

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

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

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

«????????????? ?????????? – ????? ?????????????? ????? – ?????? ??? – ?????????? ??? ??????  
????? ?????????? ?????? – ?????????? ?????? ?????? ??? ?????????? ??? ?????????? ?????  
– ?????????? ??? ?? ?????? ??? – ?????????? ??? ?????? ?????? – ?????? ??? ??? ?????? ???  
????????????? ?????? ??? ?????????? ?????? ??? – ?????????????? ??? ??????  
????????????? ?????? – ??? ??????????»

???? ?????? C?672/16,

? ? ?????????? ?????? ?????????????? ?????????? ??? ?????? 267 ????, ???  
?????? ?? Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa – CAAD)  
[????????? ?????????? ??? ?? ?????? ?????? ?????????? ?????? (?????? ?????????? ?????? ???),  
?????????] ?? ??????? ??? 16?? ?????????? 2016, ? ??? ?????? ?????? ???  
????????? ??? 29 ?????????? 2016, ??? ?????? ??? ???

**Imofloresmira – Investimentos Imobiliários SA**

????

**Autoridade Tributária e Aduaneira,**

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

????????? ??? ??? A. Rosas (?????????), ??????? ????????, C. Toader ??? E. Jaraši?nas,  
???????,

????????? ??????????: P. Mengozzi

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

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

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

- ? Imofloresmira – Investimentos Imobiliários SA, ?????????????? ??? ??? S. Neto,  
advogada, ????? ??? ??? J. Magalhães Ramalho, advogado,
- ? ?????????? ????????, ?????????????? ??? ??? L. Inez Fernandes, M. Figueiredo  
??? R. Campos Laires,
- ? ?????????? ????????, ?????????????? ??? ??? F. Clotuche?Duvieusart, ????? ??? ???  
??? B. Rechena,

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

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

????????

1      ? ?????? ?????????????? ?????????? ?????? ??? ???????? ??? ?????? 137, 167, 168,  
184, 185 ??? 187 ??? ??????? 2006/112/?? ??? ???????????, ??? 28?? ?????????? 2006,  
?????? ?? ?? ????? ??????? ?????? ?????? ?????????????? ?????? (?? 2006, L 347, ?. 1, ??? ???:  
?????? ???).

2 ? ??????? ??? ??????????? ??? ??????? ??????? ??????? ??????? ??? Imofloresmira –  
Investimentos Imobiliários SA (??? ????: Imofloresmira) ??? ??? Autoridade Tributária e  
Aduaneira (?????????? ??? ??????????? ???, ??????????) ?? ?????????? ???  
????????? ??? ?????????? ??? ?????? ?????????????? ??? (???) ??? ??????  
????????????? ? Imofloresmira ??? ?????? ?????????????? ???, ??????, ??????, ???????  
?? ?????????? ??????.

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

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

3      ?? ?????? 18, ?? ?????? ??????????????? ?? ?????????? 1 ?? ?????? «?????????? ??????»,  
?? ?????????????? «????????????? ??????» ?????? IV ?? ?????? ??? ?????? ?? ??????:  
«?? ?????? ??? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??  
????????? ??????:

[...]]>.

4      ?? ?????? 27, ?? ?????? ??????????????? ???. ?? ?????? 3 ???. ?? ?????? «???????

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

5      ????. ?? ?????? 135, ??????????? 1, ?????????? ????, ?? ?????? ?????????????????? ????  
????????? 3 ?? ????? «????????? ?????? ??????????????????», ??? ?????? IX ??? ??????????  
«?????????», ??? ?????? ???, ?? ?????? ??? ?????????????? ??? ??? ??? «??? ?????? ??????  
????????? ??????????».

6 ?? ?????? 137, ??????????? 1, ?? ?????? ?????????????????? ??? ????? ?????? ?????????? ???  
????????? ????, ?????????? ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ?????? ??? ??????  
????????????????? ??? ?? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ??????  
?????? ?? ?????? ?????????????? ??? ?? ?????? ??? ?????? 135, ?????????? 1,  
????????? ???, ??? ?? ??? ?????? ??? 137, ?????????? 2, ??? ?????? ??????

? ?????????????? ??? ?? ?????? ???? ?????????????? ??? ?? ?????? ?????????? ??? ?? ??????????????  
????????? ??? ?? ?????????? ? ?????????? 1 ?? ??? ?????? ???? ?????? ?? ?????? ?? ?????????? ??? ??  
????? ??? ?? ?????????? ???????.

7 ?? ??? ?? ????? 167, ?? ?????? ?????????????? ??? ?? ?????? 1 ?? ??? «?????? ???  
????? ??? ?? ?????????? ??????», ??? ?????? X ??? ?????????? «?????????», ???  
????? ???, «[?] ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ?????? ?????? ??????».

8 ?? ????? 168, ?? ?????? ?????????????? ??? ?? ?????? ?????????? ??? ?? ?????? ???,  
????? ?? ????:

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

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

?) ?? ??? ?? ?????? ??? ?????? ??? ?? ?????? ??? ?????????????? ??? ?? ?????????? ???  
??? ?????? ??? ?????? ??? ?? ?????? 18, ?????? ?), ??? ?? ?????? 27,

[...]».

9 ?? ????? 176 ??? ?? ?????? ???, ?? ?????? ?????????????? ??? ?? ?????? 3 ?? ???  
«????????? ??? ?? ?????????? ??????», ??? ?? ?????? X, ?????? ?? ???:

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

[...]»

10 ?? ????? 184 ??? ?????? ???, ?? ?????? ?????????????? ??? ?? ?????? 5 ?? ???  
«????????? ??? ?? ??????????», ??? ?????? ?????? X, ?????? ?? «[?] ??????  
????????????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??  
????? ??? ?????? ?????? [?] ??? ?? ?????????? ??? ?????? ?????? ??? ?? ???».

11 ?? ????? 185, ?????????? 1, ?? ?????? ?????????????? ??? ?? ?????? ?????? 5 ?? ??  
????? ??????, ?????????? ?? ????:

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

12 ?? ????? 187, ?? ?????? ?????????????? ??? ?? ??? ?????? ?????? ??? ?? ?????? ??????  
????? ?? ????:

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

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

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

???? ?????? ?? ??????? ?????? ??????????, ? ?????????? ?? ?????????? ??? ?????????? ??  
????????????? ??? ?????????????? ?????? ?? ?????????????? ??? 20 ???.

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

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

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

13 ?? ????? 12, ?? ????? «????????? ??? ????? ??????», ??? Código do Imposto sobre o  
Valor Acrescentado (?????? ?? ?????????????? ???, ??? ????: CIVA) ?????? ???  
????????? ??? 4, 6 ??? 7 ?? ???:

«4 – ?? ?????????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?? ?????????? ??????  
????????? ?????? ?? ?????? ?????????? ?????? ???, ?? ?????? ?? ?????????? ??, ??  
????????? ?? ?????? ???, ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ??, ??  
????????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?? ?????? 9, ??? 29.

[...]

6 – ? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? 4 ??? 5  
????????? ??? ?? ?????? ?????? ??? ?????? ??? ??????.

7 – ?? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????  
??? ?????? 19 ??., ??? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ?? ??????  
????????? ??? ??????.

14 ?? ????? 24 ??? CIVA, ?? ????? «????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ??????», ??? ?????? ??? ?????? ??? 2, 3, 5 ??? 6 ?? ???:

«2 – ?????????? ??? ?????? ??? ?????? ?? ?????? ?????? ??? ?????????? ?????? ?? ??????  
??? ?????? ??? ?????? ?? ?????? ??????, ??? ? ?????? ?????? ??? ?????? ??? ?????? ???,  
??? ?????? ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 19 ?????????? ???, ??? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

3 – ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

a) ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? 4 ? 19 ?????????? ???, ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

b)    ?? ?????? ?????????????? ???? ?????????????? ???? ??? ???? ?????????????????? ??????? ??  
????????? ??? ?????? ??????? ? ??? ?? ?????? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ??  
????? ???? ?? ?????? ?????????????? ?? ?????????????? ??? ?????????? ??? ?????????? ??????????

c) ? ??????? ? ?????????? ???????? ?????????????? ??? ??? 5 ? ??? 20, ????????? ?? ???  
???????????, ?? ?? ?????????????? ??? ?????????? ?????????????????? ??? ?????????????? ??? ???.  
????????????????? ??????? ??? ?????? ?? ?????????????????? ??? ?? ?????????? ???.

[...]

5 – ?? ?????????? ?????????????? ?????? ?????????????? ?????????? ??? ? ?????????? ??  
????????? ??????????????, ?????????????? ?????? ?????????????? ??? ? ? ?????????? ??????  
????????? ??? ?? ??? ????? ???????, ??? ?????????? ??? ?? ?? ??? ????? ?????????? ??????  
????????????? ??? ?????????????? ?????????????? ?? ?????????? ??? ?? ??? ????? ??????????????  
???? ?? ?? ?? ?? ?????? ?? ?????? ?? ?? ?? ?? ?????? ??????????????. ???, ??????????,  
? ?????????? ?????????? ?? ?? ?? ?? ?????? ?? ?? ?? ?? ?????? ?? ?? ?? ?? 9, ?????? 30 ? 32, ??  
????????????? ?????????? ?????????? ?? ?? ?????????????? ?? ?? ?????????? ??????????????  
??, ??? ????? ????? ???????, ?????? ?? ?????????????? ?????????? ??????????????

6 – ? ?????????????? ????, ?????????????? ?????????? ?????????????? ?????????? ?????????? ??????,  
????????? ??? ?? ?????????? ?????? ?????????? ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?  
????????????? , ??? ?????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?  
????? ?????????? ??? ?? ??? ??? ??? ?????? ??? ?????????? ?????? ?????? , ??? ? ????  
????? ?????????? ???????, ???:

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

b) ? ?????????????? ????. ????. ?????????????? ????. ????. ?????????????? ????. ????.  
????????? ????. ????. ????. ????. ????. ????. ????. 12, ?????????? 3, ? ????. ?????? 55,  
????????? 3 ????. 4?

c) ?? ??????? ?? ??????? ?? ?????????????? ?? ?????????????? ?? ?????? ?? ??????? 9, ?? ??????? 29.»

15     ?? ???? 26 ??? CIVA, ?? ???? «????????????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
?? ???? ??? ?????????????????? ??? ?????????? ??????», ?????? ??? ?????????? ??? 1 ??  
????:

«???? ???????, ?? ????? ??????? ??????? ???????, ??? ?????????????????? ???  
????????????????? ??????????????????, ??? ??? ? ?????????????? ?????????????? ??? ??? ???  
?????? ??? ??????? ??? 19 ??? ??? ??????? ?? ??? 24, ?????????? 2, ???????????  
?????? ??????????? ??? 1/20 ??? ?????????????????? ?????????? ??? ?????? ??  
?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????»

16     ?? ???? ???. ?????????????? ?????????? ???. ?????????????? ???. ?????? 12 ??? CIVA  
????????????? ?????????? ???. ?????????????? ?????????????? ???. ?????????????? ?????????? 241/86 (  
*Diário da República*, 1º ?????, ???? 190, ??? 20?? ?????????? 1986), ?? ????? ??????????????  
?? ?? ?????????? ?????????? 21/2007 (*Diário da República*, 1º ?????, ???? 20, ??? 29??  
????????? 2007) (???. ????: ?????????? ?????????????? ???. ??? ??????????).

17 ?? ?????? 10 ??? ??????????? ??????. ?? ????? «????????????????? ??? ??????????????

?????», ??? ?????? ??? ?????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????:

«1 – ?? ??? ?????????? ??? ?????? 25, ?????????? 1, ??? [CIVA], ?? ?????????? ??? ?????? ???  
??? ?????????? ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ? ?????? ?????? ?????? ???  
??? ???? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????? ?????????? ???, ???  
?? ?????? 24, ?????????? 5, ??? [CIVA], ??? ?????????? ?????? ??????????, ?????????? ??? ??  
????????? ??? ?????? ?????????? ??? ?? ?????????? ?????????? ?????????? ???, ???:

a) ?? ?????? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ??? ?????? ???  
????????? ??? ???

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

18 ?? ?????? 25, ?????????? 1, ??? CIVA, ??? ??? ?????? ?????????? ?? ?????????? ???  
????????? ??? 10 ??? ?????????? ?????? ??? ?? ?????? ???, ???, ?????????? ???  
??? ?????????? ??? 15 ??? ?????? ?????? ?????? 26, ?????????? 1, ??? CIVA,  
???? ??? ??? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ???.

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

19 ? Imofloresmira ??? ?? ?????? ??? ?????? ??? ??, ???, ?????????? ???  
????????? ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????????? ???, ???  
????????? ???.

20 ?????? ??? ?????? ??? ?????????? ??? ?? 2015 ??? 2016, ? ?????????? ???  
????????? ??? ?????? ??? ?????????? ??? ?? ?????? ?????? ??? ?????? ???  
??? Imofloresmira, ??? ?????? ?? ?????????? ??? ?????? ??? ??, ???  
????????? ??? ?? ?????? ??? ??, ???, ??? ?? ?????? ???, ? Imofloresmira ???  
???? ?????? ?? ?????????? ??? ?? ?????????? ???, ???, ?????? ?? ?? ?????? 26, ??????????  
1, ??? CIVA ??? ?? 10, ?????????? 1, ?????? b, ??? ?????????? ?????????? ???  
??? ??????.

21 ?????????? ??? ??, ? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ???  
????????? ??? ?? ?????? ?? ?????? ?? ?????? ?????????? ??? ?????? ???  
????????? ?? ??? ?????????? ??? ?? ?????? ?????? ?????? ??? ?????? ???  
??? ?????????? ??? Imofloresmira ???, ?????? ??? ?? ?????? ?????????? ???  
?????, ?????? ?? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?????? ???  
954,71 ??? ?? ?????? ??? ?????? 2011, 2012 ??? 2013. ??? ?? ?????? ???  
????????? ??? ?????????? ???, ???, ??? ?? ?????????? ??? ?????? ???  
2013 ??? ?????? ??? ?????? ???, ??? ?????? ??? 2014.

22 ?????? ? Imofloresmira ?????????? ?? ??? ?????? ??? ?????????? ???  
????????? ??? ?? ?????? ??? ?????? ?????? ???, ?????? ??? ?????? ??? ?? Tribunal  
Arbitral Tributário (Centro de Arbitragem Administrativa – CAAD) [????????? ??? ?????????? ???  
??? ?????? ?????? ??? (????? ?????? ?????? ???), ?????? ???]  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???.

23 ?? ??????? ??????????? ??????????? ??? ? Imofloresmira ?????????? ??????????? ???  
????????? ???????? ??? ????? ??? ????? ?????????? ??? ??? ?????????? ?????? ???  
????? ??? ?????????? ???.

24 ???????, ?? ?????????? ??? ?????????????? ?????????? ???, ?????? ??? ??? ????? 2011  
??? ??? ??? 2013, ? Imofloresmira ?????? ??? ??? ?????? ??? ?????????? ?? ??????  
????????? ???, ?????????? ??? ?????????? ???, ?????? ?? ?????? ??????????  
????????? ??? ?????????? ?????????? ???, ?????? ???, ?? ?????????? ??????????,  
????? ??? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ? Imofloresmira ??????????  
????? ??? ?????? ???, ?????, ?????????? ??? ?????????? ??? ?????? ???  
????????????????? ???, ???, ?????????? ??? ?????????? ?? ?????????? ?????????????? ??????????  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???.

25 ??? ?? ?????? ??????????, ?? ?????? ??? ?????????? ?? ??? ??????????  
????????? ?????????? ??? ?????? ??? ?????????? ??? Imofloresmira ?????????? ???  
????????? ??? ??? 2011 ??? 2013.

26 ? Imofloresmira ?????????? ??????? ??? ?????????? ?????????? ??? ?? ??????????  
??? ??? ?????? ?????? ??? ??? ?????? 21 ??? ?????? ?????????? ?????????? ???  
????? ? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ???  
????? ??? ?????? ??? ?????????? ??? ?????? ???, ?????? ??? ??? ??? 26, ?????????? 1,  
??? CIVA ??? ??? ????? 10, ?????????? 1, ??? ?????????? ?????????? ??? ??? ??????.

27 ?????????? ?????????? ??? ?????? ?? ?? ?????????? ??? ?? ?????? ??? ?????? ???  
????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???, ??? ?????????? ???  
????? 26, ?????????? 1, ??? CIVA ??? ??? ?????? 10, ?????????? 1, ??? ??????????  
????????? ??? ??? ??????, ??? ?????????? ??? ?? ?????? ?????????? ??? ??????????  
????, ?? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? 137, 167,  
168, 184, 185 ??? 187 ??? ?????? ???.

28 ??? ?????? ???, ?? Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa – CAAD) [????????? ?????????? ??? ??? ?????? ?????????? ??? ??????] (?????)  
????????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????????? ?? ?????????? ?????????? ???:

«1) ??? ????? ???? ???????, ?? ?????? ??? ????? ??????????? ??? ?????? ??? ??????? ??? ???????  
?????????? ????, ????, ??? ?????? ??? ????? ??????????? ??? ??????? ??? ??????? ???????????, ????  
?????????? ??? ?????? ??? ????? ??????????? ??? ?????? ??? ?????? ??????????? ??? ?????? “office centre”  
???? ??? ??? ??????????? ??? ?????? ??? ?????? ??????????? ??? ?????? ??? ??????????? ??? ???????  
??????????, ??? ?????? ?????? ??? ?????? 167, 168, 184, 185 ??? 187 ??? [????????? ???] ?  
?????????? ??? ?? ??????? ??? “??? ??????????????? ??? ?????? ??? ???????????????  
?????????????? ???/? “??? ??????????????? ??? ?????? ?? ??????????????? ??? ???????????????”  
???? ??? ?????? ??? ?????? 26, ?????????? 1, ??? [CIVA] ??? ??? ?????? 10, ?????????? 1,  
????????? b, ??? ?????????? ?????????? ??? ??? ?????? ??? ??? ?????? ??? ??? ?? ??????? ???  
????????? ?, ??? ?????????? ?? ?? ?????????? ?????? 21/2007, ??? ?????????????? ????  
?? ???, ??? ???????, ? ?????????? ??? ? ?????????? ?????? ?????????????????? ??????? ????  
?? ?????????? ?? ?????????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ??? ??  
????????? ? ?????????? ???;»

2) ?? ?????????? ??????????? ?????????? ??? ??????? ??? ???????, ??? ?? ?????? ???  
????? ?????????? ??? ?????? 137, 167, 168, 184, 185 ??? 187 ??? [????????? ???], ?????? ??  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??????????? ???  
????????? ?? ??????, ??? ?????? ?? ?????????? ??????????, ??? ?????????? ?? ??????  
10, ?????????? 1, ??????? b ??? c, ??? ?????? ?????????? ??????????? ??? ??? ?????? ??? ??? ??  
??? ?? ?????? ??? ???????, ??? ?? ?????? ?????? ??? ??? ?????????? ??? ??? ?????? ??? ?? ??? ??,  
???? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? (?? ?????????? ?????? ??? ??  
?????????) ???/? ??? ??? (?????????????) ?????? ??????????, ?? ?????? ?? ?????? ?? ?????????? ??  
????? ??? ??? ?????????????? ?????????????? ??? ?????????? ?????????? ??????????;»

3) ?????? ??? ?? ?????? 137, 167, 168 ??? 184 ??? [????????? ???] ? ??????? ??? ??????  
2, ?????????? 2, ??????? c, ?? ??????? ?? ?? 10, ?????????? 1, ??????? b, ???  
????????? ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ??????  
????? ??? ?? ?????????? ??? ??? ??? ?????? ??? ?????? ?????????? ??? ?????????????? ??? ??  
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ??  
????????? ??? ??????;»

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

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

29 ?? ?? ?????? ??? ???????, ?? ?????? ??????????? ????, ???' ??????, ??  
????????????? ??? ?? 167, 168, 184, 185 ??? 187 ??? ??????? ??? ?????? ??? ??????  
??? ?????????? ?? ?????? ???????, ? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??  
????????? ???, ??? ?????? ?????????? ??? ?? ???????, ??? ?? ?????? ?????????? ??? ??????????  
????????? ??? ???????????, ??? ?????? ?????? ??? ?????? ??? ?????????????? ??? ??? ????? ??????????  
???? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ??? ?????? ??? ?????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????????? ??? ??  
? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??.

30 ?????? ?? ?????????? ?????????????? ???, ???? ?? ?????? ??? ?????????? ??? ??  
????????? ?? ?????? ???, ???? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????? ?? ?????? ?????? ??? ?????????????? ???, ? ?????? ??? ?????? ??? ?????? ?????????? ??? ?? ??  
????????? ??? ?????? ???, ???? ?? ?????? ??? ?????????? ??? ?? ?? ?????? ??? ?? ??  
????????? ??? ?????? ???, ???? ?? ?????? ??? ?????? ??? ?????????? ??? ?? ?? ?????? ??? ?? ??

?????? ?????????????? ??? ??? ??? ? ??? ?????????? ??? ??? ????? ?????????? ??? ??? ???, ???  
????? ?????? ??? ? ?????????? ?????? ?????? ?????? ??? ? ?????????? ??? ??? ?????? ?????? (??.,  
???????, ??????? ??? 30?? ??????? 2006, Uudenkaupungin kaupunki, C?184/04,  
EU:C:2006:214, ????? 24).

31 ? ?????????? ??? ??????? ??? ??????? ?? ??????? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ??????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
??? ??? ?????? ?????? ??? ?????? ?? 135, ?????????? 1, ?????????? ???, ??? ??????  
???, ??? ??? ??? ?????? ?? ?????????? ?????? ?????? ?????? ?????? ?????????? ?????? ??? ???  
???. ???????, ?? ?????? ?????? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??  
????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?? ?????? 137, ?????????? 1,  
????????? ??, ??? ?????? ??? ??? ??? ?????? ?????? ?????? ?????? ??? ??? ?????? ??????????  
????? ??? ??? ?????????? ?' ?????? ?????????? ?????? (??????? ??? 12?? ??????????  
2006, Turn- und Sportunion Waldburg, C?246/04, EU:C:2006:22, ????? 26 ??? ???  
????????? ??????).

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

33 ??????, ??? ?? ?????? ??? ?????? 168 ??? ?????? ??? ?????????? ???, ??????????  
?? ??? ? ?????????? ??? ?????? ?????? ?????? ??????, ??????, ?? ??? «????????? ???  
????» ??? ??? ?????? ??? ?????? ???, ??????, ?? ??? ?????? ?????? ??? ?????? ???  
?? ?????? ?????????? ??? ??? ?????????? ??? ?????? ?????? ?????? ?????? ???  
(??????? ??? 15?? ??????? 2005, Centralan Property, C?63/04, EU:C:2005:773, ????? 52).

34 ?? ??????????, ??? ?????????? ? ?????? ??? Imofloresmira ?? ?????????? ???  
????. ?????????, ? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ???, ????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
??? ??? ??? ??? ??????????, ??? ??? ???, ??? ??? ?????????? ?????? ???  
??? ?????? ??? ?????????? ?????? ???, ?????? ?????? ?????? ?????? ??? ? ??????  
????? ??????, ??? ?? ?????????? ?????? ??????, ?????? ?? ?????????? ??? ?????? ???  
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

35 ?????? ??? ?????? 167 ??? ?????? ???, ?? ?????? ?????? ?????? ?????? ??? ?  
???? ?????? ?????? ?????? ?????? ??????. ??? ??????, ?????? ? ?????? ??? ??  
????? ?????? ? ?????? ??? ?????? ?????? ?????? ?? ?????? ??? ?????? ??? ??????  
????????? ?????? (??., ??????, ??????? ??? 11?? ?????? 1991, Lennartz, C?97/90,  
EU:C:1991:315, ??? 8, ??? ??? 30?? ?????? 2006, Uudenkaupungin kaupunki, C?184/04,  
EU:C:2006:214, ????? 38).

36 ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????????????  
??? ??? ?????????? ??? ??????, ??? ? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???  
????, ?? ?????? ??? ?????? ???, ??????, ?? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? (??., ??????,  
????? ??? 29?? ?????????? 1996, INZO, C?110/94, EU:C:1996:67, ????? 21), ????? ???  
????????? ?????? ??? ?????? ??? ??????).

37 ?????? ?? ?????????? ???, ??? ?????? ?????? ?????? ?? ?????? ?????? ?????? ???  
????????? ?? ??? 167 ??? 172 ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???  
????????? ??? ??? ???, ??????, ??? ?????? ?? ?????? ?????? ?? ?????? ??? ??????

? ?????? ? ?? ? ?????? ? ?? ? ?????????? ? ?? ? ?????????????????? ?? ? ??????????????  
?????? ? ?????? (?????? ? ?? 15?? ?????????? 2005, Centralan Property, C?63/04,  
EU:C:2005:773, ??? 50 ??? ??? ?????????????? ??????????).

38 ?? ??????? ?? ?????????? ?????????????? ????? ?? ?????? ?????????? ?? ?????????????????? ?? ??  
????? ??? ?? ?????????? ?????????????? ?? ?????????????? ?? ?????? ?????? ??????????????  
????????????? ??? . ?? ?????? ?????? ?? ??????????, ??????, ??? ?????? ??????????????  
?? ??? ?? ?????????? ?????????? ?? ?????? ??? ?????????? ?????????????? ??????????????  
??? ?????? ? ?? ?????????????? ???, ??? ??? ?? ?? ?? ??? ??????????????  
????????? ?? ?????? ??? (?????? ? ?? 15?? ?????????? 2005, Centralan Property,  
C?63/04, EU:C:2005:773, ??? 51 ??? ??? ?????????????? ??????????).

39 ??????, ????, ?? ?????????? ?? ?????????? ?? ?????? ?????? ?? ?????????? ?? ??  
????????? ??? ? ?? ?????? ?? ?????????? ?? ?????? ?????? ?????? ?? ?????????? ?????????? ??  
?? ?????????? ?? ?????????? ?? ???, ??????, ??? ?????????? ??????????. ? ??????????  
????????? ??? ?????? ?????? ?????? ? ?????????? ?????????? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ?????????? ? ?????????? ?????? ??? ?????? ??? ?????? 168 ??  
????????? ??? ??? ??? ?????? ?????????? ?????????? ?????? ??? ?????? ?????? ??????????  
????? ??? ?????????? ?? ?????? ??? ?????????? ?????????? ?????????? (??., ????, ????, ??? 11??  
????? 1991, Lennartz, C?97/90, EU:C:1991:315, ??? 15).

40 ?? ??? ??????? ?????????? ?? ?????????? ?? ?????????? ?????????????? ?????????? ??  
?????????, ??? ? ?? ?????? ?? ?????????? ?????? ??? ?????????? ?????? ??? ??????????????, ???  
????????? ?????????? ?? ?????????? ??? ?????????? ???, ?? ?? ??? ?????? ?????? ?? ?????????? ?????????? ??  
????? ?????????????? ??? ?????? ??? ?????????? ?????????????? ?????????? (??., ????,  
????????? ??? 29?? ?????????? 1996, INZO, C?110/94, EU:C:1996:67, ??? 20, ??? ??  
15?? ?????????? 1998, Ghent Coal Terminal, C?37/95, EU:C:1998:1, ?????? 19 ?? 20).

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

42 ??? ? ?? ?????????? ?? ?????????? ?? ?????? ?????? 39 ??? 40 ??? ?????????? ??????????  
????????? ??? ? ?? ?????????? ?? ?????? ?????? ?????? ?????? ?????????? ?? ?????????? ?? ?? ??  
?? ?????????? ?? ?????????? ???, ?????? ??? ?? ??? ??????, ??? ?????? ?????????????? ???  
????????? ???, ?? ?????????????? ?? ?????? ??? ?????? ?????????? ??? ?????????? ??????????????  
????????? ??? ?????????? ?????????? ??????.

43 ?????? ??? ?????????? ?? ?????????? ?? ?????? ?????? ?????????? ?????? ??? ?????? ??  
????????? ??? ? ?? ??????? ?? ?????????? ??? ?????????? ?????????? ??? ?????????? ?? ??  
????????? ?? ?????????? ???, ?????? ?? ?????????? ?????? ?????? ?????????? ?????? ??? ??  
????????? ?????? ??????, ?? ?????? ?????? ?????????? ?????? ?????????? ?? ?????????? ??  
????????? ?????? ?????? ?????? ?????????? ?????? ?????????? ?? ?????????? ?? ?????????? ??? ??  
????? ?? ?? ?????????? ?????? ?????????? ??? ?????? ?????????? ?????????? (?????? ??  
29?? ?????????? 1996, INZO, C?110/94, EU:C:1996:67, ??? 22).

44 ??????, ? ??? ? ?? ?????????? ?? ?????????? ?????????????? ?? ?????????? ?? ??????????  
?????, ?????????? ??? ?????????? ?????? ?????? ??? ?????????? ??? ?? ?????????? ???

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

45 ?? ?????????? ??? ?????? ?? ?????? ?? ?????????? ??? ???? ?????????? ??? ??????????????  
????????? ???, ??? ?????? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??????  
?????????????, ?????? «????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ??????????  
??? ?????? ??? ??????» ??? ??? ?????? ??? ?????? 185, ?????????? 1, ??? ?????? ???,  
??? ???, ??????, ?????? ?? ?????? ?????????? ?????????? ??? ?????????? ???.

46 ???????, ??????, ??????? ?????? ?????? ??? ???? ?????????? ??? ??????????  
????? ?????? ?? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????????? ???  
????????? ??? (??., ??????, ?????? ??? 29?? ?????? 2004, Gemeente Leusden  
?? Holin Groep, C?487/01 ?? C?7/02, EU:C:2004:263, ??? 55), ?????????? ??????????  
????? ??? ? ?????? ??? ?????? ?? ?????? ?????????? ?????? ??? ??????  
????????? ?? ?????? ??? ?????? ??? ?????? ???, ?????, ??? ??? ?????? ??? ??????????  
?????????.

47 ??????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ??????????, ?? ?????? ???,  
?? ???? ?????? «?????????» ??? ?????? ??? ?????? ??? ?????? 185 ?? ?????? ???, ?????? ??  
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ???, ?????? ??? ?? ?????????? ??? ?????? ???  
????? ?????? ??? ?????? ?? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ??????????????  
??? ?????? ?? ?????? ??? ?????? ??? ?????? ?????, ?????? ?? ?????? ?? ?????? ?? ?????????? ???  
????????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ???  
?????????.

48 ???????, ?? ??? 137, ?????????? 2, ??? ?????? ??? ?????? ??? ?????? ??? ??? ?????? ???  
????? ?????????? ???????, ???? ??? ?????? ?????????? ?? ?????????? ??? ?????? ??????????  
?? ?????????? ???????, ?????? ??? ?? ?? ?????????? (??., ??????, ?????? ??? 12??  
????????? 2006, Turn- und Sportunion Waldburg, C?246/04, EU:C:2006:22, ?????? 27 ??  
30), ??? ??? ?? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? 167 ?? 168 ??? ?????? ???, ?????????? ??? ?????? ?????????? ???  
?????????.

49 ???????, ? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ?? ??????????????  
?????????????, ??? ??? ?????? ??? ?????????? ??? ??????????, ??? ?? ?????? ??? «?????»  
?? ?????????? ???????, ?? ??? ?????? ?????? ?? ?????????? ?? ?????? ??? ?????? ???  
????? 137, ?????????? 2, ??? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? (??., ??????, ?????? ??? 30?? ?????? 2006, Uudenkaupungin  
kaupunki, C?184/04, EU:C:2006:214, ??? 46).

50 ??????, ?????? ?? ??????????? ??? ? ???????? ??? ??????????? ??? ?????? ???  
????????? ??????? ??? ? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????????? ??? ?????????? ?????????????? ??? ?????? ??? ?????? ???  
?????????????. ?? ?????????? ??? ?????? ? ???????????, ??? ?????? ? ??????????????  
????????? ??? ?????? ?? ?????? ??? ?????????? ?????????? ?????????? ???????, ???  
????????????? ?????? ??? ?????? ?? ?????? ??? ?????????? ?????????? ?????????? ???  
????????????? ?? ?????????? ?????????, ? ?????????? ??? ?????? ?? ???????,  
??????????, ??? ?????????? ??? ?????????? ?????, ?????? ?? ?????????? ?????  
????????? ?????? ?????? ?????? (??????? ??? 21?? ?????? 2000, Gabalfrisa ?.??.,  
C?110/98 ??? C?147/98, EU:C:2000:145, ????? 46).

51 ??????, ??????, ?? ?????????? ??? ? ?????????? ?????????????? ??????????????  
????????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ?????????????? ???  
????? ???, ??? ?????????????? ??? ????? 131 ??? ?????? ?????? (??????? ??? 29??  
????????? 2004, Gemeente Leusden ??? Holin Groep, C?487/01 ??? C?7/02, EU:C:2004:263,  
????? 76).

52 ??? ??????, ?? ?????????? ?????????? ?????????? ?????????? ??? ?? ?????????? ??????????  
????????? ?? ?????? ?? ?????????? ? ??????????????, ?????? ?? ?????? ?????????????? ???  
????? ?????????? ?? ?????????? ??? ?????? ?? ?????????? ?? ??????, ?????????? ???  
????????? ??? ?????????? ?????? (??????? ??? 3?? ?????? 2005, Fini H, C?32/03,  
EU:C:2005:128, ????? 33 ??? ????? ?????????? ??????????).

53 ?????? ??? ????????????, ??? ?????? ?????? ?????? ?? ?????? ? ?????????? ??? ??  
????? 167, 168, 184, 185 ??? 187 ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??  
????? ?????? ? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ???  
??? ??? ???? ??? ??????, ??? ?? ?????? ?????? ?? ?????????? ?????????? ??? ?????????? ???  
????????? ??? ??? ?????? ?????? ?? ?????????????? ??? ??? ?????? ?????????? ??? ??? ???  
????? ??? ?????????????? ???, ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ???  
????????? ??? ?????????? ??? ??? ??? ?????, ?????? ??? ?? ?????????????? ??? ? ?????????? ???  
????? ?????????? ??? ??? ?? ?????? ??? ?????? ?????????? ??? ??? ?????????? ???.

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

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

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

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

56 ??? ?????? ??? ?????????? ???, ? ?????????? ??? ??????????????, ??????, ??? ? ???  
????????? ?????????? ??? ?? ?????? ??? ??????, ?????????? ?? ?????????? ??? ?????????? ???  
????????? ??? ?? ?????? ??? ?????????? ??? ?????? ?????????? ??? ???, ?????? ?????? ???  
????????? ?? ??? «?????????» ??? ?? ?????????? ?????????? ??? ?????????? ??? ???  
??? ?? ?????, ?? ??? ??????????, ?????? ?? ?????????? ?? ?????????? ??? ??? ?? ???  
????????? ?????? ?????????? ???.

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

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

58    ??????, ? ??????????? ??????????? ??????????? ??? ?????? ??? ??????? ??? ?????? ???  
????? ??????? ??????????? ??? ?????? ?? ??????????? ??? ?? ?????? ??? ??????????? ??? ??? ??? ???  
?????? ??????????? ??? ?????? ?? ??????????? ?? ??? ????? ??????????? ??????????? ??? ??? ???,  
?????? ?? ????? ??????????? ??? ?????? ??? ??????????? ??????????? ??? ??? ??? ???????,  
?????????? ???.

59    ??????? ??????? ?? ??????????? ??? ? ??????????? ??? ??????????? ???????????????  
????? ??????? ??????? ??????????? ???, ?? ?????? ??????????? ??? ??????? ??????? ???????  
?????? ??????????? ??????????? ??????????? ??? ?????? ??? ?????? ??????? ??? ???????  
?????? ??? ??????????? ??????????? ??? ?????? ??????????? ??? ??????????? ??? ???????  
??????????, ??? ??? ??????????? ??? ?? ??????? ??? ?? ??????? ??? ?? ??????? ??????? ???  
?????????? ??????????? ??? ?? ??????? ??? ?????? ??? ??????????? ??? ??????????? ??? ??  
?????????? ??? ?? ?????? ?? ??????????? ??? ?????? ??????????? ??????????? ??? ???????,  
????????????? ??? ?????? ??????????? ??? ?????? ??????????? ??????????? ? ??? ? ???????????  
????? ?????? ?????? ??? ?????? ?????? (??., ?????? ???, ?????? ??? 19?? ???????????  
2013, Endress, C?209/12, EU:C:2013:864, ??? 36 ??? ??????????? ???????????).

60    ?????? ?? ??????????? ??? ??? ??????????? ??? ??????????? ??????????? ??? ???  
????? ??? ??????????? ??? ??? ?????? ?????? ??????????? ??? ??????????? ??? ??? ??? ???  
?????????? ??? ???, ? ?????? ?????? ?????, ??? ?????? ???????????, ?????? ??? ???????????  
?????????? (??., ??????, ?????? ??? 19?? ??????????? 2017, Paper Consult, C?101/16,  
EU:C:2017:775, ??? 67).

61    ??? ?? ??????????? ??? ??????????? ??????????? ??? ??? ??????? ??????????????? ???  
?????? ??????????? ??? ??? ?????? ?? ??????????? ??? ??????????? ??? ???????, ??? ???????????  
??? ??????????? ??? ?????? ?? ??????????? ??? ?????? ??? ??????????? ??????????? ??? ???  
????? ??? ??????????????? ??? ??? ??????????? ??? ??????????? ??? ??????? ??? (??., ??????,  
???????? ??? 19?? ??????????? 2017, Paper Consult, C?101/16, EU:C:2017:775, ??? 68).

62    ?? ??????????? ??? ?????? ??? ???????, ???????, ?? ??????????? ??????????????? ???  
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63    ??? ?? ??????? ??????? ??????? ??? ?????? ??? ?????? ? ??????????? ??? ???????????  
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64    ?????????? ??? ? ??????? ??????????? ??? ??? ?? ??? ?????? ??????????? ??? ?????? ???  
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?? ??? 167, 168, 184, 185 ?? 187 ?? ?????? 2006/112/?? ?? ???????????, ??? 28??  
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\*    ?????? ??????????: ? ??????????.