

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

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

??? 21?? ?????????? 2018 (*)

«????????????? ?????????? – ????? ?????????????? ????? (???) – ?????? 2006/112/?? – ?????? 273 – ????? ?????????? ?????????????? ????? – ?????????? ?????? ?????????? ?????????? ??? ?????? ?????? ?????? – ?????????? ?????????? ??? ?? – ?????????? – ?????? ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ?? ?????????? ??? ?? – ?????? ?????????? ??? ?? – ?????? ?????????? ??? ?? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?? ?????? ?????????? ??? ??»

???? ?????? C-648/16,

?? ?????????? ?????? ?????????????? ?????????? ??????? 267 ????, ??? ?????? ?? Commissione tributaria provinciale di Reggio Calabria (????????? ??????????) ?????????? ??????????, ?????????? ???????, ??????) ?? ??????? ??? 3?? ?????? 2016, ? ?????? ?????????? ??? ?????????? 16 ?????????? 2016, ??? ??????? ??? ??????

Fortunata Silvia Fontana

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Agenzia delle Entrate – Direzione provinciale di Reggio Calabria,

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

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

?????? ??????????: N. Wahl

?????????: V. Giacobo-Peyronnel, ?????????? ??????????,

?????? ??? ?????? ?????????? ?????????? ??? ??????? ??? ??' ?????????? ??? ?????????? ??? 18?? ?????????? 2018,

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

– ? ??????? ??????????, ?????????????? ??? ??? G. Palmieri, ?????????????? ??? ??? R. Guizzi, avvocato dello Stato,

– ? ??????? ??????, ?????????????? ??? ??? F. Tomat ??? ??? R. Lyal,

???? ?????? ??? ?????? ?????????? ??? ??????? ??? ?????????? ??? ?????? ??? ?????? ??? 22?? ?????? 2018,

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

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1 ? ?????? ?????????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? 273 ??? ???????

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

2 ?? ?????? ??? ?????????? ??? ??????? ??????? ?????? ??? Fortunata Silvia Fontana
??? ??? Agenzia delle Entrate – Direzione provinciale di Reggio Calabria (??????????-
????????? ??????? ??????? ???????, ??????) (??? ????: ?????????? ???) ??
????????? ?????? ?????? ??????? ?????? ?? ?????????? ?????????? ?????????? ???
????????? ??? (??).

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

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

3 ?? ?????????? ??? 59 ??? ?????? ??? ??? ?? ????:

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

4 ?? ??? 2, ?????????? 1, ??? ?????? ??? ?????? ?????????? ?? ????:

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

i) ?? ?????????? ??? ?????? ??? ?????????????? ?? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
???

ii) ?? ?? ?????? ??? ?????? ?????????????? ?????????? ???, ??? ?????????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? 3, ?????????? 1, ? ??? ?????? ??? ?????? ???
????????? ???, ??

iii) ?? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ?? ?????? ?????????? ???
????? ?? ?????? ??? ?????? ?????????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ???, ?? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? 3, ?????????? 1,

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

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

5 ?? ??? 73 ??? ?????? ??? ?????? ?? ????:

«???? ??? ??????????? ?????? ??? ??? ??????? ??????????, ????? ????? ?? ??????????? ???
????? 74 ??? 77, ? ??? ?????????? ??? ????? ?????????????? ?????????? ?????????? ???
??????????, ??? ?????? ?????? ?????????????? ?? ?????? ??? ?????? ?????? ?????? ? ?????????????? ?
? ?????? ??? ?????????? ??? ?????? ??????????, ??? ?????? ?????? ?????? ??????,
????????????????? ??? ?????????????? ??? ?????????? ?????? ?? ??? ?????? ??? ?????? ?????? ??????.»

6 ??? ?? ????? 242 ??? ??????? ????:

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

7 ?? ????? 244 ??? ?? ?????? ?????????? ?? ????:

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

8 ?? ????? 250, ?????????? 1, ??? ?????? ??? ?????? ?? ????:

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

9 ??? ?? ????? 273 ??? ??????? ????:

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

[...]»

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

10 ?? ????? 39, ?????????? 1, ??? decreto del Presidente della Repubblica no 600 recante
disposizioni comuni in materia di accertamento delle imposte sui redditi (??????????
?????????? 600, ??? ?????? ?????????? ??????? ?? ??? ?????????????? ??? ??
??????????), ??? 29?? ?????????? 1973 (GURI ????. 268, ??? 16?? ?????????? 1973),
?????? ?? ????:

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

[...]

d) ?? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ??? ??? ?????? ?????????? ???
?????? 33, ? ??? ??? ?????? ??? ?????????, ??? ?????????? ??? ??? ?????? ???.

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

11 ?? decreto del Presidente della Repubblica no 633, istituzione e disciplina dell'imposta sul
valore aggiunto (????????? ?????? 633, ??? ???? ??? ?????? ?????????????? ???), ??? 26??
????????? 1972 (GURI ????. 292, ??? 11?? ?????????? 1972), ?????????? ??? ?????????? ???
????????? ?? ??? ?????? ?????????????? ??? ?????????? ?????????? ??? ?????????? ??? ???? ????.
?? ?????? 54 ??? ?????????? ??? ?????? ?????????? ???' ??????, ??? ???? ?????????? ???
????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????????????????? ?? ?????? ?????? ???
??? ?????????? ??? ?????????? ?, ?????????????? ???, ??? ???? ?? ?????? ??? ?????? ??? ????
??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ???? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ???.

12 ?? ?????? 62bis ??? ?????? ?????????? ?????????? 331/93 (GURI ????. 203, ???
30?? ?????????? 1993), ? ?????? ?????? ??? ???? 427 ??? 29?? ?????????? 1993 (GURI
?????. 255, ??? 29?? ?????????? 1993), ?????? ?? ???:

«1. ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?????????? ???, ??????
????????? ??? ?????????? ???, ?????? ??? ?????????? ??? ?????????? ???, ?????? ???
????????? ??? 31 ?????????? 1996, ??? ???? ?????? ?????????? ?????????? ???, ?????? ???
????????? ?????? ??? ???? ?????? ??? ?????????? ??? ???? ?????? ??? ?????? ??? ??
????????? ?? ??? ?????????? ??? ?????? ??? ???? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? 11 ??? ?????? ?????? ?????????? ?????????? ???, 69, ??? 2??
????????? 1989, ? ?????? ??????, ??? ?????? ?????????? ???, ?? ??? ??? 154 ??? 27??
????????? 1989, ??? ??? ?????????? ?????? ??? ?????????? ??? ?????? ???, ??? ?????? ???,
?? ??? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ???
????? ?????? ?????? ?????? ???, ??? ??? ?????? ?????? ??? ?????? ??? ?????? ???
??? ?????? ?????? ?????? ???, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ???, ?? ?????? ?????? ??? ?????? ??? Gazzetta ufficiale [della Repubblica
italiana] ?? ?????? ??? 31 ?????????? 1995. ?? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 1995.»

13 ?? ?????? 62sexies, ?????????? 3, ??? ?????? ?????????? ?????????? 331/93
????? ?????????? ?? ???:

«?? ?????????? ?????? ?????? ??? ?????? ??? ?????????? ??? ???? 39, ?????????? 1,
????????? d, ??? ?????? ?????? ?????? 600, ??? 29?? ?????????? 1973, ??? ???
????????? ?????? ?????? ???, ??? ??? ?????? 54 ??? ?????? ?????? 633,
??? 26?? ?????? 1972, ??? ??? ?????? ?????? ?????? ??? ?????? ???, ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? 62bis ??? ?????? ??? ?????? ???
????????? ??? ?????? ???..»

14 ?? ?????? 10 ??? ?????? 146 ??? 8?? ?????? 1998 (GURI ????. 110, ?????? ??????????
??? GURI ????. 93), ?????? ?? ???:

«1) ?? ??????????? ?????????????? ??? ?????? ?? ?????????? ?? ???????, ?? ??????
????????????? ??? ??? 62sexies ??? ?????? ?????????? ?????????????? ????. 331, ???
30?? ?????????? 1993, ? ?????? ???????, ?????? ??????????????, ?? ??? ??? 427 ??? 29??
????????? 1993, ?????????????? ?????? ?????????????? ?????? ?? ??? ??? ?????? ???
????????????? ??? ?????? ?????, ??? ?? ?????????? ?? ?? ??????? ??? ?????????? ???
????????? ??? ?? ?????????? ? ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ???
????????? ??? ?? ?????????? ? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ??????
??????.

[...]

3bis) ??? ?????????? ??? ?????????? 1, ? ?????????? ???, ??? ??? ?? ??????????
??? ?????? ?????????? ???, ??? ??? ?????????? ?? ?????????? ???, ???
?????? ?? ?? ??? 5 ??? ?????? ?????????? ?????????? ????. 218 ??? 19?? ??????
1997.

3ter) ?? ?????????? ?????????????? ?? ?????? ?? ?? ?????????? ? ?? ?????? ???
????????????? ??? ?????? ?????????? ???????, ?????????? ?? ?????????????? ?? ?????? ???
????????????? ??? ?????????????? ??? ?????????? ?????????????? ??? ?????? ?? ?????? ???
????? ??? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ??? ?????????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ??? ?????????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ?????????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
1998, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ??? ?????????? ???, ??? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? 322, ??? 22?? ?????? 1998, ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ??? ?????????? ???, ??? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? 1, ??? a, b, ??? c, ??? ?????????? ?????????? 241, ??? 9?? ??????
1997, ??? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????????? ???
????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? 2, ??? ?????????? ??? ?????????? 546, ??? 31?? ?????????? 1992.

[...]

5) ??? ??? ?????? ??? [??], ??? ?????????? ?????????? ? ?????? ??? ??????????????
????? ??? ?? ??? ?????? ???????, ?????????? ?????? ??? ?????? ??? ?????????? ?? ??????????
????? ? ?????? ??? ?????????? ?? ?????? ?????????, ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?? ?????? ??????, ??????, ??? ?????? ??? ?????? ???
??????, ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ???, ??? ?????? ???
????????? ??? ?????? ???.

[...]

7) ?? ?????? ??? ?????? ?????????? ?????????? ?????????? ?????????? ?????????????? ???
????????? ??? ??? ???????, ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??
????????????? ?????????? ?????? ??? ?? ?????????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

[...]»

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

15 ? F. S. Fontana, ?????????? ????, ???, ??? ??????? ?? ?????????? ??????????
????????????? ????, ??? ?? ?????????? ????, 2010.

16 ????? 14 ?????? 2014, ? ??????????? ????? ?????????? ????? ?????????????? ??? ?????
????? ?????? ?? ?????????? ??????? ???, ? ????? ?????? ??? ?????? ???' ??????????
????????????? ?????????? ??????????????.

17 ?????????? ???? ?????????????? ??????, ? F. S. Fontana ?????????????? ?? ??? ?????
????????????? ?????????????? ?????? ?? ????? ?????????? ?? ??? ????? ?????????? ?? ??? ?????
????????????? ?????? ?? ?????????? ?????? ?????? ?? ??? ????? ?????????? ?????????? ?? ??? ?????
????????????? ????????????

18 ??? 24 ?????????? 2014, ? ?????????? ??? ?????????? ??? F. S. Fontana ???
?????? ?????? ?? ??? ??? ?????????? ??? ??????? ???????, ??? ?????????? ???
??? ??? ?????????? ??? ?????????? ??? ??? ??? ??????? ??? ?? ?????????? ???
2010.

19 ? ?????????????? ?? ?????? ?????? ?????? ?????????? ?????????? ??? Commissione
tributaria provinciale di Reggio Calabria (?????????? ?????????? ?????????? ?????????? ???
??????????, ???), ??????????????, ?????? ????, ?? ??? ?????? ??? ?????????? ??? ??? ??? ??????
??? ??????? ??????? ? ?????????? ????. ??????????, ?????????? ??? ? ??????????
???? ??? ?????? ??????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ???
????????? ??????? ??? ??? ?????????????? ??????????, ??? ??? ?????? ?????? ?????? ???
????????? ?????????? ????, ??? ?????? ?? ?????????????? ? ?????????? ??? ? ?????????? ???
??? ?????? ??? ?????? ?????????? ?? ??? ??? ?????? ?????????????? ????. ???????, ?????????? ???
?? ??? ??? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ?? ???????, ?????? ?? ??? ?????? ??? ?????????????? ??? ??? ??? ?????? ???
????? ??? ?????? ??? ?????? ???.

20 ?? Commissione tributaria provinciale di Reggio Calabria (?????????? ???????????
?????????? ?????? ??????????) ??????????? ??? ? ??????????? ??? ?????????????? ???
?????? ?????? ??? ? ??????????? ??? ???????????, ???????????, ?? ?????????????? ??? ??
?????? ??? ??????? ??????? ??? ??? ??????????? ?????????? ??? ?????? ???????, ???
????? ??? «[?] ??????????? ??? ??????????? [?? ?????? ???] ??? ??????????? ??
????????????? ?????????? ???».

21 ???????, ?? ??????? ??????????? ?????????? ??? ??????????? ???, ????? ?? ??????? ?? ???
 ????? ?? ??????????? ??????????? ??? ????? ???????????, ??? ????? ?? ?????
 ??????????? ?? ??????? ??? ??????? ??????????? ???????.

22 ???????????, ?? ?????? ??????????? ?????????????? ??? ?? ???? ?????? ???????
??????????, ?????????? ?? ???? ?? ???????, ??????, ?? ?????? ?? ??????????? ??
????????? ??????????? ?? ???? ?? ?????? ?????????? ? ??????????? ??, ??? ??
????????? ?? ???? ?? ???????, ?? ??????????????? ?? ???? ?? ???? ??????.

23 ??? ??? ??????? ??????, ?? Commissione tributaria provinciale di di Reggio Calabria
(????????? ?????????? ?????????? ?????? ??????????) ?????????? ?? ?????????? ???
????????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ??????????????
?????????:

«?????? ??????? ?? ?? ????? 113 ??? 114 ??? [?????? ??? ?? ??? ?????? ???] ? ???????
?????? ??????? ? ??? ????? ?????????????? ??? ????? 62sexies, ?????????? 3, ??? 62bis ???
?????? ?????????? ??? ?????????? 331/93, ? ????? ??????? ?? ??? ??? 427 ??? 29??
????????? 1993, ??? ?? ????? ??? ???????? ??? ?????????? ??? ??? ?? ???????
????????? ?????????? ??? ??????????, ?????????? ??? ??? ?????????? ??? ???????
?? ?? ?????????? ??? ?????????? ???, ??????????, ??? ?????? ??? ?????????? ??? ??
????????? ??? ???;»

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

25 ??????????????? ??' ?????? ??? ?? ??????????? ??? ?????????? ??? ?????????? ??? ?????????
??? ?????? ??? ?????? ??? ?????????? ????????. ?? ?????????? ?????? ?? ??????????
????????????? ?????? ?????? ?????????? ?????????????? ?????? ??? ?????????? ?????????? ??? ?
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?????????? ??? ?????? ???
????? ?? ?? ?????????? ?? ?? ?????????????? ??? ?????????? ??? ?????? ?????? ??????, ??? ?? ??????????
????? ?????????? ??????, ? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ?????????? ?????????? ?? ?????? ?????? ?????????? ??? ????
????????? ?? ?????? ??? ?????? ?????? ?????? (????????? ??? 26?? ?????????? 2017, BB construct,
C-534/16, EU:C:2017:820, ??? 16 ??? ??? ?????????? ??????????).

26 ?? ????????????, ? ?????????????? ??? ?????? ?????? ?????? ?????????????? ?? ?????????? ??
????????? ???????, ?????????????????? ??? ??? ?????????????????? ??? ?????????????????? ??
????????????? ??? ??????????????. ?????? ??????? ?? ?????? ?????????? ?? ?????????? ??
? ??????? ?????????? ??? ?????? ??? ??????? ?????? ?????? ??????, ? ?????? ?????????? ??
????????? ??? ???????, ?????? ?? ?????????? ??? ?????? ?????? ??? ??? ??????
????????????? ??????? ??? ?????????? ??? ?????? ???, ?????? ??????? ?? ?? ??????? ???, ?? ??
?????? ??? ???, ?????? ?? ? ?? ??? ?????? ?? ?????????? ??? ?????????????? ?? ?? ??
??????????????.

27 ???????, ?? ?????? ?? ?????????? ?????????????? ?????????? ?? ?????? ??????????????,
?????????? ?? ???? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ?????????????? ?? ????
????????? ?? ???? ?????? ??????.

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

28 ???????????, ?? ?????? ?? ??????????? ?? ?? ?? ???? 113 ??? 114 ???, ??? ???
?????????? ?? ?????? ?????????? ?? ?? ?? ?????????? ???????, ??? ?????? ??????? ??
??????????, ??? ?????? ?? ?? ?????? ????? ??????? ?? ?? ??????? ?????????? ??????????
????? ?? ?? ?? ?????????? ?? ?? ?????????? ?? ?? ??????? ????? ?? ?? ??????????
?????.

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

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

30 ???????, ?????? ?? ??????????????? ???, ??? ???? ?????? ?????? ??? ?????? 73 ???
?????? ????? ???, ? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ? ??? ??? ??????
????????? ??? ?????????????? ??? ?????????? ?????? ??? ?????? ?????? ? ?????????? ??? ??????
????????? ??? ?????? ??? ?????? ? ?????????? ??? ?????? (?????? ??? 7?? ?????????? 2013,
Tulic? ??? Plavo?in, C-249/12 ??? C-250/12, EU:C:2013:722, ????? 33 ??? ????? ???????????
?????????).

31 ??????????? ?? ??????? ?????? ? ?????????? ??? ??? ??? ? ?????????? ??? ??? ???
?????????? ????, ?? ????? 242 ??? 244 ?????? ??? ?? ????? 250, ?????????? 1, ??? ??????
???? ??? ?????????? ?????? ?????????????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????? ??????
?????????, ?? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ??????????, ????
??? ??? ?? ?????????? ??? ?????? ?? ?????? ?????? ?????? ??????????, ???, ?????, ?? ?????????? ????
????????? ??? ?????? ??? ?? ?????????? ??? ?? ?????????? ?????????? ??? ???
????????? ??? ?????? ??? ??? ?????? ?????? ??????????.

32 ????? ?????????????? ??? ????? ?????????????? ??? ??? ??? ??? ????? ?????????? ??? ??????????????,
?? ?????? 273, ?????? ???????, ??? ??????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??
??????????, ??????? ?? ??????? ?????????? ??? ??? ?????? ??? ?????? ???, ??? ?????? ??????????????
????? ??? ?????????????? ??? ??? ??????, ?? ??? ?????????? ??? ?????? ??? ?????????? ??? ??? ???
????????????? ??? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????????? ???
????????????? ??? ?????, ??? ??? ??? ??? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ???
??????????, ??? ?????????? ??? ?????? ??? ?????, ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?
????????? ??????. ?????????, ??? ??? ?????????? ??? ?????? 59 ??? ?????? ???, ??? ??????
??? ?????? ??? ?????? ?? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????, ?????? ??????????
????? ??? ??? ?????????? ??????????????, ?????? ?????? ??? ?????? ?????? ??? ?????????? ??? ??? ??? ??????
????, ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????????
????? ?????????????? ? ??????????????.

34 ??????????????? ??, ??????, ??? ?? ??????? ??? ?????????????? ??? ?????? ??? ??
????????? ?????????? ??? ??, ?????????? ??? ?????????? ??? ??, ?????????????????? ??? ?????? ??, ??????????
??? ?????????? ??? ??, ???, ?????????, ??? ?????????????? ??? ?????? ?????????? ?????????? ??? ??
????????????? ??, ?????????? ??? ??, ?????????? ??? ??, ?????????? ??? ??, ?????????? ?????????? ??????????
????????????? ??, ??????, ??? ??, ?????????????? ??? ??, ?????? (??., ??????, ???????, ??? 5??
????????? 2016, Maya Marinova, C-576/15, EU:C:2016:740, ??? 42).

????????????? ??? ?????? ?????????? ?? ??????????? ?? ?????? ???, ???????, ???????, ???????, ???
???? ???????, ???????, ???????, ???????, ???????, ??? ?????? ???????, ??? ???????, ???
???? ???????, ??? ?????? ??? ?????? ??? ?????? ???????, ??? ???????, ??? ???????, ???, ?? ??????
???? ???????, ?? ?????? ??? ?????? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ???
???? ???????, ??? ???, ?????, ??? ?????? ??? ?????????????? ??? ?????, ?? ???????, ??? ???????, ???
????????????? (??., ???????, ?????? ???, ?????????? ??? 5?? ?????????? 2016, Maya
Marinova, C-576/15, EU:C:2016:740, ?????? 43 ??? 44 ????? ??? ??? ????? ??????????????
?????????, ??? ??? 17?? ??? 2018, Vámos, C-566/16, EU:C:2018:321, ????? 41).

36 ???????, ?? ??? 273 ??? ?????? ??? ?????? ??? ?????? ??? ???????????, ???????, ?? ??????
?????? ????? ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????, ? ?????, ??????????? ??
?????????? ? ?????? ?????? ??? ??? ? ?????? ??? ?????? ??? ???????????, ????????????
?? ??? ??? ??? ?????? ??? ?????? ??? ??? ??? ??? ?????? ??? ?????? ??? ??????????? ??? ???
??? ??????? ?????? ?????? ???????, ??? ?????? ??? ???????????, ??? ??? ?????????? ???????,
????? ??????? ?????? ??????????? ??? ???????.

37 ??????, ? ?????? ??? ?????? ??? ?????? ??? ? ?????????? ??????? ??? ?????? ??????? ?? ??
????? ??? ?????? ??? ?????? ?????? ?? ??? ?????? ??? ?????? ??????????? ???????????
?? ??? ?????????? (??., ???????, ?????? ??? 5?? ?????????? 2016, Maya Marinova, C-
576/15, EU:C:2016:740, ????? 44).

38 ?????????? ??? ?????? ?????????? ?? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???
????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ????. ?? ?????????? ????, ????, ?? ??? ?????? ??? ?????? ??? ??????
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (??., ???????, ???????
?? 5?? ?????? 2016, Maya Marinova, C-576/15, EU:C:2016:740, ????? 46).

39 ??? ?????? ??? ?????? ??? ?????? ?????????? ???????????????, ??? ?????? ?????????? ???
??????????, ?? ???????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ???
??? ??? ??? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ????. ?? ??????????
?? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?? ?????????????? ??? ?????????? ??? ?????? ??? ?? ?????? ???
(??., ???????, ?????? ??? 9?? ?????? 2015, Salomie ??? Oltean, C-183/14, EU:C:2015:454,
?????? 56 ??? 57 ??? ?????? ??? ?????? ??????????? ??? ???????).

40 ??? ??? ?????????????? ??? ?????? ?? ??????????, ?? ?????? ?????????? ?????????? ???
?????????? ??? ?????? ??? ?????????? ??? ??? ?????? ??? ??????, ???????, ?? ???????????
(?????? ??? 26?? ?????? 2018, Zabrus Siret, C-81/17, EU:C:2018:283, ??? 33 ??? ???
?????????? ??? ???????).

41 ??? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????????????? ?????????? ???, ????
? ?????????? ??? ?????????? ??? ?????? ?? ?????? ??? ?????????? ?????????????? ??? ???, ?? ???
??? ?????? ?????????? ??? ?????? ?????????? ?????????????? ??? ?????? ?????????? ??? ???
????????? ??? ??? ?????????? ???????, ? ?????????????? ?????? ?????????? ??? ???
????? ??? ?????????? ?? ?????? ?????? ?????? ??? ?????????? ??? ?????? ??? ??? ??????, ???
??? ?????????? ??? ?????? ?????? ?????? ??? ?????? X ??? ?????? ??? ???.

42 ??? ??? ??? ?????? ??? ?????? ??? ??????????????, ? ??? ?????? ??? ?????????? ??? ??????
????????? ? ??? ?????? ?????????? ??? ? ?????????? ?????????????? ?????????????? ???
??? ?? ?????????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ???

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

43 ??? ?????? ???, ?????? ?? ?????????? ???, ???' ??? ?? ?????? ??? ?????????? ???
????????? ??? ?????????? ???, ?????? ?? ?????????? ??? ?? ?????????? ??? ?????? ???
????????? ???, ?????? ??? ?????? ?????? ???, ??? ?? ??? ?? ?????? ?????????? ???
????? ?????? ??? ?? ?????? ?????? ???, ?????? ?????? ?? ??? ?? ?????? ??? ?? ?????? ???
????????? ?????? ??? ?? ?????? ??? ?????? ??? ?? ??? ?? ?????? ??? ?? ?????? ??? ?? ??????
????????? ?? ?????????? ??? ?????? ??? (????????? ??? 3?? ?????? 2014, Kamino
International Logistics ??? Datema Hellmann Worldwide Logistics, C-129/13 ??? C-130/13,
EU:C:2014:2041, ??? 30).

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

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

46 ?????? ??? ?????? ???, ??? ?????????? ?????? ??? ?????? ?? ?????? ??? ?????????? ???
????? ???, ??? ?????? ??? ?? ?????? ??? ?????????? ?????? ??? ?????? ??? ?? ???
????????? ???, ??? ?????? ?????? ??? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???
????? ???, ? ?????? ?????? ??? ?????? ?????? ???, ?? ?????? ??? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???' ?????? ???
????????? ??????, ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
?????????, ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??????
????? ??? ??? ?? ??????, ??? ?????? ???, ?? ?????? ?????? ?????? ?????? ???, ?????? ??????
??? ?????? ?????? ?????? ???, ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???, ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ???
?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? X ??? ?????? ???, ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????.

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

47 ?????? ??? ? ?????? ?????? ?????? ??? ?? ??? ?????? ?????? ??? ?????? ???
??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???, ?' ???

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

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

? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ???
?????? ?????? ?????????????? ???, ?????? ??? ?? ?????? ??? ??????????????
????????????? ??? ??? ??????????????, ??? ?????????????? ?? ?????? ??????????
???? ? ??????? ??? ?????? ??? ?????? ???, ? ?????? ?????????? ???
????????? ???, ?? ?????????? ?????? ?????????? ?????????? ??? ??????????
????? ??? ??? ?????? ??? ?????????????? ???' ?????????? ?????? ?????????? ???????,
?? ?????? ?????? ?????????? ?????? ?????????????? ?? ??????? ?????????? ???????,
??? ?? ?????????? ?? ??? ??? ?????? ?????????? ??? ?????????????? ??????????
???? ??? ??? ?? ??????, ??? ???????, ?? ?????????? ?????????????? ???,
????????? ??? ?????? ?????????? ?????????????? ??? ?????? ?????????????? ???
(??), ??? ??? ?????????? ??? ? ?????? ??? ? ?????? ??? ? ?????????? ??? ?????? ??
????????? ??? ?????????? ???, ?????????? ??? ?????? ??? ?????? ??? ??????????????
????????? ??? ???????, ?? ?????????? ??? ?????????? ??? ?????? ??? ???????????,
????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ???, ??? ??
????? ?? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ??? ?????? X
??? ?????? 2006/112, ??? ?? ?????? ?? ?????? ??? ?? ?????? ??? ?????? ??????????.

(?????????)

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