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??? 7?? ?????????? 2022 (\*)

«????????????? ?????????? – ????? ?????????????? ????? (???) – ?????? 2006/112/?? – ?????  
44 – ????? ?????? ?????????? – ?????????????? ?????????? (?E) 282/2011 – ????? 11,  
????????? 1 – ?????? ?????????? – ????? ?????? ?????? ??? ?????? ?? ?????????? – ??????  
??? “????????? ??????????” – ?????? ?????? ?????? ?????????? ?? ??????  
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??? ?????????? ?????? – ?????????? ?????? ??? ?????? ?????????? ??? ??? ?????? ???  
????????? ?????????? – ?????????? ??????????, ?????? ??????????????, ?????????? ???  
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?? ?????????????? ??????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???  
?????? ?? Curtea de Apel Bucure?ti (???????, ??????????????, ????????) ?? ??????? ???  
30?? ?????????? 2019, ? ????? ???????? ??? ?????????? ??? 22 ?????? 2020, ???  
?????? ??? ????

**Berlin Chemie A. Menarini SRL**

???

## **Administra?ia Fiscal? pentru Contribuabili Mijlocii Bucure?ti – Direc?ia General? Regional? a Finan?elor Publice Bucure?ti,**

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

## Berlin Chemie AG,

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

?????????? ??? ???? E. Regan,

..... E. COOK, .....

????????? ??????????????: A. M. Coll

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

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

2222222222222 222222 222 222222222222222 22

2 Berlin-Chemie A. Manzini SRL - 22222222222222

S?raru, M.-R. Farc?u, B. M?rcule? ??? E. Bondalici, ??? ??? ???????? ??? ??? M. Galgo?iu-  
S?raru, M.-R. Farc?u ??? E. Bondalici, avoca?i,



?????????? ?? ???? 10 ??? ??????? ??????????, ? ?????? ??????????????? ?? ????  
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5 ?? ???? 125a, ??????? 2, ??? Legea nr. 571/2003 privind Codul fiscal  
(????? 571/2003 ??? ?? ??????????? ??????), ?? ??? 31 ?????????? 2015, ??  
?? ???? 266, ??????? 2, ??? Legea nr. 227/2015 privind Codul fiscal (?????  
227/2015 ??? ?? ??????????? ?????), ?? ??? 1? ?????????? 2016, ?? ???  
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«????? ??? ?????? ??? ??????? ??????:

[...]

b) ??????????? ??? ???? ??? ??? ??? ??? ??? ??????????? ??? ???????????????  
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??? ???????, ??? ?? ??? ??? ?????? ?????????? ??? ?????????? ?? ?????? ?????? ?????? ???  
??? ??? ??????? ?????? ?????????????? ?????????? ?????????? ???/? ???????  
??????????.».

6 ??? ???? 133, ??????? 2, ??? ?????? 571/2003 ??? ??? ?? ???? 278,  
????????? 2, ??? ?????? 227/2015, ?? ??? ?????? ?????? ??????????? ??????????:

«? ????? ?????? ?????? ?? ?????????? ??? ?????????? ???, ? ?????? ?????? ??? ??? ???????  
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7 ? Berlin Chemie AG (??? ????: ??????? ??????) ?????? ??????? ?? ??? ??  
????????? ??? ?????? ??? Menarini, ? ?????? ?????????? ?????????? ?????????? ??????????  
??? ???????, ?? ?????? ??? ?? 1996, ??? ??? ?????? ?????????? ??? ?????????? ??? ??????????  
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8 ? ?????????? ???????, ? ?????? ??????? ??? ???????????, ?????????? ?? 2011. ? ???  
????????????? ??? ?????? ? ?????? ??????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???  
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????????? ??? ?????????? ??? 100 % ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ? Berlin Chemie/Menarini Pharma ?????? ??? 95 % ??? ?????????? ????. ?

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9      ??? 1? ??????? 2011, ? ?????????? ??????? ??? ? ?????????? ??????? ??????? ???????  
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10 ???????????, ? ??????? ?????? ??????? ?????????????? ?? ??????? ??? ?? ?????????? ???  
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????????? ?????? ?????????? ??????, ??? ??????, ??? ?????????? ?????? ?????????? ?????????? ??????  
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11 ? ?????????? ??????? ??????? ??? ?????????? ?? ???????????, ??? ??? ?????????? ???  
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??? ???????, ??????? ??? ? ????? ??????? ??? ?????????? ??? ?????????? ???  
??? ???????.. ??? ??? 14 ??????? 2013, ? ??????? ??? ?????????? ?????? ??????? ??  
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12 ??????? ?????????????? ??????? ??? ?????????? ??? 1 ?????????????? 2014 ??? 31  
????????? 2016 , ? ?????????? ????? ?? ?????? ??? ?? ?????????? ??? ?????? ? ??????????  
????????? ??? ?????????? ??????? ?????????? ??? ?? ?????????? ?????? ??? ????????, ??? ?  
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13 ???? 29 ?????????? 2017, ? ?????????? ????. ????? ??????? ?????? ??????, ?? ??  
????? ??????? ???. ?????????? ?????? ?? ?????????? ?? ?? ?? 41 687 575 ??????????  
?? (RON) (?????? 8 984 391 ???) ???. ?????????????? ???. ????? ??????? ?? ?? ?? ??????  
??????, ?? ???. ?? 5 855 738 RON (?????? 1 262 012 ???) ???. ?????? ?? ?? ?? ?? 3  
289 071 RON (?????? 708 851 ???) ???. ??????? ???????????.

?????? ??? ??????? ?? ???? ????? ?????? ?????????? ??????, ?????????????????? ?? ??????? ?? ???? ?  
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15      ?? ??????? ??????????? ??????????? ???, ??? ?? ??????? ?? ???? ??????? ?? ?? ??  
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?????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? 44, ??????? ?? ?? ???????, ??? ?? ??  
?? ?? ?? ?? ?? 11 ?? ?? ??????? ?? ?? ??????? ?? ?? 282/2011.

17    ?? ?????? ?????????? ?????????? ?????????? ?????? ?????? ??? ?????????? ??? ?????? 44,  
????????? ??????????, ??? ??????? ???, ?????? ??? ???? ?????? 11, ?????????? 1, ???  
????????????? ?????????? 282/2011. ?????? ??? ?? ?????????? ??? ?????????? ?????? ??  
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??? ?????? ?????? ?????????? , ??? ?? ?????? ?????????? ?????? ?????? ?????? ?? ??? ??????????  
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18     ?? ?????? ??????????? ???????????, ??????, ???, ??? ?? ??????? ?? ???? ???????, ?  
????? ?????????? ?????? ??? ?????? ??????? ?????? ?????????????? ??? ?????? ??? ??????  
????? ??? ?????? ??? ?????????????? ?????????????????? ???, ?????????? ??? ?????? ?????? ??????  
????? ???????????, ?????? ??????? ?? ??? ?????? ??????? ?? ?????????? ??? ?????? ?????? ??????  
??? ??????????? ?? ??? ?????? ??? ?? ??? ?????? ??????? ?????? ? ?? ?????? ?? ??? ?????? ??????  
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19 ?? ??????? ??????????? ??????? ??? ????? ?????????? ??????? ?? ??????? ??? ?  
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????? ??? ?? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??????????????  
????????? ?? ??????? ?????????? ??? ?? 1996 ??? ?? ?????????? ??? ?????? ?????????? ???  
????????? . ???????, ? ?????????? ??????? ??? ?? ??????? ??? ?????? ??? ?????? ??? ??????? ???  
??? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????? ?????????? ?????????? ??????? ???  
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20 ???????, ?? ?????? ?????????? ?????????? ?? ?? ??? 44, ??????? ???????, ???  
?????? ?? ?? ?? 11, ??????? 1, ??? ?????????? ?????? 282/2011 ???  
??? ?????? ???, ??? ?? ??????? ??? ???????, ? ????? ?????????? ?????? ??? ??????  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
????????????? ???, ??????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??????????  
??? ?????? ???, ?????? ??????? ? ?????? ?????????? ?? ?????? ?????????? ?????? ???  
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?????? ?????? ???, ?????????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
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21 ??????, ? ??????? ?????? ??????? ?????????? ?????? ??? ?????????? ?????????? ???  
? ??????? ??? ?????????? ??? ??????? ?????????? ?????????? ?????????? ??? ???  
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????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????????? . ? ?? ??? ?????? ??????  
????????? , ??????, ??? ?????? ??? 4?? ?????? 1985, Berkholz (168/84,  
EU:C:1985:299), ??? 17?? ?????? 1997, ARO Lease (C?190/95, EU:C:1997:374), ??? 28??  
?????? 2007, Planzer Luxembourg (C?73/06, EU:C:2007:397), ??? ??? 16?? ??????? 2014,  
Welmory (C?605/12, EU:C:2014:2298).

22 ???????, ?? ?????? ?????????? ?????? ??? ? ?????? ?????? ??? ?????? ??? ??????????  
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23 ????????, ?? ?????? ??????????? ?????????? ??? ?? ??????????? ??? ?? ???????????  
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24     ?? ?????? ??????????? ???????????, ??????????, ?? ?? ??????????? ??????????????? ??  
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25 ???????, ?? ??????? ??????????? ??????????? ??, ??? ??????? ??? ?????????? ??? ???????  
44, ??????? ???????, ??? ??????? ??? ??? ??? ?????? 11 ??? ?????????? ??????????  
282/2011, ?? ??????? ??? ??????????? ??? ??? ?????? ??? ?????? ??? ?????? ??????? ???  
????????? ??? ?????????? ?????? ?????? ?????????????? ???, ??? ?????? ???????,  
????????? ?? ?? ?????? ?????? ??? ? ?????????? ?????? ?????????????? ??? ?????? ???  
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????? ??? ?????? ?????? ???' ?????? ??? ??????. ?? ?????? ?????????? ?????? ?????? ?????????? ??  
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????? ?????? ??????, ??? ??? ??? ?????? ?????? ?????? ?????? ??? ?? ?????? ??????  
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«1) ??????? ?? ?????????? ???, ??? ?? ??????? ?? ?????? ?????? ??? ?????????? ???  
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???????, ??? ?????? [??], ??? ??? ?????? 11 ??? [????????????? ?????????? 282/2011],  
????? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ??????, ???  
????????? ?? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????????????? ??? ?????? ???  
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????????? ???, ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
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2) ?????? ?? ??????? ???, ??? ?? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ???  
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???????, ??? ?????? [??], ??? ??? ?????? 11 ??? [????????????? ?????????? 282/2011],  
????? ?????????? ??? ?????? ??? ?????????? ?????? ????????, ???  
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???????????, ??????? ??????????????, ??????????, ??????????, ??????????,  
????????????? ??? ??????? ?? ?????? ?????? ?????? ??? ??? ????;

3) ?????? ?? ??????? ???, ??? ?????? ?????? ??? ?????? 44, ??????? ???????, ???  
????? [??], ??? ??? ?????? 11 ??? [????????????? ?????????? 282/2011], ? ??????????  
????????????? ??? ?????? ?? ?????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ???  
????????????? ?????? ?????? ?????????????? ?????????? ?????? ???, ??? ?????? ??? ?????? ???,  
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????????? ??? ?? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ??????;»

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27 ?? ?? ??? ?????? ?????????? ???, ?? ?????? ?????? ?? ?????????? ??? ??????, ?? ??????  
????????? ???, ???' ??????, ?? ?????????????? ?? ?? ?????? 44 ??? ?????? ??? ??? ??  
????? 11, ?????????? 1, ??? ?????????? ?????? 282/2011 ?????? ??? ?????? ???  
????????? ?????????? ?? ?????? ?????? ?????????? ?????? ?????? ?????? ?? ?????? ?????? ???  
????? ??? ?????? ??? ?????? ?????? ?????????? ? ?????? ?????? ??? ?????? ??? ?????? ???  
??? ?????????? ?????? ?????? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ???, ???'  
????????????? ???, ?????????? ?????????? ?????? ?????????? ?????? ?????? ??? ?????? ???  
????????????? ???, ?? ?????? ?????????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ???.

28 ?? ?????? 44 ??? ?????? ??? ??????, ??? ?????? ??????, ??? ? ?????? ??????  
????????? ?? ?????????? ??? ???, ? ?????? ?????? ??? ??? ?????? ???, ?????? ?  
????? ??? ?? ??? ?????? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.  
?????, ? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???, ??? ?? ??????  
????????? ?? ?????? ?????????? ??? ?????????? ??? ?????? ??? ? ?????? ?????? ??? ??  
????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???, ??  
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ???.

29 ??? ?????? ??? ?? ?????? ?????????? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??????  
????? ?????? ??? ?????? ?????????? ??????????, ?????????????? ??? ?? ?????????? ???, ??????  
????????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???, ?????? ???, ???  
????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ???, ?????? ??? ?  
????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ???  
??? ?????? ??? ?????? ??????, ?????? ?????? ?????? ?????? ?????? (?????? ???  
7?? ?????? 2020, Dong Yang Electronics, C?547/18, EU:C:2020:350, ?????? 26).

30 ??? ?????? ?? ?????? ?? ?????????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ??  
????? ?????? 44, ?????? ??????, ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? (?????? ??? 16??  
????????? 2014, Welmory, C?605/12, EU:C:2014:2298, ?????? 57).

31 ????? ?? ?????????? ??? ?????????? (??., ?????? ?????, ?????? ?? 16?? ??????????  
2014, Welmory, C?605/12, EU:C:2014:2298, ????? 58 ??? ??? ?????????????? ??????????,  
????? ??? ????? 65) ??? ??? ?? ????? 11 ??? ?????????????? ?????????? 282/2011, ??  
«????? ??????????» ?????? ??? ??????????????, ?????? ??? ????? ?? ??????????????  
????????????? ??? ?????????? ??? ?????? 10 ??? ?????????? ?????, ? ???  
????????????? ??? ?????? ????? ?????????????? ??? ?????? ?????? ?????? ?? ??????????????  
??? ?????????? ??? ??? ?????????? ?? ?????? ?????? ??? ?? ?????????????? ???  
????????? ??? ?????????? ??? ??? ?????? ?????? ??? ?? ????? ??????????.

32 ??????, ???' ????, ?? ?????????? ?? ?????? ?????????? ??? ?????????????? ???  
????????????? ????, ??? ?? ?????? ? ?????? ?????????????? ?????? ?? ?????????????? ???  
????? ?????? ?????????????? ??? ?? ?????? ?????????? ?????? ?? ?????????? ???  
????????? ????.

33 ??????, ?? ?????? ?????????? ?????????? ?? ?????? ?????????? ?? ?? ???  
????????? ??? ?????????? ??? ?? ?????? ?????? ?????? ?????? ??? ?????????? ??? ??????  
????????? ?? ?? ??? ?????? ?? ?????? ?????? ?? ?????? ?????? ?????????? ?????? ??????  
????? ?????? ?????????????? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ???  
????????? ?????? ???.

34 ??? ?????? ?????????? ??? ???????????, ??? ??? ?????????? ?????????? ??? ?????????? ???  
????? ?????? ?? ?????????? ??? ?? ?????? ?? ?????? ???, ??? ?? ?????? ?? ?????????? ???  
????? ?????????? ??? ?? ?????? ??? ?????????????? ?? ?? ?????? ??? ?????? ??????????  
????? [???. ?????? ??? 29?? ?????? 2021, X (????????? ?????? ?????? – Ne bis in  
idem), C?665/20 PPU, EU:C:2021:339, ??? 69 ??? ????? ?????????????? ??????????].

35 ??? ?????? ?? ?????? ??? ?????? 44 ??? ?????? ??? ??? ??? ?????? 11, ??????????  
1, ??? ?????????? 282/2011, ?????????????? ??? ?? ?????????? ??? ??????????  
????????????? ?? ?? ?????????? ??? ?????? ?????? ?????? ?? ?????? ??????????  
????? ?????????? ??? ?????????? ??????, ? ?????? ?????? ?????????????? ?? ?? ?????? ??????  
????. ??? ??? ?????????????? ??? ?????? ??????????????, ?? ?????? 11, ?????????? 1, ???  
????????????? ?????????? 282/2011 ?????? «????? ?????? ?????? ??????????» ???  
«????????? ?????? ?? ?????????? ??? ?????????? ?????? ??????»..

36 ??????, ??? ?????? ?????????? ?????????? ?? ?????? ?? «????? ??????????»  
????????? ??? ?????????? ???, ?? ??? ?????? ?? ?????? ??? ?????? ?????? ??? ??????????  
????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????????????? (????????? ???  
28?? ?????? 2007, Planzer Luxembourg, C?73/06, EU:C:2007:397, ??? 54 ??? ???  
????????????? ??????????).

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

38 ????? ?????? ?? ??????? ???????, ? ?????? ??????? ???????????, ?????  
????????? ?????? ?????? ???????, ??????????? ?????? ?????????????? ?????? ?? ???  
????? ?????, ?????????????? ??? ? ??????????? ??? ??????????? ??? ??????????  
????????????? ?????? ??????? ?????????? ?????? ??? ??? ??????? ??? ?????? ??????????  
???. ???????, ? ?????????? ??? ? ?????????? ?? «?????? ??????????» ??? ??????  
?? ??????? ?????? ??? ?? ?????? ??????? ??? ?????????????? ?????????? (??????? ???  
??? ?????? 2020, Dong Yang Electronics, C?547/18, EU:C:2020:350, ????? 31 ??? ???  
????????????? ??????????).

39 ???????, ??????? ?????? ?????? ??? ?????????? ??????? ?? ??????? ?? ???????  
?????????? ?? ??????? ??, ??????, ? ?????????? ?????? ?????? ?????????? ?? ??  
?????????? ?????????? ?? ??????? ?? ?????? ? ?????????? ?????? ?????????? 282/2011, ??  
?????????? ?? ?????? 11 ??? ?????????? ?????, ?? ?????? ?????? ?? ?????????? ?? ?????????? ??  
????? ?? ?????????? ?? ?????????? ?????????????? (?????? ?? 7?? ?????? 2020,  
Dong Yang Electronics, C?547/18, EU:C:2020:350, ????? 32).

40 ???????, ? ?????, ??? ?????? ??? ?????? ??????, ??????? ?????????????? ???  
?????? ?? ???? ?? ?????? ?? ??? ?????? ?????? ??? ?????? ?? ??????? ?????? ?? ?????? ??  
?? ?????? ?? ? ?????? ?????? ??????? ??? ?????? ??? (???. ?????? ?? 7??  
????? 2020, Dong Yang Electronics, C?547/18, EU:C:2020:350, ??? 33).

41    ?? ?? ???????, ? ??????? ??????????? ?????????? ?????? ?????? ?? ?????????????? ??  
????????? ??????? ??? ??????????????? ?????? ?????? ?????????????? ?????? ?? ???????????  
??? ?? ??????? ??? ??????????? ??? ?????????? ??????????????????. ?????????? ??? ???????????  
? ??????????? ??? ?? ??????? ?? ?????? ??? ??????? ?????? ?? ?????????? ?????? ?? ?? ??  
?????? ?? ??????? ??? ??????? ?????? ?? ?????????? ???????, ?? ??????? ???????????  
?? ??????? ???, ?? ??? ??????? ??????, ??????, ??????????, ??????? ?? ??? ??? ??  
?????? ?? ??????? ??? ?????? ?? ?????????????? ??? ?????????? ?????? ??? ??? ??? ??  
???? ?? ??? ??? ???, ??? ???????????, ?????? ?????????? ??????? ?????????? ? ??????????  
?? ??????? ??? ??????? ?????? ??? ??????? ??? ?????????? ??? ?????????? ?????? ??? ??? ??  
?? ??????????? ??? ?????? ???????.

42 ?? ??????????? ???. ?? ??????????????? ???. ?? ?? ??????? ???. ?? ?????? ??????????????? ???. ?? ???.  
44 ??? ??????? ???. ???. ???. ???. ???. 11, ??????????? 1, ??? ?????????????? ??????????? 282/2011,  
?????. ???. ???. ???. ???. ??????? ???. ??????????? ???. ??????????? ??????. ???????????????,  
??????????????, ??? ?? ?. 44 ??? ??????? ???. ??????? ???. ?????? ??????????? ???. ???. ???. ???. ???. ???.  
?????????? ???. ???. ??????? ??????????? ??????????? ???. ???????????, ??????, ???????????  
?????????? ???. ???. ??????? ???. ??????????? ???. ???. ?????? ??????????? ???. ???. ???????, ???.  
?????????? ???. (?????? ???. ???. 7?? ???. 2020, Dong Yang Electronics, C?547/18,  
EU:C:2020:350, ???. ???. 25 ???. ???. ??????????? ???. ??????????).

43 ???????, ?? ?????????? ????? ?????????? ??? ? ?????? ??? ?????????? ??? ??????  
??? ??? ?????? ?????? ?????? ?? ?????????? ? ?????????? ? ??????????, ??? ?? ???  
??? ??????, ??? ?? ?????????? ??? ?????? ? ?????????? (???. ?????????? ?? 8??  
????????? 2016, A ?? B, C?453/15, EU:C:2016:933, ??? 25, ??? ?? 13?? ?????? 2019,  
Srf konsulterna, C?647/17, EU:C:2019:195, ??? 29).

44      ??????????, ??????????? ?? ?????????? ? ?????????? ??????????? ??????? ??  
????????????? ?? ?????????? ?????????? ?? ?????????? ?? ?????????? ?????????? ??, ? ?????????? ??  
?????? ??????????, ??? ?????? 44 ??? ??????? ??, ???, ???, ??? ?? ?????????? ??  
?????????? ?? ?????????? ?? ?????? ?????? ?? ?????????????? ?? «?????? ??????????» ???  
?????????? ??, ??? ?????? ?? ?????? ?????? ?? ?????????? ?? ?????? ?????? ?? ?????????? ??

????? ???? ???? ?????????? ? ?? ??? ???? ?????? ??????????? (????? ??? 7?? ??? 2020,  
Dong Yang Electronics, C?547/18, EU:C:2020:350, ??? 27).

45 ?? ??????? ?????? ??? ? ?????? ??????? ?????????????? ??????????? ??? ?? ???????????  
?? ?? ?????????? ??? ?????????????? ????? ?????? ?????? ?? ?????? ?????????? ?? ?? ?? ?? ??  
?????????? ??? ?? ??? ?? ?????? ?????? ??? ?????? ?? ???????, ?????? ?? ???????????,  
??????, ?? ??? ?????????????? ?????? ?????? ??? ?????????? ??? ?????????? ?? ??????? ??  
?????? 11, ?????????? 1, ??? ?????????????? ?????????? 282/2011. ???????, ??? ??????  
????????? ??? ?? ?????????? ?? ?????????? ?????? ?????? ??? ?? ?????????? ??? ??????  
????????? ??? ?? ?????? ?? ?????????? ??? ?????? ??????????, ??? ?????? ??? ?????????? ??? ??????  
???? ???, ??? ?? ?????????? ?? ?????????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ???  
?? ???, ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?? ?????? ?? ??????????  
?????????? ?????? ???????.

46 ??? ?????? ??????????? ?????????????? ?? ?????????? ??, ??? ?????? ?????? ??? ??????  
?????, ? ?????????? ?????? ?????? ?????????? ?? ???????, ??? ?????? ??????????? ??  
????????? ????, ?? ?????? ?????? ????????????. ??????, ??????????? ?? ?? ????????????  
???? ?? ??????? ????, ?? ?????????? ?????? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ??  
????????? ?? ?? ?????? ??? ?????? ?????????? ?????? ??? ?? ??? ?????? ?????? [??.,  
????? ??????, ?????? ??? 6?? ?????????? 2021, A (????? ??? ?????? ?? ?????? ??? ?????? ??????),  
C?35/20, EU:C:2021:813, ??? 85].

47 ?? ??????????, ??? ?? ?????? ?????? ??? ?????????? ?????????? ??? ? ??????????  
?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? ???????, ???  
?? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??????????  
?????????, ??? ?? ?????? ??????????, ? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????  
????????? ?? ??????? ??? ??????, ?????????? ??? ?????? ?????? ?????? ?????????? ??????????,  
????????? ?????????????, ?????????? ??? ?????????? ??? ?????????????, ? ?????? ?????? ?? 2011, ???  
????????? ?? ?????????? ??? ?????? ??????. ?????? ??? ?????? ?????? ???, ? ??????????  
????????? ?????? ??? ?????? ??? ?????????? ?????????, ?????? ???, ?????????? ??????  
(????????? ??? ??????, ?????????? ??? ?????????? ??? ?????????), ??? ??????  
????????? ??? ?????? ??? ?????????????? ??? 200 ???????????, ?????? ??? ??????, ???,  
????????????? ??? 150 ?????????? ?????????????? ??? ??? ?????? ??? ?????????? ??? ??????????  
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????????? ??? ??????????  
?????????, ? ?????? ??? ??????, ???' ?????????????, ?????????? ?????????? ??? ??????????, ???  
??????????, ?????????? ??? ??????????.

48 ?????, ??????? ?? ?????? ??????, ?????? ??? ?? ?????? ??? ?????? ?????? ??????,  
????????? ??? ?????????? ??? ?????? ?????????? ?????? ??? ?????????? ??? ?????? ???  
?? ?? ?????? ??? ??????, ? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??????, ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????, ???  
????????, ?????? ?? ?????????? ???, ??? ?? ?????????? ?????????? ?????????? ??????????, ???  
???? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???,  
????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

49 ??? ??????, ?????? ?? ?????? ?? ?????????? ?? ?????????????? ??? ????? 31 ??? ??????  
????????? ??? ?????? ?????? ??? ?????? ?? ?? ?????????? ??? ?????? ??? ??????  
?????????, ??? ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????  
????????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ??? ???  
????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

50 ??????, ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????

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

51 ?? ???????????, ??? ?? ?????????? ?????????? ??? ??????? ?? ?????? ?????????? ???????????  
????????? ??? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ???????  
??? ?????????? ?????????????? ??? ?????? ?????? ?????????? ??? ?????????? ???????????, ??? ??????????, ???  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????????? ?????????? ???????  
??? ?????? ? ?????????? ???????.. ?? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ???????  
???? ?????????????? ??? ?????? ?????????????? ?????????? ??? ?????????? ??? ?????? ??????????  
???? ??? ?????????? ???????, ?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???????  
???? ?????? ??? ?? ?????? ?????? ??????. ? ?????????? ?????????? ??? ?????? ??? ?????????? ??????????  
???? ?????? ??? ?????? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ???????  
??? ??? ?????????? ??????? ?????? ?????? ?????? ???' ??????? ??? ?????????? ?????????? ???????.

52 ???????, ?????? ?? ?????? ??????? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ? ??????????  
??????? ??? ?????????? ??????? ??? ?? ?????? ??? ? ?????????? ?????? ??? ?????????? ???  
?????????. ?????????? ??? ?????????? ???????????, ?? ?????? ?????????? ??? ?????????? ???  
????????? ??? (??., ???' ???????, ??????? ??? 16?? ??????? 2014, Welmory, C?605/12,  
EU:C:2014:2298, ????? 64).

53 ?? ???????, ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? 31 ???  
????????? ???????, ? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ??????  
??????????? ??? ?????????? ??????? ?? ?????????? ??? ?????????? ??? ?????????? ??????? ??? ???  
??????????? ?? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??????? ??? ??? ???????  
??? ?? ??? ?????? ???????????, ??? ?? ??? ??? ?????????? ??? ?? ??? ?????? ??????? ??? ??????? ??  
?????.

54 ????, ??? ?? ??????? ??? ?????????? ?????????? ???, ??? ?????? ??? ??????? ??? ??????  
?????, ?? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??????????  
? ?????????? ??????? ??? ?????? ??? ?????, ??? ?? ?????????? ?????????? ??? ???????, ???  
????????????? ? ?????? ?????? ?????????? ?????????? ??? ?????????? ?????????? ??? ??????? ??? ????????  
????? ?????? ?? ?????? ??? ?????? ?????? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
?? ?????????? ???????, ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??????????  
????? ??? ??? ?????? ??? ??? ??? ?????? ??? ?????? ??????????.

55 ???????, ??? ?? ??????? ??????? ?????????? ??? ?? ?????????? ??? ?????? ??? ??????????  
????????? ?????????? ???????????, ??????? ?????????????, ?????????? ??? ?????????? ??? ??????????????  
????????????? ??? ?? ?????????? ???????, ? ?????? ?????????? ??? ?????? ?????????? ???  
????????? ?????? ??? ?? ?????????? ??? ?? ?????? ??? ?? ?????????? ??? ?????? ?????????? ???  
????? ?? ??? ?????? ?????????? ??? ?????????? ?????? ??? ?????? ?????????? ??? ??????????.

56 ??? ?? ?????????? ??? ?????????? ?????? ???, ?????? ??? ?????????? ???  
????????? ?????????? ?? ???????????, ? ?????????? ?????? ??? ?????????? ??? ?????????? ??????  
????????????? ??? ???????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
??? ?? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?? ???  
????????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ???  
????????? ?????????? ??? ?????? ??????.

57 ?????????????? ?????? ??? ??????? ??? ??????? ????????, ??? ??? ??????????????  
?????????? ?????? ?? ????? ? ??????? ??? ?? ????? 44 ??? ??????? ??? ??? ?? ????? 11,  
?????????? 1, ??? ?????????????? ??????????? 282/2011 ?????? ??? ?????? ??? ?????? ?????  
?????????? ?? ?????? ??? ?????? ??? ??????? ?????? ??????????? ?? ??? ?????? ?????? ?????  
????? ??? ??? ??? ?????? ?????? ?????????? ? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????????  
??? ?????????? ?????? ?????? ?????????? ?? ??? ?????? ??? ?????? ??? ?????????? ??  
??????????????, ?????????? ?????????, ?????????, ?????????? ??? ?????????? ??  
????? ?????????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????????? ???.

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

58 ?????????? ??? ? ??????? ??????????? ??? ?? ??? ?????? ??? ?????? ?????????? ??? ?????? ??????  
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????????? ???????????, ?' ????  
?????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ?????? ??? ?????? ???????????  
???? ??????? ?????????? ??? ?????????? ??? ?????? ??? ?? ??? ???????, ??? ??????????.  
??? ??? ?????? ??????, ?? ?????????? (????? ????) ??????????:

? ???? 44 ?? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006,  
?????? ?? ?? ?????? ?????? ?????? ?????? ?????????????? ?????, ??? ??????????????? ??  
??? ?????? 2008/8/?? ??? ??????????, ??? 12?? ?????????? 2008, ??? ?? ??? 11  
??? ?????????? ?????? (??) 282/2011 ??? ????????, ??? 15?? ?????? 2011,  
??? ?? ?????? ?????? ?????? ?????? ??? ?????? 2006/112, ?????? ??? ?????? ???  
????????? ?????????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ?? ?????  
????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??? ??????  
??? ??????, ???' ???????????????, ?????????? ?????????? ??? ?????????? ???  
????????? ??? ???????????, ?? ?????? ?????????? ?? ?????? ??? ?????? ?????? ????  
????? ??? ??????? ???.

(?????????)

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