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??? 14?? ??? 2020 (\*)

«????????????? ?????????? – ??? 49 ??? 54 ??? – ?????????? ?????????????? – ??????????  
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?? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???  
?????? ?? Cour administrative (?????? ?????????? ??????????, ?????????????) ?? ???????  
?? 29?? ?????????? 2018, ? ????? ?????? ??? ?????????? ??? 30 ?????????? 2018, ???  
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**B .??.**

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#### **Administration des contributions directes,**

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

?????????? ??? ??? A. Arabadjiev (??????), ??????? ???????, K. Lenaerts, ??????? ???  
??????????, ??????? ??????? ??? ??????? ???????, P. G. Xuereb, T. von  
Danwitz ??? A. Kumin, ???????,

?????? ??????????: P. Pikamäe

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

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

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

- ?? B .??., ?????????????? ??? ??? G. Simon, avocat,
  - ? ?????????????? ??? ???????, ?????????????? ??? ??? D. Holderer,
  - ? ??????? ???????, ?????????????? ??? ??? G. Palmieri, ?????????????? ??? ??? P.  
Gentili, avvocato dello Stato,
  - ? ??????? ???????, ?????????????? ??? ??? W. Roels ??? ??? A. Armenia,  
?????? ??? ??????? ??? ???, ??? ?????? ??? ?????? ???????????, ?? ?????????? ???  
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- ?????? ??? ????????

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1 ?? ?????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? 49 ??? 54 ???.

2 ?? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????????????? ??????, ??? B, C ??? D, ??? ??? administration des contributions directes  
(????????? ?????? ??????, ??????????) ?????? ?? ??? ?????? ??? ??????  
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????? ?????? 2013 ??? 2014.

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3 ?? ????? 164bis ??? loi modifiée du 4 décembre 1967 concernant l'impôt sur le revenu  
(????????????? ??? 4?? ?????? 1967 ??? ??? ?????? ??????????, *Mémorial A*  
1967, ?. 1228), ??? ?????? ??? ?????? ?????? 2013 ??? 2014 (??? ?: ???  
164bis ??? LIR), ??????? ?? ???:

«(1) ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?? ??? ?????? ?????? ?????? ??????  
???????, ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ??????, ?????????? ??? 95 %, ???  
????????? ??? ?????? ?????? ??? ?????? ?????? ?? ??? ?????? ?????? ?????? ?????? ??????  
????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
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[..]

(4) ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
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?????????. ? ?????? ?????? ?????? ??? administration des contributions directes ??? ?? ??  
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????????? ?????? [...]»

4 ?? ????? 164bis ??? LIR ?????????? ?? ??? loi du 18 décembre 2015 (??? ?: 18??  
????????? 2015, *Mémorial A* 2015, ?. 5989), ??? 1?? ?????? 2015 (??? ?: ???  
164bis ??? LIR, ??? ??? ?????? ??????). ? ?????? ??? ?????? ?? ?????? :

«(1) ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? :

1. ?????? ????: ?????? ?????? ?????? ?????? ?????? ? ??? ?????? ?????? ?????? ?? ???  
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2. ?????? ??? ?????? ?????? ?????? ?????? ?????? ???????: ?????? ?????? ?????? ??????  
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3. ?? ?????? ?????? ?????? ???????: ?????? ?????? ?????? ?????? ? ??? ?????? ??????  
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4. ?????????? ??? ?????????? ?????? ?????????? ??????: ?????? ??????????????  
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5. ?????????? ??????: ?????? ?????????????? ??? ??? ?????????? ??? ?????? ??????????  
????? ?????? ?????? ??? ???(??) ?????????(-??) ??????(-??) ??? ??? ?????? ???  
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????? 3. ??? ?????? ??? ?????? ?? ??? ?????? ?????????? ?????? ??? ?????????? ???  
[...]»

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5 ? B ?????? ?????? ?????????????? ?????? ???? ?????? ?????? ??? ?????????? ???  
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6 ??? 1?? ?????????? 2008, ? B ?????????? ?? ?? ?????????? ??? E ??? ??????  
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??? ?????? 164bis ??? LIR. ? ?????? ??? ?????????? ?????????? ??? ?? ??? ?????? ??????????  
??? B ?? ????: ??? 1?? ?????????? 2010 ??? ?????? F, ??? 1?? ?????????? 2011 ???  
????????? G, ? ?????? ??? ?????????? ?????????? ??? ??? ?????? F, ??? 1?? ??????????  
2012 ??? ?????? H ??? ?? 1?? ?????????? 2013 ??? ?????? I, J, K ??? L. ??? ??????  
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????????? ??? ??? ?????????? ??? ?????? ??????????, ?????? ?????????? ?????????? ?? 95  
% ??? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ???? ??? ??????  
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7 ?? C ??? D ?????? ?????? ?????????????? ???????, ?? ?????? ?????????? ???  
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A, ??? ? ?????? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ??? ?????? ??????.

8 ?? ??? ?????? ??? 8?? ?????????? 2014, ?? ?????? ?????????? ??? 22 ??????????  
2014, ?? B, C ??? D ?????? ?? ?????? ??? ?????? ?????????? ?????????? ???, ??? ???  
????? ??? ?????? 164bis ??? LIR, ??? 1?? ?????????? 2013 ??? ??? 1?? ?????????? 2014  
?????????.

9 ?? ?????? ??? 3?? ?????????? 2015, ?? bureau d'imposition Sociétés 6 (?????????)  
????????? 6) ??? administration des contributions directes (??? ????: ??????????  
????) ?????? ?? ?????? ?????? ?? ??? ?????? ??? ?? B, C ??? D ??? ??????  
??? ?????????? ??? ?????? 164bis ??? LIR.

10 ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? 27  
????????? 2015 ??? ??? ?????? ???, ?? B, C ??? D ??????, ??? 12 ?????????? 2016,

????????? ??????? ??? tribunal administratif (????????????? ??????????????, ??????????????) ??  
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2015 ??????? ??? ?????????? ?????.

11 ?? ??????? ??? 6?? ?????????? 2017, ?? tribunal administratif (?????????????  
????????????) ??????? ??? ?????????? ?? ??????? ??? ?????? ??? ?????? ??? ???????  
????????????? ?????????? ??? 1?? ?????????? 2013, ?? ?? ?????????? ??? ?? ??????? ?????  
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????????? ??? ?? ?????? ??? 2013.

12 ??????????, ??? ????? ?? ?????????? ??? 2014, ?? tribunal administratif (?????????????  
????????????) ?????? ??? ?????????? ?????? ??? ?????????? ??? ? ?????????? ?? ??????????  
?? ??? ?????? ?????? ?????????? ?????? ?? ?????????? ??? ?????? ?????????? ?????  
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164bis ??? LIR, ??? ? ??? ??? ?????????? ?????????? ?? ?????? ?????????? ?????????? ???  
????????? ??????????, ??? ????? ?????????? ?? ??? ?????????? ?????????? ???  
????????? ??? ?????? 49 ??? 54 ???.

13 ?? ?????????? ??? ?????????? ??? 15 ?????????? 2018, ?? B, C ??? D ??????? ???  
????? ??? ??????? ??? ?????? ?????? ??? ?????? Cour administrative (?????????  
????????????? ??????????, ?????????????), ??? ?? ?????? ??? ? ?????????? ??? ?????  
????? ??? ????? ?? ?????????? ??? 2013. ??? ?? ?????????? ???, ??? ??????????  
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????????? 2013, ?? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????  
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????????? ?? 2013, ? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??????????  
?????????. ?? B, C ??? D ??????? ??? ?????? ??? ?????? ??? ?????? ??? 12?? ??????  
2014, SCA Group Holding ?... (C?39/13 ??? C?41/13, EU:C:2014:1758), ??? ???????  
????????????? ?????????? ?? ??????????, ??? ??? ?????? ??? ??????, ?? ?????????? ???  
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14 ?????? ??? ?????????? ???????????, ? administration des contributions directes ???  
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????????? 2017, ??? ?? ?????? ??? ? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???  
????????? ?????????? ??? 1?? ?????????? 2013. ??????, ? ?? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ??????, ??? ?? ?????? ??? ?? ?? tribunal administratif  
(????????? ??????????) ?????? ?????? ??? ?????? ??? ?????????? ??? B, C ??? D ??? ?????? ??  
????????? ??? 2014.

15 ??? ??? ??????? ???, ?? Cour administrative (????????? ?????????? ??????????)  
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«1) ??? ?? ?????? 49 ??? 54 ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ???  
????? ??? ?????? ?????????? ?????????? ?????????? ?????????? ???, ??????, ?????????? ???  
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?????????, ??? ?????????? ??? ?????? ?????????? ?????????? ?????????? ?????????? ????  
??????????, ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??????????  
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??????, ??? ?????? ?????? ??? ?????? ??? ??????, ?????????? ?????????? ??? ?????? ??????????;

2) ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? 49 ??? 54  
????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?????????? ?????????? ?????? ?????? ?????? ?????? ??  
????????? ?????????? ?????? ?????????? ???, ??????????, ??? ?????????? ?????? ?????? ??? ?????? ??????  
????????? ?????? ??? ?????????? ?????? ?????????? (??????? ??? ?????????? ???  
????? ?????? ??? ???? ?????? ? ?????? ?????? ?????????? ???) ??? ??? ??????????  
????????? ?????? (??????? ??? ???? ?????????? ?????? ?????? ?????????? ???  
????????? ??? ?????? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ??????????  
?????????), ? ?????? ?????? ??? ?? ?????????? ???, ??? ??? ??? ??????????  
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- ????? ?????????? ?????? ??????????? ?????????? ?? ?????????? ??? ?????? ??????  
????? ?????? ?????????? ??????????? ?????? ?? ?????? ?????? (?) ?????? ??????  
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????? ?? ??? ?????? ??????) ??? ?? ?????????? ??? ?????? ?????? ?????????? ???  
????????? ??? ?????? ???????, ??? ?? ???????????, ??? ?? ?????????? ??? ??????  
????? ????, ??? ?? ?????????? ?????? ?????????? ???????????, ?????????? ??  
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– ?????????????????? ?? ??????? ?????????? ??? ?????????????? ?????????????? ?????????? ??????  
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?????????? ?? ?????? ?????? ?????????? ?????????? ?? ?????? ?????? ?? ????? ?????? ??????), ??????????  
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— ? ??????? ??? ?? ??? ????? ?????????? ?????????? ??? ?????????? ?????????????? ???  
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??? ?????????????? ?????? ?????????? ?????????? —?? ??? ?????????? ??????????????  
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????????? ?????????? ??????????, ?????? ? ?????????? ??? ?????? ?????????? ?????????? ???  
????????? ?????? ?????? (??? ?????? ??? ?????? ?????????????? ?? ?????????? ???  
??? ?????????? ?????????? ??????????) ?????????? ? ???;

3)    ?? ?????????? ??????????? ?????????? ??? ?? ???? ?????? ???????, ????? ?? ???? 49  
??? 54 ????, ?? ??????? ?? ???? ?????? ?? ?????????? ?????????? ?????????????????? ?? ???? ??????  
??? ??????, ?? ???? ?????? ?? ?????????????? ?? ???? ?????? ?? ?????????? ?????????? ?????? ?? ????  
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?? ???? ?????? ?? ???? ?????? ?????? ?? ???? ?????? ?????????? ?????????? ?????????? ??????  
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?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ?,

- ??????? ?? ??? ???????????? ???????????? ??? ?? ??? ????? ???????????, ? ?????????? ???  
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- ? ?????????? ??? ?????? ?????????? ??????? ??? ? ?????????? ??? ??????  
????????????? ??? ?????? ?????? ?????? ?????? ???????, ??? ??? ??? ?????? [??]  
????????? ??? 12?? ?????? 2014, SCA Group Holding ?.?. (C?39/13 ??? C?41/13,  
EU:C:2014:1758)], ??? ??? ?????? ?????? ??? ?? ??? ??????????,

- ???????? ?????????? ???????, ??? ?? ?????????? ??? ?????????? [?????] ??? ???  
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- ? ?????? ??? ??? ?????? ??? ?????? ?? ?????? 2014, ? ?????? ?????????? ?????? ??? ??  
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2013, ??? ??? ?????? ??? ?? ?????????????? ?????????? ?????????? ??? ??? ??? ?????????? ?? ??  
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16 ??? ??? ?????????????? ??? ?????? ?? ??????? ?????????? ?????????? ??? ?????? ?? ???  
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????????????? ??? ?????????? ?? ?????? 267 ??? (????????? ??? 7?? ?????????? 2018, C ??? A,  
C?257/17, EU:C:2018:876, ??? 34 ??? ????? ?????????? ??????), ?????????? ??? ??  
????? 164bis ??? LIR, ??? ????? ?????????? ???????, ?????? ?? ?????????? ??????????  
????????????? ?????????? ?????? ?????? ?????????? ?????????? ??? ?????? ??????????  
????????????? ?????????? ?? ?????????? ?? ?????????? ?????????? ?????????? ?????? . ??????????, ???  
?? ?? ??? ?????? ??????????, ? ?????????? ??? ?????? «?? ?? ?????????? ??? 2015».  
???? ???????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? 2013 ??? 2014  
????????? ??? ?????????? ??? ?? ?????? 164bis ??? LIR.

17 ?? ?????? ?????????? ?????? ?????? ??? ?? ?????????? ??? ?????????? ?????????? ??????????  
?? ?????????? ??? ?? ?????? 164bis ??? LIR ?????? ?????? ?????? ?????????? ?????????? ???  
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? ??? ?????? ?????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ???  
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????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 164bis  
??? LIR, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
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18 ??????, ?????? ?? ?? ?????????? ??? ?????????? ?????????? ??? ?????????? ???  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????????  
????????? ??? ?????? 164bis ??? LIR ???, ?? ?? ??????, ? ?????? ?????? ??? ?????? ???

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

19 ?? ?????????? ?? ?????????????? ?????????? ?? ?????? ?????????????? ?????? ?? ?????.

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

20 ?? ?? ??? ????? ?????????????? ???????, ?? ?????? ?????????????? ?????? ???' ?????? ?? ?????????? ??  
????????????? ?? ?? ?????? 49 ?? 54 ??? ?????? ?? ?????? ?? ?????? ?? ?????????????? ??  
????????? ??????? ?????? ?? ?????, ??? ?????? ?? ?????? ?? ?????? ?????????? ?????????? ??  
????????? ??????? ?????? ?? ?????? ?????????? ?????????? ??, ??? ?????? ?????? ??, ??????????  
????????? ??????? ?????? ?? ?????? ?????????? ?????????? ??, ??? ?????????? ?? ?????? ??????????  
????????? ??????? ?????? ?? ?????? ?????????? ?????????? ??, ??? ?????????? ?? ?????? ??????????  
????????? ??????? ?????? ?? ?????? ?????????? ?????????? ??.

21 ? ?????????? ??????????????, ??? ??? ????? ?????????????? ?? ?????? 49 ??? ?????? ?? ??????  
?? ??????, ??? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????? ?? ??????  
?????????????, ?????? ??? ?????????? ?? ?????????? ?????????????? ?? ?????????? ?? ??????  
????????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????????  
?? ?????? ?????? ?? ??????. ? ?????????? ??? ??????????????, ??? ?? ?????? 54 ???, ??  
?? ?????????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????????? ?? ?????? ?????? ?????? ??  
????? ??? ?????????? ?? ?????, ??? ?????????? ?? ?????? ?????? ?? ?????? ?????? ??????????  
????? ?????? ??? ??????, ?? ?????????? ?? ?????? ?? ?????????????? ?? ?????? ??? ?????? ??????  
????? ??? ?????? ?????????? ?? ??????, ?????????????? ?? ?????????? (????????? ?? 1??  
????????? 2014, Felixstowe Dock and Railway Company ??., C?80/12, EU:C:2014:200, ???  
17 ??? ??? ?????????????? ??????????).

22 ?????????????? ??, ??? ?????? ?? ??????????, ? ??? ?????? ?? ?????? ?? ?????? 54 ???  
?? ?????? ??????????, ??? ? ?????????? ?? ?????? ?? ?????????, ?????????????? ??  
????????????? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ??????????, ??  
????????? ??? ?? ?????? ?????? ?????? ?????????????? ?????? ?????????? ?? ??????????  
????????????? ?????????????? ?? ??? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ??  
????? ?????? ??, ?? ?????? 49 ??? ?? ?????????? ?? ?????? ?????????????? ?? ??????????, ?  
????????? ?????????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?????????? ?? ?????????? ??  
????????? ?? ?????? ?????? ?????? ??????, ?????? ?????????? ?? ?????? ?????? ?????????? ??  
????? ??? ?????? (????????? ?? 12?? ?????? 2014, SCA Group Holding ??., C?39/13 ??  
C?41/13, EU:C:2014:1758, ??? 45 ??? ????? ?????????????? ??????????).

23 ??? ?????????? ?????????????? ?????????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ??  
????????? ?????????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ??????????  
????????? ?? ?????? ?? ?????????? ?????????????? ?? ?????? ?? ?????????? ?? ?????? ?? ??????????  
????? ??? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????????? ?? ?????? ?? ?????????? ??  
????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ??  
????????? ?? ?????? ?? ?????? ?????? ?????????? ?????? (??., ??' ??????????, ??  
????????? ?? 12?? ?????? 2014, SCA Group Holding ??., C?39/13 ?? C?41/13,  
EU:C:2014:1758, ??? 46).

24    ???' ?????????? ??? ?????? 164bis ??? LIR, ?? ?? ??? ?????????????? ??????????????  
?????????? ??? ?????????? ?????????? ?? ??? ????? ?????????????? ? ??? ??????????  
???????????????, ??? ?? ??? ????? ??????, ?????????? ?????????? ??????????, ??????????????  
?????? ??? ?????????? ??? ?????????? ?????????????? ?????????? ??? ?????????? ?????????? ???  
?????? ??? ?? ??? ????? ?????? ?????????? ??? ?????????? ??????????????.

25    ????????, ? ??????? ??? ?????? ??? ?????? ????? ?????????? ??????? ?????????????? ??????????????  
??????, ???????, ??? ??????? ?????????? ??? ?????? ??? ?????? ??? ??????????????, ??  
??????, ??? ?? ?????????? ?????????? ??????????, ???????, ?????? ???????, ??  
????????????? ?? ?????? ?????????? ?????????????? ??? ?????????? ?????????? ??? ?? ?? ??????????  
????????????? ??? ?????????? ?????????? ???, ???, ???????, ??? ?????????? ?????????? ???  
????? ?????? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????? ???  
????? ??? ?? ?????????? ?????????? ?????????? ??? ?????????? ???, ??? ???????, ?? ?????? ???  
????????? ??? ?? ?????? ?????????? ?????????? ??? ?????????? ???, ??? ???????, ?? ?????? ???  
????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???.

26    ? ?????????? ????????????, ??? ?????????????? ??? ?????????????? ??? ?????, ??? ??????  
?? ?????? ??? ?????????? ?? ?? ?????????? ??? ?????????????? ??? ?????????????? ??????????, ?? ??????  
?????????? ?? ??? ?????? ?????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ??????????  
?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????????? ?????????? ??? ??????  
?????????????. ? ?????????? ??? ?????????? ???, ???????, ?? ??? ?????????? ??????????  
????????? ??? ?????? ?????????? ??? ?????????? ???, ? ?????????? ??? ?????? ??? ?????? ?? ??????  
??? ?????? ?????????? ?? ??? ?????? ?????????? ??? ?????????? ???, ???????, ??? ?????? ??? ?? ???  
????????? ?????????? ??? ?????????? ?, ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????.

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

28    ???????, ??? ?????? ??? ?????? ???, ?? ?? ??? ?????? ?????????? ??????????, ?  
????????? ?????????? ??? ?????? ??? ?????????? ?????? ?????? ?????????? ?????????? ???  
????? ?? ?????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????????? . ??????????, ??? ?? ???  
????????? ? ?????????? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??????????  
????????? ?????? ??? ?????????? ?, ?????????? ??? ?????????????? ??? ?????????? ??? ??????  
????????? ??? ?????? ?? ?????????? ?, ??? ?????????? ??? ?????? 25 ??? ??????????  
?????????, ?? ?? ?????????? ??? ?????????????? ??? ?? ??? ?????? ?????????? ??? ??????????????  
??? ?????????? ???.

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

30    ???, ??? ?? ?????????? ??? ?????????? ?????? ?????????? ???, ?????????? ??? ?? ??? 49,  
????? ??????, ??????? ???????, ??? ?????? ?????? ??? ?????? ?????? ?????????????? ??  
????????? ?? ?????????? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ?? ??? ?????? ???, ? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ?????? ??? ?????? ???, ? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ?????????? (????).

?????????? ??? 28?? ?????????? 1986, ??????? ??? ???????, 270/83, EU:C:1986:37, ???  
22, ??? 6?? ?????????? 2012, Philips Electronics UK, C?18/11, EU:C:2012:532, ??? 13, ???  
??? 17?? ????? 2017, X, C?68/15, EU:C:2017:379, ??? 40 ??? ??? ??????????????  
?????????). ????????, ?????????? ?????????? ?? ?????????? ??? ? ?????? ?????? ??????  
????????????? ? ?????????? ?????????? ??? ???????????, ? ??? ? ? ?????? ?????????? ???  
???? ??? ?????? ?????? ??? ?????????? ?????????? ???????????, ?? ??? ?????? ?????? ???  
????????? ?????? ?????? ?? ?????????? ?? ?????????? ?????????? ?????????? ??? ?????????????? ???  
????????? ?????? ???.

31    ????????, ??? ????? ?? ?????????? ?? ?????????? ???, ??? ?????????? ???,  
??? ?????????? ?????????? ?????????? ??? ??????? ?? ??? ?????? ??????????  
??????????, ?? ??????? ??? ?????? ??? ?????????? ??? LIR ?????????? ?????????? ???  
?????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????  
????????? (??., ???' ????????, ?????????? ??? 27?? ??????? 2008, Papillon, C?418/07,  
EU:C:2008:659, ??? 32, ??? 12?? ?????? 2014, SCA Group Holding ?.., C?39/13 ???  
C?41/13, EU:C:2014:1758, ??? 48).

32    ??????? ?????????? ??? ?????? ?? ?????????? ?????? ?? ?????? ?????????? ???  
????? ?????????? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ??????????  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? (??.. ?????????? ??? 17?? ??????  
2014, Nordea Bank Danmark, C?48/13, EU:C:2014:2087, ??? 23, ??? 12?? ?????? 2018,  
Bevola ??? Jens W. Trock, C?650/16, EU:C:2018:424, ??? 20).

33    ???????, ??? ?? ?????????? ??? ?????????? ?, ?????????????? ??? ??????????????  
????????? ?? ??? ?????? ?????????? ?????????? ?????????? ?????????????? ??? ???  
????? ??? ?????????? ?? ?????????? ?????????? ??? ?????? ?????????? (???. ??????????  
?? 18?? ?????? 2007, Oy AA, C?231/05, EU:C:2007:439, ??? 38, ??? 25?? ??????????  
2010, X Holding, C?337/08, EU:C:2010:89, ??? 22, ??? 12?? ?????? 2014, SCA Group  
Holding ?.., C?39/13 ??? C?41/13, EU:C:2014:1758, ??? 28, ??? 12?? ?????? 2018,  
Bevola ??? Jens W. Trock, C?650/16, EU:C:2018:424, ??? 32).

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

35    ???????, ??? ??????? ??? ?? ?????? ?????????? ??????????, ?? ???????  
?? ?????????? ??? ?????????? ??? ?????????? ?? 164bis ??? LIR ?????????? ???  
????? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ??? ??????????  
????????? ??? ??? ?????? ??? ?????? ??? ??????.

36    ? ?????? ?????? ??? ?????? ??? ??????????, ??? ?????? ??? ?????????? ??? ??????????  
?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ??? ??? ?? ???  
????? ???, ??? ?? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
?? ?????? ?????????? ??? ?? ??? ?????? ??? ?????? (??., ???' ????????, ?????? ??? 12??  
????? 2014, SCA Group Holding ?.., C?39/13 ??? C?41/13, EU:C:2014:1758, ??? 51).

37      ??????, ??? ? ?? ?????? ?????????????? ????? ? ?????????????????? ?????????? ??????????  
?????? ?????? ?????????????? ??????? ? ? ???????????????, ???????????, ?? ??????????  
?????????? ? ?? ??????? ? ?? ? ?????????? ????? ? ????? ?????? ????? ?????????? ??????????  
??????????.

38     ????? ??? ??????????? ??????, ??? ?????? ??????????????? ???????? ?????? ?? ?????? ?  
????????? ??? ?? ????? 49 ??? 54 ??? ?????? ??? ?????? ??? ?????????????? ?? ??????????  
????????? ?????? ? ?????, ??? ?????????? ??? ?????? ?????????? ?????????? ?????????? ??????  
????????? ?????? ?????? ?????????? ? ?????? ??????????????, ??? ?? ??? ????? ?????? ?????,  
????????? ?????? ?????? ?????????? ??? ??? ?????? ?????????? ?????????? ???, ??? ?????????? ???  
????????? ?????????? ?????????? ?????? ??? ?????? ?????????? ?????????? ?????????? ??????????  
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???? ???? ?????????? ??????????????

39      ?? ?? ??????? ?????????????? ???????, ?? ?????? ?????????????? ?????? ???' ?????? ??  
????????????? ?? ?? ????? 49 ??? 54 ??? ?????? ??? ?????? ??? ?????????????? ??  
????????? ??????? ?????? ? ?????? ??? ?? ?????????? ?? ?????????????? ??? ???????  
?????? ?? ??????? ?? ?????? ?????? ??? ?????? ?????? ?? ?????? ?????????? ?????????? ???  
????????? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ?????????? ???  
???, ?????????? ? ?????????? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ??????????  
????????? ?????????? ?? ?????? ?????? ?????? ?????????? ?? ?????? ?? ?????? ?????????? ??????????,  
????? ??? ?? ? ?????????? ??? ?????? ?????? ?????????? ?????? ?????? ?????????? ?????????? ??  
????? ??? ? ??? ?????? ?????? ?????????? ?????????? ?????? ?? ?????? ??? ?????? ??????????  
????????? ??????????, ??? ?????? ?????????? ??? ?????? ?????????? ?????? ?????????? ??  
????????? ?????? ?????????? ??? ?????? ??????????.

40 ???????, ?????????????? ??????? ???, ??? ?????????????? ?? ?????? ??????????  
????? ?????? ?????????????? ??????????, ?? ?????? ?????????? ?????????? ?????????? ??????????,  
?? ?????? ?????????? ?? ?? ??? 164bis ??? LIR, ??? ??????????????, ??? ?? ?????? ??  
????????? ??? ?????????? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ??  
?????????, ?? ?????????? ?? ??? ??? ?????????? ?? ?????????????? ?? ?????????????????? ??? ? ??????  
??? ?? ??? ??? ??? ?? ?????????? ?? ?????? ??? ?????????????? ?? ??????????????  
????????? ??????.

41 ?? ????????, ????, ?? ?????? ??????????? ????????, ????????, ?? ?????? 164bis ??? LIR,  
????? ????????????, ??? ?????? ?? ?????????? ????????????, ??? ?????? ?????? ??? ??????  
????? ????????????, ????????, ?? ?????? 164bis ??? LIR, ?? ?????? ??? ??????  
????? ?? ??? ????????????, ????????, ?? ?????????? ?????????? ????????????, ??? ??????  
???????????, ??? ?????????? ????????, ??? ?????????? ?????????? ????????????, ? ????  
???????????, ??? ? ?????? ?????????? ?????????? ??? ?????????? ????????, ?? ??????  
???????????, ?? ?????? ?????? ? ?????? ?????????? ?????????? ?????????? ????????????  
?????. ? ???, ???, ??? ????????????, ?????????????? ????????, ??? ?????? ??? ?? ??? ?? ??? ??  
????????? ?????????? ??? ?????????? ?????, ? ?????? ?????????? ?? ?????? ????????????  
?????? ?? ?? ??? 164bis, ?????????? 4, ??? LIR, ??? ?? ?????????? ?? ??????????  
?????? ?????????? ??? ?? ?????????? ??? ??? ?????????? ??? ?? ??? ?????? ?????? ???????????.  
????? ? ?????????? ??? ?????? ?????????? ?????????????????? ??? ?? ??? ?? ??? ?? ??? ??  
???????????, ?????? ? ?????????? ??? ????????????

42      ??????, ??? ??? ?????? ?????????????? ?????????? ?????????? ?????????? ???, ??????? ?? ???  
????????? ???? ??????? ??? ?????? ?????? ?????? ?????? ???????, ???? ?????????? ??????  
????????????? ??? ??????? ??????? ?? ???? ??? ?????????????? ??? ??? ???????

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

44 ??????????, ? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????? ??????????????  
?????????, ??? ?????????????? ??? ?? ?????? ?????????? ?????, ??? ?? ?????????? ??? ??????????  
????????? ??? ??????? ?? ??? ?????? ?????? ??? ?? ?????????? ?????????? ?????????????? ???  
????????? ??? ?? ?????? ?? ?????????? ??? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ???  
????? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ?????? ??? ?????? ??? ????  
????????? ??? ?? ?????????? ??? ?????????? ?????? ??? ?????????? ?????????? ??? . ?? ? ?????????? ???  
????????? ?????????? ?? ??? ?????????? ?????? ??? ?????, ???' ??? ?? ?????????? ??????????  
????????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????????? ???  
????? ??? ?????????? ?????????? ?????? ?? ?????????? ?? ?????????? ?????? ?????? ?????? ?????????? ???  
????????? ?????? ??????.

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

46 ??? ??????, ?? ??????????, ?? ??????????, ??? ?????? ??????? ?? ?????? ?? ?????? ???  
????? ??? ?? ?????? ?????????? ?? ?????????? ?????????? ?????, ??? ?? ??? ??  
????????? ?? ??? ?????? ?????? ?????????? ?????????? ?????? ?????????? ?? ?????? ??? ?????? ??  
????????? ?????????? ?????????? ?????? ??? ?????????? ?????? ?????????? ???, ??????  
????????? ?? ??? ?????? ?? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ???  
?????????.

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

48 ??????, ??? ?????????? ??? ?????? 25, 28 ?? 43 ?? ?????? ??????, ???  
????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????? ??? ?????? ?? ?????? ???  
????????? ??? ?????????? ??? ?????? ?????????? ?? ?? ?????????? ??? ?????? ??? ?????? ???  
????????? ???, ?????????? ??? ?? ??? ?????? ?????????? ?????? ?????? ?????????? ?????? ??????????  
????????? . ???????, ?? ??? ?????? ?????? ?????????? ?????? ?????? ?? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?? ?????? ?????? ?????? ??????????  
????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ??????????  
?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???.

49 ?? ?? ??????, ?? ?????? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ?????????? ??? ?????????? ?????? ?? ?????? ?? ?????? ??? ?????? ?????? ???

????????? ??????????? ?? ???? ?? ???? ?????????????? ?????????????? ?????? ??????????  
????? ??? ?? ???? ?????????? ?????? ??? ?????????? ??? ?? ?????????? ??????????????  
?? ??????????? ?? ?????????????? ?????????????? ??? ?????????????? ?????????????? ?? ????  
?? ??? ?????? ??????????. ??? ?????? ?? ??? ?????????? ?????????? ?????????? ??????????  
?????? ?????????????? ?????????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ??????????????, ??? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? 31  
??? ?????????? ?????????.

50      ????? ?? ??????????? ???. ?????????????????? ???. ?????? 32 ???. ?????????? ??????????, ????????  
????????????? ???. ?????? ???. ?????????? ???. ?????? ???. ?????? ?????????????? ???. ??? ???. ??????  
????????????? ???. ?????????? ???. ???. ?????????? ???. ?????? ???. ?????????? ???. ?????? ??????  
????????????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???.

51    ? ?????????????????? ?????????? ?????????????? ??? ? ?????????? ??? ?????? ???????  
????????? ?? ??? ?????? ??? ?????????????? ?????????? ?????????? ?????????? ?? ?????? ??????????  
????????? ?? ??? ?????? ?? ??????????, ??? ???? ?????? ??? ?????????? ??? ?????????? ?? ??? ?????????? ??  
????????????? ?? ??? ?????? 33 ??? ?????????? ??????????, ?? ?????????? ??? ?????? ?????? ? ??????????  
????????? ?? ??? ?????? ?? ??? ?????? ?????? ?????? ?????????? ?? ?????????? ?? ??? ?????? ??????,  
??? ?????? ??? ? ?????? ?????? ?????? ?????????????? ??? ?????? ?????? ?????????? ?????????? ?????? ??????  
????? ?? ? ?????? ?????? ?????? ?????? ? ?????? ?????????????? ?? 95 % ??? ??????????  
??? ?????????? ?? ??? ? ?????? ?????? ??? ?????? ?????? ?? ?????????? ?? ??? ?????? ?????????? ??  
????? ?? 95 % ??? ?????? ?????? ???.

52    ??? ?????? ????, ????, ????? ?????????? ??? ???? 35 ??? ?????????? ??????????, ?  
?????? ?? ?????????????? ?????????????? ?????? ? ??? ?????? ??? ?????????? ??? ??????????  
?????? ?? ??????????, ????, ????? ?? ?????????? ??? ?????????????? ??? ?????????????? ???  
????????? ??? ?????????????? ??? ?? ?????????? ??? ?????? ??? ?????? ???, ??? ????? ?? ???  
?????? ?? ?????? ? ??????? ?????? ?????? ?????? ?????????????? ??? ??? ??? ??? ?????? ???  
????? ? ?????? ?????? ??? ?????? ?????????????? ??? ?????? ?????? ???, ?  
?????????? ???, ?????? ? ?????? ?????? ?????? ??? ?????? ?????????????? ?? ??? ?????? ???  
????? ?????? ??? ? ?????? ?? 95 % ??? ?????? ??? ?????? ?????????? ?????????? ???  
????????? ?? ?????????? ?? ?????????? ??? ?????????? ???, ? ?????????? ?????????? ???  
????????????? ??? ??? ?????? ?????????????? ?????? ?????? ??? ??? ??????????.

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

54 ?????????????? ????, ??? ???????, ??? ??????? ?????????????? ??????? ?????? ??  
????? ? ??????? ?? ???? 49 ??? 54 ??? ????? ?? ?????? ?? ?????? ?? ?????????????? ??  
????????? ??????? ?????? ? ?????? ??? ?? ?????????? ?? ?????????????? ?? ?????? ??  
????? ?? ??????? ?? ???? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?????????? ??  
????????? ?????? ??? ?? ?????????? ?? ?????? ?? ?????? ?? ?????????? ?????????? ??  
??, ?????????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ??  
????????? ?????????? ?? ?????? ??????? ?????????? ?? ?????? ?? ?????? ?????????? ??,  
????? ??? ?? ? ?????????? ?? ?????????? ?????? ?????? ?????? ?????????? ?????????? ?? ??  
?? ? ??? ?? ?????? ?????????? ?????????? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?????????????? ??  
?? ?????? ?????? ?????????? ?????????? ?????????? ?????????? ?????????? ?? ??????????  
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55 ?? ?? ?????? ?????????????? ???????, ?? ?????? ?????????????? ?????? ???' ?????? ??  
????????????? ?? ?? ?????? 49 ??? 54 ???, ?????? ??? ? ?????? ??? ?????? ??????

? ?????????????????? ??? ??????? ??? ??????, ?????? ??? ?????? ??? ?????????????? ???  
????????? ??? ?????? ?????? ?????? ?? ?????????? ?????????????? ???????????, ? ????  
????????? ??? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ?????????????? ??  
????????? ??? ?????? ?????? ??? ??? ??? ?????? ??? ?????? ?????? ?????????????? ??? ??  
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56 ?? ?????? ?????????? ?????? ?? ??? ?????? ?????????? ?????????????? ?????????? ??? ?? ????  
164bis, ?????????? 4, ??? LIR ??? ?????? ?????? ?????????????? ?????????? ??? ??? ??????????  
??? ??????????????, ??? ?????? ??? ??? ?????????? ??? ?????? ?????????? ??? ??  
????????? ?????? ?????????? ?? ?????????? ?????? ?????????? ??? ?????? ?????????? ??? ??  
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????????? ??? ?????????? ?????? ?????????? ?????? ?????????? ?????? ?????????? ?????? ???.  
????????? , ? ?????? ??? ??? ??? ?? ?????????? ?????? ?????????? ??? ?????? ??? ??????  
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????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ??  
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57 ?? ??????????, ?? ??? ?????? ?????? ?????????? ?? ?????? ??? ?????, ??? ?????? ??  
????? ??????????, ??? ?????? ?? ?????????? ?????? 2013, ? ?????????????? ??????????  
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????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????? ?????? ???.

58 ?? B, C ??? D ?????????? ?????? ??? ? ?????????? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ?????????? ?????????? ??? ?????? ?? ?????????? ?????? 2013 ??????????????  
??? ?? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? 12? ?????? 2014, SCA Group  
Holding ??. (C?39/13 ?? C?41/13, EU:C:2014:1758), ? ?????????? ?????? ??????????  
????????? ??? ? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????????  
????????? , ???, ??? ?????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??? ??  
??? ?????? ??? ?????? ???, ?????? ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????  
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????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

59 ??????, ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????????  
????? ?????? ??? 49 ??? 54 ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??  
????????? ?????? ???? , ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??????????  
????? ?????? ?????? ?????? ???? ?????? ?????? ?????????? , ??? ?????? ?????? ???,  
????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???, ??? ?????? ??? ??  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
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60 ??? ?????? ?????????? ??? ?????????? , ? ?????????? ??? ?? ?????????? ?????? ??  
????? ??? ?????? ??? ?????? , ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ?? 267  
????, ?????????? ??? ?????????? ??? ?????? ??? ?? ?????? ?????? ?????? ??? ?????? ???,  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? . ?????? ,  
? ???' ?????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ??  
????????? ??? ??? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??  
??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? , ?????? ?????? ?????? ??? ?? ??? ??  
?? ?????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??  
????? ??? ??? ?????? ??? ??? ?????? ?????? (????. ?????? ??? 6?? ?????? 2007,  
Meilicke ?., C?292/04, EU:C:2007:132, ??? 34 ??? ?????? ?????????? ??????).

61 ??? ?????? ??? ?????? ???, ??? ?????? ??? ?? ?????????? ??? ?????? 2013 ? ????

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

62    ???????, ??????? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??  
????????? ??????, ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ???, ??? ?????? ?? ??????? ??? ?????? ?????????? ???, ?? ?????????? ???  
?? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?? ?????????? ??? 2013.

63    ?? ?? ??????, ?? ?????? ?? ? ??????? ??? ?????????? ??? ??????? ??? ??  
????????? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ???, ???  
????????? ??? ?? ??????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?? ???????  
????????? ???, ???' ???????, ??? ?????? ??? ?????????? ??? ???  
????????????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
(????. ??????? ?? 21?? ?????????? 2016, TDC, C?327/15, EU:C:2016:974, ??????? 89 ???  
91) ??? ?? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ???  
(????., ?????? ?????, ?????? ??? 24?? ?????????? 2018, XC ???., C?234/17, EU:C:2018:853,  
????? 22 ??? ?? ?????????????? ??????????).

64    ??? ?????? ??? ?????? ??? ???????????, ??? ?? ?????????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? 164bis,  
????????? 4, ??? LIR.

65    ??? ?????? ??? ?????? ??? ?????????????????, ?????????????? ??? ?? ?????? ???  
????? ??? ?????? ?? ?????????????? ?? ?????? ?????????? ??? ?????????????? ???  
????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???  
????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
(?????? ??? 20?? ?????????? 2017, Caterpillar Financial Services, C?500/16, EU:C:2017:996,  
????? 41).

66    ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???  
????? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ??? ??? ?????? ???  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ?????? ???, ?????? ?? ?????????? ??? ?????? ???, ??? ?????? ??? ?????? ???, ? ??????  
??? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? (????????? ??? 22?? ?????????? 2018, INEOS Köln, C?572/16, EU:C:2018:100,  
????? 44, ??? ?? 24?? ?????????? 2018, XC ???., C?234/17, EU:C:2018:853, ?????? 49).

67    ???????, ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ???  
????? ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ???  
?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ??? ?????? ?????????? ????. ???????, ?????? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ???, ?? ??? ?? ??? ?????? ??? ?????? ??? ?????? ???  
????????? (????? ??? 8?? ?????????? 2011, Q-Beef ??? Bosschaert, C?89/10 ???  
C?96/10, EU:C:2011:555, ????? 36 ??? ??? ?????????? ??????????). ??? ?????

?????????? ??? ???????????, ??? ??????????? ??? ?? ?????????? ??????????? ??? ???????  
??? ?????? ??? ??????? ??????? ?? ?????? ?????? ?????? ??? ???????  
?????????? (?????? ??? 8?? ??????????? 2011, Q-Beef ??? Bosschaert, C?89/10 ???  
C?96/10, EU:C:2011:555, ??? 47 ??? ??? ??????????? ???????).

68 ?? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ?????? ??  
????????? ?? ?????????? ??????? ?????????? ?????????? ?????? ?? ?????????? ??  
?????? ????, ?? ??????? ?? ??? ?????? ?????????? ?????????? ???????, ?????????? ??  
?????? ??????? ??? ?? ??? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ???????  
??? ??????? ?????????? (????. ??????? ??? 15?? ??????? 2010, Barth, C?542/08,  
EU:C:2010:193, ??? 33, ??? ??? 8?? ??????????? 2011, Q-Beef ??? Bosschaert, C?89/10  
??? C?96/10, EU:C:2011:555, ??? 51).

69 ??????, ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ?????????? ?????????? ??  
????? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ???????, ??  
????????? ??? ?????? ??? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????????????? ??  
????????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ?? ?????? ?????????? ???  
????? ??? ?????? ???, ??? ??? ?? ??? ?????? ?? ?????????? ?????????? ?????????? ? ???  
?? ??????? ?? ?????????? ?????? ??? ?????? (????????? ??? 24?? ??????? 2009, Danske  
Slagterier, C?445/06, EU:C:2009:178, ??? 62, ??? ??? 25?? ??????? 2010, Fuß, C?429/09,  
EU:C:2010:717, ??? 77).

70 ???????????, ?? ??? ?????? 104 ??? 106 ??? ?????? ??? ??? 8?? ??????? 2001,  
Metallgesellschaft ?... (C?397/98 ??? C?410/98, EU:C:2001:134), ?? ?????????? ?????? ???  
????? ??? ?????????? ??? ?????????? ?????? ?????? ?? ?????? ?????????? ??????????  
?? ?????? ??? ?????? ?? ?????????? ?????? ?????? ?? ?????????? ?????? ?? ?? ?????? ???  
??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ?? ??????????  
??? ??? ??? ??? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ?? ??????????  
????? ??? ?????? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?? ??????  
??????, ?????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?? ?? ??????????  
????????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ?????? ?????????? ? ?? ??? ??????  
??, ?????? ??? ?? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??????  
?? ?????? ??? ??????, ?? ?? ??? ?????? ??? ?? ?????????? ?? ?????????? ??? ?????? ??????  
?? ?????? ??? ?????? ??? ?? ??? ?????????? ?? ?????????? ??????????.

71 ??????, ?????? ? ?????? ??? ?????? ??? ?????? ?????? ??????????, ? ?????????? ???????  
??? ? ?????????? ??? ?????????????? ??? ?????????? ??? ?? ?????????? ?????? 2013 ???  
????????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??????????  
??????, ? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ???  
????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??????????, ????  
?????, ??? ?????? ?????? ??? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ??? 8?? ?????? 2001,  
Metallgesellschaft ?... (C?397/98 ??? C?410/98, EU:C:2001:134, ??? 104), ??? ??? 25??  
????????? 2010, Fuß, C?429/09, EU:C:2010:717, ??? 81), ???' ??????????, ???????  
?????? ?? ?????????? ??? ??????.

72 ?? ???????????, ??? ?????? ?? ?????????? ??? 2013, ?? ?????????????? ??? ??????  
????? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??????, ??? ?? ?????????? ???  
????? ???, ?????? ?????????? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?

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??? ?? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????? ??????,  
????????????? ??? ?????? ??? ??????, ??? ?????? ?? ?????????? ?????? 2014, ???  
????????????? ? ?????????????????? ?????? ??? ?????? ??? ?? ?????????? ??? ??????  
?????????.

73    ?? ??????? ???, ??????????? ???, ?????? ?? ???? ???????, ?????? ?? ???? ??????  
?????????? ??????? ?? ???? ???????, ?? ??????????? ?? ???? ??????? ?????? ?? ???? ???????  
?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ?? ???? ???????????  
?????????? ?? ???? ??????? ?? ?, ??? ???? ??????? ?? ???? ??????? ?? ???? ??????????? ??  
?????????????? ?? ???? 68 ??? ??????? ?? ???? ???????, ??? ???? ?? ???? ??????? ?? ???? ????? ??  
?????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ?? ???? ??????? ??  
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?????????????? ?? ???? 69 ??? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ??

74 ?????????????? ?????? ??? ??????, ??? ?????? ?????????????? ?????? ?????? ?? ??????  
? ?????? ??? ???? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????  
??? ??? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ??????????  
??????????, ? ?????? ?????????? ??? ??? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??????  
?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??????????  
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2) ?? ?????? 49 ??? 54 ???? ?????? ?? ???? ?????????? ?? ?????????????? ?? ???????????  
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??? ?????? ?? ???? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?????????? ?????? ?????? ?? ??????  
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????????? ?? ???, ?????????? ? ?????????? ?? ?????????? ?? ???? ?? ???? ?? ?????????? ??  
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????? ?????????? ??????????, ?????? ?? ? ?????????? ?? ???? ?????????? ?????????? ??????  
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3)    ?? ?????? ??? ?????????????? ??? ??? ?????????????????????? ?????? ??? ??????  
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????????????? ????????????, ? ?????? ?????????? ??? ??? ?????? ?????? ?????? ?? ??????  
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(???????????)

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