

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

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

??? 20?? ?????????? 2021 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ??????
2006/112/?? – ????? 2 – ????? 9 – ?????? ??? “????????????? ??????????????” ??? ???
“????????????? ??? ?????” – ?????? ??? ?????????? ??? ?????? ?????? ?????? ??????
????????? ??? ??? ????? – ?????? ??? ?????? ?????????? ?????????????? ??? ??????
????????????? ?????????? ??? ?????????? ??? ??? ?????? ?????????? ?????????? ??? ??????
????? ??? ?????? ??? ?????? ????? – ?????? ??? ?????? ??? ?????????? ?????????? ???
??? ?????? ???»

???? ?????? C?655/19,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ???
?????? ?? Curtea de Apel Alba Iulia (?????? Alba Iulia, ???????) ?? ??????? ??? 22??
?????? 2018, ? ????? ?????? ??? ?????????? ??? 30 ??????? 2019, ??? ??????? ???
?????

Administra?ia Jude?ean? a Finan?elor Publice Sibiu,

Direc?ia General? Regional? a Finan?elor Publice Bra?ov,

????

LN,

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

????????? ??? ??? L. Bay Larsen, ?????? ???????, C. Toader ??? N. Jääskinen
(??????), ???????,

????????? ??????????: ?. ??????

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

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

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

- o LN, ?????????????? ??? ??? G. Com?ni??, avocat,
- ? ?????????? ????????, ?????????????? ??? ??? E. Gane ??? A. Rot?reanu ??? ??? ???
??? ??? S.?A. Purza,
- ? ?????????? ????????, ?????????????? ??? ??? A. Armenia ??? ??? R. Lyal,

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

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

???????

1 ? ?????? ?????????????? ?????????? ?????? ??? ???????? ??? ?????? 2 ??? 9 ???
?????? 2006/112/?? ??? ???????????, ??? 28?? ?????????? 2006, ??????? ? ? ? ??????
?????? ??? ????? ?????????????? ??? (?? 2006, L 347, ? 1, ??? ????: ?????? ??? ????).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ???????, ??????, ???
Administra?ia Jude?ean? a Finan?elor Publice Sibiu (AJFP Sibiu) (????????????? ??????
????????????? ?????????? Sibiu, ???????) ??? ??? Direc?ia General? Regional? a Finan?elor
Publice Bra?ov (DGRFP Bra?ov) (????????????? ?????? ?????????? ?????????? ??????????)
????????????? Bra?ov, ???????) ???, ???????, ??? LN ??????? ? ? ??? ?????? ??????????
????? ?????????????? ??? (??).

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

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

3 ? ? ????? 2, ?????????? 1, ??????? ?, ??? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ?????? ??? ?????????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??????
????? ??? ?????????? ??? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ???.

4 ? ? ????? 9, ?????????? 1, ??? ??? ?????? ?????? ?????????? ?? ????:

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

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

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

5 ? ? ????? 125 bis ??? Legea nr. 571/2003 privind Codul fiscal (????? ????. 571/2003 ????
?????????? ????), ??? 22?? ?????????? 2003 (M. Of., ??? I, ????. 927/23 ??????????
2003), ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? (??
???: ?????????? ????), ?????????? ?? ????:

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

[...]

18. “????????????? ????” , ??? ? ? ?????? ??? ?????? 127, ?????????? 1, ??? ??
????? ??????, ?? ?????? ??????, ?? ?????? ??????, ?? ?????? ??????, ?? ?????? ?????? ???
????????? ?????? ??? ?????? ?? ?????? ?????? ?????????? ?????????? ????

[...]

20. “?? ?????????? ????” ?????? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? 127, ?????????? 1, ?????????? ?? ?????? ??? ?????? ???

????? ??????

21. “???????” ????? ? ?????????????? ????, ?? ?? ?????????? ????, ???, ????

[...] ».

6 ?? ?????? 127 ??? ?????? ?????? ????:

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

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

21. ?? ??????????? ?? ????? ?? ?????? ?? ?????? ??????? ?? ??????????????? ?? ???????????
????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????? ?????????????? ?? ???????????.

[...]»

7 ?? ?????? 152 ??? ?? ????? ??????? ??????? ?? ????:

«1. ? ?????????????? ????. ????. ? ?????? ?????? ?????? ?????????????????? ????. ?????????? ????.
????? ? ?????? ? ?????????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????? ????. 35 000 ????, ? ?? ?????????? ?? [????????? ????. (RON)] ????. ?????????? ?? ????.
??? ?????? ????. ?????????? ? Banca Na?ional? a României [(?????? ?????? ????.
?????????)] ????. ????. ?????????? ?????????? ?????????? ????. ?????????? ?????????? ????.
????? ????????, ??????? ?? ?????? ?????????? ????. ????. ????. ????. ????. ????. ????.
“????? ??????? ??????????”, ????. ????. ??????? ?? ?????????? ?????????? ????.
????????? 1, ?? ??????? ?? ?????????? ?????????? ?????????? ?????????? ?????????? ??????????
?????, ?? ?????? ?????????? ?????????? ????. ????. ????. 143, ?????????? 2, ?????????? b.

2. ??????? ?????????? ??? ?????????? ?? ??????? ?????????? ??? ??? ????? ?????????? ???
????????? 1 ?????????? ??? ?? ??????? ???, ???, ???, ??? ?????????? ???
????????? ??? ????? ?????????? 7 ??? 7 bis, ??? ?????????? ??? ????? ??? ??????
????????? ?? ?????? ?????????????????? ??? ??? ?????????? ??? ????? ??? ?? ??????
???? ?????????? ??? ?? ?????? ??? ?????? ?????????? ?, ??????????, ??
????????? ?? ??? ?????? ?????????? ??? ?????? ??????????, ??? ?????? ???
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
????? ? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ? ?????? ??? ?????????? ???' ?????????? ??? ?????? 145, ?????????? 2, ?????????? b, ??
????????? ??? ?? ?????????? ?????? ?????? ?????????????? ??? ??????????, ??? ??????
??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????????? ???
????????? ???????, ?? ?????? ?????????? ??? ?????? 141, ?????????? 2, ?????????? a, b, e
??? f, ?? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??????????????, ??? ???
????????? ??????:

a) ??? ?????????? ??? ?????? ? ??? ???? ?????? ?????????? ??? ????????????, ??? ????

?????????? ??? ??? 125bis, ?????????? 1, ??? 3, ??? ?????? ?????????????? ?
?????????? ??? ???

b) ??? ?????????????? ?????????? ?????????? ?????????? ?????? ?? ??????
????????????? ??? ??? ?????? ?????? ?? ?? ?????? 143, ?????????? 2, ?????? b.

[...]

6. ? ?????????? ??? ???? ? ?????? ?????? ??? ?????? ?????????? ?????????? ???
??? ?????? ? ??? ???? ?????? 2 ?????? ?????? ?????? ?????? ?????? ???? ?? ?? ???
????????? ??? ???? ?????? ?????? ?????? ?????? ?????? ?? ?????? ??? ??????
???, ?????? ?? ?? ?????? 153, ?????? ?????????? ??? ?????? ??? ?? ?????????? ???
????? ? ?????? ?????? ?????? ???? [...] ?? ?????? ??????
????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?? ?? ???
153. ?? ? ??? ???? ?????? ?????????? ??? ?????? ??? ?????? ???? ?????? ???? ??????
??? ?????? ???, ?? ?????? ?????? ?????? ??? ?????? ?? ?????? ?? ?????? ?? ??????
????????? ?????? ??? ?????, ?????? ??? ??? ?????? ?????? ?????? ?????? ???,
??? ?????????? ??? ??? ?????? ?????? ?? ??? ?????? ?????? ??? ?????? ???, ?????? ?? ??
????? 153.

[...]»

8 ?? ?????? 153 ??? ??? ?????? ?????? ?????????? ?? ???:

«1. ? ?????????? ??? ???? ? ?????? ?????? ?????? ?????????????? ??? ???????, ??????? ??
?? ??? 125 bis, ?????????? 2, ?????? b, ??? ? ?????? ?????? ???? ? ?????????? ?? ??
????????? ?????????? ??? ?????????? ?????? ?????? ?????????? ???/? ?????????? ???
??? ??? ??? ?? ?????? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
??? ?????? ??? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???:

[...]

b) ??, ??? ???? ?????? ??? ?????????????? ???, ?????????? ???? ?? ?????? ?? ???
????????? ??? ?????????? ??? ?????? 152, ?????????? 1, ??? ?????? ?????????? ??? ??
??? ?? ??? ??? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ?? ??? ??
?????

[...]

6. ?? ?????????? ?????????? ??? ?????? ?????? ?????? ???, ?????? ?? ?? ???
?????, ?? ??? ?????? ?? ???, ?????? ?? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???' ?????? ???
????????? 1, 2, 4 ? 5.

7. ?? ?????????? ??? ?????? ?? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??
??? ?????????? 1, 2, 4 ? 5 ??? ?????? ??? ?????? ???, ?? ?????? ?????? ?????????? ???
????????? ?????? ??? ?????? ???.

[...]»

9 ?? ?????? 3 ??? Hot?rârea Guvernului nr. 44/2004 pentru aprobarea Normelor
metodologice de aplicare a Legii 571/2003 privind Codul fiscal (????????????? ?????????? ????.
44/2004 ??? ??? ?????? ??? ?????? ??? ?????? ??? 571/2003 ??? ?????????? ????.
?????), ??? 22? ?????????? 2004 (M. Of., ??? I, ????. 112/6 ?????????? 2004), ???

????? ??? ???? ????? ?? ?????????????? ?????????????? ??? ?????? ??????, ??????????? ?? ????:

«1. ??? ??? ?????? ?????? ??? ?????? 127, ?????????? 2, ??? ?????????? ?????? ????, ?
????????????? ?????????? ???? ?????? ??????, ?????????? ???? ?????????? ?????? ????
????????????? ??? ?????? ??? ?????? ?? ?????????? ???, ?????? ??? ?????? ?????? ??????????
????????????? ??? ?????? ?????? ??????, ??? ?????????? ?? ?????????? ??? ?????? ??????
C?186/89, van Tiem, C?306/94, Régie dauphinoise, ??? C?77/01, Empresa de Desenvolvimento
Mineiro SA (EDM).

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

3. ?????? ?????? ??? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??????????????
????????? ??? ?????? ?????????? ?????????? ?????? ?????? ?????????????? ?????????? ? ???
????, ?????? ?????? ??? ??? ?????? ?????? ??? ?????? ?????? ??????????, ? ?? ??????????????
????????? ?? ?????? ??? ?????? ?????? ?????? ??????????, ???? ??? ?????? ??? ??????
127, ?????????? 2, ??? ?????????? ?????.

4. ?? ?????????? ?????????? ?????????? ??? ?????? ?????? ?? ?????? ??? ?????? ????, ?
????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???
????????? ?????? ??? ?????? ?????? ??????????????, ?????? ?????? ?????? ?????? ?????????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ????
????????? ???, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ????
????????? ???, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???.

5. ?? ?????????? ??????? ??????? ???/? ?????????? ??? ?????? ?????? ?????? ??? ?????
?????????, ? ??????? ?????? ?? ?????? ?????? ?????? ?????????????? ?????????????? ??????????
????????? ?? ?? ?????? ??????? ?????????????? ?????? ??? ?????? ?????????? ?????? ??
????????? ??? ?????? ?????? ???????, ????????, ?? ?? ?????? ?????? ?????????? ?????????? ??
????????? ??? ?????? ?????? ???????, ????????, ??? ?????? ?????? ?????????? 4, ?????????? ??? ?
????????? ?????????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??????,
????????? ??? ?????????? ?????????????? ?????????????? ?????????????? ??? ?????? ?????? ??
????????? ?? ?????? ?????????? ?????????? ?????? ??? ?????? ?????????? ?????? ?????? ??????????
?????????????, ?????? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??????, ?
????????? ??? ?????? ?????????? ??????, ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? 152 ??? ?????????? ??????. ?? ??????????
????????? ??? ??????, ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? 141,
????????? 2, ?????? f, ??? ?????????? ??????, ?????????? ?????? ?????? ??? ?????? ??? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ?????? ??? ?????? ??? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? 152 ???
????????? ??????.»

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

10 ??? ??????? ??? 2009, ? LN ??????? ?? ?????? ?????? ?????? ?????? ?????????? ?????? 80
400 ????, ??? ?????? ? ?????????? ?????????????? ??? ?????? ?????????? ?????????? ??? ??????????
?????????. ?????????? ??? ? ?????????? ??? ?????? ??? ?????? ?????? ??????, ?? ?? ??? ?????? ??????
????????????????? ??? ??? ?? ?????? ?????????? ??? LN.

11 ??? ??????? ??? 2010, ? LN ?????? ??? ?????????? ??????????, ?? ??? ?????? ?????? ? ??????
????????? ??? ?? ??? ?????? ?????? ??? ?????????????? ??? ?????? ?????????? ?????? ??? ?
????????? ??? ?????? ??? ?????? ?????? ?????? 2005. ?? ??? ?????? ??? ?????? ??? ??????
????????????? ??? LN ?????????? ?????????? ?????? ?????? ?????????? ?????????? ??? ??
????????? ??? ??? 2011 ??? 2012.

12 ??? ??????? ??? 2016, ??' ??????? ?????????????? ???????, ? AJFP Sibiu ??????????
??? ?? ??????? ??? ?????????????? ??? ?? 2010 ??? ??????? ?????? ?????? ???????, ??? 30
?????? 2010, ?????? ??? 611 364 RON (?????? 145 000 ???), ?????? ?? ?? ??? ??????
????????????? ?? ?????????? ?????????????? ?????? ?????? ?? ?????? ??? ?????? ??? ??????
?????. ? AJFP Sibiu ??????, ??????, ??? ? LN ?????? ?? ??? ?????? ?????? ??? ?????? ???
??? ??? 10 ?????? 2010, ?????????? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
????? ?????????? ??? 35 000 ???, ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ?????????? ??? ?????? 152, ?????????? 1 ??? 2, ??? ?????????? ????

13 ??? AJFP Sibiu, ?? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? LN ??? ??????? ???
2010 ??? ??? ?????? ??? ?????????? ???, ??? ?????? ?????????? ?? ??? ????.
????????? ??? ??? ??? ?????? ????

14 ??? ?????? ??? ?????? ??? ?????????????? ?? 2011, ? AJFP Sibiu ?????? ??? ???
????? ?? ?????????? ??? ???, ?????????? ??? ? ?????????? ??? ?????????? ?????? ??????????
????? ??? ?????? ??? 31? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????
????????????? ?? ????. ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? 2012, ????
??????, ???????, ??? ?? ?????????? ??? ?? ?????????? ??? ???.

15 ??? ??? ??????? ???, ?? ??? ?? 28?? ??????? 2016, ? AJFP Sibiu ??????????
???? ??????? ?? ?????? ?? LN ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????????? ??
??????????.

16 ? ?????????? ?????? ??? ?????? ? LN ??? ???? ?? ???? ?????? ?????? ?????? ??????
????????? ?? ?????? ??? ?????????? ?????? ?????? ?????????? ?????? ?????? ??????????
Bra?ov, ??? 8?? ???????? 2016.

17 ? LN ?????? ??????? ??? Tribunalul Sibiu (????????????? Sibiu, ????????) ??????
????????? ??? ??????? ??? ?????? ??????????????, ?????? ?????, ??? ?????? ???
????????????? ?????? ?? ?????????? ??? ?? ?????? ?????????? ?? ?????? ??? ??? ?????? ??????????
????????? ??? ?????? ??? ?? ?????????? ?? ?????????? ?????????????? ?????????? ??????
????????? ?????????????? ???????, ??? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????.

18 ?? Tribunalul Sibiu (????????????? Sibiu) ??????? ??? ???????? ??? LN. ??????????????,
?? ?? ??? ?????????????? ?????? ??? ?? ???????? ??? ?????????????? ??? ??????????????
????????????? ???????????, ???' ??????, ??? ?????????? ?????? ?????????? ???????????, ??
????????? ? ??? ?????????? ??? ?????? ?????? ??? ?????????? ?? ?? ??????????, ??? ???????????,
????????? ??????????????. ???????, ?????? ???, ?? ??????????, ? ?????????????? ??????
?? ?????????? ?? ?????????????? ?????? ?????????? ?????? ?????? ??? ??? ?????? ??????
?? ??? ?????? ??? ?????? ??? ? ?????????? ??? ?????? ?????? ?????????? ?? ?????? ???
????????? ??? ?????? ??? 2009.

19 ? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
Curtea de Apel Alba Iulia (?????? Alba Iulia, ???????).

20 ????? ?? ?? ????? ????????????, ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????????????? ??
?????????? ????????????????, ???? ?? ?? ??????? ?? ??????? 9, ??????????? 1, ??????? ?? ???????,
??? ??????? ???, ??????? ??, ??????????? ?? ??????? ?? ???, ??????? ?? ?? ????? 2, ??????????? 1,
???????? ??, ??? ?? ?? ????? ??????, ? ??????? ????? ?? ??? ????? ?? ????????? ?? ??????????? ??
?????? ??????????????? ?? ????????? ?? ????????? ?? ??????????? ?? ??????? ?? ???????????, ??? ???????
?????????? ??????????????? ?? ???????????, ?? ?? ?? ????? ??????? ?? ???????????, ?? ???????????,
???? ??????? ???. ??? ??????? ???, ?? ?? ?? ????? ??????????? ??????????? ??????????? ?? ??
?????? ?? ?? ??????? ?? ?? ????? ??????? ?? ????? ??????? ?? ??????????? ?? ??????????? ?? ??
????, ??? ?? ?? ??????? ?? ??????? 9, ??????????? 1, ?????? ??????, ??? ?? ?? ????? ??????.

21 ????? ??? ?????????? ??????, ?? Curtea de Apel Alba Iulia (????????? Alba Iulia) ?????????? ??
????????????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ?? ???? ?????? ?? ???? ?????????? ?? ???? ??????
????????????? ?? ?????:

«1) ????? ?? ?????? 2 ??? [????????? ????? ???] ??? ??????? ??? ??? ???????? ??
?????????????? ?? ??????????? ?????????????? ??? ?? ????? ?????????????? ?????????? ?
????? ??????? ?? ????? ??? ?????? ?????? ?????? ?????????? ?????????? ?????? ?? ??? ?????
??????????????, ??? ?? ?????????? ??? ?? ???????, ?????? ?? ?????????? ?????? ???
????????? ??????????? ?????????????? ?????????? ???, ??? ?????? ?????? ?????????? ??????????
????????? ???????????, ?? ?????????? ??? ?? ?????????? ?? ??? ?????? ??? ?????? ?????????? ?
????? ??? ????? ??????;

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

22 ?? ?? ?? ?? ?????????? ???, ?? ?????? ?????? ?? ??????????? ?? ????????, ?? ??????
?????????? ???, ???' ??????, ?? ?????????????? ?? ?? ????? 2, ?????????? 1, ???????
??, ?? ?? ?? ?? 9, ?????????? 1, ?? ???? ?????? ?? ?? ?????? ?? ?????? ?? ?????? ?? ??????
????????? ?????????????? ?? ?????? ?? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??????????
????????? ?????????? ?? ?????? ?????????? ?????????? ?????????? ?? ?????? ?? ?????????? ??
????? ?? ?? ??????? ?????????????? ?????????? ??, ?? ???????, ??????????
????? ?? ?? ??????? ?? ?????? ?? ?? ?????? ?? ?????? ??, ?? ?????? ??, ?? ??????
????? ?? ?????? ?? ??????? ?? ?? ?? ?? ?? ?????? ??, ?? ?????? ?? ?????? ??, ??

23 ??? ??? ??????? ??? ???????????? ?????????? ??? ?? ??????? ??? ??? ??? ???
?????? ??? ?????? ?????????? ??? ?????? ??????? ?? ????? ?????????????? ??????????????
?? ?????????? ??? ?????? ??????? ??? ?????? ?????????? ?????????????? ?????????????? ?
????? ??????? ?? ??? ?????? ?????? ?????????? ??? ????? ??????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ??????.

24 ???????, ?????????????? ?? ?????????? ???, ?????????? ? ?????? ??? ?????????
????? ??? ??????? ?????? ?????? ??????, ?????????? ??? ?????? ??? ?????????? ?????? ??
????????????? ??? ?????? ?????????? ??????????. ??????????????, ??? ?? ?????? 2 ???
?????? ????, ??????? ?? ??? ?????????????? ???????, ?????????? ???, ?????? ???, ???
??? ?????????? ????, ?? ?????????????? ???????, ?? ?????????? ???, ?? ?????????? ???
?? ??????? ?????????? ??? ?????????????? ?? ?????????? ??????? ??? ??????? ???
?????? ???, ??????? ??? ?????????? ??? (?????? ?? 2?? ??????? 2016, Lajvér,
C?263/15, EU:C:2016:392, ??????? 20 ??? 21 ??? ?????????????? ??????????).

25 ???????, ??? ?? ?????????? ??? ?????????????? ?????????????? ???, ??? ?????????? ???, ?
?????? ??? «????????????? ???» ?????? ?? ?????????? ?? ?????? ?? ?????? ??? ?????? ???
«????????????? ??????????????» ??? ? ???? 9, ?????????? 1, ??????? ??????, ???
?????? ????. ???????, ? ?????? ?????? ?????????????????? ?????? ??? ????
?????????? ??? ?????????????? ??? ?????????????? ??? (??., ???' ??????????, ???????
?? 15?? ?????????? 2011, S?aby ???., C?180/10 ?? C?181/10, EU:C:2011:589, ??? 43
?? ????? ?????????????? ??????????), ?? ?????????? ??? ?????? ?????? ??????? ??, ??? ???? ?? ?????
9, ?????????? 1, ??? ?????, ??? ?????? ?????, ?????????????? ?????, ??? ?????
????????? ??? ?? ?????????????? ?????, ?????? ?????????? ??????????????.

26 ? ?????? ??? «????????????? ??????????????» ???????? ??? ????? 9, ?????????? 1,
?????? ??????, ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????????? ??? ??????????, ???
?????? ? ??? ?????????? ??? ???????, ??? ???????, ??? ?????????????? ??? ?? ???
??????, ?? ?????? ?????????? ???????, ??????, ? «????????????? ?????????? ? ??????
?????? ?? ?????? ?????? ??? ??????? ?????? ?????? ?????? ??????».

27 ????? ?????? ??? ??????? ??? «????????????????» ??? ? ? ????? 9, ??????????? 1, ???????
??????, ??? ??????? ???, ??? ?????? ?????????? ??? ??????????, ??? ???????, ??????? ?? ???
?????????? ??? ?????? ??? ?????????? ??? ??????? ?????????? ??? ???, ?? ??? ???
??????, ?????????? ??? ?? ?????? ?????, ???, ??? ?????????? ??? ??????? ?????????? ???
??????, ?????????? ??? ?? ?????? ?????, ??? (????????? ??? 6?? ?????????? 2007, SPÖ
Landesorganisation Kärnten, C?267/08, EU:C:2009:619, ??? 20 ??? ??? ??????????????
?????????, ??? ??? ??? 2?? ?????? 2016, Lajvér, C?263/15, EU:C:2016:392, ??? 24 ???
??? ?????????????? ??????????).

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

????????????? ?????? ?? ?????? ??? ??????? ?????? ?????????? ??????????, ??? ???? ?????? ??
??? ?????? 9, ?????????? 1, ?????? ??????, ??? ?????? ???, ??? ?????? ???, ?????????? ??? ????
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ???? ????
????? (????? ??? 15? ?????????? 2011, S?aby ?., C?180/10 ??? C?181/10,
EU:C:2011:589, ??? 45 ??? ??? ?????????? ??????????).

29 ??????, ? ?????? ?????? ??? ?????????? ?????????? ??? ???? ?????? ??? ???? ??????
???? ??????????, ?? ?????? ??? ?????? ?????? ?????????? ?????????? [????. ??????????
??? 15? ?????????? 2011, S?aby ?., C?180/10 ??? C?181/10, EU:C:2011:589, ??? 36?
??? 9? ?????? 2015, Trgovina Prizma, C?331/14, EU:C:2015:456, ??? 23, ?????? ??? ??
13? ?????? 2019, IO (??? – ?????????? ?????? ?????????? ??????????), C?420/18,
EU:C:2019:490, ??? 29].

30 ??????, ??? ?????? ?? ??????? ??? ?????? ?? ?????? ?????? ?????? ?????????? ??
????? ?? ??? ?????????? ?????? ?????? ?????????? ?????????? ?????????? ?????? ??? ????
????? 9, ?????????? 1, ?????? ??????, ??? ?????? ??? ???, ??? ?? ?????????? ???
????????? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???, ??
????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????
??? ?????? ?? ?????? ?????? ?????? ?????? ?????? (????? ??? 15?
????????? 2011, S?aby ?., C?180/10, EU:C:2011:589, ??? 37, ??? 2019, Paulo Nascimento Consulting, C?692/17, EU:C:2019:867, ??? 25).

31 ??????, ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ?? ?????????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?????? ??? ???? ?
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????
????? ? ?????? ??????. ???????, ?? ?????????? ?????? ??? ?????? ??? ?????????? ??????
??? ?????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? (????. ?????? ???
9? 2015, Trgovina Prizma, C?331/14, EU:C:2015:456, ??? 24 ??? ???
????????? ??????). ?????? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
?????, ?? ?? ??????, ?? ?????????? ?????? ??????.

32 ??? ?? ?????? ?????? ??? ?????? ?????? ?????? ?? ?????????? ?? ???? ?????? ??
????? ?? ??? ?????? ??????, ? ?????? ?????? ?????? ?????? ?????????? ?? ?????????? ???
????????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?????? ??? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 9,
????????? 1, ?????? ??????, ??? ?????? ??? ???, ? ? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ?????? ??? ???.

33 ?? ??????????, ??? ?? ?????? ??? ?????? ?? ?????? ?????? ?????????? ?????????? ??? ?
????????? ??? ?????? ?????? ?????? ?????? 2009, ??? ??? ?????? ?????? ?????? ???
????????? ??????, ??? ?????? ? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ??????, ??? ???, ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
???? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ??? ?????? ?????? 2009. ?? ?????? ?, ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ??? 2010 ??? 2012.

34 ??? ?? ?????????? ??? ?? ?????? ??? ?????? ?? ?????? ?????? ?????? ???,
?????, ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??????

? ??????? ?? ??? ???? ?????????? ??? ?????????? ??? ?? ??? ??????? ??? ?????????? ??? ?????????? ???
???, ??????? ?? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??????. ???????, ??????? ?????? ???
?????????? ?? ?? ??????? ??? ?????? ??? ? ??????? ??? ?????? ??? ?????? ??? ? ?????????? ???
????????? ??, ?????? ?? ?? ?????? ?????? ?????? ??? ??? ?????? ?????? ??? ?????? ??? ? ?????????? ???
?????????? ??, ?????? ??? ?????? ?????? ?????? ??? ??? ?????? ?????? ??? ?????? ??? ? ?????? ???
????????? ??? ?????? ???????, ?????? ??? ?????? ?????? ???????, ??? ??? ?????? ??? ?????? ??? ???? 9,
????????? 1, ?????? ?????, ??? ?????? ??? ???.

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

36 ??????, ??? ?????? ??? ?? ?????? ?????????? ?? ??? ?????? ?????????? ?? ?? ?????? ??????????
??? ?????????????? ? ?????????????? ???????????, ??? ??? ?????? ??? ?????? 9, ??????????
1, ??? ?????? ???, ??? ?????????????? ??? ?????? ?????? ??? ?????? ? ?????????? ??? ??????
?????.

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

38 ???????, ??? ?? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ?? ?? ?????????????? ???
?? ??????? ??? ?????? ??? ?????? ?????? ?????? ???????, ?????????????? ??? ?????? ???
????????????? ??? ?? ??? ?????? ???????, ??? ?????? ?????????? ??? ?????? ?????????? ???
??? ??????? ???????, ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ???.

39 ?? ?? ??????? ????, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ? ?????????? ???
?????? ?????? ???, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? . ???????, ? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????? ??? ?????? ??? ?????? 9, ?????????? 1, ?????? ?????, ??? ?????? ??? ?????? ???, ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ???.

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

41 ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? , ??? ?????? ?????? ?????? ?????? ???
????? ?? ?????? ? ?????? ??? ?? ?????? 2, ?????????? 1, ?????? ???, ??? ?? ?????? 9,

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

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

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

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

? ? ?????? 2, ?????????? 1, ?????????? ?, ??? ?? ?????? 9, ?????????? 1, ??? ??????
2006/112/? ???? ??????????, ??? 28? ?????? 2006, ?????? ?? ?? ?????? ??????
????? ?????????? ??????, ??? ?????? ??? ?????? ??? ???? ?????? ?? ??? ?????? ???
????? ?????? ?? ?????????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??????
????????????? ?????? ???, ??? ???????, ?????????? ?????? ?????? ?????? ??? ??????
??? ??????, ??? ???????, ?????????? ?????? ??????????????, ?????? ???? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
??? ?? ??? ??????, ?? ?????????? ?????? ?????????? ?????? ?????? ??? ?????? ???.

(?????????)

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