

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

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

??? 4?? ??? 2023 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ??????
2006/112/?? – ????? 135, ?????????? 2, ????? ??????, ?????????? ?? – ?????????? ??? ??
????????? ??? ?????? 135, ?????????? 1, ?????????? ?? – ?????????? ?????? ??????????????????
????????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ?????????? ??????»

???? ?????? C?516/21,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ???
?????? ?? Bundesfinanzhof (????????????? ?????????? ??????????, ?????????) ?? ??????
?? 26?? ????? 2021, ? ????? ?????? ??? ?????????? ??? 20 ?????????? 2021, ???
?????? ??? ????

Finanzamt X

????

Y,

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

????????? ??? ??? ?. ???????, ??????? ???????, L. S. Rossi, J.?C. Bonichot, S. Rodin
??? O. Spineanu-Matei (?????????), ???????,

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

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

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

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

– ? ?????????? ????????, ?????????????? ??? ??? J. Möller ??? ??? A. Hoesch,

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

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??????????
??? 8?? ?????????? 2022,

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

??????

1 ? ??????? ?????????????? ?????????? ??? ??????? ??? ??????? 135, ??????????
2, ????? ??????, ??????? ?, ?? ?????? 2006/112/?? ??? ??????????, ?? 28??
????????? 2006, ??????? ?? ?? ????? ?????? ????? ?????????????? ????? (?? 2006, L 347,
. 1, ??? ?: ????? ??).

2 ? ??????? ?????????? ??? ??????? ??????? ?????? ??? Finanzamt X
(????????? ??? X, ??????) (???: ?????: ?????????? ??) ??? ??? Y ??????? ?? ??
?????? ??? ????? ?????????????? ????? (??) ??? ????? ????? ?????????????? ?????????? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ????????

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

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

? ??????? ???

3 ? ?????? IX ??? ?????? ?? ?????????????? ?? ???????? 3, ?? ????? ??????????
«????????? ??? ????? ??????????» ??? ??? ????? ?????????? ?? ?????? 135 ??? ?? ???
?????? ??? ??? ?? ???:

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

[...]

??) ??? ?????? ?????? ?????????? ???????.

2. ?? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? 1, ??????? ??) ??????????? ??
????????? ????:

[...]

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

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

[...]

?? ?????? ??? ?????? ?? ?????????? ?????????? ?????????? ??? ?? ?????? ?????????? ??
????????? ??? ?????????? ??? ?????? 1, ??????? ??).»

? ?????????? 282/2011

4 ??? ?? ??? 13?, ??????? ??, ??? ?????????? ?????????? (??) ??. 282/2011
?? ????????, ?? 15?? ?????? 2011, ??? ?? ?????? ?????? ?????? ?????????? ?? ?????
2006/112/?? ?????? ?? ?? ????? ?????? ????? ?????????????? ????? (?? 2011, L 77, ?. 1),
???? ?????????????? ?? ?? ?????????? ?????? (??) ??. 1042/2013 ??? ??????????,
?? 7?? ?????? 2013 (?? 2013, L 284, ?. 1) (???: ?????????? ????????????)
282/2011):

«?? ?? ?????? ??? ?????? [??], ?? “?????” ????????:

[...]

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

???? ???? ??????? ?? ?????????????? ?????? ?? ?????????????? ? ?? ??????????? ?? ??????? ??
?????????.»

5 ??????? ??? ?????? 3, ????? ??????, ??? ??????????? 1042/2013, ?? ????? 13? ???
????????????? ?????????? 282/2011 ?????? ?? ?????? ??? 1?? ?????????? 2017.

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

6 ?? ????? 4, ?????? 12, ????? ?????, ??? Umsatzsteuergesetz (????? ??? ??????)
????? ???????), ??? 21?? ?????????? 2005 (BGBI. 2005 I, ?. 386), ??? ?????? ???
????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ???, ?????????? ?? ???:

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

[...]

12. ?. [?]????? ?????? ?????????? ?????????? [...]».

7 ?? ?????? 4, ??????? 12, ??????? ???????, ??? ?????? ??? ?????? ?????? ??????? ???????, ???
????? ??? ?????? ??? ?????????????? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ???,
????????????? ??? «[?]?? ?????????????? ?? ??? ?????? ?????? ?????????? ?????????? ?????????? ???
????? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?????????? ?????????? (?)?????????
?????????), ??? ?????? ?? ?????????? ??? ?????? ?????????? ?????????? ?????????? ?????????? ».

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

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

10 ??????????, ? ?????????? ??? ?????? ??? ? ??????? ??? ?????????? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ??? ???? ?? ?????? ?????????? ?????????? ???, ???
?????? ?? 20 % ?????????? ??? ?????? ??? ?????????? ??? ??? ??? ?????????? ???, ??????
?? ??????, ??? ?? ?????? ???, ????. ? ??? ?????? ?????? ?????????? ?????????? ???.
????????? ??? ?? ?????? ???.

11 ?? Finanzgericht (?????????????? ??????????? ????????????, ??????????), ??????????? ???.
???. ?????????? ???. ??????????? ???. ??? ???. ??? ?????????? ???. Bundesfinanzhof
(?????????????? ??????????? ????????????, ??????????), ??????? ???. ?????????? ???.
???. ??? ???. ??? ???????, ??????? ???. ??? ? ??????? ?????? ??????? ?????????? ???.
?????? ???. ??????????????. ???. ???. ????????????. ???. ? ????????????. ???. ???. ???. ??????????

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

12 ??? ??? ?????? ?????????? ????, ? ?????????? ?????? X ?????? ?????????? ?????? ???
Bundesfinanzhof (????????????? ?????????? ?????????? ??????????), ?????????? ??????????.

13 ?? ?????? ?????????? ?????????? ?? ??? ?????? ??? ?????????? ??? ?????? 135, ??????????
2, ????, ????, ????, ???, ???, ???, ???, ???, ???.

14 ?? ?????? ?????????? ?????????? ????, ??????, ?????????? ??? ?????? ?????? ??? 19??
????????? 2018, Mailat (C?17/18, EU:C:2018:1038), ??? ? ?????? ?????????? ??????????
????????? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? 135, ?????????? 1, ?????????? ???, ???
????????? ????. ??? ???? ?, ? ?????? ??? ????? ?????????? ??? ?????? ??? ???? 13?,
????????? ??, ??? ?????????? ?????? 282/2011 ??? ??? ??? ?? ?????????? ??????
??????, ??? ?? ?????? ?? ?????? ?????????? ??? ?????? ?????????? ??? ??????????
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????.

15 ????, ?? ?????? ?????????? ????, ???, ??? ???? ?????????? 135, ?????????? 2,
????? 135, ?????????? 1, ??????? ???, ?? ?????? ?? ?????? ??? ?????? 135, ?????????? 2,
????? ??????, ????????, ??, ??? ?????? ???, ??? ?????????? ??? ?????? ??? ?????????? ??????
?? ?????????? ?????????? ??? ?????? ???, ?? ?????? ?????? ?????????? ?????????? ??????
?? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
135, ?????????? 2, ????, ??????, ??????? ?, ??? ???? ?????? ???.

16 ????, ?? ?????? ?????????? ??? ?????? ??? ???? ?????? ??? 4?? ?????? 2021,
Frenetikexit (C?581/19, EU:C:2021:167), ?????????? ???, ??? ?????????? ??????????
????????? ?????????? ??? ?????? ??????, ?????????? ?????? ?????????? ?????????? ??????????
?? ?????? ?? ??? ? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ?? ?????????? ????
??????, ?????? ?????? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ??????
????? ?????? ??? ?????? ???, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????????? ??????.

17 ?? ?????? ?????????? ?????????? ??? ? Finanzgericht (????????? ??????????)
????????? ???, ?????? ?? ?????? ?????????? ?????, ??? ? ?????????? ??????????
????????? ??? ?????????? ???, ?? ?????? ?????? ?????? ?????? ?????????? ?????????? ???
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ???
????????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ???
??? 19?? ?????????? 2018, Mailat (C?17/18, EU:C:2018:1038), ? ?????? ???, ? ????
????????? ??? ?????????? ??? ? ?????????? ?????? ???, ?????? ?????? ??? ??
????????? ??? ??????????.

18 ??? ?? ?????? ??????????, ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ???
????? 135, ?????????? 2, ????, ??????, ??????? ?, ??? ?????? ???.

19 ?????? ?? ??? ?????? ???????, ?? ?????? ??? ?????? ?????????? ?? ?????????? ???
????????? ??? ?????? ?????? ?????????? ?????? ?????? ?????? ??? ?????? ??? ??????
?? ??? ??? ??? ?????? ? ?????? ?? ?????? ?????????? ?? ?????? ?????? ??? ?????? ???
??? ?????? 135, ?????????? 2, ????, ??????, ??????? ?, ??? ?????? ???, ???, ???
????????? ?????? ?????????? ?????????? ?????? ??????. ? ?????? ?????? ??? ?????????????? ???
?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? 13?? ?????? 1989,
Henriksen (173/88, EU:C:1989:329, ?????? 17 ??? 18), ??? ??? ?????? ??? 19??

?????????? 2018, Mailat (C?17/18, EU:C:2018:1038), ???? ??????, ?????? ??????, ??? ??????
?????????? ??? ?????? ?????????? ???????????, ??? ??? ??? ?????? ??? 18??
?????????? 2018, Stadion Amsterdam (C?463/16, EU:C:2018:22), ???? ??? ?????? ? ??????
????? ?????? ?? ?????????? ??? ??????????? ??? ??? ?????????? ??? ?????? ??????
???.

20 ????????, ? ??????? ?? ?????? 135, ?????????? 2, ????? ??????, ?????????? ??, ???
?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ? ?????????? ??????????
??? ?????????? ??? ?????? ?????????? ?????? ?????????? ??? ??? ?????????? ??? ??????
? ??????.

21 ??? ?? ??????? ????????, ?? ??? 135, ?????????? 2, ????? ??????, ?????????? ??,
??? ?????? ??? ?????? ?? ??????? ??? ?????? ?????????? ??? ??????, ???
????????? ??? ?????? ??? ?????????? ??? ??? ???, ?????? ??? ?????? 135,
????????? 1, ??????? ???, ??? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?????????? ???
???? ???, ?????? ??? ?????? 135, ?????????? 2, ????? ??????, ?????????? ??, ??? ?? ???
?????.

22 ??? ?? ??????? ??????????, ? ??????? ?? ?????? ?????? ?????? ?????? ?????????? ??? ??????????
??? ?????????? ??? ?????? ?????? ?????? ??? 2? ?????? 2020, Veronsaajien
oikeudenvaivontayksikkö (?????? ?????? ?????? ?????? ??????) (C?215/19, EU:C:2020:518,
????? 43), ??? ?? ?????? ?? ??????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??????????, ? ???
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????, ???
????????????? ??? ?????? ??? ?? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??????????
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??????????
????? ??? ?????? ??? ?????? 135, ?????????? 2, ????? ??????, ?????????? ??, ??? ??????
????? ??? ??? ?????? ?????????? ?????????? ??? ????? ?????????? ?????? ??? ?? ?????????? ???
?? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????.

23 ??? ?? ?????????? ???, ?? Bundesfinanzhof (????????????? ??????????)
????????? ??? ?????????? ?? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?????????? ??
????????? ?????????? ??????:

«????????? ? ?????????? ??? ?????????? ?????? ?????? ?????????????? ?????????? ??? ??????????????
????? ??? ?????? 135, ?????????? 2, [????? ??????], ?????????? ??, ??? ?????? [??]

– ??? ?? ?????????? (??????) ?????? ?????? ?????? ?????? ?????????? ???
????????? ??? ??

– ??? (????? ????) ?????? ?????????? ??? ?????????? ??? ?????????? ? ?????? ?????????????? ???
??? ??? ??? ?????? ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ???
????? ?????????? (??? ?? ?????????? ????) ??? ?? ?????? 135, ?????????? 1,
[?????] ???, ??? ?????? ???;»

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

24 ?? ?? ?????????????? ???????, ?? ?????? ?????????? ?????? ???' ?????? ??
????????????? ?? ?? ??? 135, ?????????? 2, ????? ??????, ?????????? ??, ??? ??????
????? ??? ?????? ?? ?????????? ??? ??? ?????? ??? ?????? ?????????? ??? ?????? ??????
????????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ???

?????? ??????? ????????, ? ?????? ?????????????????? ??? ??????? ??????? ????????
????????? ??? ?????? ??? ????? ?????????????? ??? ?????????????? ??? ?????? ??? ?????? 135,
????????? 1, ????????, ??? ???????, ????? ?? ???? ?? ?????? ?????? ?????? ????????
????? ?????????? ??????.

25 ?? ?????? 135, ?????????? 2, ????? ?????, ?????????? ?, ??? ?????? ?????? ??? ??????
?? ? ?????????? ?????? ?????????????? ?????????? ??? ?????????? ?????? ?????????? ???
????????? ??? ??? ??? ?????????? ??? ??? ?????????? ?????? ??? ?????? ?????? 135,
????????? 1, ????????, ??? ??????? ??????.

26 ???????, ??? ??? ??????? ??? ?????????? ?????????? ??? ?? ?????? ?????????? ???
????????? ?????????? ?? ??? ?? ?????????? ?????????? ??? ?????? 135, ?????????? 2,
????? ??????, ????????, ??, ??? ?????? ??? ?? ???? ?????? ?????? ??? ?????? ?????? ??????
????? ?????????????? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ?????????? ???
????? ?????????? ??????.

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

28 ??? ? ?????????? ??? ?????????? ??? ?????????? ???, ??? ?????? ??? ?????? ?????????? ???
????? ?????????? ??? ??????????, ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ??????
????? ?????????? ? ????, ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ??????
??? ??? ? ?????????? ?????? ?????? ??? ?????? ?????? [??????? ??? 25?? ??????
2021, Q-GmbH (????????? ?????? ??????), C?907/19, EU:C:2021:237, ??? 19 ??? ???
????????? ??????].

29 ??????? ??? ?????? ?????? ?????? ??? ?????? ?? ??????????, ??? ?????? ???, ?? ??????
?? ????????, ??? ?????? ? ????, ??? ?????????? ??? ??????, ?????????? ?? ??? ??????
????? ??? ?????? ?? ?????????????? ????, ??? ?? ???? ?????? ? ?????????????? ???
??? ?????????? ??? ????. ?????? ?????? ?????? ??? ?????????? ??? ?????????? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???, ???
????? ??? ?????????? ??? ?????? ?????? [?????. ?????? ??? 25?? ?????? 2021, Q-
GmbH (????????? ?????? ??????), C?907/19, EU:C:2021:237, ??? 20 ??? ???
????????? ??????].

30 ?????? ????????, ?????, ?? ??????? ??? ?????? ??? ?????? ??? ? ?????????? ???????
????? ?? ??????? ??? ?????????? ??? ?????? ???, ???, ??????????, ??? ??????????
????? ?? ?????????? ??? ?????????? ??? ? ?????????? ??? ?????????? ????????, ?? ??????,
??? ?????? ??????????, ?????????? ??? ?????? ??? ?????? ?????? ????????, ???
????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???
????? ?????? ??????????, ??? ?? ??? ??? ?? ?????????? ??? ?????? ?????? ?????? ???
????? ??? ??? ?????? ?????? [??????? ??? 25?? ?????? 2021, Q-GmbH (?????????
????????? ??????), C?907/19, EU:C:2021:237, ??? 21 ??? ??? ?????????? ??????].

31 ??? ??????? ??? ?????? ?????? ?????? ?????????? ???????, ? ?????????? ??????
????????? ??? ?????? ?????????? ?????????? ?? ??? ?????? ?????? ??? ?????? ??? (????.
????????? ??? 25?? ?????????? 1999, CPP, C?349/96, EU:C:1999:93, ??? 32, ??? ???
21?? ??? 2007, Ludwig, C?453/05, EU:C:2007:369, ??? 20).

33 ????????, ??????????? ???. ?????????? ???. ????? ?????? 77/388/???. ???
??????????, ??? 17?? ???? 1977, ??? ?????????? ??? ?????????? ??? ?????? ????,
??? ??????? ?? ??? ?????? ?????? ?????? ?????? – ?????? ?????? ??? ??????????????
?????: ?????????? ?????????? ??? (?? ????. ???.. 09/001, ?. 49), ?? ?????? ????'
????? ??? ??? ?????? ?? ?? ??? 135, ?????????? 1, ??????? ???, ??? ??????????
2, ??? ??????, ??? ??????? ???, ?? ?????????? ?????? ???, ?????????? ??? ? ?????? ???
????????? ??????? ?????????? ???' ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??
????? ?????????? ??? ?????????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??
??????????, ? ?????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ??? ??? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??????????
????? ?? ????, ?? ?????????? ?? ??? ?????? ??? ?????????? ??? ?????? ??????????
????? (???. ?????? ??? 13?? ?????? 1989, Henriksen, 173/88, EU:C:1989:329, ?????? 14
???. 17).

34 ????????, ??? ?????????? ???' ?????? ? ?????? ?????????????? ??? ?????? 39 ???
????????? ???, ??? ?? ?????? ??? ?????? 135, ?????????? 2, ??? ?????? ??? ?????? ???
????????? ?????? ?????????? ?????????? ??? ?????? ?????????? ?????? ?? ??????????
???????, ??? ?????????????? ? ?????????? ??????????.

35 ???????, ??? ????? ?????????? ?????????? ??? ?? ??????? ??? ?????????????????? ???
????????? ??? ?????????? ??? ?????? 135, ?????????? 1, ??? ?????? ??? ?????? ??? ?????? ??
????????????? ????, ?????????? ??? ?? ?????????? ??? ????? ?????????? ?????????????? ??? ??
?????? ??? ?? ? ??? ?????????? ?? ??? ?????? ?????????? ??? ?????????????? ??? ??
????????? ??? ?? ???? (??????? ??? 19?? ?????????? 2018, Mailat,
C?17/18, EU:C:2018:1038, ??? 37 ??? ??? ?????????? ??????????). ?? ?? ??????,
?????? ?? ?????????? ??????? ?????????? ?? ?????????? ??? ?? ?????????? ?????? ???
????????? ?????????? ??? ?? ??????? ??? ??, ?????????? ??? ?? ?????????? ?????? ??? ? ??????????
?? ??????? ??? ?????? ???????, ? ??? ????? ?????????? ?? ??????? ?????? ??? ?????? ?????????? ?????
(??????? ??? 1?? ?????????? 2021, Pils?tas zemes dienests, C?598/20, ?? ??????????????,
EU:C:2021:971, ??? 29 ??? ??? ?????????????? ??????????).

36 ??????, ?? ?????? ?????? ??? ??????????? ??? ??????? ??? ?????????? ??? ?????? ??? ????
?? ??????? ?????? ??? ?????????? ?????? ?????????? ?????? ?????? ?????????? ??? ?????
????????? ??? . ??????????, ?? ?????????? ?????? ?????? ???, ?? ?????????? ??? ?????? ???
????????? ?? ?????????? ?????????? ?????? ?????? ?????? ?????????? ?????? ?????? ???
????? ?????? ??????, ?????? ?? ?????? ?????? ?????? ?????????????? ??? ?????? ?????? ???
?? ?????? ? ?????? ? ?????? ? ?????????????? ??? ?????? ?????? ??? (????. ?????? ???
18? ?????????? 2018, Stadion Amsterdam, C?463/16, EU:C:2018:22, ????? 26 ??? ???
????????????? ??????????).

37 ?? ??????????, ? ?????? ??? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??????,
????? ??? ?????? ?????????? ?????? ?????? ?????????????? ??? ?????? ?????? ??? ?????
????????????? ??? ??? ??????, ? ?????? ?????? ?????? ??? ?????? ?????? ?????????????? ???
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38 ?? ??? ?????? ??????????, ??? ??? ?????????????? ??????, ??? ?????? 31 ??? 33,
????????? ?????????? ???, ??? ?????????? ??? ?????? ?????? ?????????? ?????? ??????????????
??? ?????? ?????? ?????????????? ??? ??? ?????? ?????? ??? ?????? 135, ?????????? 1,
????? ???, ??? ?????? ???, ? ?????? ?????????? ??? ?????? ?????? ??????, ??? ???
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????????? ??? ??? ?????? ?????? 135, ?????????? 2, ?????? ??????,
????????? ??, ??? ??????, ? ?????????? ?????? ?????? ?????? ?????? ?????? ?????????? ???
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39 ?????????? ??? ?????? ??? ?????? ??? ?????? ??????, ??? ?????????????? ??????
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????? ?????? ??? ?????? 135, ?????????? 1, ?????? ???, ??? ??????, ?????? ??? ??? ??? ??
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40 ?????? ??? ? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????????? ??? ?????? ??????
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????????? ?? ?????????? ??? ?????? ?????? ?????? ??????. ?? ?????? ??? ?????? ??????????
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??? ??? ?????? ??????, ?? ?????????? (????? ???) ??????????:

?? ?????? 135, ?????????? 2, ?????? ??????, ?????? ??, ??? ?????? 2006/12/? ?? ???
?????????, ??? 28? ?????? 2006, ?????? ?? ?? ?????? ?????? ?????? ???
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????????? 1, ??????? ???, ??? ??????, ?????? ??? ?? ?????? ??????
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(???????????)

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