

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

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

??? 28?? ??? 2020 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ??????
2006/112/?? – ????? 90 – ????? 184 ??? 186 – ??? ?? ?????????????? ??? ?? –
????????????? ??? ????? ?????????????? ?????????? ??? ????? – ?????????? ???
????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ???»

???? ?????? C?684/18,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ??
?????? ?? Curtea de Apel Bucure?ti (?????? ???????????, ???????) ?? ??????? ??
26?? ?????????? 2018, ? ????? ?????? ??? ?????????? ??? 6 ?????????? 2018, ??
?????? ?? ????

World Comm Trading Gfz SRL

????

Agen?ia Na?ional? de Administrare Fiscal? (ANAF),

Direc?ia General? Regional? a Finan?elor Publice Ploie?ti,

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

?????????? ??? ??? S. Rodin, ??????? ????????, K. Jürimäe (??????????) ??? N. Pi?arra,
???????,

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

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

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

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

- ? World Comm Trading Gfz SRL, ?????????????? ??? ?? L. Ionescu-Donoiu, avocat?,
- ? ?????????? ????????, ?????????????? ?????? ??? ?? E. Gane ??? R. I. Ha?ieganu
????? ??? ??? C.-R. Can??r, ??? ??????? ??? ?? E. Gane ??? R. I. Ha?ieganu
- ? ?????????? ????????, ?????????????? ??? ?? A. Armenia ??? J. Jokubauskait?,
?????? ??? ??????? ??? ??, ??? ?????? ?? ?????? ???????????, ?? ?????????? ???

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

???????

1 ? ?????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? 90 ??? ??????
2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ?????? ?? ???? ?????? ?????? ??????
????????????? ?????? (?? 2006, L 347, ?. 1, ??? ????: ?????? ???), ?????? ??? ??? ??????
??? ?????? ??? ?????????????? ??? ?????? ?????????????? ?????? (???) ??? ???
?????????????.

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ???????, ??????, ??? World
Comm Trading Gfz SRL (???: World Comm Trading), ?????? ?????????? ??? ???????,
???, ???????, ??? Agen?ia Na?ional? de Administrare Fiscal? (ANAF) (???????)
????????? ?????????, ???????) ??? ??? Direc?ia General? Regional? a Finan?elor
Publice Ploie?ti (????????????? ?????? ?????????? ?????????? ?????????? ?????????? ???
??????????, ???????), ?? ?????????? ?????????? ??? ?????? ??? ??? ?????????? ??? World
Comm Trading ?????? ?????? ??? ?????? ??? ??? ?????????? ??? ?????????????? ???
??? ?????????? ?????????? ?????? ??? ?????? ??? ?????????? ??? ??? ???.

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

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

3 ?? ??? 90 ??? ?????? ??? ?????????? ?? ???:

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

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

4 ?? ??? 184 ??? ?????? ?????? ??? ?? ???:

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

5 ?? ??? 185 ??? ?? ??? ?????? ?????? ??? ?? ???:

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

2. ??? ?????????? ??? ??? ?????????? 1, ??? ?????????? ?????? ?????????????? ???
????????? ????, ??? ??? ?????? ??? ?????? [????? ?????? ????] ?????? ???????, ??
????????? ???????????, ?????? ???? ?????? ??? ?????????? ?????? ??? ?????????? ???
????????? ??? ??? ?????????? ?????????? ??? ?? ?????? ??? ?????? ??? ???
????????? ??? ?????? 16.

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

6 ????. ?? ?????? 186 ??? ?????? ????????:

«?? ?????? ???. ?????????????? ???. ?????? ?????? ?????????? ???. ?????? ?????? 184 ???. 185.»

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

7 ?? ?????? 138, ??????? c, ??? Legea nr. 571/2003 privind Codul fiscal (????? 571/2003
????? ?????????? ??? ?????????????? ??????), ??? 22? ?????????? 2003 (*Monitorul Oficial al
României*, ????, I, ?????. 927 ??? 23? ?????????? 2003), ????, ????, ????, ????, ????, ???,
????????? ?????????? ??? ?????? ?????? (???, ????: ?????????? ??????), ????, ???,
?????:

«?? ????? ?????????? ?? ????? ?????????? [...] ??? ????? ?????????? ?? ? ? ??????????, ?? ??????????
?????, ?? ?????????? ?????????? ?? ? ? ?????? ?????????? ?? ? ? ?????? ?? ?????????? ?? ? ? ?????????? ?? ? ?
????? 137, ?????????? 3, ??????? a, ?????????? ??? ? ? ?????????? ?? ? ? ?????? ?? ? ? ?????? ?? ? ?
????? ?? ? ? ??????????..»

8 ????? ?? ?????? 138 bis, ??????????? 1, ??? ??????????? ??????:

«???? ??? ?????????????????? ?????????????? ???????, ? ????. ????? ?????????? ??? ????? ??????????????
????? ??? ????? ?????????????? ??? ??????????????????, ????. ?? ????? 137, ????. ??? ??????????????
??? ?????? ?????????? ??? ????? ?? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ??????????
??? ??????. ??? ?????????????? ?????????????????? ?????????????? ???????, ?????? ??? ?????? 130 bis,
?????????? 2, ????????? a, ? ????. ?????????? ??? ????? ?????????????? ????. ??? ?????????????? ???
????? 137, ?????????? 1, ????????? c, ??? ?. ????? 137, ?????????? 2.»

9 ?? ??????? 19, ?????????? 1, ??? Hotărârea Guvernului nr. 44/2004 pentru aprobarea Normelor metodologice de aplicare a Legii 571/2003 privind Codul fiscal (???????????????????????????? 44/2004 ??? ?????????? ??? ?????????? ?????????? ??? ?????? 571/2003 ??? ?????????????? ????, *Monitorul Oficial al României*, ??? I, ?????. 112 ??? 6?? ?????????? 2004), ??? ?????? ??? ?????????? 2008, ?????????? ?? ????:

«????? ?? ?????? 137, ?????????? 3, ??????? a, ??? ?????????? ??????, ?? ????????, ??
???????, ?? ????????, ?? ?????????? ????????, ?? ???? ?????? ????????, ?? ?????? ??,
????????????????? ?? ???? ?????? ????????, ?? ???? ?????? ????????, ?? ???? ?????/??????
????? ?? ???? ?????? ?????? ?????/?????? ?? ???? ????????, ?? ???? ????????, ??
???????????????, ?? ???? ?????? ?? ???? ????????, ?? ???? ??????. ?? ???? ?????? ??, ?? ???? ???????
?? ???? ??????? ??????????? ???? ?? ???? ?????? ?? ???? ????????, ?? ???? ????????, ?? ???? ????????
???????????????, ?? ???? ?, ?? ???? ?????????? ?????? ?????? ?????????????? ?? ???? ?????? ?? ????
?????????? ? ??? ?????? ????????, ?? ???? ?????? ?????? (?)?. ? [?] ??????????? ?? ????
?????????? ??????..»

10 ????? ?? ??????? 20 ??? ?? ????? ?????????????? ??????????:

«(1) ?????????????????? ??? ?????? 138 ??? ?????????????? ??????? ??????????????, ??
????????????? ??? ?????? ? ?? ??????? ??? ?????????? ?????????????? ?? ??? ?????? ?????????? ???
????? ??? ?????? ?????????????? ??? ?????????? ? ??? ?????? ?????? ? ??? ?????? ??? ??????
????????? ??? ??? ?????????? ? ??? ??????, ??? ?????? ?? ? ?????????? ? ? ?????? ???
????????????????, ??? ?? ?????????????? ??? ?????? 138 ??? ?????????????? ?????? ??????????
????????? ??? ??? ?????? ?????????? ??? ??? ?????????? ??? ?????? ?????????? ?? ??? ?????? ??? ??????????
????? ??? ?????????? ??? ????. ??? ??? ?????? ???, ?? ?????????? ?? ? ? ??????
????? ?? ?????????? ??????????, ?????????????? ??? ?????? ??? ?????????? ?????? ?????????? (“?”), ????

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

(2) ?? ?????????? ?????????????? ?? ??????? ?? ?????????????? ??? ??????????????
????????? ??? ?????????? ??????, ??? ???? ?????????? ??? ?????? 148, ??????? b, ??? ??
????? 149, ?????????? 4, ??????? e, ??? ?????????? ??????, ??? ?? ??? ??
????????????? ??? ?????? 138, ??????? a ??? c ??? e, ??? ?? ??? ?????? ??????. ??
????????? ??? ?????????? ?????????? ?????????? ?????? ??? ?????????????? ???
????????? ??? ??????.

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

11 ? World Comm Trading, ?????? ?? ??? ?????? ??????, ??????, ??? 1? ?????? 2004,
????? ?????? ?????? ?????? ?????? ?????? ?? Nokia Corporation (??? ????: Nokia).

12 ?????? ??? ?????????? ????, ? World Comm Trading ?????? ?? ?? Nokia ??????
????????? ?????? ???????. ? Nokia ?????? ?? ?????????? ??? ?? World Comm Trading
?? ?? ???????, ?? ???????, ??? ?????? ??? ?? ???????.

13 ??? ??? ?????????????? ?????????? ??? ?????????? ?????? ??? ?? ??????????, ??
????????? ??? ?? ??????, ? Nokia ??????????????, ??????????, ??? ??????????????,
????????? ??? ?? ?????????? ?????????? ??? ?????? ????. ??? ?? ?????????? ????, ?
Nokia ?????? ?????????? ?????????? ??? ?? ??? ?? World Comm Trading
????????? ?????????? ??? ?? ??? ?? ??????, ?????????? ??? ?? ?????????? ???
??? ??????????.

14 ??? ??? ?????????? ?????????? ??? ?? ??? ?????????? ??? ?? ??????????, ? Nokia
????? ?????? ??? ?? ?????? ?????????? ? ?????? ?????????? ?????? ??? ?????? ??? ??
World Comm Trading ?????????? ??? ?? ??? ?? ?????? ???.

15 ? Nokia ?????? ??? World Comm, ?? ?????????? ???, ?????????? ?????? ?????? ??????????
?? ?? ?????? ?????? ?????? ?????? ??????????, ?????? ?????? ??? ?????? ??????????????
?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??????. ?? ?????? ??? ?????? ???
????????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???.

16 ??? ??? ?????????? ????, ? Nokia ?????? ??? ?????? ?????? ?????? ?????????? ??
????????? ?????? ??? ?? ?????? ?????????? ?????? ??????. ?? ?????????? ??? ?????? ???
??? ?????????? ??? ?? ?????? ?????? ???, ??? ?? ??? ?? ?????? ??? ?????????? ?? ??????
????????? ?? ?? ??? ?????? ?????? ?????? ?????? ??? ?? ??????????. ??? ??????????, ? World
Comm Trading ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
?? ???????????. ??????????, ? World Comm Trading ?????????? ?????? ?? ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ??? ?? ??? ??????
????????? ??? ??????.

17 ?????? ??????, ?? ?????????? ?????????? ?????? ?????????? ??? ? World Comm
Trading ??? ?????????? ?????????? ??? ???, ?????? ??? ?? ?????? ??? ?????? ?? ??????
????? ?????????? ??? ?????????? ?????? ??????. ??? ?? ??? ?? ?????? ???, ? World
Comm Trading ?????? ?? ?????????? ?????? ??? ?? ??? ?????????? ?????? ??????????
?? ?????? ??? ?? ?????? ?????? ?????? ?????????? ?????? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ??? ?????????? ?????????? ?????? ?????? ??? ?????????? ????. ?? ??
?????, ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 821 377

?????????? ??? (RON) (?????? 173 855,84 EUR), ??? ????? ?????????????? ??? ???
??? ??????? ???????????.

18 ????, ?? ?????? ???????????, ?? Curtea de Apel Bucure?ti (?????? ???????????????,
??????), ???????????, ?? ??? ??????? ??? ???? ?????? ??? ??????????? ??? ??????
??????????????, ??? ???? ????? ??????????????? ??? ?????? ?????? ??? ?????? ??? ??????
?????????????? ?????? ??? ????? ??????????? ??? ?????? ?????? ??? ?????? ??? ??????
???, ??????????? ?????? ??? ????? ??????????? ??? ?????? ??? ?????? ?????? ??? ??????
????????? ??? ?????? ??? ??????????? ??? ?????? ??? ??????????? ?????????? ??? ??????
????????? ?????? ??? ?????? ??? ??????????? ??? ?????? ??? ??????????? ?????????? ??? ??????

19 ?? ??????? ??? 30?? ?????????? 2014, ? ?????? ??????? ??????????? ???????????
????????? ?? ?????????? ?????? ??? World Comm Trading ??? ???? ?????? ?????????? ???
??? ??????????? ??? ????? 17 ??? ??????? ??????????.

20 ??? ???? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? Tribunalul
Bucure?ti (?????????? ???????????, ???????), ? World Comm Trading ?????? ???
???? ???? ?????????? ??? ??????????? ??? ?????? ?????????? ??? ?????????? ??? ???????????.

21 ?????? ??? ?????????? ???????????, ? World Comm Trading ?????????? ??? ?
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? . ? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Nokia. ??????, ? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ???, ??? ?????? ???, ??? ?????? ???
??? ?????? ???, ? Nokia ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ???.

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

23 ??????, ?? ?????? ?????????? ??????????, ??????????, ?? ? ??? ???
????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
Comm Trading ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
???. ?? ?????? ?????? ???, ?????? ???, ?? ?? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ???, ?? ?????? ???, ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???, ???
????? ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????, ??? ? Nokia ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

24 ??????, ?? ?????? ?????????? ??????????, ?????????? ??? ?????? 90 ???

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

25 ??? ???? ????????, ?? Curtea de Apel Bucure?ti (?????? ??????????????)
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????????? ?? ???? ?????????? ??
????????? ?????????? ??????:

«1) ??? ?????? ??? ???? 90 ??? ?????? [??] ??? ??? ?????? ??? ?????????????? ?? ???? ??
????? ?????? (? ?????? ?????? ?????? ?????? ?? ???? ?????? ??????) ? ???? ??
????? ?? ?????? ?? ?????? ?????? ?????? ??? ??? ?????? ?????? ??? ??? ?????? ??? ??????
?? ?????? ??? ?????????? ?? ?????? ?????? ?????? ??????, ??? ??? ?????? ??? ??
????????? ??? ?????? ? ?????????????? ?????????? (??? ??? ?????? ?????? ??????????????
????????? ??????) ?????????? ? ?????? ?????? ??? ?????? ??? ?????? ?????? ??????????????
?? ?? ?????? [?? ?????? ?????? ?????? ?????? ?????? ??????] ??? ??? ??
????????? [?? ?????? ?????? ?????? ?????? ?????? ??????] ?? ?????? ??????????
????? ??? ?????? ??????-???????, ??? ?????? ?????? ?? ?????? ??? ??????
????????? ??? ?? ?????? ?????? ?????? (??? ??? ?????? ??? ??????, ?? ??? ?????? ??????
????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ??????);

2) ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?? ???? , ??????????
????? ??? ?? ?????????? ?? ? ???? ?????? ??? ?????? ?????? ?? ???? ?????????? ?? ???? ??
??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ??
????????? ?????? , ??? ?????? ??? ?????? ??? ?????? ?????? (????? ??? ?? ???
?????) ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ???? ??
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ???? ??
????? ?????? ??? , ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????' ??????
????????? ??? ???;»

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

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

26 ????????, ?????????? ???, ??? ?????? ??? ?????? ?????? ?????????? ?????????? ?? ????
?? ?????? ?????? ??? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ?? ???? 267 ???, ??
????????? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ???? ?? ?? ??
????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? . ?? ?? ?? ??
??, ?? ?????? ?????? ?????? ?? ?????? ?????? , ?????? ?????? ?????? ?????? ?? ???? ??
?? ?? ?????? ?????? (????? ?? 11?? ?????? 2020, Rensen Shipbuilding, C?192/19,
EU:C:2020:194, ??? 25).

27 ?? ???????????, ?????????????? ??? ???? ?????? ?????? ??? ?????? ??? ??????? ?? ???? ?? ????
90 ??? ??????? ??, ?? ????? ???????, ??? ?????? ??????? 1, ??? ??????????? ???????,
??????????, ?????, ?????? ? ??????? ?? ?????????? ? ??????? ?? ?????? ??? ???????
????? ??? ?????????????? ??? ?????? ??? ?????????? ?? ??????? ?? ?????? ??? ???????
????????? ??? ?????? ???, ???????????, ?? ??? ???? ??? ?????? ? ?????????? ??? ?????
????, ??? ?????? ?? ?????????? ??? ?????? ? ?????????? ??? ?????? ??? ??????? ???
????????? ? ??? ?????? ??? (?????? ??? 3?? ?????? 2019, UniCredit Leasing, C?242/18,
EU:C:2019:558, ??? 37 ??? ?????????????? ??????????).

28 ??? ?????????? ??? ???? ?????? ??? ??????? ?? ?????? ???????????, ?? ?? ???
????????? ?????????? ?? ?????????????? ?? ?? ?????? ??????????? ?????? ??????? ??????? ??
????????? ?? ????? ?????????? ??? ?????? ????? ?????????? ?????, ?????????? ?????????? ???????
?????? ?????????????????? ???????, ??????? ??? ?????????? ?????????? ??? ???????
?? ?????????? ?????????? ???????.

29 ?? ?????? ??? ?????? ??? ??????? ?? ??????, ???????????, ??? ?????????????? ???
????????????????? ???????, ?? ?????????, ?????? ???, ?????????? ??? ??????
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?? ?????? 185.

30 ???????, ?????? ?? ?????? ??? ?? ?? ?????? ?????????????? ??????? ?????????
??' ?????? ?? ?????????? ??? ?? ?????? 185 ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ?????????? ??? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??? ??????????????
??? ?????? ?????????????? ??? ?????? ???, ???, ?????? ??? ?????? ??? ?????????? ???
????? ??? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?? ?? ??? ?????? ??? ??????
??? ? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????.

31 ??????, ?????????? ??? ?? ?????? 184 ??? 186 ??? ?????? ??? ?????????? ???
????????? ??? ?? ?????? ? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????? ??? ?????????? ??? ?????? . ? ?????????? ?????????? ??? ?????????? ??? ??
?? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?????? ??? ??? ??
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (????.
????? ??? 13?? ?????? 2014, FIRIN, C?107/13, ?????? 48 ??? 50).

32 ??? ?????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ???????, ?? ?? 184
??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

33 ??? ?????? ??? ?? ?????? 185, ?????????? 1, ??? ?????? ???, ? ??????????????
????? ?????????????? ?????? ?????? ?? ?????? ??? ?????????? ???, ???, ???, ??? ??
????? ??? ?????? ???, ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ?????? ??? ?????? ??? ?????? ???, ???, ?????? ??? ?????? ???, ?? ?????? ??? ??????
????? ??? ??? ?????.

34 ??? ?? ?????????? ??? ?????? ??? ?? ?????? 184 ??? 185, ?????????? 1, ??? ?????? ???
????????? ???, ?? ?????????? ???, ??? ?????????? ??? ?? ?????? ??? ?? ?????????? ??? ??????
????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ?????????? ??? ??????
????????? , ? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??
?? ?? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

?????? ??????? ????? (????. ??????? ??? 16?? ??????? 2016, Kreissparkasse Wiedenbrück, C?186/15, EU:C:2016:452, ???? 47).

35 ?? ???????????, ??? ?????????? ?? ???? ?? ?????????? ??? ??????? ?? ??????? ???????????,
?? ?????????? ?? ???? ?? ?????????? ?? ???? World Comm Trading, ??? ?? ???? ??????????
?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ???????, ??????? ?? ??? ?? ???? ??
?????????? ?? ??? ?? ??? ?????????? ?? ???? , ??? ?? ??? ?????? ??????????? ?? ??? ??
?????????? ?? ????.

36 ?? ??? ??????? ??????????, ???? ??????????? ?? ???? ?????????? ?? ?????????????? ??
?????????? ?? ???? 34 ??? ??????? ??????????, ? ?????? ?????????????????? ??????
?? ???? ?????? ?? ?????????????? ?? ?????? ?????? ???, ?? ?? ?????? ?????? ???, ?? ???? ???
????????? ?? ???? ?? ??????????????, ?? ??????, ??? ????? ?? ?????????? ?? ????? ??
????????????? ?? ?????????????? ?? ?????????? ?? ???? ?? ?? ????? ?????? ????
????? ?????? ?? ?????.

38 ??????? ?? ????????????????, ??? ????? ?????????????? ??????? ??????? ?? ?????? ?
?????? ?? ?? ????? 185 ??? ?????? ??? ????? ??? ?????? ??? ?? ?????? ??????????????
????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????????????? ??? ??????
????????????????? ??? ?????? ??? ??, ???, ?????? ??? ?????????? ??? ?????? ??? ?? ?
????????? ??? ?????????? ?????????? ???????, ?? ?? ????? ?????? ?????? ??? ?????? ??
????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ??
????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??

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39 ?? ?? ??????? ?????????????? ???????, ?? ?????? ?????????????? ?????, ???' ??????, ??
????????????? ?? ?? ?????? 185 ??? ??????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????????????? ?????? ?????????????????? ?????????? ?? ?????? ?? ?????? ?????????????? ??
????? ?????????? ?? ?????? ?????? ?????????????? ?? ?????? ?????, ?????? ?? ????? ?
????????????? ?? ?? ?????? ?????????????? ?? ?????? ?????? ?????? ?? ?????????????? ??
????? ?? ?????? ?????? ?? ?????? ?? ?????? ?????, ?? ?????? ?? ?????, ?? ?????? ??
????????? ?? ?????? ?? ?????? ??????.

40 ?? ???????????, ??? ?? ??????? ?? ???? ?????? ?? ?????? ??????????? ??????????? ??,
?????? ?? ??????????? ??????, ? World Comm Trading ?????? ???????????, ???????????
?? ??????????? ?? ??????????? ?????? ??????????? ??, ??? ?? ?????? ?? ???? ??????????? ??, ?
????? ?????? ?? ??????????? ??, ??? ?? ???????, ??? ?? ?????? ??????????? ?? ??
?????? ?? ???????, ?? ???????, ??? ?? ???????, ??? ?? ?????? ??, ?? ?? ???????, ??? ?? ??????? ??
?????? ?? ???????, ?? ???????, ??? ?? ???????, ??? ?? ???????, ?? ?? ???????, ?? ?? ??????? ??
?????? ?? ???????, ?? ???????, ??? ?? ???????, ?? ?? ???????, ?? ?? ???????, ?? ?? ??????? ??
?????? ?? ???????, ?? ???????, ??? ?? ???????, ?? ?? ???????, ?? ?? ???????, ?? ?? ??????? ??.

41 ????????, ?????????????????? ??? ?? ??????? ????? ???? ? ????? ????? ?????? ?????????? ? ??????????????

???? ?????????????? ??? ???? ??? ???? ?????????????? ??????? ?????????? ?? ?????????? ??? ?????????? ???
????????? ??? ???? ?????????? ??????? ?? ?????? 185, ?????????? 2, ??? ?????? ???, ?? ?????? ?????????? ???
????????? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ?????????? ?????? ???

42 ????????, ????, ?? ?????? ??? ?????????????? ?????? ??? ?????????????? ?????? ??? ??????????????
??? ?????????? ?? ?????? 185, ?????????? 2, ??? ?????? ???, ?? ?????? ?????????? ???
????????? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ?????????? ?????? ???
????????????????? ??????.

43 ????????, ???? ?? ?????????? ??? ?????????????? ?? ???????? ???? ??? ??
????????????? ?? ??? ??? ?????? ?????? ? ?????????? ?????????? ?????? ??? ?? ??? ?? ??? ??
????? ??? ??? ?????????? ??? ?????????? ?????? ?? ?????????? ??? ?????????? ??? ??
??? ?????? ?????? ??? ?????????? ??? ?????? (????. ?????? ??? 13? ?????? 2014, FIRIN,
C?107/13, EU:C:2014:151, ?????? 57).

44 ??????? ??? ?????????????? ??? ?????? ?????????? ?????? ?? ?????? ?? ?????????? ??? ??
????? 185 ??? ?????? ??? ?????? ??? ?????? ??? ? ?????????? ?????????????? ?????????????? ??????
????????????????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ??
????? ?????????? ??? ?????? ?????, ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ??
????????????? ??? ?????? ?????? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????? ?????, ?? ?????? ??? ?????, ?? ?????? ??? ?????? ??? ?????????? ??? ??
??? ??????.

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

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

1) ?? ?????? 185 ??? ?????? 2006/112/?? ??? ?????????? ??? 28?? ??????????
2006, ?????? ?? ?? ?????? ?????? ?????? ?????? ?????????????? ?????, ??? ?? ??? ??????
?? ?? ?????? ?????????? ?????? ?????? ?? ?????? ?????? ?? ?????????? ?? ?????????? ??? ??
????????? ??? ?????? ?????????? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ??
????, ???, ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ??
????????? ?????????? ??????, ?? ?? ??? ?????? ?????? ?????? ??? ? ??????
????????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????????????? ??? ?????? ??? ?????? ?????? ??? ??.

2) ?? ?????? 185 ??? ?????? 2006/112 ???? ??? ?????? ??? ? ??????????
????????????? ??? ?????? ?????????????? ?????? ?????? ?????? ??? ?????? ??????????????
????? (???) ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??????????????
?? ?????? ???, ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ?????? ?????? ??? ??
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??
????? ??????, ?? ?????? ??? ?????, ?? ?????? ??? ?????? ??? ?????????? ?????? ??? ??
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(?????????)

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