

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

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

??? 8?? ??????????? 2022 (*)

«????????????? ?????????? – ????? ?????????????? ????? (???) – ?????? 2006/112/?? – ?????? 2, ?????????? 1, ??? 9, ?????????? 1, ??? 167 ??? ???? 168, ?????????? ?? – ?????? ??? ?????? ????? – ?????? “????????????? ??? ?????” – ?????? ?????????????? – ?????? ?????????????? ?? ?????? ??? ?????? ??? ?????? ?????? – ?? ?????????????? ??? ?????? ??? ?????? ????? – ?????????????? ??? ?????? ?????? ?? ?????? ?????? ??? ?????? ??? ??????»

???? ??????? C98/21,

?? ??????????? ?????? ?????????????? ?????????? ??? ?????? 267 ????, ??? ?????? ?? Bundesfinanzhof (????????????? ?????????? ??????????, ?????????) ?? ??????? ??? 23?? ??????????? 2020, ? ?????? ?????????? ??? ?????????? ??? 15 ??????????? 2021, ??? ?????? ??? ???

Finanzamt R

????

W GmbH,

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

????????? ??? ??? J. Passer, ??????? ???????, A. Prechal (??????????), ??????? ??? ??????? ???????, ??? N. Wahl, ???????,

????????? ??????????: G. Pitruzzella

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

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

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

– ? W GmbH, ?????????????? ??? ??? M. Dietrich ??? N. Penner, Rechtsanwälte,

– ? ?????????? ???????, ?????????????? ??? ??? J. Möller ??? P.?L. Krüger,

– ? ?????????? ???????, ?????????????? ??? ??? R. Pethke ??? V. Uher,

???? ?????? ??? ?????? ?????????? ??? ??????? ??? ?????????? ??? ?????? ?? ?????? ?? ??????? ??? 3?? ??????? 2022,

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

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1 ? ?????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? 167 ??? ???.
?????? 168, ??????? ??, ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ??????????
2006, ??????? ?? ?? ????? ?????? ????? ?????????????? ????? (?? 2006, L 347, ?. 1, ???
????: ?????? ???).

2 ? ?????? ????? ?????????? ??? ?????? ?????????? ?????? ??? Finanzamt R
(??????????? ??? R, ???????) ??? ??? W GmbH ?????? ?? ??? ?????? ??????????
??? W GmbH ?????? ??? ????? ?????????? ????? (???) ??? ??? ??????, ? ??????
????????? ??? ?????? ?????? ?????? ??? ?????? ?? ??? ????? ?????? ??????, ?? ??????
????????? ??????, ?????????? ??? ?????? ?????????? ???, ?? ?????? ?????? ??? ?? ??????
?????????, ?????????????? ?? ?????? ?????? ??? ??? ???.

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

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

3 ?? ?????? 2, ?????????? 1, ??? ?????? ??? ?????????? ?? ????:

«????? ??? ?????????? ?? ?????????? ??????»:

[...]

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

[...]».

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

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

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

5 ?? ?????? 167 ??? ?? ????? ?????? ?????? ?? ????:

«?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ? ??? ?????? ?????? ???
?????? ??????..»

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

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

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

[...]».

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

7 ?? ??? 2 ??? Umsatzsteuergesetz (????? ??? ?????? ?????? ?????? ??????), ??? 21??
????????? 2005 (BGBl. 2005 I, ? 386), ??? ?????? ??? ?? ??? ?????? ??? ?? ???????????
????????? ??? ?????? ??? ?? ?????? (??? ????: UStG), ?????? ?? ???:

«(1) ??? ?????????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??????????????
?????????????. ? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ??????????????
????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????????????? ??? ??????
????????? ??? ?????? ?????????? ??? ?????? ?????? ??????, ??? ?????? ??? ?? ??????????
????????? ?????????? ???, ??? ?????? ?????? ?????? ??????, ??? ?????? ??? ?? ??? ??????
????????? ?????????? ??? ?????? ?????? ??? ?????? ??????, ??? ?????? ??? ?? ??? ?? ???
????? ?????????? ??? ?????? ?????? ??? ?????? ???.

(2) ? ?????????? ? ?????????????? ?????????????? ??? ?????????? ??? ?????? ?????? ??????????:

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

2. ??? ?? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?? ??? ?? ???
????? ??? ?????? ??????????, ??? ?????????? ???, ?????????? ??? ?????????? ??? ??????, ???
????????? ??? ?????? ?????????? (????? ?????????? ???). ? ?????? ??????????
????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
??? ?????????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????. ??
????????????? ??? ?????? ?????? ??? ?????? ?? ?????????????? ??? ?????? ??????????. [...]»

8 ?? ??? 15 ??? UStG, ?? ??? ?????? «????? ??? ?? ?????? ??? ?? ??? ?? ??????»,
????? ??? ?? ?????? 1 ?? ??????:

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

1. ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???????????. [...]»

9 ?? ??? 42 ??? Abgabenordnung (????????? ??? ?????????? ???) ?????? ?? ???:

«(1) ??? ?????????? ? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?? ???
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???, ?? ??????
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? 2, ? ?????? ?????????? ?? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????.

(2) ? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

????? ??? ?????????????? ??? ??????? ??? ?????????????? ??????????????, ?? ?????? ??????
?? ?????? ??? ?? ?????? ?? ?????? ?????? ????.»

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

10 ? W ????? ?????? ? ????? ?????????????? ????? ?????? ??? ?????, ???
????????????? ??? ?? ?????????????? ?????? ??? ?????? ?????? ??? ?????????????,
??? ?????????????? ??? ?? ?????????? ?????????????? ???.

11 ??? ?? ??? 2013, ? W ?????????? ??? ?????? ??? ?????? X GmbH & Co. KG ???
Y GmbH & Co. KG, ??? ?????? ??? ?????????????? ??? ?????? ?????? ?????? ??? ???
????? ??????????, ?? ?????? ?????????????? ?? ?????? ?????? ??? ?? ???.

12 ??????????, ??? ?? ?????? ???, ? W ?????? ?? 94 % ??? ?????? ??? X, ??? ??
????? 6 % ??? Z KG.

13 ?? ??? ??? 31?? ?????????? 2013 ?????????????? ?????? ??? ?????????? ?????????? ???
X, ? Z ??? ? W ?????????? ?? ?????????? ?????? ??? ?????? ??? X. ? ?????? ???
?????????, ??? ?? Z, ??? ?????? ?????? 600 000 ???, ??? ?????? ?? W, ???
?????, ???' ?????????? ???, ??? ?????? ?????? 9,4
????????????? ???, ??? ?????? ?????????????, ?????????????? ?????????? ??? ??????????
????????? ?? ?????????? ??????, ?????????? ?????????? ??? ??????????, ??????????
????????? ??? ??????, ?????? ??? ?????????? ??? ?????????? ?????????? ??? ??????????
??? ??????, ??? ??? ?????? ??? ?? ?????????? ?? . ? W ?????? ??? ?????????? ???
?? ?????? ?? ?????? ??? ?????????? ??? ?? ?????? ?? ??? ?????????? ?????? ???
????????? ??? ?????? ??????????.

14 ?? ??? ?????? ??? ?????? ???, ?????????? ??? W ??? X, ?????????? ??? ?
W ?? ?????? ???, ?????? ??????, ?????????? ??? ?????????????? ??? ??????????
????????? ?? ??? ?????????? ??? ??? ?????????? ??? ?????????????? ??? ?????????????? ???.
?? ?????????? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???,
????? ??????, ??? ?????????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ???
????? ??? ?????? ??? ?????????? ????. ?????????? ?? ?????????? ??? ?????? ??? ??????????
W ?? ?????? ???.

15 ??????, ?? 2013 ? W ?????? ?? 89,64 % ??? ?????? ??? Y, ??? ?? ??????
????? ?????? ??? P I GmbH.

16 ?? ??? ??? 10?? ?????? 2013 ?????????????? ?????? ??? ?????????? ?????????? ??? ?,
????????? ??? ? P I ??? ? W ?? ?????????? ?? ?????? ??? ?????? ??? Y. ? ?????? ???
P I ?????? ??? ???? ?????? ?????? 3,5 ?????????? ???, ? ?? ?????? ??? W
????????? ??? ?????? ?????? ??? ?????? ?? ?????? ??? ?????????? ??? X
?? ?????????? ??? ?????? 13 ?? ?????? ???, ??? ?????? ?????? 30,29 ??????????
????, ?? ?????? ?? ??? ?????? ??? ?????? ????. ? W ?????? ??? ?????? ???
????? ?? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??????????.

17 ?? ??? ?????? ??? ?????? ???, ? W ??? ? Y ?????????? ???, ??? ?????? ???
????? ?????????? ??? ?????? ???, ? W ?? ?????? ??? ?, ?????? ???,
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
X ??? ?????????? ??? 14 ??? ?????? ???.

18 ????? ?????????????? ?????????? ??? ??? ?? ??? 2013, ? W ???????? ?? ??????? ??? ???
???? ??????? ??? ?? ??????? ??? ?? ??????? ?????? ??????. ? ?????????? ?????????? ??? ??
?????? ??? ?? ??????? ??????? ??? W ??? X ??? Y ?????? ?? ?????????????? ?? ??
????????? ??? ?? ?????????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????????? ???
??? ?????????????? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ?? ???, ?? ?? ??????,
??? ?????????? ?? ?????????????? ??? ?? ?????? ??? ?? ?????????? ??? ?? W. ???????, ?? ???
??? ??? ??? ??? ?????? ??? ?????????? ?? ?????? ??? ?? ?????? ??? ?? ?????????????? ??? ??
????????? ?? ???????.

19 ? W, ??????? ???. ??????????? ???. ?????????????? ???. ?????????????? ???. ?????????? ???. ??? ???? ?
?????? ??????? ???. ??? ?, ?????? ?????? ??????? ???. Niedersächsisches Finanzgericht
(?????????? ???. ??????????? ???. ?????? ???????, ???????), ?? ?. ??????, ?? ?. ??????? ???. 19??
????????? 2018, ???. ?????? ??????. ????? ???. ?????????????? ???. ? ??????? ??????????? ???.
????????????? ???. ?????????? ???. ?? W ???. ? ???. ????? Y ?????????? ???. ? ??????
????????? ???. ?????????? ???. ?????????? ???. ?????? ?????? ???. ??????. ?????????????? ???. ???. ???.
????? ?????????? ???. ?????????? ???. ?????????? ???. ?????????????? ???. ??????????, ? ??????? ????????
????????? ???. ?????????? ???. ?????????? ???. ?????? ?????? ???. ?????? ???. ?????? ???. ??????????
????????? ???. ?????????? ???. ?????????? ???. ?????? ?????? ???. ?????????????? ???. ???. ???????????. ?
????????? ???. ?????????? ???. ???. ???. ?????????? ???. ??????????, ???. ???. ???. ???. ???. ???. ???. ???.
????? ???. ?????????????? ???. ???. ???. ?????????? ???. ?????????? ???. ???. ?????????????? ???.
????????? ?????????????? ???. ???. ?????????? ???. ?????? ?????????? ???. ?????? ???. ??????????
????????????? ???. ???. ?????????? ???. ???????????????. ???. ??????????, ???. ???. ?????? ??????????
????? ???. ???. ? W ???. ???. ???. ?????? ???. ?????? ???. ?????? ?????? ???. ?????? ???. ??????????
???. ?????????? ???. ???. ?????? ?????? ???. X ???. Y ???. ?????? ???. ??????. ???????,
????????? ???. ???. ???. ?????? ?????? ???. ?????????? ???. ???. ???. ?????? ???. ?????? ??????????
????? ???. ?????????????? ???. ?????????? ???. ???. ?????? ???. ?????? ???. ??????????

20 ? ?????????? ??? R ?????? ?????? (Revision) ??? ?? ??????? ????
?????? ?? Bundesfinanzhof (????????????? ?????? ?????????? ??????????, ??????),
?????????????, ??? ?? ??????, ??? ?? ?????????? ??????????, ??? ?? ?????? ?? ?????????? ??
?? ?????? ?????? ??? ?????? ?? ??????????, ?? ?????? ?????? ?? ?????????? ?? ?????? ??
????????????? ?? ?????? ?????? ?????????? ?? ?????????? ?????? ??????, ??
?????????, ?? ?????? ??????????????, ?? ?????????? ?????????? ??????., ??????,
????????? ?? ?? ?????? ?? ?????????? ?? ?????????? ? W ?????? ?? ?????? ??
????????? ?? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ??.

21 ?????????? ???. ?????????? ???. ??????????????, ?? Bundesfinanzhof (?????????????)
?????????? ???. ??????????) ?????????? ???. ? W ??? ?????????? ???. ???. X ??? ???. Y ????.
????????? ???. ???. ???. ???. ???. ???. 2. ?????????? 2. ???. UStG.

22 ????????, ?? ?????? ??????????? ?????? ???, ?????? ? W ??????? ????? ???????????
???, ?????? ???????, ??????????? ??? ?????????????? ?????????? ???, ?? ?? ?????,
?????????? ?? ???? ?????????? ??? ?????????? ???, ????????, ??? ???? ?????????? ??? ??
????????? ???????????, ?? ?????, ???' ????, ?????? ?????????? ??? ?????? ??? ?????? ??? ???????
??? ??? ?????????? ?????????? . ?????????? ?????? ??? ??? ???? ?????????? ??? ??
?????????? ?????????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ??? ??
?????????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ???
????? ??? ???? ? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ???????,
????? ?? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ???????,
?? ??????, ???????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

23 ??????????, ?? ?????? ?????????? ?????????? ??? ???? ? W ?????????? ? ?? ??
?????? ?? ? ?? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
?? ??????? ?? ?? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?? ?????? ?? ??, ??
????????? ?? ?? ?? ?????? ?????? ?????? ?? ?????? ?????? ?? ?????? ?? ?? ?? ?? ??
????????????? ?????? ??????.

24 ???????, ?? ?????? ??????????? ??????????? ??????????? ??????????? ?????? ?? ???????
????????? ?? ?????? W ?????? ??? X ??? Y ?? ?????? ?????? ?????????? ?????? ?? ??????????
??? ?????????? ?? W ??? ?? ?????? ?????? ?????? ?????????????? ?????????????? ??? ?? ?
?? ??????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???, ??? ?????? ???
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????????? ?????????? ?? ?
????????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???, ?? ?????? ?????? ??? ?? ?
??? 8?? ??????? 2018, C&D Foods Acquisition (C?502/17, EU:C:2018:888, ?????? 37 ??.),
??? ?? ?????? ?? ?????? ?????????? ?????? ???, ??? ?? ?????? ?????? ??? ?? ?
????????? ?? ?????????? ?? ?????? ?????? ?????? ??????????, ? ?????????? ?????? ??????????
????????? ?? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ??? ?????? ?? ?????????? ?? ?
??? ?????? ?????? ?? ? ?? ??? ?????? ?????? ?? ?????? ??? ??????, ?????? ?? ??????????
????????? ?? ?????? ?????? ?????? ??????. ???????, ??????? ?????? ??? ?????? ?? ??????
????????? ?? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ?????????? ??????????
????????? ?? ?????? ?????? ?????? ???????????, ?? ?????? ?????? ??? ?????? ?? ?????????? ?? ?
????? ?? ?????? ?????? ??? W ??? ?? ?????? ?? ?????? ?????? ?????????? ?????????? ??? ?? ?
????????? ?????? ?????? ??? ?????? ??? 14?? ?????????? 2017, Iberdrola
Inmobiliaria Real Estate Investments (C?132/16, EU:C:2017:683), ??? 3?? ?????? 2019, The
Chancellor, Masters and Scholars of the University of Cambridge (C?316/18, EU:C:2019:559), ???
??? 1?? ?????? 2020, Vos Aannemingen (C?405/19, EU:C:2020:785). ??????? ??
????????? ?? ?? ?????? ?????? ?????????? ?? ?????? ?????? ?????? ?? ??????????
????????? ??, ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?? ?
????????? ?? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?? ?
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?
????????? ?? ?????? ?????? ??? ?? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?? ?
????????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?
????????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?
????????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?

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

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

26 ??? ??? ????????, ?? Bundesfinanzhof (????????????? ?????????? ??????????)
????????? ?? ?????????? ??? ??????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??
???? ?????????? ??? ???????:

«1) ??? ?? ????? 168, ????????, [??? ???????] ?? ?????????? ?? ?? ?????? 167 [???
?? ??? ?????], ??? ?????????? ??? ????? ?? ?????????? ??? ?????, ??? ??????
??? ?????????? ??? ?????? ?????????? ?????????? ??? ?????????? ?????????? ??????
?????? ??? ?????? ?????????? ?????????? ?? ??????? ??? ??? ?????? ?????? ??? ??
?????? ??? ?????? ?????????? ??? ??????? ??? ?????? ???, ??????? ?? ??????? ?????????? ??? ??
?????? ??? ?????? ?????? ?? ??? ??????? ??? ?????????? ?????????? ??? ??
????????????? ??? ??? ?????? ?????????? ??? ?? ??? (?? ?????? ???) ??????????????
????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? (????????????? ???
??? ?????????? ???) ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????????? ??? ??????;»

2) ?? ?????????? ?????????? ??? ??????? ??? ?????? ??????: ??????? ??????????
???????????, ??? ?? ?????? ??? ?????????? ??? ?????????? [...] , ?? ??????? ???
???????????, ?????????? ?????????? “?????????????” ??? ?????? ?????????? ??? ??
???????????, ?????????? ? ??? ?? ?????? ??? ?????? ??? ?? ?????? ?? ?????????? –???
??????????, ??? ?????????? ??? – ?? ?????????? ??? ?????? ??? ?? ?????? ??? ??
??????????, ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ???, ? ?????? ?? ?? ??
??????????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???;

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

27 ??? ?????? ??? ?????????? ??? ??????? ??? ??????? ???????????, ? W, ?? ??????????
??? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ??? 12 ??????? 2022, ?????? ??
????????? ?????????? ?????????? ???' ??????? ??? ?????? 83 ??? ??????????
????????? ??? ?????????? . ?????????? ??? ? ??????? ?????????? ?????????? ???
??? ??????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???' ?????????? ??? ??
????? ??????.

28 ??? ?????? ??? ?????????? ??? ?????? ? W ???????????, ???' ??????, ??? ? ??????
????????? ??? ?????????? ???, ?????????? ?? ??? ?????? 39 ??? 43 ??? 55 ??? 62, ???
????? ??? ??? ?????????? ?????? ?? ??? ?????? ??? ?????? ?? ?????????? ??? ?? ??????????
????????? ?? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?? ?????????? ???
????????? ?? ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?? W ?? ?????????? ??' ?????????? ??? ??????????.

29 ?????????????? ??' ?????? ???, ??????? ??? ?????? 252, ??????? ??????, ???, ?
?????? ?????????? ?????????? ???, ?? ?????? ?????????? ??? ?????????? ???
????????????? ??? ?????????? ??? ??? ?????????? ?? ??????, ??????? ?? ??? ?????????? ???

????????????? ??? ?????????? ??????, ??????? ??? ?????????? ????. ?? ?????????? ???
????????? ??? ???? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??????????
????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????????? (????????? ??? 22?? ??????????
2018, MEO – Serviços de Comunicações e Multimédia, C?295/17, EU:C:2018:942, ?????? 25
??? ??? ?????????????? ??????????).

30 ?????? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ??? ???? ?????????? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ???
????? ?? ?????????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
(????????? ??? 25?? ?????????? 2017, Polbud – Wykonawstwo, C?106/16, EU:C:2017:804, ??????
23 ??? ??? ?????????? ?????????? ?????????). ???????, ? ?????????? ?????????? ??? ???
????????????? ?? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?? ?????? ??
????????? ??? ?????????? ? ?????? ?????????? ??? ?????????? ??? ?????? ???, ??? ??????
????????? ??? ??? ?????????? ??? ?????????? ?????????? ?????????? (????????? ??? 25??
????????? 2017, Polbud – Wykonawstwo, C?106/16, EU:C:2017:804, ????? 24, ??? ??? 29??
????????? 2017, King, C?214/16, EU:C:2017:914, ????? 27 ??? ??? ??????????????
?????????).

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

32 ???????, ??? ?? ????? 83 ??? ?????????? ???????????, ?? ?????????? ???
??????????, ??? ?????? ??? ?????? ?????? ???????????, ?? ?????????? ??? ?????????? ???
?????????? ???????????, ??? ?? ?????? ??? ?????? ??? ??? ?????? ?????????? ???????, ? ???
??????????, ??? ?? ??? ?????? ?????????? ?????, ?????????? ??? ?????????? ??? ??????????
?????????? ?? ??????? ?????????? ?????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ???
????, ??? ?????? ??? ???????, ?? ?????????? ?????????? ??? ?????????? ??? ??????????
??? ??? ?????? ??? ???????, ??? ?????????? ?????????? ??? ?????????? ??? ??????????
????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? 23 ???
????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??????????.

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

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

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

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

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

36 ?? ?? ??? ?????? ?????????? ????, ?? ?????? ?????????? ???' ?????? ??
????????????? ?? ?? ??? 168, ??????? ??, ??? ?????? ???, ?? ?????????? ???, ?? ?????????? ??
167 ??? ?????? ????, ??? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,

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

37 ?????????? ?? ?????? ?????????? ??? ?????? ?????? ???, ?????? ?? ?????????? ???, ???
????? ?????????? ??? ?????????? ???, ?? ?????? ?????? ??? ???, ??? ?????????? ??? ???
????? 167 ?. ??? ?????? ???, ?????? ?????? ??? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ???
??? ??????, ???' ????, ?? ???????????. ?? ?????? ?????? ??? ?????? ?????? ??? ??? ????
??? ?????? ??? ?????? ?????????? ??? ?????? ?????? (????????? ??? 5?? ?????? 2018,
Marle Participations, C?320/17, EU:C:2018:537, ??? 24 ??? ??? ?????????? ??????).

38 ?????? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ?????? ? ?????????????? ???
??? ??? ?????????? ??? ??? ??? ?????????? ? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????????? ????. ?? ?????? ?????? ??? ?????????? ??? ??????, ???
????????? ??? ?? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (????????? ??? 5?? ?????? 2018, Marle
Participations, C?320/17, EU:C:2018:537, ??? 25 ??? ??? ?????????? ??????).

39 ????????, ??? ?? ?????? 168, ????????, ??? ?????? ??? ?????? ??? ?????? ???, ??? ??
????? ?????? ? ?????? ??? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ???
??????????. ????, ? ?????????? ??? ?????? ?? ?????? «????????? ??? ???» ???
??? ?????? ??? ?????? ????. ??????, ?? ?????? ?? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ??? ?????????? ??? ??? ??? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??? ???, ??
??????? ??????, ?? ?? ??? ??? ?????? ?? ?? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ???
????? ?????????? ??? ??? (????. ??????? ??? 3?? ?????? 2019, The Chancellor, Masters
and Scholars of the University of Cambridge, C?316/18, EU:C:2019:559, ??? 23 ??? ???
????????? ??????).

40 ??? ?????? ??? ?????? ??????????, ??? ?? ?????? 9 ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????????? ???, ??? ?????? ??? ?????? ??? ??? ??
????????? ???, ?????????? ??? ?????? ?????????? ???, ?????????? ??? ??? ??? ?????? ??? ??? ??
?? ?????????? ??? ?????? ?????? ????. ?? ?? ??? ?????? 9 ??? ?????? ??? ??? ??
??? ? ?????? ??? «????????? ??? ?????? ???» ?????? ??? ?????? ??? ?????? ???
?????????, ??? ?????? ??? ?????? ??? ?????? ???, ??????????, ??? ?????? ???
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ???.

41 ??? ?????? ????????, ??? ? ?????? ??? ? ?????? ?????? ?????? ??? ?????? ???
??? ????????, ??? ?????? ????????, ??? ?????? ?????? ?????????? ??? ??? ??? ?????? ??? ??????
??? ??? ??? ????????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? 9 ??? ?????? ???, ??? ?????? ???, ?????? ??? ?????? ??? (????).

?????????? ?? 17?? ???????? 2018, Ryanair, C?249/17, EU:C:2018:834, ??? 16, ??? ??
8?? ???????? 2018, C&D Foods Acquisition, C?502/17, EU:C:2018:888, ??? 30).

42 ??? ??????? ?? ??? ?? ?????? ?????????? ??????????????????, ??? ?????????? ?
????????? ?????????????? ??? ?????? ? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????? ??? ?????????? ??????????. ????????, ??? ?????? ??????????, ??? ?????? ?????????? ???
????????? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ?????? ?????????? ?????????? ??????????????, ??? ??? ?????? ??? ?????? ??? ?????? 9,
????????? 1, ??? ?????? ???, ?????? ?????????? ?? ?????????? ??? ?????????? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? 2 ??? ?????? ????. ?? ?????????? ??????????????
????? ??? ? ?????? ??? «????????? ?????? ?????????????? ??? ?????????? ??? ?????????? ???
????????? ???» ?????? ?? ?????? ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ??????????
????????? ??????????????, ??? ??? ?????? ???, ??? ?? ?????? ?????????????? ??? ??? ???
????????? ?????????????? ??? ?????? ??? ?????????? ???, ?????? ??? ??????
????????? ??????????????, ??? ?????? ??? ??????????, ??????????????, ??????????????, ?????????? ???
????????? ?????????? (???. ?????????? ?? 16?? ??????? 2015, Larentia + Minerva ???
Marenave Schiffahrt, C?108/14 ??? C?109/14, EU:C:2015:496, ?????? 20 ??? 21 ??? ???
????????????? ??????????, ??? ??? 5?? ?????? 2018, Marle Participations, C?320/17,
EU:C:2018:537, ?????? 31 ??? 32). ?? ?? ??????, ??? ??? ?????????? ??' ??????
?????????, ?? ?????? ?????????? ?? ??? ??? ?????????? ??? ?????? ???, ?? ??????
????????? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?????? ?????????? ??? ?????? ??? ?????? (???. ??????? ?? 12?? ??????????
2020, Sonaecom, C?42/19, EU:C:2020:913, ?????? 32 ??? ????? ?????????????? ??????????).

43 ?? ??????????, ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?? ??????????
????????? ??? ? ?????????????? ??? W ??? ?????????? ??? ?????? ??? ?? ??????
????????? ?????? ??? X ??? Y, ??? ? W ?????? ??? ?????? ??? ?????????? ???, ????
??????, ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????????? ???, ????
????????? ??? ?????? ??? ?????? ??? ?????? ????. ??? ?????? ???, ? W ?????? ??
????????????? ?? ?????????? ??? ?????? ???, ??? ?? ?????? 9, ?????????? 1, ??? ?????? ???,
????? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????? 39 ???
????????? ?????? ??? ?????????? ?? ??? ?????? ???.

44 ??? ?????? ?? ?????? ??? ?????? ??? ?????? ?????????? ???, ??? ?? ?????? ??? ?????? 168
?? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ???.

45 ??????, ?? ?????????? ??? ?????? ?????????? ???, ?????????? ?? ?????????????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???' ????
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.
????????? ??? ?????? ??? ?????????????? ??? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
?? ?????? ??? ?????????????? ??? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ?????? (???. ??????? ?? 12?? ??????? 2020, Sonaecom, C?42/19,
EU:C:2020:913, ??? 41 ??? ??? ?????????? ???).

46 ?????, ?????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????????? ???
????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???

47 ?? ?????????? ?? ??????????????, ?????????????? ?? ??????? ?? ?????? ? ?? ???????????
????????? ?? ?????????????? ?????????????? ?????? ??? ?????? ?????????????? ?????????? ?????? ?
????? ??? ?????? ?? ?????? ? ?? ?????????? ??? ? ?????????? ?????? ??? ?????? ?????? ?????? ???
????????? ?? ?????????? ?????????????? ??? (????. ??????? ??? 3?? ??????? 2019, The
Chancellor, Masters and Scholars of the University of Cambridge, C?316/18, EU:C:2019:559,
????? 27 ??? ??? ?????????????? ??????????).

49 ?? ??????????? ???. ??????? ???. ?????????????? ???. ? ???. ?????? ???. ?????? ???.
?????? ???. ?????? ???. ?????????????? ???. ?????? ???. ?????????????? ???. ?????? ???.
?????????, ???. ?????? ???. ?????????????? ???. ?????? ???. ?????????????? ???. ?????? ???.
????????? ???. ?????? ???. ?????????????? ???. ?????? ???. ?????????????? ???. ?????? ???.
????????? ???. ?????? ???. ?????????????? ???. ?????? ???. ?????????????? ???. ?????? ???.
????????? ???. ???. ?????????????? ???. ?????? ???. ?????? ???. ?????? ???. (????).
?????? ???. 17?? ?????????? 2018, Ryanair, C?249/17, EU:C:2018:834, ????. 28 ???. ???.
????????? ???. ??????????). ???. ???. ?????? ???. ???. ?????? ???. ???. ?????? ???. ???.
????? ???. ?????????? ???. ???. ?????? ???. ???. ?????? ???. ???. ?????? ???. ???.
????? (????.. ??????? ???. 12?? ?????????? 2020, Sonaecom, C?42/19, EU:C:2020:913, ????.
66) ???. ? ???. ?????????? ???. ???. ?????? ???. ???????, ? ???. ?????? ???. ???.
????????? ???. ?????????? ???. ?????????????? ???. ?????????????? (???????. ???. 8???.
2018, C&D Foods Acquisition, C?502/17, EU:C:2018:888, ????. 37 ???. ???. ???????????????.
?????????).

50 ?? ???????????, ??? ?? ?????????? ??? ??? ?? ??????? ?? ? ? ??????????
????????? ?? ? W ??????? ??????? ??????? ?? ??????? ???????, ???????
?????????? ?? ?? ??????????, ??????? ?????????? ?? ??????? ?? ???????, ??????? ??
????????? ??????? ???????, ?????????? ?? ???????, ?????????? ?? ??????? ??
?? ?????????? ?? ?? ??? ?? ??? ?? ??????? ?? ??????? ?? ??????? ??.

51 ?????????? ? W ?? ??????? ?? ??????? ??? ??? ?? ??????? ??? ??? ??????? ??? ??? ??????? ???
??? ??????? ????, ???????????, ??????? ?? ?? ??????? ??? ?????????? ??? ?????????? ???
?????? 45 ??? 46 ??? ??????? ???????, ??? ?????? ?????????? ?? ?????????? ???
??? ?? ?? ??? ?????? ??????? ??? ?????? ??? ?????? ??? ?????? ?? ?? ??????? ???
?????? ??? ?????? ??? ??????? ??????? ??? ?????? ??? ?????? ??? ?????????? ???
?????? ??? ?????? ??? ??????? ???, ???????, ??????? ??????? ??? ?????? ???
?????? ? ??? ??????? ??? ??????.

52 ????? ?????? ??? ??????? ?????????? ??? ?????? ?????? ?????? ?? ??? ?????????? ?????? ??? W,
?????? ?? ?????????? ??? ?? ?????????? ?????? ??? ?????????????? ??? ?????? 50 ???
????????? ???????? ??? ?????????????????? ??? ?? W ??? ?? ?????? ? ??? ?? ?????????? ??
????? ??? ?????????? ??? ?????????????? ?????? ?????????? ???, ?? ?????? ?????????? ?????? ???
????????? ??? ??? ?????? ??? ??????????, ??? ?????? ??????, ??? ?????????? ??????
????????????? ??? ?????????????? ?????? ??? ??? ?????? ?????? ??? ?????????? ??????

? ????????, ?? ??????? ???? ?????? ??????????? ? W ??? ?? ?????? ??? ?????????? ??? ??????? ????
??? ??????? ?? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ??????
????????????????? ?? ?????? ?????????? ??? ??? ?????? ?????????? ?????????? ??????????.

53 ??? ?????? ?? ?????? ?? ??????? ?? ?? ?????????? ??? ?????????? ? W ?? ???????, ?? ??????
????????????? ??? ?????? 50 ??? ??????? ???????, ?????????? ?????? ??? ??????? ?????????? ??????
??? W, ?? ?????????? ?? ?????? ??????? ??????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ??????
??? ??????? ???, ?? ?? ??????, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ???
????????????? ??? ?????????????? , ?????? ?? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ???
????????? ?????????? ??? ?????????? ??? W ?? ??????? ??? ?????? ??? ?????????? ??? X ??? Y.
???? ??????? ??? ? ??????? ?????????? ??? ?????? 58 ??? ??????? ???, ???
????????? ??? ??????? ?????????? ??? ??? ?????????? ?????? ?? W, ??? ??
????????? ??? ?????????? ?? ?????? ?? ?????????? ??? ?????? ??? W ?? ??????? ???
?????????. ??? ?????? ?????? ?????? ?????????? ?????????????? ??? ??? ?????????? ???, ???
?? ?????? ??? ?? ?????, ?????? ??? ?????? ?????? ?????? ?????? ???, ???
????????? ??? ????? 41 ??? ??????? ???????, ??? ?????? ?????????? ?????????? ?????????? ??????????.
???? ??? ?????? ??? ?????? ???, ?? ?? ??????, ??? ?????? ?????? ?????????? ?????????? ??????????. ?
????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? W.

54 ????????, ??? ?????????? ??? ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?
W, ??? ?? ?????????? ??? ? W ?????????? ??? ?? ?????????? ??? ?????? ??????????
?????? ?? ?????? ??? ???, ??? ?????, ??? ?? ??? ?????????? ??? ?????? ??????????????
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55 ??? ?????????? ??? ???? 38 ??? ??????? ???????, ?????? ??? ?????????? ???
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????????? ??? (????. ?????? ??? 1?? ??????? 2020, Vos Aannemingen, C?405/19,
EU:C:2020:785, ??? 38). ?? ?????? ??? ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
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56 ????????, ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
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57 ?? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? W ?????????? ???
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58 ????????. ??? ????????. ????????, ??? ?????? ????????????????. ????????. ??? ???.
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59 ????????????. ??? ????????. ??? ????????. ??? ???. ????????. ??? ????????.
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60 ????????. ??? ???. ????????. ????????????. ??? ???. ??? ???. ????????. ??? ???.
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???. ??? 168, ????????. ??., ??? ????????. 2006/112/?? ???. ????????????. ??? 28??
????????? 2006, ????????. ???. ???. ????????. ????????. ??? ???. ????????????????. ???, ???.
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(???????????)

* ???? ??? ??????????; ? ??????????.