

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

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

??? 11?? ??????? 2018 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? – ?????? 2006/112/?? –
????? 311, ?????????? 1, ?????? 1 – ?????? ?????????? ??? ?? ?????????????? ????? –
????? ??? “????????????? ?????” – ?????? ??? ?????????? ?????????? ?????????? ?
????????? ??????, ?? ????? ?????????? ??? ?????? – ?????????? ??? ?? ?????? ?????? ??????
???? ?? ?????? – ?????????? ??? ?????????? ?????????? ? ??? ?????????? ????? – ?????? ???
“????????? ?????? ? ?????????? ?????”»

???? ??????? C-154/17,

? ? ?????????? ?????? ?????????????? ?????????? ??????? 267 ????, ???
?????? ?? Augst?k? tiesa (?????? ??????????, ???????) ?? ??????? ??? 21?? ???????
2017, ? ?????? ??????? ??? ?????????? ??? 27 ??????? 2017, ??? ??????? ??? ???

SIA «E LATS»

????

Valsts ie??mumu dienests,

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

????????? ??? ??? E. Levits, ??????? ????????, A. Borg Barthet ??? F. Biltgen (?????????),
???????,

????????? ??????????: M. Bobek

?????????: M. Aleksejev, ?????????? ????????,

?????? ??? ?????? ?????????? ?????????? ??? ??????? ??? ??' ?????????? ?????????? ???
25?? ?????????? 2018,

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

- ? SIA «E LATS», ?????????????? ??? ??? ?. Podvinska, advok?te, ??? ??? J. Lagzdi?š,
advok?ts,
 - ? ?????????? ????????, ?????????????? ??? ??? I. Kucina ??? J. Davidovi?a,
 - ? ?????????? ????????, ?????????????? ??? ??? L. Lozano Palacios ??? ??? E. Kalni?š,
???? ?????? ??? ?????? ?????????? ??? ??????? ??? ?????? ??? ??? 10?? ??????? 2018,
- ????????? ??? ????????

????????

1 ? ?????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? 311, ??????????
1, ?????? 1, ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ??
?? ?????? ?????? ??? ?????????????? ?????? (?? 2006, L 347, ?. 1, ??? ????: ?????? ???
???).

2 ? ?????? ??? ?????????????? ??? ??????? ?????????? ?????????? ?????????? ??? SIA «E LATTS»
(??? ????: E LATTS) ??? ??? Valsts ie??mumu dienests (????????????? ????, ??????????),
????????? ?? ??? ?????????? ??? ?????? ?????????????? ?????? (???) ???, ??????????, ??????
?? ?? ?????????? ?????????? ??? ?????????? ?????????????? ?????????????? ??? ?????????? ??????
?????? ?????? ??? ??????????????, ?????? ???, ??? ?????, ?????? ??? ?????????? ??????.

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

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

3 ????? ??????????? ?????? 51 ??? ?????? ????? ?? ?????????????????? ?? ????:
«????? ?????? ?? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????? ?????????????????? ??????
????? ??? ??? ?????????????? ??????????????, ?????????????? ? ?????????????? ??????, ??
????? ??? ?????? ??? ?????? ?????????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??????
????????? ????.»

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

[...]»

5 ? ?????? XII ??? ??????? ????, ?? ??? «?????? ??????????», ?????????????? ??
????????? 4, ?????????????? «?????? ??????? ??? ?????????? ??? ?????????????? ??? ?????????????? ???
??? ??? ?????????? ??? ?????????? , ?????????? ? ?????????????? ???», ?? ???
????????? ??? ?? ??? 311 ??? 343 ??? ?????? ???.

6 ????? ?? ?????? 311, ??????????? 1, ??????? 1 ??? 5, ??? ??????? ????? ??;

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

1) “????????????????? ?????”, ?? ?????? ?????????? ?????? ?? ?????? ?????? ?????? ?????? ??
?????????????????????, ?? ?????? ? ??? ?????? ?????? ??????, ?????? ?? ??????????????
???????????????, ?????????????? ? ?????????????????? ?????? ?? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?
????????? ??????, ??? ?????????? ??? ?? ?????? ??????

[...]

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

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

7 ?? ????? 138 ??? Pievienot?s v?rt?bas nodok?a likums (?????? ??? ??? ???)
???????????????? ?????, ??? ????: ????? ??? ??? ???) ?????????? ??? ?????????? ??????
????????? ??? ??? ??? ??? ?????????? ??? ?????????? ?? ?????? ??????
????????????? ????, ??? ??????????????, ?????????? ? ?????????????? ?????? ?? ??????
????? ?? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ???
?? ??????????, ????, ???, ??? ?????? 311 ??? ?????? ????.

8 ? ?????????? ?????????? ?????? ?? ?????????????????? ?????? ?? ?????????? ?????? ??? ??????
????????????????? ??? ?????? ?????????? ?? ?????????????????? ?? ??? ?????? ??????, ???
?? ?????? ???? ???? ??? ??????????, ?????????????? ?? ?????????????? ??????????????,
????????????? ?? ?????????????? ?????? ?????? ???? ??? ?????????? ?????????? ?? ??? ??????????
?????. ??????????, ?????????? ???? ?????? ??? ?????????????????? ?????? ?? ??????????
??? ?????????? ?????????? ?????? ?? ?????????? ??????, ?? ? ??????, ??? ??? ?????? ??????
???? ?? ??? 138, ?????????? 4, ??? ???? ??? ???? ???, ?????????? ?? ?????????? ?? ????
???? ?? ??????????.

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

10 ? E LATS ?????? ??????? ??????????? ????. ????. ??????? ??????? ?? ???????, ??
?????????????? ?? ???, ?? ??????????? ??????? ?? ??????? ?? ??????? ?? ??????? ??
????????? ?? ??? ?/??? ?? ???, ??? ???????????, ???????????, ???????????, ???????????,
?????????????? ?? ??????????? ?????.

11 ? E LATS ?????????? ?? ?????? ???????, ?????????????? ?? ???, ?? ??????????????
????????????? ?? ??? ?? ?????????? ?????? ?????????? ?????????????? ?? ??????? ?? ??? ?? ??????
???? ?? ??? ?? ????? ?????????? ?????. ?????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
??? ?????????? ?? ??? ?? ????? ?? ??? ?????? ?????? ?????? ?? ??? ?????? ?????? ??? ?? ??? ?????
????????? ?? ??? ?????????????? ?? ??? ?????????? ??????.

12 ? ?????????? ?? ???? ?????????? ??????? ??????? ???? E LAT S ???

? ?????????? ??? ???? ??????????? ?? ?????????? ??? ???? ?????? ?????? ?? ?????? ??????
????????? ??? ???? ?? ?????????????? ?????. ?????????? ???, ??? ???? ??????????
?????, ??? ???? ?????? ?? ?????? ?????????? ??? ???? ?????? 138 ??? ?????? ??? ???? ?, ?
????????? ??? ?????????? ?? ?????? ?????? ?????? ??? ???? E LATS.

13 ? ?????????? ??? ???? E LATS ??????? ??? ???? ?????????? ?????? ?????????? ??? ??
Administrat?v? apgabaltiesa (????????????? ?????????? ??????????, ??????) ?? ??
????????? ??? ? E LATS ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ?? ??????
????????????? ??? ??? ?? ?????????????? ????? ???, ????????, ??? ?????????? ?? ??????????
?? ?????? ??? ?????????? ?????? ??? ???? 138 ??? ?????? ??? ??? ???.

14 ??? ?????? ??? ?????????? ??? ???? ?????????? ??? ?????? ??? Augst?k? tiesa (?????????
?????????, ??????), ? E LATS ???????, ?????? ???, ??? ???? ?????? ??? ??????????
?? ?????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?? ?? ?????? ? ??? ?????? ??
?????, ??? ?? ?????????? ?? ?????? ??? ?????????? ??? ?????? ?? ?????? ? ?????????? ??
????????? ??? ?????? ??? ?????? ?????????? ?? ?????? ??? ???? ?????????? ??? ??????????
????????? ??? ?????????????? ??? «????????????? ???» ?? «?????????
?????????».

15 ?? ?????? ?????????? ??? ???? ??? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
?? ?????? ?????????? ?? ?????? ??? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?????? ??? ?????? ??? ???? «????????????? ???» ?? ?????? ??? ????
????? » ??? ?????? 311, ?????????? 1, ?????? 1, ??? ?????? ??? ???, ??? ?????? ???
??? «????????? ??? ?????? ??? ?????? ??? ????» ??? ?????????? ??? ???? ?????? ???.
????? ?????? ??? ???? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??????
????. ??????, ??? ?? ?????? ??????????, ?? ?????????? ??? ?????? ??? ?????? ??????????
??? ?????? ??? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ?????? ??????????
????? ??? ??? ?????? ??? ??????.

16 ??? ??? ??????? ????, ?? Augst?k? tiesa (????????? ??????????) ?????????? ??
????????? ?? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ?????? ??? ??????????
?????????:

«1) ??? ?????? ??? ?????????? ?? ?????? 311, ?????????? 1, ?????? 1, ??? ?????? ???
?? ??? ?????? ??? ?????? ?????? ?? ?????? ??? ?????????? ?????????? ??? ???? ??
????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???? ??????
????????? ??? ?????? ??? ?????? ??? (????? ??? ???? ?????? ??????) ??? ?? ???
????????????? ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ???? ??????
????? ??? ?????? ?? ???;

2) ?? ?????????? ?????????? ??? ?????? ??? ???? ??????, ?????????? ??
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (????????? ??? ?????? ???, ????)
????????? ??? ?????????? ??? ?????? ??? ?????? ??? .);»

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

17 ?? ?? ??? ?????????? ???, ?? ?????? ??? ???? ?? ??????????????, ?? ?????? ??????????
?????, ???' ??????, ?? ?? ?????? 311, ?????????? 1, ?????? 1, ??? ?????? ??? ??? ??
??? ?????? ??? ???? «????????????? ???» ?????????????? ?? ?????????????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ?????????? ??? ??

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

18 ????? ???? ???? ?????????? ??? ??????????????, ?????????????? ?? ?????????????? ??????? ???
????????? ??? ???????, ??????? ?? ?????????????? ?????? ??? ?????? ?? ??????? ???, ???? ??? ??
????????? ??? ?????? ??????????? ??? ?? ??????? ??? ?????????????? ?? ?? ?????????? ??? ?????? ???
????????? ??????, ??????? ?????? ?? ?? ?????????? ?????????? ??? ?????????? ?????? (?????????
??? 17?? ??????? 2018, Egenberger, C-414/16, EU:C:2018:257, ????? 44).

19 ??????, ??? ????? ?? ?????? ??? ?????? 311, ?????????? 1, ?????? 1, ??? ??????
???? ?, ??????????? ???, ??? ???? ?????? ???, ????? «????????????? ?????» ??
«????? ?????? ?????? ??? ?? ?????? ??? ?????? ?????? ?? ??????????????????, ?? ?????? ? ???
??? ??????, ??? ??? ??????????????, ??????????????, ?????????? ? ??????????????
????? ??? ??? ?????? ??? ?????????? ?????? ???, ??? ?????????? ??? ? ??????????????
?????».

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

21 ????? ?????? ??? ????? ???? ?? ??????? ???????????, ??????????????? ??? ?? ???????????
????? ??? ?????? ??? ???? «????????????????? ???», ???? ??? ?????? ??? ?????? 311,
?????????? 1, ?????? 1, ??? ?????? ????, ??? ??????????? ?? ??????? ?? ??????? ?????????? ????
????? ???? ?????? ?? ???????????????????????, ?? ?????? ??? ?????? ??? ???????, ?? ??????
?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????????? ?? ?????????? ?????????? ????
??? ??? ? ??????????? «????????????????? ???» ??????? ??? ?? ?????????????????? ????
?? ??????? ??? ??????????? ??? ?????? ??????? ?? ??? ??????????? ??? ??? ?? ??? ??????, ??
?? ??????, ?? ??????????????????????? ?? ??? ?????? ??? ?????????? (??., ??' ??????, ???????
??? 18?? ??????????? 2017, Sjelle Autogenbrug, C-471/15, EU:C:2017:20, ??????? 31 ??? 32).

23 ???????, ?????????? ? ?????????? ??? ?? ????? 311, ?????????? 1, ?????? 1, ???
?????? ???, ??????? ????? ??, ??????? ?????? ????? ??????? ?? ??????? ?????? ??? ???
????????? ??????, ??? ?? ?????????????? ?????? ??? ?????? ?????? ??? ?????????? ???
????????? ??????? ??????? ? ??????? ???? ?? ?????? ??? ?????? ?????? ?????? ??
«?????????????????», ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?? ??????????.

24 ????????, ??? ????? ?? ??????? ?????? ??? ?????? ??????????? ?? ?????? 311,
?????????? 1, ?????? 1, ??? ??????? ????? ??, ?????????????? ??? ?? ???? ???? 311
?????????? ?? ??????? ????? ?? ??????? 1, ?? ????? «??????», ??? ?????????? 4 ???
?????? ??? ??, ??????? ?? ?? ?????? ?????????? ??? ??????????? ??? ??????????????
????? ??? ?? ??????????? ??????????????, ??????????? ??? ?????????????? ?????, ?? ??

?????? ??????????? ?????????????? ??? ?? ?????? ?????????? ??? ??????? ??? ??????? ??? ??? ??, ?? ?? ??????, ?????? ?? ?????????????? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????? (??., ??' ?????, ?????? ?? 8?? ?????????? 2005, Jyske Finans, C?280/04, EU:C:2005:753, ????? 35).

25 ?????? ?????? ?????? ?????????? ??? ? ? ?????? ?????????? 4 ??? ?????? ?? ?????????? ????????
? ?????? ?????????? ?????? ??? ? ?????????? ??? ?????? ?????? ?????? ?????? ? ??????,
??? ? ? ?????? ?????? ??? ?????? ?????????? ?? ?????? 311, ?????????? 1, ?????? 1, ???
????????? ??? ???? ??? ?????? ?? ?????? ?????? ?????? ?????????? ??? ? ? ?????????? ?? ???
????? ?? ?????????? ??? ?????????? ??? ?????? ?????? /??? ?????????? ??????.
????????? ?? ?????????? ??? ?????? «????????????? ??????» ??? ? ? ?????? ???.

26 ???????, ??????? ?????????? ?? ?????? ?????????? ???? ?????? ??? ?????? ?????????? ?? ??????
311, ?????????? 1, ?????? 1, ??? ?????? ????.

27 ???????, ???' ????, ?????????????? ??? ? ?? ??? ????? ?????????????? ???
????????? ??? ?????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??? ???
????????????? ??? 51 ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ? ?????? ??? ?????????? ???
????????? ??? ? ?????? ??? ?????? ??? ?????? ?????????????? ??? ??? ?????????? ???
????????????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ???
??? ?????????????? ??????????????, ?????????????? ??? ?????????????? ??? (?????? ??? 18??
????? 2017, Litdana, C?624/15, EU:C:2017:389, ??? 25).

28 ??????????, ??? ?????? ? ?????? ?????????? ? ?????? ?????????? ?????? ?????? 49 ??? 55 ???
????????? ???, ? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ?????????? ?????? ??? ??
????????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ? ?????? ??? ?????? ?? ?????????? ???
????????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ?????????? ???
????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ??????, ??? ?????????? ???' ?????? ??? ??
????? ??? ?????? ??? ?????? ??????????. ????????, ?????? ??? ?? ?????????? ?? ?????????? ??? ??
?? ?????????? ?? ?????? ?? ?????????? ?????? ??????????, ?? ?? ??? ?????? ?????? ??? ?? ??
????? ??? ?????? ??? ?????? ?????? ?????? ? ?????? ?????????? ??? ?? ?????????? ?????????? ???
????? ??? ?????? ?? ?????????? ?????? ?????? ??? ?????? ?????????? ?????????? ? ??? ??????????
?????. ??????, ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?? ?? ??? ?????? ??? ??
?? ??? ?????? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ??????????????
????????????????????? ??? ??? ??? ?? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??
????????????? ??? ?????? ??? ???

29 ??????, ??? ?? ??????? ?????????? ??? ?????? 94/5/?? ??? ??????????, ??? 14??
????????????? 1994, ??? ?? ?????????? ??? ?????? ?????????? ?????? ?????????????? ???
??? ??? ?????????? ??? ?????? 77/388/?? – ?????? ?????????? ??? ?????????? ???
????????????? ??? ??? ??? ?????????? ??????????????, ?????????? ? ??????????????
????? (?? 1994, L 60, ?. 16), ? ?????? ??????????, ??? ?????? ?????? 77/388/??, ???
?????????, ??? 17?? ??? 1977, ??? ?????????? ??? ?????????? ??? ?????????? ???
??? ?????????? ?? ??? ?????? ?????? ?????? – ?????? ?????? ?????? ??????????????
?????: ?????????? ?????????? ??? (?? ????. ????. 09/001, ?. 49), ?? ?????? 26? ??? ?????? ??
????? ?????? ?????????? ?? ??? ??? ?????? 311, ?????????? 1, ?????? 1, ??? ??????
???? ???, ?????????? ??? ? ?????????? ??????????, ?? ?????? ??????, ?? ?????????? ??
????????? ??? ?????????? ?????? ? ?????? ?????????? ?????? ?? ?????? ??? ?? ??????????
?? ?????????? ??????.

30 ????????, ? ????????, ????????, ??? ?????? ?????? [C??(88) 846 ??????], ???
???????, ??? ?????? ?? ???? ?????? ?? «????????????? [...] ??? ?????? ? ???
???????, ?????? ? ??????????????? ?? ?????????? ?????? ?????? ? ?????? ? ??? ?????? ??????

??? [?? ??????] ?????????????? ??? ?????????? ?? 50 % ??? ????? ??????? ??? ?? ???
?????????????», ??? ?????? ??? ?????? ??????, ????, ??? ?????????? ??????? ???
??? ?????????? ????, ????, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ???
????, ??? ?????? ?? ???????.

31 ??????, ??? ?????????? ? ??????? ?????????? ??? ?????? 45 ??? 48 ??? ??????????
???, ??? ?????? ??????? ??? ?????? 26? ??? ?????? ?????? 77/388, ??? ?????? ???
????????? ??? ?????????? ??? ?????????? ?????? ?????? ? ?????????? ?????? ??? ??
?? ?????????? ??? ?????????? ?????? ?????????? ?????? «?? ?????? ?????? ??? ??
????????? ?????» ???????, ? ?? ?????? ?????? ??? ?????? ?? ?????????? ?? «??????
????????? ? ?????????? ?????» ?????????? ??? ?????? ???.

32 ??????, ??? ?????? ? ?????????? ??? ?????? ??????, ??? ? ??????????????, ??? ?????? ???
??? ?????? ?????????? ??? ?????? ??? «????????? ?????? ? ?????????? ??????», ? ??
???? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ?????????? ??? «????????????? ?????? ??????????» (??, ??'
????, ?????? ????, ??????? ??? 28? ?????? 2007, JP Morgan Fleming Claverhouse
Investment Trust ??? The Association of Investment Trust Companies, C-363/05, EU:C:2007:391,
????? 21, ??? 13? ?????? 2014, ATP PensionService, C-464/12, EU:C:2014:139,
????? 41), ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?
????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??
????? ?????? ?? ?? ?????? ?????? ??? (??., ??' ?????, ?????? ??? 13? ?????? 2014,
ATP PensionService, C-464/12, EU:C:2014:139, ?????? 42).

33 ??????, ??? ?? ?????? ??? ?????? ??? «????????????? ??????», ??? ??
????? ??? ?????? 311, ?????????? 1, ?????? 1, ??? ?????? ???, ?? ?????? ??????
?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????
«????????? ?????? ? ?????? ??????» ?? ?????? ?????????? ??? ?? ?????? ??? ??
????????, ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
???? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

34 ?????????, ??? ?????????? ? ?????? ?????????? ??? ?????? 72 ??? ??????????
???, ??' ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????????? ?? ?? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????????,
?? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????, ?????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??
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35 ?????? ??? ?????????? ??? ?????? ?? ?????? ?????? ??? ???? ???????????, ?? ???
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????????? ??? ?????????? ?????? «????????? ???», ?????????????? ??? ???? ?? ??????????????
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????????? (?).., ??' ?????, ??????? ??? 6?? ?????? 2006, Kittel ??? Recolta Recycling,
C?439/04 ??? C-440/04, EU:C:2006:446, ????? 41).

36 ??? ?????? ???, ? ?????????? ?????? ?????? ??? ???? ???? ?????? ??? ?????????? ???
???? ??? ?????? ??? ?????????? ???, ??? ?????????? ?????? ?????? ?????????? ???, ?????????? ???
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????????? ?????? ??? ?????? ?????? ?????? (????????? ??? 6?? ?????? 2006, Kittel ???
Recolta Recycling, C-439/04 ??? C?440/04, EU:C:2006:446, ????? 42 ????? ??? ???
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37 ????????, ??? ?????????? ???? ?????? ?????????? ??? ?????? 78 ??? 82 ???
????????? ???, ????????, ??? ?????? ?????? ?????? ?????? ?????? ?????????? ???, ? ??????
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????? ?????????? ???, ??? ???
(?????? ?????/?????? ?????) ? ??? ??????, ?????????? ?????????? ?????????? ?????????? ??
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38 ??????, ?????? ?? ?????????? ???, ??? ?????? ?????? ?? ?????? ? ?????????? ???
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????? ?? ?????????? ?????? ??? ?? ?????? ?????? ?????? (????????? ??? 18?? ??????????
2017, Sjelle Autogenbrug, C-471/15, EU:C:2017:20, ????? 43), ? ?????????? ??? ??????????
????? ??? ?????????? ??? ?? ?????????? ?? ?????? ?????????? ???????, ?????? ??????????
??????????, ?? ?????????? ?????????? ?????????? ?????? ??? ?? ??? ?????? ?????????? ???
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39 ?????????? ??? ?????? ??? ?????? ??? ??????????????, ??? ?????????? ??????????
????? ?? ??? ???? ???? ?????? ??? ?? ?????? 311, ?????????? 1, ?????? 1, ??? ?????? ???
??? ??? ??? ?????? ??? ???? ?????? ??? «????????????? ??????» ??? ??????
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40 ?????????? ??? ???? ?????? ?????????? ??? ?????? ?? ?????? ?????? ?????????? ??? ?????? ???
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? ? ?????? 311, ?????????? 1, ?????? 1, ??? ?????? 2006/112/?? ??? ??????????, ???
28?? ?????????? 2006, ?????? ?? ?? ?????? ?????? ?????? ?????? ?????????? ??????,
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(?????????)

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