????????????? ??
????????????? ??? ???? ??????? ??? ???? ??? ?????? ??? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? [...]

[...]»

21 ?? ?????? 49 ??? Hotărârea Guvernului nr. 44/2004 pentru aprobarea Normelor metodologice de aplicare a Codului fiscal (????????????? ?????????? 44/2004, ??? ??????? ??? ?????????????? ??? ??? ??????? ??? ?????????? ??????), ?????;

«[...]

3) ?????????????? ??? [...] ????? ? ?????????????? ??? ??? ? ?????? [...] ??? ???
????????????? ??? ??? ?????????????? ?? ?????????????? ??? ??? ?????? ??? ??? ???
????????? [...], ??? ??? ????? ?????????????? ??? ??? ????? ?????????????? ??? ??? ?????? ???
??? ??? ??? ?? ??? ????? ?????????????? ?????????????? ??? ? ??????, ??? ??? ?????? ???
?????????, ??? ??? ????? ?????????????? ?????????? ??? ??? ????? ?????????? ??? ?????? [...]

4) ? [...] ?????????? ?????? ?????????????? ??? ?????? ??? ?????????? 3 ?????????? ????,
?????? ?? ?????? ??? ?? ?????????? ??? [...] ?????????? ??? ?????????? ??? ??? ?? ??????
??????????? ? ????, ?????????????? ??? ?????? ?????????? ??? ?????? ????:

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

[...]

5) ??????????? ?? ?????? ??? ??????????????, ? ??? ?????? ?????????? 3
????????????? ??? ?????? ?????? ?? ?????????????? ??? ?????????? ??????????????:

[...]

[...]

6) ?? ??????? ?????????? ?? ?????? ?? ??????? ?? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ??
????? ?? ?????? ?? ?????????? [...] ?? ?????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ??
????????? 5. ???' ???????, ?? ??????? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ??
????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??.

[...]»

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

22 ? SMS group ?????? ??????? ?? ??? ?????? ?????????? ? ?????? ?????????????? ??
????????? ?????????? ?????????????? ??????. ????. 7 ?????????????? 2008 ? SMS Meer,
????????? ? ?????? ?????????? ?????????????? ??? ?? SMS group, ??????, ?? ??????????, ??
??? Zimekon Handels GmbH Autriche (??? ????: ??????????) ??? ?????????????? «?' ????. 27»
??????, ? ?????? ????. ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ??????????
????????????? ?????? ??? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?? ??????????
????????????????? (??? ????: RSA). ?? RSA ?????????? ??? ?? ?????? OOO Zimekon
Ukraine.

23 ?????? ??? ??????????????? ??? ???' ????. 27 ?????? ??????????????????
?????????, ? ?????????? ??? ?????? ?? ???????????, ??? ?? ?????? ?????? ??? ??????
????????? ??? RSA, ??? ????? 2 ?????????? ??? ?????? ??? ?????? ??? 2008, ?? ??????
???? ??? 800 000 ??? ??? 15 ?????? 2008, ?????? ??? ?????? 1 ?????????? ??? 15
???? ??? 15 ?????? 2008 ???, ????, ??? ?????? 1 ?????????? ??? 15
????? 2008. ?? RSA ?????? ?? ?????????? ??? ?????? ?????? 1?? ?????? 2009 ?? 30??
????????? 2009, ??? ?? ??? ?????? ?? ??? ?????? ?? ?????????? ??? ?? ?????? ???
????????????? ??????????.

24 ????. 26 ??????? 2008 ??? ???. ? ?????????? ????. ????. ?????????? ????. ????. ????. ??????????
?????. 2 ?????????? ????. ?, ? SMS Meer ??????. ?? ???. ?????????? ????. ????. ??????. ??????.
Asmas AES ??????. ??????????, ?? ??????. ????. ??????. ??????. ??????. ? ??????.
?????. ??????. ????. SMS Meer ??? ???. ??????. ????. RSA (??? ???: ??????. ????.).
?????, ????. 5 ??????? 2008, ???' ??????. ???. ??????. ????. ?, ??????. ????. ??'. ????.
27 ??????. ??????. ????. ????. 1?. ??????. 2009, ????. ??????. ????. ??????. ????.
?????. ?. ? SMS Meer ??????. ????. ??????. ????. ???. ??????. ????. ??????. ????.
?????. ????. ?, ??????. ????. ????. ???. ??????. ????. ??????. ????. ??????. ????.
?????. ????.

25 ????. 14 ??????????? 2009 ? SMS Meer ?????????? ??? ???. ??????? ??? ???????? ???. ??????? ???.
?????? ???. ??? ??????? ???. ??? ??????? ???. ??? ??????? 1 487 739 ?????????? ??? (RON) (????.
?? 327 500 ????.) . ????. ????. ???????, ?? ?. ????. ??????. ?????????????? ???. ????. ??????? ???.
???????

26 ?????????? ??? ? ??????????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ??????, ?
????????? ??? ??' ????. 27 ?????????? ??? ???????????. ??? ?? SMS group, ? ??????????
??? ??????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??????? ?? ?????? ??
????? ??? ?? ???????????.

27 ??? 23 ?????????? 2009 ? SMS Meer ?????? ??? ?? ?????????? ??? ?? ???? ???????
??? ??? ??? ? ??? ????? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ???
????????? ??????. ?????????? ?? ?????????? ??? ?????????? ?????? ??? ??? ??????
????????????? ??????, ? SMS Meer ??????? ???, ?? ?????????? ?? ?????????? ???
??' ????. 27 ???????, ??????? ?? ??????? ?? ?????? ????. ? SMS Meer ??? ??????,
???????, ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
???? ?? ????? ?? ?????? ??? ?????? ??? ?? ?????? ???.

28 ? ?????????? ??? ??????? ?????? ?? ?????? ?????????? ??, ??????? ?? ?
SMS Meer ???. ??? ?????? ??????? ?????????????? ?? ?????? ?? ?????????? ?? ?????

?????? ???? ?????????? ??????? ??? ?? ?????? ?????? ?????????? ??????. ? ?????????????? ??????? ??? ?
SMS Meer ??????? ??? ?? ?????????????? ?????? ?????? ?????????? ?????????? ??? ?? ??????? ??? ?
??? ?? ?????? ??????? ?????????? ??????? ??? ?? ?????????? ??????, ???, ?? ????????, ?
?????????? ??????? ??? ? SMS Meer ?????? ?????? ??? Curtea de Apel Bucure?ti
(?????? ????????????, ???????) ?? ?????? ??? ?????? ??? ??? ?????? ?????????? ???
?????????? ?????? ?????????? ?? ??? ?????? ?????? ??? 30?? ?????? 2012.

29 ? ?????? ??? ??????? Curtea de Apel Bucure?ti (????????? ??????????????)
????????? ?????????? ??? ?? Înalta Curte de Casa?ie ?i Justi?ie (????????? ??????????
?????????, ???????), ?? ????? ???????? ??? ?????? ?????? ??? Curtea de Apel
Bucure?ti (????????? ??????????????). ?? ?????? ??? 9?? ?????? 2014 ?? Curtea de Apel
Bucure?ti (????????? ?????????????) ??????? ?? ?????? ??? ?????? ??? SMS Meer ??
??????, ????, ???, ??? ?????? ???, ? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?? SMS
Meer ?? ??????? ?????????????? ??????? ?? ?????? ??? ?????????? ??? ?????????? ??????.
???? ?? ?? ??? ??????????, ? SMS Meer ?????, ??? ?? ?????? 147ter, ?????????? 1,
????????? ??, ??? ?????? 571/2003, ?? ??????? ?????? ?????????????? ??? ?????????? ???
????????? ??? ??????? ??????, ?????????? ??? ? ?????????? ?????????? ??? ?????????? ???
????????? ??? ?? ?????????? ?????????? ??????.

30 ? SMS Meer ??????? ?????????? ??? ?? ?????????? ?? 9?? ??????? 2014,
????????????? ??? ? ??????? ??? ??' ????. 27 ?????????? ?? ??? ?????????? ??? ? ??????
????????? ??? ? ?????????? ?????????? ????. ??????????????, ??? ???? SMS Meer, ? ???
?????. 27 ??????? ??? ???? ?????? ?????????? ??? ?? ?????????? ??? ???? 2
????????????? ??? ???? ??? ?????????? ?????????????? ??????????, ??? ??????????
????????? ?????????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ??? ?????????? ??? RSA ??????????. ? SMS Meer ?????????? ??? ???
?????????, ???????, ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ???
????????????? ??????? ????. ????? ??? SMS Meer, ? ?????????? ??? ??? ??? ??????? ??
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ???????, ??' ??
????????? ? ?????????? ??? ??' ????. 27 ?????????? ??? ?????????????? ?? ??????. ???
???????????, ??? ??? ?????? ??? ?????? ??? ??????????, ?? ?????????????? ??? ?????????????? ??
????????? ??? ?????????? ?????????? ???.

31 ????? ?? ??????? ???????????, ????. ????. ??????????? ???????????, ? SMS Meer ??????????
?????????? ?? ???. ?????? ??????? ?????????? ???. ??????????? ???. ??' ????. 27 ???????,
?????? ? ??????????? ?????? ?????? ?????? ???. ??????????? ???. ?? ???. ?????? ???????????
?????. ????. ????. ??????????? ??????, ??????????, ????. ???. ?????? ?????? ???????????, ???. ?????? ???.
????????? ???. ? ??????? ??????????????????? ???. ??????. ????. ????. ?????? ? ?????????? ???.
?????. ??????????? ???. ?????? ??????? ????????. ????. ???. ????????. ????. ????????. ?????? ???.
?????. ?????? ???. ??????????? ???. ????. ????????. ????. ????????. ?????? ???.

32 ???? ???? ?????????? ?????? ?? Înalta Curte de Casa?ie ?i Justi?ie (????????? ??????????)
??????????) ?????????? ?? ?????????? ??? ??????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???
?????????? ?? ?????????? ?????????? ??? ??????????:

«1) ?????????? ??? ????? 2 ??? 5 ??? ?????? ????????, ?? ?????????? ?? ???? ?????? 17,
????????? 2 ??? ?????????? 3, ??????? ??, ??? ?????? ???????, ??????? ??????
????????? ?????? ?? ?????? ??????? ??????? ?? ?????????? ?????????????? ?????????? ??
????? ?? ?????????????? ?? ?????????? ??????? ?? ?????????? ?????? ?????????????? ??
????????????? ?? ?????????? ?????? ?? ?????????? ?????? ?????????? ?????????????? ?????
????? ?????????? ??? ?? ???????, ??? ?? ?????????? ??? ??????????, ? ?????????? ??
????????? ??? ?? ?????? ???? ?????? ???????, ?? ?????? ?????????? ?? ?????????? ??

???? ??????????, ?? ??? ????? ?????? ??????? ? ?????????????? ?????????/????? ??? ??? ?????
????????????? ?? ?? ??? ??? ????? ?? ??? ?????????????? ???;

2) ? ?????????? ??? ?????????? ??????? ??? ?????????????? ???????, ???? ? ?????????? ???
????????????? ??? ??????? ??? ?????? ??? ?????? ??? ?????????????? ???, ??? ?????? ??????????
????????? ?????????? ??? ???????, ??? ?????? ??? ?????? ?????????????? ???, ??? ?????? ??????????
????????? ?????????? ??? ???????, ??? ?????? ??? ?????? ?????????? ???, ??? ?????? ??????????
????????? ?????? 3 ??? 4 ??? ?????? ???????, ? ?????? ?????????? ??? ?? ??? ??????????
6 ??? ????, ?, ???????, ?????? ?????? ?????????? ??????? ?? ??? ?????? ??????????
????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?? ??? ??????????
????????? ?????? ??? ?????? ?????? ?????????? ?????? ?????? ??? ?????? ?????? ? ??????????
????? ?????? ?? ?????? ?????? ?????? 6 ??? ?? ??? ?????? ??????;

3) ??? ?? ??? 2 ??? 5 ??? ?????? ???????, ?? ?????????? ?? ?? ??? 17, ??????????
2 ??? ?????????? 3, ??????? ??, ??? ?????? ???????, ??? ?????? ??? ?? ??????????
????????? ??? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????? ? ??????????
????????????? ???, ??? ?????? ??? ?????? ?????????? ?? ?????????? ??? ?????????????? ??
????????? ???, ??? ?????????? ???; ??? ??? ?????? ?????, ??? ?????? ?????????? ???, ??? ??????
? ?????????? ?????????? ??? ??????, ??? ?? ?????? ?? ??? ?? ??? ?????? ?????? ??????????
?????????????, ? ?????? ??? ?????? ?????? ?????? ?????????????? ??? ?? ??? ?????? ?????? ??? ??????
?????????????, ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?? ??? ?????? ?????? ?????? ??? ??????
????? ??????????;»

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

33 ?? ?? ??? ?????? ?????? ???, ?? ??? ?????? ??????? ??????? ?? ??????????????, ??
?????? ?????????? ???' ?????? ?? ?????????? ??, ???' ???? ??????????, ? ??????
??????, ?? ?????????? ?? ?? ??? 170 ??? ?????? ???, ?????????? ??? ?? ??????
?????? ?????? ?????? ?????? ?????????? ?? ?????????? ??? ?????? ??? ?? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????????
???? ?? ?????? ??? ?????? ??? ?????????? ???, ??? ?????? ??? ?????????? ??? ?????? ??? ??????
???? ?????? ??? ?????? ??? ?????? ??? ?????????? ???, ? ?????????? ??? ?????????? ??? ?????? ??? ??????
??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

34 ?????? ??? ?????????? ??? ??? ?????????? ?????, ?????????????? ???' ???? ????
????? ??? ?????? ?????? ??? ? ?????????? ??? ?????? ?????? ?????????? ??? ?? ??? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??????????
????? ??? ? ???' ???? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??? ???
????????? ??? ?? ??? 170 ??? ?????? ??? (?????? ??? 28?? ?????? 2007, Planzer
Luxembourg, C?73/06, EU:C:2007:397, ??? 34 ??? ??? ?????????? ??? ??????).

35 ??? ?????? ???, ??? ?? ??? 2 ??? ?????? ??????? ?????????? ??? ?????? ???
?????? ?????? ?????????? ?? ??? ?????? ?????????? ??? ?????? ??? ?? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? 170 ??? ?????? ???.

36 ??????, ?? ??? 3 ??? 4 ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ??????
?? ?????? ??? ?? ?????? ??? ??????.

37 ?????, ????, ?????????? ?????? ? ?????????? ?????????? ?? ??? ?????????? ??????????????
???, ?????? ?? ?????? ??????? ?? ?????? ? ?????????? ?????????? ?? ?????? ?? ?????????????? ??????????
????? ?? ?????? ?? ?????? ?????????????? ???????????. ?????????, ?? ? ? ?????? 5 ?? ?????? ?? ??????
????????? ?? ?? ?????????? ?????????? ?? ?? ?? ?????????????? ?????????? ?? ?? ?? ??????????
????????? ?? ?? ?????? ???.

38 ?????????? ?????, ?????????????? ??? ?? ?????????? ?????????????????? ?? ?????? ?????
????????????? ??? ?? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????????? ?? ?????? ?????? ?????,
????? ??? ?????????? ??? ?? ?????? ??????, ?????? ?????? ??? ?????????? ?? ?????? ?????????? ?? ????
????? ?????? ?????????? ?????????? ??? ?? ?????? ??? ?????? ?????????? ??? ?? ?????? ?????? ?????
??? ?????? ??? ?????? ?????? (??????? ??? 25?? ?????????? 2012, Daimler ??? Widex,
C?318/11 ??? C?319/11, EU:C:2012:666, ????? 41 ??? ????? ?????????????? ??????????).

39 ????? ???? ?????? ??????????? ??? ??????????????, ?? ?? ??? ????? ?????????? ?????????? ??????????
????????????? ?????? ??? ?????????? ??? ??? ??? ??????????, ???' ????, ?? ???????????.
?? ???????? ??? ?????????? ??????? ??? ?? ?????? ??? ?????? ??? ?????????? ???
????????????????? ?? ?????????????? ?????? ?????? (????????? ?? 22?? ??????? 2016,
Gemeente Woerden, C?267/15, EU:C:2016:466, ??? 31 ??? ??? ?????????? ??????????).

40 ???????????????, ?? ??????? ??? ??????????? ???, ???????, ??? ??????????? ?????? ???
????? ??????? ??? ??????????????? ??? ?? ?????? ??? ?? ?????? ??? ?????? ?????? ? ???????
??? ??????? ??? ?????? ??????????????? ??????????????????? ????. ??? ????? ???????, ?? ?????? ???????
??? ??????????? ??? ????? ??????????????? ?? ????? ?? ??????????? ??????????? ???? ???
?????????? ???????????????, ??????????? ??? ?????? ? ?? ??????????????? ???, ??? ???
????? ??? ?? ??? ????? ??????????????? ??????????? ?? ?????? ??? ?????? ??? (??????? ??? 22??
???????) 2012, Klub, C?153/11, EU:C:2012:163, ??? 35 ??? ??? ??????????????? ??????????).

41 ????? ??????, ???????????, ??? ?????????????? ?????????? ??? ?????????????? ??????????????,
??? ?? ?????? 170 ??? ??????? ???, ?? ?????????? ?? ?? ?????? 169 ??? ?????? ??????,
????????? ??? ??? ????? ?????????? ??? ????? ? ??????, ??? ??? ?????? ??? ?????? 1 ???
?????? ???????, ??? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??????????????
????????? ?????? ??? ?????????? ?? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??????, ???
????? ??? ??? ?????? ?? ?? ??? ?????? ?????????????? ??? ?????? ??? ??? ?????? ??? ???
????????? ??? ?????????????? ??? ?????? 9, ?????????? 1, ?????????? ??????, ??? ??????
??, ?? ?????? ?????????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ? ???
????????? ? ??? ?????? ??? ?? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ???
????????????? ?????? ?????? ??? ?????? ?????? ?????? ??????, ??? ??? ?????????? ??????????????
??????.

42 ?? ??????? ?????????? ????????, ??????? ?? ?? ????? 70 ??? 167 ??? ??????? ???,
????? ??? ?????? ??? ???? ????? ? ????? ?????????? ??????????, ??? ?????? ??? ?????????? ???
????? (??., ???' ??????????, ??????? ??? 22?? ??????? 2012, Klub, C?153/11,
EU:C:2012:163, ????? 36 ??? ??? ?????????? ??????????).

43 ????? ??????, ??????, ?? ?????? ?? ? SMS Meer ??????? ?? ?????????? ?????????????? ???
?????, ????, ??? ?????? ??? ?????? 1 ??? ?????? ??????, ?????????????? ??? ???' ?????? ?
????????? ??? ?????????? ?????????? ??? ??????????????. ??????, ? ?????????????? ??? ???
??? ?????? ?? ?????? ?????? ?????????????? ?????? ??? ?????? ?????? ??? ??? ?????? ???
??? ?????????? ??? ?? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? 7, ?????????? 1, ???
????????? ????. ????????, ?????? ??? ?????? ?? ??? ?????? ??????????????????, ???? ?? ???
????????? ??????, ?????????? ???? ???? ?? ?????? ?????????? ?? ??? ?????? ?? ?????????? ??
????????????????? ???? ??? ?? ??? ?????? ??????. ?????????????? ??? ?????????? ??

?????? ??????? ?????????? (??., ??????, ??????? ?? 6?? ??????????? 2014, E.ON Global Commodities, C?323/12, EU:C:2014:53, ??? 42).

44 ?? ???????????, ??? ?????????????? ??? ? SMS Meer ?????? ??? ?? ???
?????????????. ???????????, ????? ???, ??? ?????? ???, ??? ?????? ??? ?????????? ??? ?????
??? ?????? ??? ???????????, ? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ???????????, ?? ??????
?????? ??? ?? ??? ?????? ?????? ?????? ??????????? ?????????????? ?? ?????? ??? ???????????
???? ?????? ??? ??????????? ?????? ??????????? ?????????? ??? ?????, ??? ?? ??? ??? ??
????????? ?? ??????????? ??? ?????????? ??? ?????? ??? ?????? ??? ???.

45 ??? ?????, ???????, ?? ?????? ?? ? SMS Meer ??????? ?? ??????????? ??? ??
???? ?? ??????? ??? ??????? ?????? ??? ???????, ?????????????? ???, ??? ?? ???
9, ?????????? 1, ??? ?????? ???, ? ?????? «?????????? ??? ??» ??????? ?? ??? ??
??? ?????? «?????????? ??? ???????????» (?????? ?? 29?? ??????? 2012, Gran Via
Moine?ti, C?257/11, EU:C:2012:759, ??? 24 ??? ??? ??????????? ??? ???????).

46 ?????? ? ?????? ??????? ??? ?? ?????? ??? ?????? ??? ?????? ?????????????? ???????????????, ???
??? ?????? ??? ?????????? ???, ?? ??????? ?? ?????????? ??? ???????, ??? ?? ??? ?? ??
????? ??? ?? ?????????????? ??? ?????? ??? ??? ?????????? ??? ?????? ?????????????? (??.,
??????, ??????? ?? 29?? ??????? 2012, Gran Via Moine?ti, C?257/11, EU:C:2012:759,
????? 25 ??? ??? ??????????? ??? ???????). ???????, ??? ?????? ?????????? ???
??????????, ??????? ??? ?????????? ?? ??????? ?????????? ?? ???????, ? ?????
????????????? ??? ?????????????? ??? ???????????, ?? ??????? ?????????? ???????????????,
???? ?? ?????? ??? ?????? 9, ?????????? 1, ??? ?????? ???, ??? ?????? ?? ??????????
?????????? ??? ??? (??., ??????, ?????????? ?? 14?? ?????????? 1985, Rompelman,
268/83, EU:C:1985:74, ??? 24? ?? 29?? ??????? 1996, INZO, C?110/94, EU:C:1996:67,
????? 17, ??? ?? 22?? ??????? 2015, Sveda, C?126/14, EU:C:2015:712, ??? 20 ??? ???
?????????? ??? ???????).

47 ?? ?????? ?? ??????????? ??? ?? ?????? ??? ?????? ??? ?? ??????? ??? ?? ???????
?????????? ??? ?? ?????? ??? ?????? ??? ??????????? ?? ?????? ?? ??????? ??? ??????????? ???
?????????? ??? ???????, ?????? ??? ?????? ??????????? ?? ?????? ?? ??????? ??? ??????????? ???
?? ?? ??????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??????????? ??? ?? ???
?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????? (?????? ?? 22??
?????? 2012, Klub, C?153/11, EU:C:2012:163, ??? 41 ??? ??? ??????????? ??? ???????).

48 ??????????? ???, ??? ??????? ?????????????? ???????????, ??????? ???
??? ??????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ??????????? ???????????, ??????? ???
??? ?? ??????? ??? ??????? ??????????? ??? ?????? ??????????? ?? ?????? ??? ???????????
??????????, ?? ???????????, ?????????? ?? ??????? ??? ?????? ??????????? ???????????
??????????, ?????? ??????? ?? ???????, ?? ?????? ?? ?????????? ??? ?????????? ??? ???????
????? ??? ?? ??????????? ??? ?????? ???????????, ?????????? ??? ?? ?????????? ??? ???????
?????????? ?? ??????????? ??? ?????? ??? (??., ??????? ?? 11?? ??? 2017,
Posnania Investment, C?36/16, EU:C:2017:361, ??? 37 ??? ??? ??????????? ??? ???????).

49 ?? ????????, ??????????? ??? ? SMS Meer, ??? ??????? ??????????? ??? ?? 2
?????????? ???, ?????? ??? 26 ?????? 2008 ??? ?????? ?????????? ???????????, ??
?????????? ?? ??????? ???, ?? ?????? ?????????? ?? ?????????? ??????????? ??? ?? ???
?????????? ??? RSA ???, ??????, ???' ?????? ??? ?? 27 ???????. ??? ??
?????????? ??? ?????? ?????????? ??? ? ?????? ??? ?????? ?? ?????? ??? ?????? ?? ???
?????????? ??? ?????? ?????????? ???, ?????? ??? ?????? ?????? ??? ?????? ??? ???????

50 ?????????? ?????, ?? ??????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ??????????? ??
????????? ?????? ? ??' ????. 27 ??????? ??? ?????????? ??? ?????? ??????, ?????? ????,
????? ?????? ?? ?????? ?????? ??? ? SMS Meer ?? ????. ?????????? ?? ??????????
?????????? ?? ?????? ??? ???????????, ??? ?????? ??? ?????????? ??? ?????????? ?? ??????????
????????????? ??? ?? ?????? ?????????? ??? ??' ????. 27 ????????. ??????, ?????? ????
????? ???? ???? ?????? ?????????? ?????????????? ?????????? ? ?????????? ?? ??????????, ????
?? ??? ?????? ??????????? ??? ?????????? ??? ? SMS Meer, ????. ?????????? ?? ??????????
????????? ?? ?????? ??????????? ? ??????????.

51 ???????, ??? ???? ?????????? ??? ?????????? ?????? ? SMS Meer ????????? ??
????????????? ??? ???? ???? ???? ??? ?????? ??? ?????? 9, ??????????? 1, ??? ?????? ???.

52 ????? ??????, ??????, ?? ?????????????? ??? ?????????? ?????? ??? ??????? ??? ?????? 170 ??? ?????? ???, ?????? ?????? ??? ? ?????????? ??? RSA, ??? ??? ?????????? ??? ??????
? SMS Meer ??????? ?? ?????? ???, ?????????? ??? ?????? ??????. ???????, ? ?????????? ??? ??
????? ?????? ??? ??????? ?? ?????? ?? ?????? ??? ??????, ??? ?????? ??? ?????? 146
??? ??????? ???, ?????? ??? ?????? ?????? ?????????? ?? ?????? 170 ??? ?????? ???.

53 ?????? ?????????????? ??????, ??????? ?? ?????? ?????? ??? ? SMS Meer ??????????, ????
????????????? ??? ?????????? ??????? ??? ??????????, ?? ?????????? ?????????????? ???
????????????? ???.

55 ????????, ??? ?????????????? ?? ??????????????, ?????? ??? ?????????? ??????????
?????? ? ??????????? ?? ???? ?????????? ?????????????? ?????????????? ?????????? ?? ???
????? ??? ??????? ??, ?? ?????????? ???????????, ?????? ??? ??????????, ?????????????? ??
????????? (??., ???' ??????????, ?????? ??? 22? ?????? 2012, Klub, C?153/11,
EU:C:2012:163, ????? 46 ??? ????? ?????????????? ??????????).

56 ???????????, ?????? ? ??????????? ????? ????? ????? ?????????? ?? ?????????????? ???
????????? ??? ?????????????? ??????? ?? ?????? ??? ???? ????? ?????????? ? ?????????? ???
????????????? ?????????????? ??? ?????????? ???, ?? ?????????? ?????????? ??? ??????, ???
???? ?????????? ??? ?????? ??? ?????????? ??????? ?????????? ?????? ? ?????????????? ?????? ??
????????????? ?? ?? ?????????? ?????????? (??., ??? ???????????, ??????? ?? 22??
????????? 2012, Klub, C?153/11, EU:C:2012:163, ????? 47 ??? ????? ?????????????? ??????????).
? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ? SMS
Meer, ? ?????, ??? ??? ??????? ???, ??? ??? ?????????? ??? ?????? ??? ?? ??????
?????.

57 ?? ?????? ?????????? ???, ?? ??????????, ???? ?????? ???? ?????? ?? ???????
????????????? ???? ?????? ???? ?????? ???? ?????????????? ?????????? ?? ?????? ??
????????????? ???? ?????? ???? ?????????? ?????????? ?????? ?????????? ??????????????
??????, ?????????? ???? ?????? ???? ?????????? ?????????? ?? ?????? ???? ?????? ??????????
?? ?????????? ???? ?????? ???? ?????????? ?????????? ?????????? ?????????? ??????????
?????????, ? ?????? ???? ?????????? ? SMS Meer ???? ?? ?????? ???? ?????????? ??
????? ???? ?????? ?????????? ?????????? ???? ?????????? ?????? ???? ?????????? ?????????? ??
??? ?????? ???? ?????????? ??????????, ? ?????? ???? ?????????? ???? ?? ?????? ???.

58 ?????????? ???? ???? ???? ?????? ??????????, ?????????? ?? ?????? ???? ????
????????? ???? ?????????? ? ?????????? ???, ???' ???? ??????, ? ?????? ??????, ??
????????? ?? ?? ?????? 170 ??? ?????? ???, ?????????? ???? ?? ?????? ?????????? ??????
?????? ?????????? ?? ?????????? ???? ?????? ???? ?????? ?????? ?????????????? ???
?????? ???? ???? ?????????? ?????????? ???? ???? ?????????? ???? ???? ??????????
?????? ???? ??????????, ???? ???? ???? ?????????? ???? ???? ?????????? ???, ???? ?????? ???
??????, ???? ???? ???? ???? ??????????, ? ?????????? ???? ?????????? ???? ?????? ???? ??????
? ?????????? ???? ???? ?????? ???? ?????????? ???? ?????? ???? ?????? ???? ?????????? ???
??? ?????? ?? ?? ?????? ?????? ???? ?????????? ???? ?????????? ???? ?????? ?????????? ???
????? ???? ? ?????????? ???? ???? ?????? ???? ?????????? ?????????? ???? ?????????? ??
????? ???? ???? ?????? ????.

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

59 ?????? ???? ? ?????? ?????????? ???? ?? ???? ???? ?????????? ???? ?????? ????
??? ?????????? ?????????????? ???? ?????? ?????? ???? ?????? ?????????? ???, ?' ????
????????? ?? ?????????? ???? ???? ?????????? ??????. ?? ?????? ???? ?????? ??????????
????? ?????? ?????????? ???? ?????????? ???, ???? ???? ???? ?????? ???? ??????????.

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

???' ???? ???????, ? ?????? ?????? 79/1072/??? ???? ??????????, ??? 6??
????????? 1979, ???? ?????????? ???? ?????? ?????? ???? ?????? ?????? ???
????????? ?? ???? ?????? ?????? ?????? ?????? - ???? ?????? ?????????? ???? ??????
????????????? ?????? ?????? ?????? ?????????? ???? ???? ?? ?????? ???? ??????
????????????? ???? ?????? ?????? ?????? ?????? ???? ?????? ???? ?????? 170 ???
????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ?????? ?? ?? ????
????????? ???? ?????????? ???, ?????????? ???? ?? ?????? ?????? ?????? ??????????
????? ?????????? ?? ?????????? ???? ?????? ???? ?????? ???? ?????? ??????????????
??? ?????? ???? ???? ?????????? ???? ?????? ???? ?????? ?????????????? ???? ????
????????? ???? ???? ?????? ???? ?????? ???? ?????? ?????? ???? ?????? ???? ??????????
??? ?????? ????, ??? ?????? ???? ??????, ???? ???? ?????? ???? ?????? ???? ??????????, ?
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