

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

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

??? 26?? ??????? 2018 (*)

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

???? ??????? C?81/17,

??. ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Curtea de Apel Suceava (?????? ?? Suceava, ???????) ?? ??????? ??? 23??
????????? 2017, ? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? 14 ?????????? 2017, ???
?????? ??? ???

Zabrus Siret SRL

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**Direc?ia General? Regional? a Finan?elor Publice la?i — Administra?ia Jude?ean? a
Finan?elor Publice Suceava,**

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

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

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

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

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

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

– ? ?????????? ????????, ?????????????? ??? ??? R. Radu ??? ??? ??? C. M. Florescu
??? R. Mangu,

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

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

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1 ? ??????? ?????????????? ?????????? ?????? ???? ?????????? ??? ?????????? ??? ???? ??????
2006/112/? ???? ??????????, ??? 28? ?????????? 2006, ??????? ?? ???? ?????? ??????? ????
????????????? ????? (?? 2006, L 347, ?. 1), ??? ?????????????? ?? ???? ?????? 2010/45/??
?? ??????????, ??? 13? ?????? 2010 (?? 2010, L 189, ?. 1) (??? ????: ?????? ????,
????? ??? ???? ?????? ??? ?????????? ??????????????, ??? ?????????????????? ??? ???
?????????????.

2 ? ??????? ??? ?????????? ??? ??????? ?????????? ??? Zabrus Siret SRL (???
????: Zabrus) ??? ?? Direc?ia General? Regional? a Finan?elor Publice Ia?i – Administra?ia
Jude?ean? a Finan?elor Publice Suceava (????????????? ?????? ?????????? ??????????
????????????? ?????? – ?????????? ?????????? ?????????? ?????? Suceava, ?????????) (???
????: ?????? ??????????), ??????? ?? ???? ?????????? ?? ?????????????? ??? ?????? ??
????????? ??? ?????????? ?????? ?????????????? ????? (???) ?????????????? ?? ?????????? ??
????????? ?????????? ??? ??.

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

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

3 ?? ?????? 167 ??? ?????? ??? ?????? ?? ????????:

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

4 ?? ?????? 168 ??? ?????? ??? ?????? ?? ??????:

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

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

[...]»

5 ??? ?? ?????? 179, ??? ??????, ??? ??????? ??? ?????? ???, «[?] ??????? ?????????? ???
?? ?????????? ??? ?? ?????? ??? ??????, ??? ?? ??????? ??? ?????? ??? ?????? ??? ??????????
?? ?? ?????????? ???, ??? ??????? ??? ?????? ??? ??, ??? ?? ?????? ??? ?????????? ???
????????, ??? ?????? ?? ?? ?????? 178, ?? ?????? ??? ??????, ??? ?? ?????? ??? ??????
?????????».»

6 ?? ?????? 180 ??? ?????? ??? ?????? ?? ??? ?? ????:

«?? ?????? ??? ?????? ?? ??????? ?? ?????? ??? ?????????? ??? ?????? ??? ?? ??????
??????, ??? ?????? ??? ?????????? ??? ?????? ?? ?? ?????? 178 ??? 179.»

7 ??? ?? ?????? 182 ??? ?????? ??? ?????? ???, «[?] ???? ?????? ??? ?????????? ??? ?????? ???

??? ?????????? ??????? ??? ?????? 180 ??? 181».

8 ?? ?????? 183 ??? ??????? ??? ?? ??????? ?? ??????:

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

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

9 ?? ?????? 250 ??? ?????? ??? ?????? ?? ????:

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

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

10 ?? ?????? 252 ??? ?? ??? ?????? ??? ?????? ?? ??????:

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

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

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

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

11 ?? Ordonan?a Guvernului nr. 92/2003 privind Codul de procedur? fiscal? (?????????)
????????? ????. 92/2003 ??? ?????? ?????????? ????????????, *Monitorul Oficial al României*,
????? I, ????. 863 ??? 26?? ?????????? 2005), ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? (??? ????: ?????? ?????????? ??? ??????????),
?????????), ??? ?????? 84, ??? ?????? ??? ?????? «????????? ??? ?????????? ??? ?????????? ??? ??????»,
????????? ?? ???:

«(1) ? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
?????????.

(2) ?? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

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

????????? ??? ???????? ??? [??] ???????????? ??? ?????? ??? ???????????? ??? ???????????? ??
??????? ??? ???????? ??? Agen?ia Na?ional? de Administrare Fiscal? [??????? ???????????]
????????? (??)].

(4) ?? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ???????, ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? /??? ??? ?????? ??? ?????? ???.

(5) ??? ??? ?????? ??? ?????? ??? «??????», ?? «??????» ?????? ?? ?????? ??? ?????? ???
?? ??? ??? ???, ??? ??? ??????, ?????? ??? ??????, ?????????? ??? ?????? ??? ?????? ??? ???
????? ?????? ??? ?????? ???.

(6) ??????, ??? ?? ?????? ??? ?????????? ??? ???????, ? ?????????????? ??? ?????? ???
????????? ??? ?????????? ??? ??????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???,
?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

12 ?? ??? 105 ??? ?????? ?????????? ???????????, ?? ??? ?????? ?????????? ???
«?????? ??? ??????», ??? ??? ?? ???:

«[...]

(3) ? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???, ???, ?????? ??? ???
????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??? ??? ??? ??????????
??????.

[...]

(5) ? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???,
??? ?????????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????????? ??? ??? ??? ?????????? ???.

[...]

(8) ??? ?? ?????? ??? ?????????? ???, ? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????, ?? ??? ??? ?????, ?????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

13 ?? ??? 105 bis ??? ?????? ???, ??? ??? ??? «?????? ??? ?????? ?? ???
?????????», ??? ??? ?? ???:

«(1) ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? 105, ?????????? 3, ? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

(2) ?? “?????????” ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

(3) ?? “????????? ???” ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???.

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

(4) ????? ?? ?????? ?? ?????????????? ??????????????, ?? ?????? ?????????????? ?????? ?????? ?????? ?? ?????????? ?? ?????????? ?????? ?????????????? ??????.

14 ?? ?????? 106 ??? ?? ?????? ??????, ?? ?????? ?????? ??? ????? «?????????? ?????????????? ??? ?????????????? ??? ?????», ??????????, ??? ?????????? 1, ??? ? ?????????????? ??? ?????? ?????? ?????????? ?? ?????????????? ??? ?? ?????????? ??? ?????????????? ?????? ?????? ?????? ?????????? ?????? ?????????? ?????? ?????????? ?????? ?????????? ?????? ?????????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

15 ?? ?????????? 1 ??? Ordinul nr. 179 pentru aprobarea instruc?iunilor de corectare a erorilor materiale din deconturile de tax? pe valoarea ad?ugat? (?????????? ????. 179 ????. ?????????? ????. ?????? ????. ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ????. ??? ?????????? ????. ??? 14?? ?????? 2007, ??? ????: ??????? 179/2007), ??? ?????? ??? 1, 3.1, 4.1 ??? 4.2, ?????? ?? ??????:

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

[...]

3.1. ? ?????????? ??? ?????????????? ?????????? ??? ?????????? ??? [???] ?????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????? 5 ????. ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

[...]

4.1. ?????? ??? ?????????? ???????, ? ?????????? ??? ?????????? ??? [???] ??? ?????????????? ??? ??? ?????? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ?????? ?????? ??? ?????? ??? ??????.

4.2. ?????? ?????????? ??? ?? ?????? 4.1, ? ?????????? ??? ?????????????? ?????????? ??? ?????? ??? [???] ?????? ?? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????? ??? ??????.

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

16 ? Zabrus ?????????? ?? ?????? ??? ?????? ??? ?? ?????? ??? ???? 1? ????
2014 ??? ?? 30 ?????????? 2014. ? ?????? ??? ?????????? ?? ?????? ??? 26??
????????? 2015.

17 ??? 25 ????? 2015 ? Zabrus ?????? ???, ??? ?? ?????? ??? 2015, ??
????????? ??????? ?? ??? ?????? ??? ?????? ??? ?????? ????. ?? ??? ?????? ????, ????,
????? ??? ?????? ??? ?????? ???, ???????????, 39 637 ?????????? ??? (RON) ??? 26
627 RON. ?? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??? ???????????, ??? ??
????????? ??? ?? ??? ?????????? ???, ?????????? ?????????? ?????????? ??? ??
??? ?????? ??? 2014. ?? ?????? ??? ?????? ??? ?? ???????, ??? ?????????? ???
2015, ??? ?????? ??? ?????????????? ??? ?? ?????? ??? ?????? 2014, ??? ??
????? ? Zabrus ?????? ?? ?????? ?????????? ??????, ??? ?????? ??? ??????,
????? ??? ?? ??? ?????????? ?????.

18 ??? ???????, ? Zabrus ?????????? ?? ?????????? ?????? ??? ?????? ???
?? ?? 1? ?????????? 2014 ?? ?? 30 ?????????? 2015. ? ?????????? ???
????????? ?? ?????? ?????????? ??? 9 ?????? 2015.

19 ? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?? ?????? 39 637 RON ???
26 627 RON, ?? ??? ?????????? ??? ?? ??? ?????????? ???????, ????,
????????????? ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ???, ????,
????????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ??, ????,
26 ?????????? 2015. ? ??? ?????????? ???, ?????? ?? ??? ?????????? ???, ???,
????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???, ???
????? ??? ?????????? ??? ?? Zabrus, ????, ??? ?????? ??? ?? ?????????? ???, ???
????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ???, ?? ?? ?????????? ???, ???
????????? ??? ?????? ?????? ??? ?????? ??? Zabrus.

20 ? Zabrus ???????, ??????????, ?? ??????? ?????????? ???, ?? ?????? ???
????????? ??? ?????????? ??? ??, ??????????, ?????????? ??? ?? ?????? ??? ??
??? ?????????? ??? ?? 1? ?????? 2014 ?? ?? 30 ?????????? 2014
??? ?? ?? ?????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?? ??
????? ??? ?? ?? ?????? ??? ?? ?????? ??? 2014.

21 ??? 22 ?????????? 2015 ? Zabrus ??????, ?????? ??? Tribunalul Suceava
(????????? Suceava, ??????), ?????? ?????? ??? ?????? ??? ?? ?????? ???
?????????, ?? ??? ?????? ??? ?????????? ?? ?????? ?????????? ??? ?? ???
????????? ??? ?? ??? ?????? ??? ?????? ???, ? Zabrus ?????????? ??? ??
??? ?? ?????? ?????? ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ??????????
????????? ?? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ??????????
????????? ???????????. ?????????? ??? ?? ?????? ??? ?????? ??? ?? ??? ??
????????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?? ?????? ??? ??????????
????????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?? ?????? ??? ??????????
????????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?? ?????? ??? ??????????
????????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?? ?????? ??? ??????????

22 ? ?????? ?????????? ?????????? ???, ?????? ?? ??? ?????????? ??? ??????
????????? ?????????? ??? ?? ?????????? 179/2007, ?? ?????? ??? ?????? ???
????? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ??? ??
????????? ?? ??? ?????? ??? ?? ?????????? ??? ?????????? ??? ??????, ?? ?????????? ???
??? ?? ?????? ?????????? ??? ?? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ???

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

23 ?? ??????? ??? 31?? ??????? 2016, ?? Tribunalul Suceava (??????????? Suceava)
????????? ??? ??????? ??? Zabrus ?? ???????, ?? ??? ?????????? ??? ? ???????????
????????? ??? ?????????? ??? ?????????????? ?????????? ?????????? ?????????? ??? ??????
???? ?????????? ?? ?????? ?? ?????? ??? ?????????? ??? ?????????, ?? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ???.

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

25 ?? ?? ??? ?????? ?????????? ??? ???????, ??? ??????, ??? ?? ?????? ?????????????? ??? ???
????????? ???, ??? 39 637 RON, ??? ? ?????????? ??? ?????????? ??? ??????????????
????????? ??? ?? ?????? ??? ???, ??? 26 627 RON, ??? ?????????? ??? ?????????? ??? ??????????,
??? ??? ?????? ??? ?????? ??? ?????????? ???, ??? ?????????? ??? ?????????? ??? ?????????? ??? ??
????? ??? ?????? ??? ?????? ??? ?????????? ???, ?????????? ??? ? ?????????? ??? ?????????? ???
????????? ??? ??? 1? ??? 2014 ??? ??? 30 ?????????? 2014, ??? ?????????? ??? ??? ??? ???
??? 26?? ?????????? 2015, ??????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ??? ?????? ???, ??? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????? ??? ?????? ??? Zabrus ??? ?? ?????? ??? ?????? ???.

26 ??? 31 ?????? 2016 ? Zabrus ?????? ?????????? ??? ??? ? ?????????? ??? ?????? ???
?? Curtea de Apel Suceava (????????? Suceava) ??? ?????????? ??? ?? ??????????
????????? ??? ?? ??? ?????? ?? ?????????? ?? ?????????? ?? ??? ?????? ?????????? ?????????????? ??
????? ?????????? ???, ??? ?? ?????????? ?? ??? ?????? ?????? ?????????? ?????????????? ???,
?? ?????????? ??? ?????????? ?? ?????????? ? ??? ?????????? ?????????? ?????????? ? ?????? ??????????
??? ?????????? ?????????? ?????????? . ? Zabrus, ?????????? ??? ??? ?????? ???
????????? ?????????? ???, ??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
????? ??? ?????????? ?? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ??? ??? ???.

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

28 ??? ?? ?????? ?????????? ???, ?????????? ??? ?????? ??? ? ?????????? ???, ???
????????? ???, ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???
????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???

????????? ??????, ??????? ? ????? ??????? ??? ?? ??????????? ??????? ?? ?? ?????? ???
????? ??? ??????? ??? ?? 6?? ??????????? 2014, Fatorie (C?424/12, EU:C:2014:50).

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

30 ??? ?? ???????, ?? Curtea de Apel Suceava (?????? Suceava) ??????????? ??
?????????? ?? ??????? ?? ??????????? ?? ??????????? ?? ??????????? ?? ??????????? ?? ???????????
???????????:

«1) ??????????? ??? ????? [???? ??], ????? ?? ?? ??? ?????? ??? ???????????
?????????????? ??? ?? ???????????????, ??? ??????????? ??? ?????? ??? ??????????? ???
????? ???, ??????????? ??????? /??/ ??????????? ??? ??????????? ??? ???????
?????????? ??? ?????? ??? ?????? ??????????? ?? ??????? ??? ? ??????????? ??? ???????????
?????????? ??? ??? ??? ??????????? ??? ??????????? ?? ??????? ??? ??????????? ???
?????????????? ?? ??????? ??????????? ??? ???????, ??? ??????? ??? ??????????? ???, ? ?????? ???????????
?????????????? ??????????? ???????, ??????? ??? ??????? ?? ??????????? ??? ??????? ???
?????????????? ??????????? ??????? ??? ??????? ?? ??????????? ?? ??????? ??? ???, ??????
?? ?? ??? ?????? ??????? ??? ??????? ??? ?? ??????????? ??? ??????????? ??? ??????? ???
?????????????? ??????? ??? ??????? ??? ??????? ??????????? ??????????? ??? ??????????? ???
????????? ??? ??????? ??????????? ??? ??????? ??? ??????????? ??? ??????????? ??? ??????? ???
????????? ??? ??????? ??? ??????? ??? ??????? ??? ??????????? ??? ??????????? ??? ??????? ???;
;

2) ????? ? ?????? [???? ??], ????? ?? ?? ??? ?????? ??? ??????????? ??????????????? ???
??? ???????????, ??? ?????? ??? ??????????? ?? ?????, ??? ??????????? ??? ?? ???
??? ??????????? ??? ?????? ???, ?????? ?????? ? ?????? ??????????? ?? ???????????
?????????? ?? ??????????? ??????????? ??? ??????? ??? ?????? ??? ??????????? ??? ???????????
??? ?????? ??????????? ??????????? ??? ???????, ?? ??????? ??? ??????????? ??? ???????????
??? ?????? ??????????? ??????????? ??? ??????? ??? ??????? ??? ??????? ??? ??????????? ???
?????????? ?? ??????? ??????????? ???' ??????? ??? ??????????? ??? ??????????? ??? ???????;»

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

31 ?? ?? ??????? ???, ?? ?????? ??????? ?? ??????????? ??? ???????, ?? ??????
?????????? ??? ?? ???????????, ???' ???????, ?? ?? ?????? 167, 168, 179, 180 ?? 182
??? ??????? ??? ?? ?????? ??? ?? ?????? ??? ???????????????, ??? ???????????
?????????????? ??? ?? ??????????? ??? ?????? ??? ??????? ??? ??????????? ?? ??????? ???
????????, ??? ?? ??????? ??? ?????? ??? ??????? ??? ???????, ? ?????, ??? ??????????? ??? ?? ???
????????? ??????????? ??????????? ??? ??????????? ??? ??????? ??? ??????? ??? ??????? ???
????????? ??? ??????????? ???, ??? ???????????, ??? ??????????? ??? ??????? ??? ??????? ???
??? ??????? ??? ???????, ?? ??????????? ??? ??????? ?? ??????? ??? ??????????? ??? ??????? ???
????????? ?? ??????????? ??? ??????????? ??? ??????????? ??? ??????? ??? ??????? ??? ???????
????????? ??? ??????????? ??? ??????????? ??? ??????????? ??? ??????? ??? ??????? ??? ???????.

32 ??? ?????? ?? ??????? ???????????, ?????? ?? ??????????? ???, ??? ??????
??????????, ?? ?????????? ??? ??????????? ??? ?????? ??? ?? ??????????? ??? ?? ??? ??????????? ???
??? ?? ??? ?? ??????? ??? ?????? ??????????? ? ??????????? ??? ??????? ??? ?? ??? ??????? ???
?????????? ? ??? ?? ??????? ??? ?????? ??????????? ??? ??????? ??? ??????????? ??? ?? ??? ???????
?????????? ??? ?? ?????? ??????????? ? ??????????? ??? ??????? (??., ?????? ???,
????????? ?? 21?? ??????? 2012, Mahagében ?? Dávid, C?80/11 ?? C?142/11,
EU:C:2012:373, ??? 37, ??? ?? 19?? ??????? 2017, Paper Consult, C?101/16,

EU:C:2017:775, ???? 35).

33 ????? ????? ?????????????? ??????? ?? ???????????, ?? ?????????? ?????????? ?? ???
????????????? ??? ?????? 167 ?? . ??? ??????? ??? ?????? ?????????? ?????????????? ??? ?????? ???
????????????? ??? ??? ??? ??????, ???????, ?? ?????????????? ?????????????? ??? ?????? ???
???? ?????????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??????
????????? (??., ?????? ????, ?????????? ??? 21?? ?????? 2012, Mahagében ??? Dávid,
C?80/11 ??? C?142/11, EU:C:2012:373, ????? 38, ??? ??? 19?? ?????????? 2017, Paper
Consult, C?101/16, EU:C:2017:775, ????? 36).

34 ?????? ??? ?????????? ??? ?????????? ?????? ?? ?????????? ?????? ? ?????????????? ???
??? ??? ?????????? ??? ??? ??? ?????????? ? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????????? . ?? ?????? ?????? ??? ??? ?????????? ??? ?????? ??? ?????? ???
???? ??? ?????????? ?? ??? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????????? , ?????????? ??? ?????? ? ??? ?????????? ?????????? ???, ??? ??? ?????? ??????
??? ?? ?? ??? ?????????????? ?????????? , ?????????? , ??? ??? (??., ?????? ????,
????????? ??? 21?? ?????? 2012, Mahagében ??? Dávid, C?80/11 ??? C?142/11,
EU:C:2012:373, ????? 39, ??? ??? 19?? ?????????? 2017, Paper Consult, C?101/16,
EU:C:2017:775, ????? 37).

35 ???????? ?? ???????? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????????? ???
??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ???, ??? ??? ??????
????????????? ?????????? ?????????? ??? ?? ?????????? ??? ?????????? ?????????? ??????????
????????? ?????????????? ??? ??? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??????????
????????? ??????.

36 ???????, ?????????????? ???, ??? ?? ?????? ??? ?????? 167 ??? ??? ?????? 179,
????? ??????, ??? ?????? ???, ?? ?????? ?????? ???, ?????????? ?????????? , ????????, ??? ??
????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ?????????? , ??????? ??? ??? ??????
??? ? ?????? ?????????? ??????????.

37 ???????, ??????? ??? ?????? 180 ??? 182 ??? ?? ?????? ???????, ?????? ??
????????? ??? ?????????? ??? ?? ?????? ??? ?????? ?? ?????? ?????? , ?????? ??? ?? ??? ??
????? ?? ?????????? ??? ?? ?????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??
????????? ???, ?? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ?????????? (??, ?????? ??? 12?? ?????? 2012, EMS-Bulgaria
Transport, C?284/11, EU:C:2012:458, ????? 46 ??? ??? ?????????? ??????????).

38 ???????, ??? ?? ?????????? ??? ?????????? ?????? ?????????? ??? ?? ?????????? ??????????
??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????? ???
??? ?????????? ???????, ? ?????? ?????????? ?? ??? ?????? ???' ?????????? ?? ?????? ???
????????? ? ?????????? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ?? ?????????? ???
??? ?????????? ??? ?????? ??? ?????????? ?????? ?????? . ?? ?? ???????, ? ?????????? ???
????????? , ? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ?????????? ?????????? ???
?? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??????
????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? , ??? ?????? ?? ?????????? ??
????????? ?? ?? ?????????? ??? ?????????? ? ?????? ??? ???, ?????? ? ?????????? ???, ??????,
????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ??????????
????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ??????????
??? ?????? ??? ?????? ?????? (????? ??? ??????????) ???, ???????, ??? ?????? ??? ??????
????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ?????????? (????? ???

? ??????????????????) (??., ????????, ??????? ??? 12?? ?????? 2012, EMS-Bulgaria Transport, C?284/11, EU:C:2012:458, ?????? 48 ??? 49 ??? ????? ????????????? ??????????).

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

40 ??????? ??? ?? ??????? ??? ?????????? ??? ?????????? ?? ?????? ?????????? ??? ?????????? ??? ?????? ???, ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ??????, ??????????, ? ??? ?????? ?????????? ??????.

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

42 ??????, ?? ?????? ??? ??? ??? ?????? ??????, ??? ? ?????? ??? ?????? ?????? ?????? ??? ?????? ??????, ?????? ??? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????.

43 ??????, ??? ?? ?????? ??? ?????????? ?????????? ??? ??? ?????????? ??? ??? ?????????? ??? ?????? ??????.

44 ? ??? ?????? ??? ?????????? ??? ??? ??????, ??? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????? ? ???? ?????? ? ???? ?????? ?? ?????? ? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (??., ????????, ?????? ??? 28?? ?????? 2016, Astone, C?332/15, EU:C:2016:614, ?????? 45).

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

46 ? ?? ?????? ??? ?????? ???????????, ?????? ?????? ?????? ??? ?????? ??

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

47 ????????, ??????????? ?????? ?????? ?????? ???? ? ?????? ?????? ??? ?????? ??? ??????
?????, ?????? ??? ?? ???? ?????? ?????? ??? ?????? ?????? ??? ?????? ???, ?????? ?? ????
????? ?????? ??? ?????? ?????? ?????? ??? ?????? 34 ??? ?????? ?????? ?????? ??????.

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

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

50 ???????, ?? ?????? ??? ??????????????, ??????? ?? ??? ??? ??? ??? ??????????????, ??
????????????? ?? ??? ?? ?????, ?????????? ?? ??? ?????? ?? ??? ?????????????? ??????? ??
????????????? ?? ??? ?? ?????? ??????? ???????, ????? ?? ??? ?????? ?????? ?????? ??????? ??
????? ?? ??? ?????? ?? ??? ?????? ??????? ???????, ????? ?? ??? ?????? ?????? ?????? ??????? ??
????????? ?????? ??? ??? (?????? ?? 10?? ?????? 2008, Sosnowska, C?25/07,
EU:C:2008:395, ??? 23).

51 ?? ?? ???????, ?? ?????????? ??? ? ??????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??????,
????????????? ?? ????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ??
????? ?? ?????????? ?? ?, ?? ????? ?? ?????????? ?? ?? ?????? ?? ?????????? ?? ?? ??????????
????????? ?? ????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?? ?????????? ?? ?? ?????? ?? ??
????????? ?? ?????? ?? ????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????????? (?????? ?? 12??
?????? 2012, EMS-Bulgaria Transport, C?284/11, EU:C:2012:458, ?? ?? 70 ?? ??
????????? ?? ??????????).

52 ???? ?? ????????, ????, ??? ?????????????????? ??? ?????????????? ?????????????? ?????????
????????? ?????????? ??????? ? ??????? ??? ?????? ??? ?????????? ??????????????????.

53 ??????, ??????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
????? ? ??????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??????, ?????????????????? ??
?? ?????? ?? ?????????????? ?? ?????????????? ?? ??????, ?????????? ?? ??? ?????? ??
????????? ?? ??????.

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

55 ?????? ??? ??????????? ?? ?????? ?? ??????? ?? ?????? ?? ?????? ?? 6??
?????????? 2014, Fatorie (C-424/12, EU:C:2014:50). ???????, ??? ?? ?????? ??
??????????, ?????, ??? ? ??????????? ?? ????? ?? ?????? ?? ???????????, ????? ??

?????????????? ??????????, ??? ??? ?? ?????????? ??????? ????? ?? ??????????? ???
???????, ??? ?? ?????????? ??????, ?????????? ?? ??? ??? ????? ??? ?? ??????????
????????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??????, ??? ??????????
????????? ??? ?????? ?????? ?????? ?????? ?????? (??., ???????, ?????? ??? 6??
????????? 2014, Fatorie, C?424/12, EU:C:2014:50, ??? 51). ????????, ??? ??????????
??? ??? ??? ?????? ?????? ??? ? ?????????? ??? ?????? ??? ?? ?????????? ???, ?????? ???
????????????? ??????????, ??? ??? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ???
????????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ? ?????? ?????? ?????? ??? ???
????????? ?????? ?????.

56 ??? ??? ?????? ??????, ??? ?????????? ?????? ??????? ?? ??? ? ?????? ? ?????????? ???
?? ??? 167, 168, 179, 180 ??? 182 ??? ?????? ??? ?????? ??? ?? ??? ???? ?? ??? ???? ???
?????????????????, ??? ?????????? ?????? ?????????? ??? ??? ?????????? ?????? ???
????? ??? ?????????? ?? ??? ?????? ?????? ??????, ??? ? ?????? ?????? ?????? ?????? ???
?????, ? ???, ??? ?????????? ??? ??? ?????? ?????? ?????? ?????????? ?????? ??????????
??? ?? ?????? ?????? ??? ?? ?????? ??? ?????? ???, ??? ??????????, ??? ??????????
????? ??? ?????? ??? ?????????? ??? ?????? ??????, ?? ?????????? ??? ?????? ??? ?????? ?? ??????
????????? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????????? ?????? ?????????? ??? ???
????? ? ?????? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ?????? ?????? ??????
?????.

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

57 ??? ?????? ??? ? ?????? ?????????? ??? ?? ??? ?????? ?????? ?????? ??? ?????? ???
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?, ?' ???
????????? ?? ?????????? ??? ?????? ?????? ??????. ?? ?????? ??? ?????? ??????????
????? ?????? ?????????? ??? ?????? ??? ??????????, ??? ??? ?? ??? ?????? ??? ??????????
??? ??? ?????? ??? ?????? (????? ???) ??????????:

?? ??? 167, 168, 179, 180 ??? 182 ??? ?????? 2006/112/?? ??? ??????????, ??? 28??
????????? 2006, ?????? ?? ?? ?????? ?????? ?????? ?????? ?????????????? ????, ???
????????????? ?? ??? ?????? 2010/45/?? ??? ??????????, ??? 13?? ?????? 2010,
????? ??? ?? ?????? ??? ?????????????? ???, ??? ?????????? ?????? ??????????????
??? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??????
??????, ??? ? ?????? ?????? ??? ?????? ??? ?????? ?????? ???, ??? ?????, ??? ??????????
??? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?? ?????? ??????
??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? (??), ??? ??????????,
??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????????? ???
????? ?? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???.

(?????????)

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