

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

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

??? 3?? ??????? 2019 (*)

«????????????? ?????????? – ????? ?????????????? ????? (???) – ?????????? ??? ?????? ??????? – ?????? ?????????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? – ?????? ?????»

???? ??????? C-316/18,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ??? ?????? ?? Court of Appeal (England & Wales) (Civil Division) [????????? (?????? ??? ??????)] (????????? ????), ??????? ??????] ?? ?????? ??? 26?? ??????? 2018, ? ?????? ??????? ??? ?????????? ??? 14 ????? 2018, ??? ?????? ??? ??????

Commissioners for Her Majesty's Revenue and Customs

????

The Chancellor, Masters and Scholars of the University of Cambridge,

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

????????? ??? ??? F. Biltgen, ?????? ???????, C. G. Fernlund (?????????) ??? L. S. Rossi, ???????,

????? ??????????: J. Kokott

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

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

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

– ?? The Chancellor, Masters and Scholars of the University of Cambridge, ?????????????? ??? ??? S. Moore ??? ?. Hitchmough, QC, ??? B. Belgrano, barrister, ??? ??? ??? A. Brown, advocate,

– ? ?????????? ??? ??????? ??????????, ?????????????? ??? ??? F. Shibli ??? ??? R. Fadoju, ?????????????? ??? ??? K. Beal, QC,

– ? ?????????? ???????, ?????????????? ??? ??? R. Lyal ??? ??? A. Armenia,

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

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

???????

1 ? ?????? ?????????????? ?????????? ?????? ??? ???????? ??? ?????? 168, ?????????? ?,
?? ?????? 2006/112/?? ?? ??????????, ??? 28?? ?????????? 2006, ?????? ?? ?? ?????
?????? ????? ?????????????? ??? (?? 2006, L 347, ?. 1, ??? ????: ?????? ???).

2 ? ?????? ????? ?????????? ??? ?????? ?????? ??? Commissioners for Her
Majesty's Revenue and Customs (????????? ??? ?????????? ??????????, ??????
?????????) (?? ????: ?????????? ?????) ??? ?? The Chancellor, Masters and Scholars of
the University of Cambridge (?? ????: ?????????? ??? Cambridge) ??????? ?? ?? ?????
?? ?? ??? ?????? ?? ??????? ??? ?????????? ??? ?????????? ??? Cambridge ??????? ?? ?? ?????
????????????? ??? (??) ??? ?????? ?? ?????? ??? ?????? ?????????? ??? ??????? ?? ?? ??????
????????????? ?????????? ?? ?????? ??? ?????????? ??? ?? ?????? ?????? ?????????? ??
????? ???, ??? ?????? ?? ?????? ??? ?????????? ??? ?????? ?????????????? ??? ??
????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ?????????????? ???.

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

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

? ??? ??????

3 ? ??? ?????? 77/388/???, ??? ??????????, ??? 17?? ????? 1977, ??? ??????????????
?? ?????????? ??? ?????? ???, ??? ?????????? ?? ??? ?????? ?????? ?????? ?????? – ???
?????? ?????? ?????????????? ????: ?????????? ?????????? ??? (?? ????. ????. 09/001, ?. 49,
?? ????: ??? ?????), ??????????, ??? ?????? 17, ?????????? 2, ?????????? ??, ??
???????:

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

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

? ?????? ???

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

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

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

[...]

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

5 ?? ?????? 9, ?????????? 1, ??? ?????? ??? ?????? ?? ????:

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

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

?? “?????????? ??????????????” ?????????? ??? ?????????????? ??? ??????????, ??
???????? ? ??? ?????????? ??????????, ?????????????????? ??? ??? ??????????????
????????, ??? ?????????? ?????????????? ??? ??? ??? ?????????????? ??? ??????????
?????????????. ?? ?????????? ?????????????? ??????????, ??????, ? ??????????????
????????? ??? ?????? ??????, ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????..»

6 ?? ????? 168, ??????? ?, ?? ? ?? ??? ?????? ?????????? ?? ????:

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

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

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

7 ?? ????? 1, ?????????? 1, ??? Value Added Tax Act 1994 (????? ??? 1994 ??? ??
????? ?????????? ????) ?????? ?? ????:

«1) ? [?] ??????????, ??? ?????? ?????? ??? ?????? ????,

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

8 ??? ?? ????? 26 ??? ?? ??? ?????, ? ?????? ?????? ?????? ??? ?????? ??
????? ?????? ????, ?????? ??? VAT Regulations 1995 (????????????? ?????? ??? 1995
??? ??? ??? ?????????????? ???), ?????????? ?? ??? ?????????????? ?????????? ???
????????????????? ??? ??? ?????????? ??? ?????? ??? ??? ?????? ? ?????? ?????????? ??
??? ?????????????? ??? ?????? 26, ?????????? 3, ??? ?? ??? ?????? ?????? ???,
????? ?????????? ??? ??? ?????????? ??? ?????? ?????? ??? ?? ?????????? ??? ??? ??????
??????, ? ?????????? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ??? ?????????????? ??? ??? ?????????????? ??? ??????.

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

9 ?? ?????????? ??? Cambridge ?????? ?????????????? ?????? ?? ??????????????
????????? ?? ???, ?????? ??? ??? ?????? ?????????????? ??? ? ??? ?????? ?????????? ???
????? ?????????????? ??? ??????, ?? ?????? ?????????????? ??? ??? ???, ??????????????
??? ?????????????? ????, ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????, ????
????????????? ??? ?????? ??? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????? ?????? ??? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??????.

10 ?? ?????????? ??? Cambridge ?????????????? ?? ???
??? ?????? ??? ??????, ?? ?????? ?????????????? ?? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????????.

?????????. ??? ?????? 2009, ?? ?? ??? ??????????????? ??????????? ??? ?? ???????????
????????? ??? ??????? ??? ?? ??? ?????? ??????????????? ??????????? ?? ?????? ??????????
?? ??????????? ??? ?? ??? ??????, ??? ?? ??????????? ??? ?? 1? ?????????? 1973 ??? ?? 1?
????? 1997 ??? ?? 1? ?????? 2006 ??? ?? 30? ?????????? 2009, ??????????????? ???
?? ?????? ??? ?????????? ??? ?? ??? ?????? ?????? ?????????????????? ??? ?? ??????????????
??? ?????? ??? ?????????? ??? ?????????????? ???.

11 ?? ?????????? ?????????? ?????????? ?? ?? ??? ?????? ?? ?? ?????????? ??? ?? ?? ???
????????? ??????? ??? ?????? ??? ?????????????? ??? ?????? ?????????? ???????????????, ?
????? ??? ?????? ?????? ??? ?????? ???.. ?? ?? ??? ?????? ?????? ???, ?? ??? ?????? ???????????,
?? ?? ??? ?????? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ? ??????????
??? ?????????? ??? ?? ?, ?? ?????? ?????????????? ?? ?????, ?????????? ??? ??
????????? ??? ?? ??? ?????? ??? ?????? ?????? ?????????????? ?? ?????? ??? ?? ??? ?????? ?????? ???
? ??????????.

12 ?? ?????????? ??? Cambridge ?????????? ??? ?????? ??? ?? ??? ?????? ??????
??????? ??? First-tier Tribunal (Tax Chamber) [????????????? ?????????? ??????????
(????????? ???), ?????? ??????]. ?? ?? ??? ??????????, ?????????? ??? ??
????????? ??? ?? ??? ?????????? ??? ?? ??? ?????? ?????????? ?????????? ??? ?????? ?????? ??
????????? ??? Cambridge ?????????? ??? ?? ??? ?????? ??? ?????????? ??? ??????????
????????????? ??? ?? ??? ?? ??? ?????????? ??? Cambridge. ??? ?? ??? ?????? ?????? ?????????? ??
Upper Tribunal (Tax and Chancery Chamber) [????????? ?????????? ?????????? (?????
????????? ??? ?????????? ?????? ??????????)] ?????? ? ?????????? ?????????? ?????????? ??
????? ??? ??? ?????? ??? ?????????? ??? Court of Appeal
(England & Wales) (Civil Division) [????????? (????? ??? ??????) (????????? ???), ??????
?????].

13 ?? ?????? ?????????? ?????????? ??? ?? ??? ?????? ?????? ?? ?????????? ??? ?? ???
????? ??? ?????????? ?? ??? ?????? ??? ?????? ?????????? ?????????????? ??? ?? ??? ?? ???
?? ?????????? ?? ??? ?????????? ??? ?? ???, ?? ?? ??? ?????? ??? ?????????? ??? ?? ???
????????? ??? ?????????? ???.

14 ?? ?????????? ??? ?????? ??? ?? ??? ?????? ?????? ?? ??? ?????????? ??? ?? ???
????????? ??? ?? ??? ?????? ??? ?? ??? ?????? ?????? ?? ??? ?????????? ?? ??? ?? ???
?? ?????????? ??? Cambridge ??? ?????? ?? ??? ?????? ?? ??? ?????? ??? ?? ??? ?? ??? ??
????????? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?? ??? ?????? ?????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?? ??? ?????? ?????? ??? ?? ??? ??
????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?? ??? ?????? ?????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? ??
??? Cambridge.

15 ??? ?? ?????? ??????????, ??? ?? ?????????? ??? ?????????? ?????????? ??
????????? ???, ?? ?????????? ??????????, ?? ?????? ?? ??? ?????? ??????????????
????????? ?????? ?? ?? ?????????? ?????????????? ??????, ??? ?? ??? ?????? ??? ?? ??, ??
????????? ??? ?????????? ?? ?? ?????????? ?????????? ?????????? ?????????? ??? ?? ??? ??
????????????? ?? ?? ?????????? ???.

16 ??? ??? ?????? ??????, ?? Court of Appeal (England & Wales) (Civil Division) [?????????
(????? ??? ??????) (????????? ???)] ?????????? ?? ?????????? ??? ?????????? ??
????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ??? ??

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

????????? ?????????????? ?? ?????????????? ??? ?????????? ?????????? ?????????? ??? ??? ???
????????????? ??? ??? ?? ??? ?????;

2) ??? ?????????????? ?????????????? ?????????????? ??? ?????? ??? ?????? ?????????? ??????????????
????????????? ??? ??? ?????? ??? ?????????? ???, ????, ????, ??????????, ??????? ??
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ??? ??
????????? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ??? ??
?? ??? ??????????, ??? ?? ?????????? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??
??? ?????? ?????????? ?????????????? ?????????????? ??? ?????? ??? ??? ??????, ? ????
????????? ?????????? ??? ???; ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ???
????? ??? ??? ??? ?????? ?????????????? ??? ?????????? ??? ??? ?????????? ??? ??????;

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

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

17 ??? ??????????????, ????, ??? ??????????, ??????, ??? ? ?????? ???, ? ?????? ?????? ??
????? ??? 1? ?????????? 2007, ?????????? ??? ?????? ?????, ?????? ?????? ?? ??????????
????????????? ?????? ?? ?????? ?? ??? ?????? ????. ?????????? ??? ?? ?????? ??????????
?? ?????? ?? ?????? ?????????????? ???' ?????? ?????????? ?? ?????? ??? ??????
????????? ??? ?????? ??????, ? ?????????? ??? ?????????? ??? ?????????? ??? ??? ?????? ??????
????? ?????? ??? ?????? ???.

18 ??? ??????, ??? ??? ?????? ??? ?????????? ?????????? ?????????? ??? ? ?????? ???
????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ?????, ???????, ? ????
????? ???, ?? ????????, ? ?????? ???.. ?? ?? ??????, ? ?????????? ??? ?????? 168, ??????????
??, ??? ?????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????????? ???
????? ??? ??? ??? ?????? 17, ?????????? 2, ????????, ??? ?????? ??????.

19 ??? ?????? ??? ?????? ??????????????, ?????? ?? ?????????? ???, ?? ? ??????????????
?????????, ?? ?????? ?????? ?? ??????????????, ?? ?????? ?????????? ???, ???' ??????,
?? ?????????????? ?? ?? ?????? 168, ?????????? ??, ??? ?????? ??? ?????? ?? ??????????
?? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????? ?????? ?????????????? ??????????????
?? ??? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????? ???, ? ?????? ?????????? ???
????? ??? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ???, ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???, ??? ?????????????? ???
????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

20 ??? ?????? ??? ??????????, ??????, ???, ?????? ? ?????? ??? ?????????? ??? ???
????????? ??? ?????? ??????????, ?????????? ??? ?????? ??? ?????? ?????????? ??? ??
????????????? ??? ?????? ?????????? ?????? ?????? ?????????? ??? ??, ?????????? ??? ?????? ??
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? (????. ?????? ??? 5?? ?????? 2018, Marle Participations, C-
320/17, EU:C:2018:537, ??? 19 ??? ?????? ?????????? ???).

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

????????????? ??? ??? ? ?? ????? ?????????? ??????? ? ? ?? ????? ?????? ?????????? ??????????
????????????????? «?? ??????? ??????», ??? ?????? ?????? ??? ?????? 2 ??? ?????? ???,
????? ?? ?????????? ?????? ?????? ?????? ??? ?????????????? ?????? ? ??? ??????????
????????? ??? ??? ?????????????? ?????????? (????. ??????? ??? 5?? ?????? 2018, Marle
Participations, C-320/17, EU:C:2018:537, ??? 23 ??? ????? ?????????????? ??????????).

22 ????????, ??? ???? ?????????? ?????????? ?? ??? ????? ?????????? ?? ??? ??? ?????? ???
????? ?? ?????????? ?????? ? ?????????????? ??? ?? ?????????? ??? ?? ??? ?????????? ??
????????????? ??? ?????? ?????? ??? ?????? ?????????????? ??? ???????????????. ?? ??? ?????? ??????
??? ??????????, ?? ?? ??????, ??? ?????? ?????????????? ?? ??? ?? ??? ??????????
????????? ??? ?? ?????????? ??????????????, ?????????? ??? ?????? ? ???
????????????? ???, ??? ??? ?????????? ??? ?? ?? ??? ????? ?????????????? ?????????????? ???'
????? ??? ??? (??????? ??? 5?? ?????? 2018, Marle Participations, C-320/17,
EU:C:2018:537, ??? 25 ??? ??? ?????????????? ??????????).

23 ???????, ??? ?? ?????? 168 ??? ??????? ??? ?????????? ???, ??? ?? ?????? ???
?????????? ???????, ??????, ? ?????????????? ?????? ?? ????? «????????? ???
????», ??? ?? ?????? ??? ?? ??? ???????, ???, ???????, ?? ?????? ? ?? ?????????? ???
?????????? ??? ?????????? ??? ?? ??????? ?????????? ??? ?????? ?? ?????????????? ???
????? ??? ?????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ??????????
?????? ??? ??, ?? ?????? ???????, ?? ?? ??? ?????? ??? ?? ?????? ??? ?? ?????????? ???
????????? ??? ?????? ?????????? ??? (?????? ?? 5?? ?????? 2018, Marle
Participations, C-320/17, EU:C:2018:537, ??? 26 ??? ??? ?????????????? ??????????).

25 ????? ?????? ??????????, ??????????? ?? ?????????????? ??? ?????????????? ??? ?????
????????? ?????????? ??? ??? ?????? ?????? ?????? ?????? ?? ?????????? ??? ?????? ??? ??????
????? ?????? ??? ?????????????? ?????? ?????? ??? ??? ? ?????????????? ??????
????? ??? ?????? ?????? ?????? ??? ??????. ?? ?????????? ??? ?????? ??? ??? ??? ???
????????? ??? ??? ?????????? ?????? ? ?????? ??????????, ??? ?????? ??? ??????,
????????? ??? ? ?????????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? ?????????? ??? ??? ?????? ?????????????? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? (?????? ??? 14?? ?????????? 2017, Iberdrola Inmobiliaria Real
Estate Investments, C-132/16, EU:C:2017:683, ??? 28 ??? ????? ?????????????? ??????????).

26 ???????, ? ?????? ?????????????? ??? ?????????????? ??? ?????? ?? ?????????? ??? ???
???????, ?????? ??? ?????????? ??????? ??? ?????? ?????? ?????? ??? ?????? ????? ??????????????
???????, ??????? ??? ?????? ? ?????????????? ?????? ?????? ??? ?????? ?????? ?????? ???
???????, ?????????????? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ? ??????????
????????? ??? ?????? ??? ?????? ?????? ??? ?????????????? ??? ?????? ??? ?????? ?????? ???, ???????,
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???,
????????????? ??? ?????????? ??? ?????? (??????? ??? 14?? ?????????? 2017, Iberdrola
Inmobiliaria Real Estate Investments, C-132/16, EU:C:2017:683, ????? 29 ??? ???
????????????? ??????????).

????? ??? ??????? ? ?? ?????????? ??? ? ???????????? ??? ???? ?????? ?????? ???
????????? ??? ?????????? ?????????????? ??? (?????? ?? 30?? ??? 2013, X, C-651/11,
EU:C:2013:346, ??? 55 ??? ??? ?????????? ??????????).

28 ?? ??????????, ??? ?? ????? ???????? ??? ??????? ??, ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ???, ????? ?????? ? ?????? ??? ?????????? ???
? ?????? ?????? ?? ?????? ??? ?????????? ?????? ??? ?????? ?? ??????, ?? ?????? ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ???
????????????? ?????? ??? ?? ?????????? ??? Cambridge, ?????? ?????????? ??? ??
????????????? ?? ? ?????????? ??? ?? ?????? ?????? ??? ?????????? ?????? ??? ? ??????????
????? ?? ?????? ?????????? ?????????? ??????????????, ??? ?? ?????? ??? ?????? ???
??, ??? ?? ?????? ???, ?????????? ??? ?????? ?????????? ??? ?? ?????? ??? ??????

29 ??????, ?????????? ???, ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ??
????? ??? ??????, ?? ?????????? ??? Cambridge ??? ?????? ?? ?????????? ??? ??
????. ??????????, ?????????? ??? ?????? ?? ?????? ?????????? ??? ??, ?????
?? ?????? ?????????? ??????????????, ??? ?????????????? ??? ?????????????? ??
????????? ??????. ??????, ?????? ??? ?? ?????? ??? ?? ?????????? ??, ?? ?????? ??????
??' ?????? ??? ?????????? ???, ??? ?????????? ??? ?????? ??? ?? ?????? ??? ??
??? ?????????? ?????????? ??? ?????? ?????????? ??????????????, ? ?????????? ??? ??
????????? ??? ??? ?????????? ??? ?????? ?????????? ??? ??? (????. ?????? ??? 3?? ???
1994, Tolsma, C-16/93, EU:C:1994:80, ?????? 17 ?? 19). ?????? ??????, ???
????????? ??? ?? ?????? 24 ??? ??????, ??? ??? ?????? ?????? ?? ?????? ???
????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????????? ???
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30 ?????????? ? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?? ?????? ???
????????, ??? ?? ?????? ?? ?????? ?? ?? ?????????? ??? ?????? ?????? ?? ?????????? ???
????? ??????????, ??? ?????? ???, ?? ?? ?????? ?????? ?????????? ??? ??, ???
????????? ? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ?????????? ?? ??????. ??????????, ???
?? ?????????? ??? Cambridge, ??? ?? ?????? ??? ?????? ?????????, ??? ??????
????????????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?? ?????? ??
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??
????? ???, ??? ?? ?????????? ??? ?????? ?????????? ?? ??? ?????? ??? ?????? ???, ?? ??
?????, ?????? ??? ?????? ??? ?????? ?????? ??? ?? ?????? ?? ?????? ?????? ??? ?????? ???.
?????, ??? ? ?????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ?????????? ???
????? ??? ?????????? ??? ?? ?????? ?? ?????? ?????????? ??? ?????? ???.

31 ?????, ?? ?????? ??? ? ?????????? ??? ?????? ?????? ?? ?????? ?????????? ???
?? ??? ?????????? ?????? ??? ?????? ?? ?????????? ?????????????? ??? ??????????,
??' ??????, ?? ?????????? ?? ?? ?????? ?????? ?? ?????? ?????? ?????????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? (????. ?????? ??? 26?? ??? 2005, Kretztechnik, C-465/03,
EU:C:2005:320, ??? 36).

32 ?????, ?? ??????????, ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?? ?????????? ???
????????? ???, ??????, ?? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ???
????????????? ??? ?? ?????? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ???
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??? Cambridge ?????????????? ??????? ?? ?????????????? ?????????? ??? ?? ??
?????? ???? ?????????????????? ?????????? ?? ?????????? ?????? ???
????????????????? ??? ?? ?????? ?? ?????? ?????? ?????? ?? ?????? ?????? ???
????????????? ?????, ??? ?? ?????? ?????? ??????, ??????, ?????? ?? ?????? ???
??? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????, ?? ?? ?????? ?????? ???
????????? ??? ?????????? ?????????? ?????? ??? ?????? ?????? ???, ?? ?? ??????, ??
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
?????????, ?? ??????????, ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????? ?????? ???
????????????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???
????????????? ??? Cambridge, ??? ?????, ?? ????? ??????????, ?????? ? ?????? ???
????? ?????? ??? ?? ??? ?????.

33 ?????????? ?????? ??? ??????????????, ??? ?????????? ?????????????? ??????????
????? ?? ?????? ?????? ??? ?? ?????? 168, ??????? ??, ??? ?????? ??? ?????? ??
????????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??????????
????????? ??? ?? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ?? ?????? ???, ?
????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ??? ?? ?????? ???
??? ?????????? ?? ?????? ??? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?????? ??????, ??? ????? ?????? ?? ?????? ??? ?????? ???
????, ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?? ???
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34 ?????????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????????? ??? ?????? ???
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????????? ??????????, ?' ???
????????? ?? ?????????? ??? ?????? ?????? ?????? ??????. ?? ?????? ??? ?????? ??????????
????? ?????????? ?????????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.
??? ??? ?????? ??????, ?? ?????????? (????? ????) ??????????:

? ? ?????? 168, ??????? ??, ??? ?????? 2006/112/?? ??? ??????????, ??? 28??
????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????????????? ????, ????
?? ?????????? ?? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????????? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?? ???
????????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ???, ? ?????? ?????? ???
????? ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ???
????????? ?? ?????? ??? ?????? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ???
????? ??? ?????? ??? ?????? ?????? ?????? ??????, ??? ????? ?????? ??? ?? ?????? ???
????? ???, ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
?? ??? ??? ??? ?????? ??? ?? ??? ??????.

(?????????)

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