

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

PEDRO CRUZ VILLALÓN

??? 26?? ??????? 2012 (1)

?????? C-33/11

A Oy

[?????? ??? Korkein hallinto-oikeus (?????????)

??? ??? ?????? ?????????????? ?????]

«???? ??????? ??? — ???????? ????? ?? ?????? 15, ?????????? 6 — ?????? ??? ???????????
??? ?????????????????? ??? ??? ?????????????? ?????????? ??? ?????????? ?????? ??????????
????????? ??? ?????? — ???????? ?????????????? ?? ?????????????? ??? ??? ??????????
?????? ? ??? ?????? ?????????? ??????????, ??? ?????????? ?? ?????? ??? ?????????? ??
????????? ?????? — ?????????? ?????????? ??? ?????????? ?????????? ?????????»

I – ????????

1. ??? ??????? ???????, ?? Korkein hallinto-oikeus (?????? ??????????? ???????????
??? ???????????) ?????????? ??? ??????????? ??? ?????????????? ??????????? ?????????? ?? ??
????????? ??? ?????? ?????? (2) ??? ?????? ??? ?????????? ??? ??? ??? ??? ??? ??????????
????????? ??? ?????????????? ?? ?????????????? ??? «?????????? ?????????? ???
????????? ?????? ?????????? ?????????? ??? ?????????».

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

3. ? ??????????? ??????????? ??? ?????????? ??? ?????????? ?? ?????? 15, ?????????? 6,
??? ?????? ???????, ??? ??????????? ?????????????? ??? ?????????? ??? ?????????????? ???
????????????? ??? ?????????? ?? ??????????, ?????????? ??? ?????? ?????????? ??????????
????? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????????
?????????. ??????? ?? ?? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ??? ??? ??????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ? ???????, ???
????? ?????????? ?? ?????????? ?? ?????????? ??? ?????? ??????. ???, ? ?????????? ?????????? ???
????????? ?????? ?????????? ??? ??????? ?????????? ??? ??????????.

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

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

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

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

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

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

II – ?????? ???????

? — ?? ?????? ??? ??????: ? ??? ?????? ???

5. ??? ?????? ?????? ?????? ?????? ?????????? ?? ?????????? ??? ?????? ???????, ??????? ??

?? ?????? 2, ?????????? 1, ??? ?????? ?????????? ??? ???? ?? ?????????? ?????? ??? ??

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

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

6. ?? ????? 15 ??? ????? ??????? ??????, ?????? ?????, ?? ????:

«?? ??? ?????????? ??? ????? ?????????? ?????, ?? ?????? ??? ?????????????, ??? ??

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

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

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

[...]

6. ??? ??????????, ??????????, ??????????????, ?????????? ??????????????, ?????????? ???

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

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

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

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

? — ?? ?????? ???????

7. ? ??? ?????? ?????? ??????????? ??? ?????????? ?????? ?? ??? Arvonlisäverolaki (?????

???? ???, ??? 20?? ?????????? 1993, ??? ????: AVL), ?? ?????????? ?????????? ??? ??????,

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

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

8. ??? ? ????? 1, ?????????? 1, ?????? 3, ??? AVL, ?????? ?? ?????????? ??? ??????

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

????? ??? ?????? ??? ?????? 26a. ??? ?? ?????? 2b ??? AVL, ?????????????? ??? ?????? ???

????????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 1, ?????????? 1,

????? 3, ?????? ? ???????.

9. ?? ??? ?????? ??? AVL (????? 70 ??? 72n) ?????? ?????????? ?????????? ???

?????? ??? ?????? ??????. ??? ?? ?????? 70, ?????????? 1, ?????? 6, ??? AVL, ?

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

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

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

10. ?? ?????? 72f, ?????? 1, ??? AVL ?????????? ??? ??? ?????? ??? ?????????? ???

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

94, ?????????? 1, ?????? 9, ??? AVL, ?????????? ??? ??? ?????? ??? ?????? ?????? ??????

????????????? ???, ??? ??? ?????? ??? ?????? 58, ?????????? 1, ??? ??????????,

????????????? ??? ?????? ??????????, ??? ??? ?????? ??? ?????? 70, ?????????? 1,

????????????????? ??? ??? ?????? ??? ??? ??? ?????????? ??? ????????????, ???????? ???
????????????????? ??? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? , ?????? ??? B Oy. ?? ?????????? ?????? ?????????? ?????? ?????????????? , ??????????
??? ? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? , ?????? ?????????? ???
????????? ??? A Oy.

18. ?? Korkein hallinto-oikeus, ?????????? ??? ?????????? ?????? ?????????? ?????? ??? ???
????????? ??? ?????? ??? «????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? », ? ?????? ?????????? ??? ?????? 15, ?????????? 6, ??? ???
????????? , ?????? ??? ?????? ??? ?? ?? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????????? , ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? , ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
?? ?????? ?????? ?????? ?????? :

«1) ??? ?? ?????? 15, ?????????? 6, ??? ?????? ?????? 77/388/??? ??? ??? ??? ???
??? ??? “????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? , ?? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? , ???
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? , ???
????????? ?????? ??? ?????? ?????? ?????? , ? ?????? ?????? ?????? ??? ?????? ??? ???
????????? ;

2) ??? ?? ?????? 15, ?????????? 6, ??? ?????? ?????? 77/388/??? ??? ??? ??? ???
??? ? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????
????????? ?? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ? ??? ? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????????? ?????? ??? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? , ???
????????? ??? ?????? ??? ?????? ?????? ?????? , ? ?????? ?????? ??? ??? ??? ???
????????? ;

3) ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ? ??????????
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? /??? ?????? ???
????????? ??? ?????? ??? ? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ???;»

IV – ? ?????????? ?????? ??? ??????????

19. ? ?????? ??? ?????? ?????? ?????? ?????? 21 ?????????? 2011.

20. ?????? ?????? ?????? ? A Oy, ? ?????? ??? ? ??? ? ??????.

21. ??? ??? ??' ?????????? ?????? ??? 8?? ?????????? 2012, ?????????? ??? ??
????????? ?????? ??? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? A Oy, ??? ??????.

V – ?????? ??? ?????????? ?????? ??????????

22. ??? ?????? ?????? ?????? , ??? ?????? ??? ? ??? ? ?????? ?????? ??? ????
????? ?????? ?????? .

? — ?? ?????? ?????? ??????.

23. ?? ?? ?????? ?????? ?????? ???, ?? ?????? ?????? ?????? ??? ???? ??
????????? ??? ?? ? ?????? ??? ?????? ??? ?????? 15, ?????????? 6, ??? ??????.

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

24. ??? ??? ?????? ???????? ??? ?????????? ??? ??? ?????? ??????????, ??? ?????? ?????? ???
????????? ??? ?????? ???, ????, ????, ?????????? ?? ?????????? ?????????? ?????????? ???
????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? «?????????????????» ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? (4), ?? ??????????
????????? ?????????? ??? ?????? ?????????? ?? ?????????? ?????????? ?????????? ?????????? ???
????????? ??? ?? ??? ?????? ???????, ?????????????? ??? ?????? ??? ?????????? ??? ? ?????????? ???
????????? ?????? ??? ??? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ? ?????????? ???
????????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? (5).

25. ??? ?? ?????? ??? ?????????? ????, ??? ??? ?????????? ??? ?????? ??? ?????? ??????????, ?
????????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ???? ???
????? ??? ?????????? ??? ?????? ??? (6).

26. ??? ??? ?????? ???, ????, ????, ??? ?????? ?????????? ??? ?????????? ??? ??????????
????????? ?? ?????????? ??? ? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??????????
????????? ?? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????? (?? 1). ?? ??????? ??? ?????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ???,
?????????, ? ???? ??? «????????????? ?? ??? ??? ??????????» ?????????? ??
????????? ??? (?? 2), ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????????? ??? 26?? ?????? 1990, Velker International Oil Company (7), ???
??? 14?? ?????????? 2006, Elmeka (?? 3) (8).

1. ? ?????????? ??? ??????? ??? ??????????

27. ??? ??? ?????? ????, ??? ?? ??????????, ?? ?????????? ??? ?????????? ??? ?????????? ? ??? ?????? ???
????????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ??????, ?? ?????? ??? ?????? ??
????????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ????. ??? ?????? ??? ?????????? ???
????????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ???
????????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ???
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (9).

28. ?? ?????????? ??? ?????? ??? ? ?????? ??? ?????? «????????? ?????????? ???? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? », ??? ??????????
?? ?? ??? 15 ?? ?????? ???, ?????????? ??? «????????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?????? ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (10).

29. ?????? ??? ?????? ??? ?????? ???, ? ?????????? ??? ?????? ??? ??????, ??? ?????????? ???
????????? ??? ?????? 15, ?????????? 5, ??? ?????? ????, ?????? ?? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ??????
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? (????????????? ???
Navicon, ??? 30), ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????????????? ?? ?? ?????????????????? ??? ?????????????? ?????????????? ??????????, ?? ??????
????????????? (????????????????? ??????? Feltgen ??? Bacino Charter Company, ??? 17).

30. ?????????????????? ????????????, ?? ?????????? ??? ?????????? ??? ?????????? ?????????????? ??????????
?????? ?? ?????????? ?? ?????????? ?????????? ?????????? ?????????????????? ?? ?????????? ?????????? ???
????????????? ?? ?????????? ?????????? ?????????? ?????????????????? ?????????????? ??? ? ?????????? ???
?? ?????? ??? ?? ?????????? (11).

31. ????? ?? ??????? ?????????? ??????????????????, ????. ???. ???? ?????? ???, ??? ?? ?????????? ???
?????? 15 ?????????? ????. ?????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????? ??????????
????????? ????. ?????? ?????? ?????????? ????. ?????? ?????????? ?? ??. ?????? ????. ?????? ?????????? ????.
??? ???. ?????? ??????. ??????????. ? ?? ?. ?????? ?????????? ?????? ?????????? ?????????? ?????????? ??????
?? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
?? ?????????? ?????? ?????? ?????? ?????? ??????.

32. ????? ??????? ????????, ??? ?????????? ?????????? ??? ? ?????????? ??? ?????? 15,
????????? 6, ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? A
Oy ???? ??? B Oy, ????? ? ???????? ??? ????? ?????????? ?????? ??? ?????????? ??
????????? ??? ??? ?????????? ??? ??? ??? ??? ?????? ??????. ? ??? ?????? ?????? ?????? ??
????? ??? ??? ??? ????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????, ? ?????? ???
????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ??????????.

2. ? ???? ??? «????????????????? ?? ???? ??? ?????????????»

33. ? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???.

35. ??????????????, ?? ??????????, ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ? ?????? ???
??????, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ??
?????? ??? (14). ?? ? ??? ?????? ???????????, ??????????????, ??? ???????, ??? ??????????????
????????????? ??? ?????????????????? ??? ?????? ?????? ??????????????, ??? ?????? ??? ??????????
????????????? ??? ?????? ??? ?????? ?????? (15), ? ?????? ??? ?????? ??? ?????? ??? ??? «??
????????? ?? ?????????????????? ??? ?????? ?????????????? ???, ??? ?????? ??? ?????? ??? ?????????? ???
??, ?? ?????????????? ??? ?????? ?????????????? ??? ?????? ?????? » (16). ??????????, ??????,
??? ??? «????????????? ?? ??? ??? ??????????????», ? ?????????? ??? ?????? «????????? ??
????? ??? ?????? ?????????????? ??? ??????????????», ??? ? ?????????? ??? ?????????? ???
??? ??? ?????????????? «????? ?? ??????????????», ??? ?????????? ???, ??? ??? ?????? ???
????????? ??? ?????? ?????????????? ?? ?????? ??? ?????? ???' ?????? ??????????????,
????? ?????????? ??? ?????? ??????????????» (17).

36. ? «?????????????? ?? ????. ??? ??????????????» ??????? ?? ?????????????? ?? ?? ??
?????????? ?? ????. ??? ?? ?? ?????????? ?? ??????????? ?? ???. ??????????, ????? ??
?????????? ?? ?? ?? ?? ?? ?????????? ?? ??????????? ?? ???????????, ??? ??????? ??,

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

37. ???? ???? ?????? ???? ???? ?????? ?????????? ??? ???? ???? ?????? ?????? ???????????????
????????????? ?????? ?????????? ?? ???? ???? ?????? ??? ?????. ? «?????????????»
????????? ??? ?????????? ?? ?????????? ??? ?????????? ?????? ??? ?? ?????????? ??????????
?? ??????????, ???, ??????????, ?? ?????????? ??? ?????????? ?????? ???, ?????? ??? ??????
????????? ?????? ??? ?????? ?????????? ??????????, ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ??? ??????????.

38. ???' ????, ??? ???? ?? ?????????? ?????????? ?????? ???????????????, ???
?????? ???, ?????? ??? ?? ??? ?????????? ??? ??? ?????? ?????????? ??????? ??? ??????????
?? ?????? ??? ?????????? ?? ?????? ??? ?????????? ??? ???, ?????? ??? ?? ??? ??????????
?? ?????? ??? ?????????? ?? ?????? ??? ?????? 28???, ?????????? 1,
????? 2, ??????? ??, ??? ?????? ??????. ??? ??? ?????????? ??? ???????????, ??????, ?
????????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???????, ??
????????????????? ??? ?????????? ??? ?????????? ??? ?????????? ?? ?????? ??????????, ?? ???????
????? ?? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ??????. ??? ??????????, ?
????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????.

39. ??????, ??? ???? ?? ?? ?????????? «????????? ??????????» ?????? ???
????????????? ???????????, ?? ??????? ?? ?????????? ??? ???? ??? ??????????????
?? ??? ???? ?????????? ?? ?????????? ??? ?????????? ??? ???? ??? ?????????? ??? ???? ???
????????? ?????????? ??? ?????? ??? ?????????? (?? ?????????? ??? ?????????? ??? ?????????? ??? ???
????????? ???), ?? ?????? ??? ?????? ??? ?????? ?????????????? ??? ??? ??? ??????
????????????? ??? ?????? ???, ??????, ?????? ? ?????????? ??? ?????????? ??? ?????????? ??
????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
??, ?????????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????
?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ??????????.

40. ??????, ?? ? «?????????????» ??? ?????????? ?????? ?????????? ??? ??????????
????????? ??? ?? ??? ???? ??????????, ??? ??? ?????? ??? ?????????? ??? ??????????, ???
? ?????????????? ??? ?????? ???? ???? ?????????? ???????, ??????, ?? ??? ?? ?????????? ???
????????? ?????? ?????????? ?? ?????? ?????????? ?????? ??? ?????????? ??? ?????????? ??????
????????? ??? ?????????? ?????? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ?
????????? ??? ?????????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?
????????? ?? «?????????????» ??? ?????? ??? ?????????? ??? ??????, ?? ?????????? ??? ?
????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?
?? ?????????? ?? ?????????? ??? ??????, ??? ?????? ??? ?????????? ??? ?????????? ??? ?
????????? ?????? ??? ?????? ??? ?????? A, ? ??? ?????? ??? ?????? ??? ?????????? ??? ?
??? ??????, ??? ??? ?? ??? ?????????? ??? ?????? ?????????????? ?? ??? ?????? ?????????? ??? ?
B. ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? A ?????????? ?? ????
????????? ??? ??? ??? ??? ?????? (18), ??? ?????????? ?? ?????????? ??? ??????????

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

3. ? ??????? ??? ?????????? ?????? ??? ??????? ?????????? ??? ?????????????? ???
????? ??????????

41. ?????, ?????? ?? ??????? ??? ?????????? Velker ??? Elmeka, ???????? ??? ????
???????, ???? ??? ?????? ???, ?? ?????????? ??? ????? ?????? ?????? ? ?????????? ?????
??? ?????????? ??? ? ??? ?????? ??? ?????????? ?? ??? ?????? ??? ??????????.

42. ?? ?????? ?????, ?? ?????? ??? ?????????? ?? Korkein hallinto-oikeus ??????????
????????? ?? ? ?????????? ??? ?????????? ??? ?????? ??? ???? ???????. ??? ? ????
????????? ??? ? ?????????? ??? ?????????? ?????? ?????????? ??? ???????. ??? ? ????
Velker, ???' ????, ?????? ??? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??
«????????? ??? ???? ?????? ??? ?????? ?????????? ??? ??????????» ??? ?????? ??? ??????????
??? ?????? 15, ?????????? 4, ??? ?????? ?????? (???, ?? ? ?????, ?? ?????? ??????????,
????? ??? ? ???? ??????) ?? ?????????? ??? ??????????????, ? ?????? ???
????????? ? ??? ? ???? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????, ??? ?
????????? ?? ???? ??????????????, ? ??????, ?? ? ???? ???, ?? ?????????? ??? ? ????
?????????. ?? ??????, ??? ????? Elmeka, ?????? ?? ??? ?????? ??????, ??? ? ???? ???
?? ?????? ?? ??? ?????? ??? ?????????? ??? ?????? 15, ?????????? 8, ?? ??????
????????? ??? ?????? ?????? «?? ?????? ?????????????? ??? ??? ?????? ?????? ???
??? [...] ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????» ??? ?????????? ???
????????? 5 (19). ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ? ????
????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
????????? ??? ?????????????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ? ????
??? ?????? ??? ???, ?? ? ?????, ??? ?????? ?? ?????????? ??? ?????? ?????????? ???
????? ?????? ??? ??? ?????? ??? ?????????? ??? «?? ?????????????? ??? ??????????
????? ??? ??????» (20).

43. ??? ?????? ??????, ? ?????? ??? ???? ?????????? ?????????? ?????????? ???
????????? ?????? ??? ?????????? ??? ?????????? ??? ?????, ??????, ??? ? ?????????? ???
????????? ??? ?????? ??????, ?????? ??? ???? ?????? ??? ?????? ?????? ??? ?????
????????? ??? ? ???? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????????
????????? ??? ?????? ?? ??????????, ??? ?????, ??? ?????????? ??? ?????? 15, ??????????
6.

44. ?? ?????? ??? ???? ?????? ?????????? ?????????? ??? ?????????? ?????????? ???
????????? ? ?????????? ??? ?????????? ??? ??????: «? ?????? ??? ?????????? ??? ????
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ??????, ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????», ?????????? ?? ????
«????????? ??????????, ??? ? ???? ??? ?????? ?????????? ??? ?????? ?????????? ???
????????? ??? ???? “????? ??? ??? ?????? ??? ??????”, ??? ?????? ?????????? ?
????? ?????? ??? ?????? 15 ??? ?????? ??????» (21).

45. ?? ?????????? ??? ???? ?????? ?????? ?????????? ???????, ???, ??? ?????????? ???
?????? ??????, ??? ?????????? ??? ?????????? ?????? ? ??? ?????? ?????????? ???
????????? ??? ???? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ???, ??? ? ???? ?????????? ??? ?????? ?????????? ??? ?????? ??????
????? ?????? ??? ??????, ?????????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????????? ??? ???? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????????? ??? ?????? (22). ??? ??? ?????? ???, ?????? ??? ?????? ?? ?????????? ?? ???

????????? ??? ???? ?????? ? ??????????? ??? ??????? ?????????? (???? ???? ??? ????????)
????????? ??? ???? Velker ??? Elmeka) ? ????? ???? ?????????????? ??? ??
????????? ??? ??????, ? ?????????? ??? ?????? ??????, ??????, ??????? ?? ??????
???? ??? ????? ??? ????????????

46. ??????, ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????????
?????, ??? ??? ?????????? ??? ?????? ??????, ??? ?? ?????? ??? ?????? ??? ???????????,
??? ?????????? ?? ?????????????? ??? ?????????? ??????, ?? ??? ?????????????? ???
????? 15, ?????????? 6, ??? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ????
????????? ??? (23). ??? ?????? ?????? ?????? ?????????? ??? ?? ???????, ??? ??? ?? ???
??, ??? «???? ??? ??? ?????? [...] ?????» ??? ?????????? ? ?????? ?????????? ???
????? 15 ??? ?????? ??????? ??? ?? ???, ?? ??? ?????????? ?????, ?????????? ?????????? ???,
??? ?????? ???????????, ??? ??? ??? ?????? ??? ?????????? ???' ??, ?? ?? ?? ??? ??????
??? ??????.

47. ?? ?????? Velker ??? Elmeka ?????????????? ??? ??? ?????? ?????????, ?? ???
????? ??? ?????? ?????????? ??? ??? ?? ?????????? ?????????? ?????????? ???
????????? ??? ??? ??? ??? (24). ????? ?????? ??? ?? ?????????? ??? ?????? ???
?????????, ?????????? ???' ????, ??? ?????? ??? ?????? 15, ?????????? 6. ??????,
???? ?????????? ??????, ? ?????????? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ??
??? ?? ?????????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ??
????????? ??? ?????? ??? ?????????? ??????????????, ?????????? ??? ?????? ?????? ?????????? ???
??? ?????????? ??? ?????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ??
????????? ??? ?????? ??? ?????? ??? ?????????? Velker ??? Elmeka.

4. ?????? ??? ??? ?????? ?????????? ???????????

48. ?????? ??? ??????, ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????????? (?? ????, ???
????????? ??? ?????????? ?????? ??? «?????????» ???
?????????), ?? ?????? ??? ?????? ??? ?? ?????? ??? ?????????? ??? ??
?????????, ??? ?????????? ???, ?????????? ?????? ??? ?????? ??? ?????????? ??? ??
????? 15, ?????????? 6, ??? ?????? ?????? ??? ?? ?????? ??? ? ?????????? ??? ??
????????? ?????? ?? ?????????? ?????? ?????????? ?????????? ??? ?????????? ?? ?????????? ???
????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ???
?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ???
????????? ???.

? — ?? ?????? ?????????? ??????

49. ?? ?? ??? ?????? ?????????? ???, ?? ?????? ?????????? ??? ?????? ?????? ???,
????????? ??? ?? ?????? ???, ?? ?????? ?????????? ?????????? ??? ??
????????? ??? ?? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ??? ?? ?????? ??? ?????? (A Oy) ?????????? ?? ?????? ??? ??
????? ??? ?????? ?? ?????? (X), ? ?????? ?????? ??? ?????? ??? ?? ?????? ??? ??
????????? ??? ?????????? ?? ?????????? ?????? ?????? ??? ?????? ??? ??
????????? ?? /??? ?????? ??????, ?????????? ?????? ??? ?? ?????? ??? ??
????????? ?? ?????????? ?? ?????????? ??? ?? ?????? ??? ??????.

50. ? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ???,
????????? ????. ?????????? ???, ???, ??? ?????? ??? ?? ??? ??????????
????????? ?? ??? ?????????? ??? ?????? ?????? ??? ?????????? ?????????? ??? ??????
?? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???, ???' ????, ???

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

51. ??? ???? ??? ???? ?????????? ?? ?????????? ??? ???? ???, ??? ?? ??? 15, ?????????? 6,
??? ??? ???? ?????? ?????????? ??? ?? ??? ???? ?????? ??? ?? ??? ?????????? ? ??????????
????????? ??? ?????????? ??? ?????? ?????? ??? ?????????????? ??? ?????????? ??? ?? ??????
????????? ??????, ? ?????? ?????? ?????? ?????? ?????????? ?????????? ??? ?????? ???
????? ??? ? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?? ?????????? ??? ?? ??????
????????? ?????? ??? ?????????? ??? ?????????? ?????????????? ??? ?????????? ?????? ???
?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ??? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ??????
????????? ??? ?????? ??? ??? . ???, ??? ??? ?? ?? ?????????? ?????????????? ???
????? ??? ??? ??????????, ?? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??? ?? ?
????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
??? ?????????? ?? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ??????????.

52. ??? ???? ??? ?????????????? ??? ?? ?????????? ??? ?????????? ??? ?????????????? ???
??? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?????? —???, ??? ??????, ??? ?? ??????
?????????— ??, ??? ?????? ??? ?????? ??????, ?? ?????????? ?? ?? ?????? ??? ??????
?????????, ??? ??? ?? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????? 15, ??????????
6, ??? ??? ?????? . ?? ??? ??????????, ? ?????????? ??? ?? ?? ??? ??????????
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

?— ?? ?????? ?????????????? ????

53. ?? ?? ??? ?????? ?????????????? ???, ?? Korkein hallinto-oikeus ??? ??
????????? ?? ???? «????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ??????», ??? ?????? ?????????? ?? ?????? 15, ?????????? 6, ??? ???
??????, ?????????? ??? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
?????? ?????????? ?? ?????????? ??? ??????.

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

55. ??? ????, ?????? ?? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?????? ?? ?????????? ?????? ??????. ??? ??????, ??? ?????? ??? ?????? ???
«international routes», ?????? ?? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ???
??????. ?? ?????????? ?????? ??? ??????, ??????, ?????? ?????? ??? ??? ?
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

56. ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ? ?????? Cimber Air (25), ?
????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? 15, ?????????? 6, ???
????? ??????, ?????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

57. ?? ??? ??? ?????, ? ??? ?? ?????????? ?????? ?????? ?? ?????????? ?????????? ??????????
?? ??? ?????? ??? ??????????.

58. ??????, ? ??? ??? ?????? ?????? ?????????? ?????? ?? ??? ??? ?????? ??????????????
?????????????, ?????? ??? ?????????? ?? ?????????? ?????? ?????????????? ?????? ??? ??
????? ?????????????? ??????????????, ??? ?????? ???, ??? ?????????? ?????? ?????????? ??????????
?????????, ??? ?? ??? ??? ??? ?? ??? ????? ?????????????? ?????? ?????? ??????????
????????? ??? ?? ??? ????? ?????? ?????? ?????????? ?????? ??? ?? ??? ??? ??? ??
????? ?????????? ?????????? ??? ?? ??? ?????? ?????? ??????.

59. ?? ??????????, ?????? ?? ??? 15, ??????? 6, ??? ??? ?????? ?????? ??? ??
????? ??? ? ?????? «????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
?????» ?????????? ??? ?? ?????? ?????? ?????????? ?????? ??? ?? ?????? ?????? ?????? ?????? ???
????? ?????? ?????? ?????? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ?????? ?????? ?????? ???
?????.

VI – ??????

60. ??? ??????, ?????? ??? ?????????? ?? ?????????? ?? ?????????? ??? ?????????????? ??????????
?? Korkein hallinto-oikeus (?????????) ?? ???:

«1) ?? ??? 15, ??????? 6, ??? ??? ?????? ?????? ??? ?? ?????? ??? ?? ??? “????????? ???
????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
?? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????.

2) ?? ??? 15, ??????? 6, ??? ??? ?????? ?????? ??? ?? ?????? ??? ?? ??? ?????????? ???
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?????????, ??? ?? ??? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?? ??? ?????? ???
?? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?? ??? ?????? ???
????? ?????? ?????? ??? ?????? ?????? ??? ??????.

3) ?? ?????? ??? ? ?????????? ??? ?? ?????????? ?????? ?????? ??? ?? ??? ?? ??? ??
?? ?????????? ?? ??????, ? ?????? ?????? ?????? ??? ?? ?????????? ??? ?? ??? ?????? ???
?? ?????????? ?????? ?????? ?????? ?????? ??? ?? ?????????? ??? ?? ??? ?????? ??? /??/ ??? ?????? ???
????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?? ??? ??
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ??
????? ?????? ??? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ??
????? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ??
????? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ??
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ??
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??

1— ?????? ??? ??????????: ? ??????.

2— ??? ?????? 77/388/??? ??? ??????????, ??? 17? ??? 1977, ??? ??????????????
?? ?????????? ??? ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? — ????

?????? ????? ?????????????? ????: ?????????? ?????????? ??? (?? ????. ????. 09/01, ?. 49, ??? ????: ????. ?????).

3— ??? ?????????? ???, ? A Oy ?????? ??? ? B Oy ?????????? «?? ??????????, ?? ?????????? ??? ??? ??????????, ??? ?????????? ??? ?? ?????????? ???????, ??? ?? ??????????, ??? ??? ?????????? ?????????? ??? ?? ?????????? ???????, ??? ??????? ??? ?? ???????, ??? ?????? ??? ?????? ???' ?????? ??? ??? ?????????? ?????????? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ???????, ??? ?????????? ??? ?? ?? ?? ??? ?????? ??????????». ? A Oy ?????????? ???, ?????? ??? ?? ???????, ? B Oy ?????????????? ??? ?????? ??? ?????????? ??? ?? ?????? ?????? ??? ???????, ??? ?? ?????? ?????????? ??? ?????? ?????????? ??? ???????.

4— ???, ??? ???????? ???????? ?????? ??? «aeronaves utilizadas por las compañías de navegación aérea», ?? ?????? ???????????? ??? ?????? «utilisés par des compagnies de navigation aérienne», ?? ?????? «used by airlines», ?? ???????? «die von Luftfahrtgesellschaften verwendet werden», ?? ?????? «usati da compagnie di navigazione aerea» ??? ?? ???????? «die worden gebruikt door luchtvaartmaatschappijen».

5— ??? ?????? ??? ?????????? ??? ?????? ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ???????? 2006, ??????? ?? ?? ?????? ?????? ????? ?????????????? ?????? (?? L 347, ?. 1), ?? ?????? 145 ??? ?????? ?????? ?????, ?? ????? ?? ?????????? ??????????, ?? ???????? ??? «????????????????» ??? ??????????.

6— ??., ??? ?????, ?????? ??? 27?? ???????? 1977, 30/77, Bouchereau (???????, ??? 1977, ?. 617, ??? 14).

7— ??????? C-185/89 (???????, ?. I-2561, ??? ????: Velker).

8— ?????????????? ?????????? C-181/04 ??? C-183/04 (???????, ?. ?-8167).

9— ?????????? ??? 13?? ?????? 2006, C-89/05, United Utilities (???????, ?. ?-6813, ??????? 21 ?? 22), ??? 8?? ?????? 2006, C-106/05, L.u.P (???????, ?. ?-5123, ?????? 24), ??? 18?? ?????????? 2004, C-284/09, Temco Europe (???????, ?. 11237, ?????? 17), ??? 14?? ?????????? 2004, C-434/05, Horizon College (???????, ?. ?-4793, ?????? 16), ??? 18?? ?????????? 2007, C-97/06, Navicon (???????, ?. I-8755, ?????? 22), ??? ?????????? ??? 28?? ?????????? 2010, C-473/08, Eulitz (???????, ?. ?-907, ?????? 27).

10— ?????????????? ?????? Navicon (???????, ?. 29) ??? ?? 22?? ?????????? 2010, C-116/10, Feltgen ??? Bacino Charter Company (???????, ?. ?-14187, ?????? 16).

11— ??' ??? ?? ??????, ?? . ?????????? ??? ?????? ?????????? C. O. Lenz ??? ?? ?????? 1990 ??? ?????????? Velker.

12— ?????????????? ?????? Navicon, ?????? 21.

13— ??' ??? ?? ??????, Martínez Muñoz, ?, «El principio de neutralidad en el IVA en la doctrina del TJCE», *Revista española de Derecho Financiero*, 145, ?????????? 2010, ?. 182. ??., ??????, Guichard, ?, «“L'Esprit des Lois” communautaires en matière de TVA: du principe de neutralité», *Revue de Droit Fiscal*, ??. 36, 2001, ?. 1205, ??? Vanistendael, F., «Neutrality and the limits of VAT»*Selected issues in European tax law*, 1999, ?. 13.

14— ?????????????? ?????? L.u.P. (???????, ?. 48).

15 — ??., ??? ??????, ??????? ??? 12?? ??????? 1984, 281/82, Unifrex (???????) ???? 1984, ?. 1969, ???? 30).

16 — ??????? ??? 7?? ?????????? 1999, C-216/97, Gregg (???????) 1999, ?. I-4947, ???? 20), ??? 11?? ?????????? 2001, C-267/99, Adam (???????) 2001, ?. I-7467, ???? 36), ??? 10?? ?????????? 2002, C-141/00, Kübler (???????) 2002, ?. I-6833, ???? 40), ??? 23?? ?????????? 2003, C-109/02, ??????? ??? ??????? (???????) 2003, ?. I-12691, ???? 20), ??? 26?? ?????? 2005, C-498/03, Kingscrest Associates ??? Montecello (???????) 2005, ?. I-4427, ???? 41), ??? 12?? ?????????? 2006, C-246/04, Turn-und Sportunion Waldburg (???????) 2006, ?. I-589), ??? 4?? ?????? 2006, C-169/04, Abbey National (???????) 2006, ?. I-4027, ???? 56), ?????????????? ?????? L.u.P. (???????) 32) ??? ??????? ??? 16?? ?????????? 2008, C-288/07, Isle of Wight Council ?.?. (???????) 2008, ?. I-7203, ???? 42).

17 — ??????? ??? 10?? ??????? 2008, C-309/06, Marks & Spencer (???????) 2008, ?. I-2283, ???? 49).

18 — ????????????, ???????, ???, ??? ????? ??????????, «? ?????????? ??? ?????????? ???? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ». ?. ?????????? ??? 17?? ?????????? 2005, ?????????????? ?????? C-453/02 ??? C-462/02, Linnweber ??? ??????? (???????) 2005, ?. I-1131, ?????? 24 ??? 25), ??? ?????????? Turn-und Sportunion Waldburg (????? 34).

19 — ?? ?????, ?? ?? ????? ???, ?????????? ??? ?????? 4, ?????????? ?? ??? ??.

20 — ?????????????? ?????? Velker (????? 22).

21 — ?????????????? ?????? Velker (????? 24) ??? Elmeka (????? 23).

22 — ? A Oy ????????, ?? ?? ??????? ???, ??? ??????? AOC (Air Operation Certificate), ??????????? ?? ??????? ??? ?????????? ??? ?????????? ??? (????? ?? A Oy, ?????????? ??? ?????? ?????? ?????? 138 000 ??? 195 000 ???). ??? ?? ?????????? ?????? ?? ?????? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

23 — ??? ?????????? ? A Oy ??? ??????? ???, ?? ??????? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????.

24 — ?????? Velker (????? 19) ??? Elmeka (????? 15).

25 — ?????? ??? ?????????? ??? 16?? ?????????? 2004, C-382/02 (???????) 2004, ?. I-8379).