

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

JULIANE KOKOTT

??? 22?? ??????? 2015 (1)

?????? C?126/14

UAB «Sveda»

????

Valstybin? mokes?i? inspekcija prie Lietuvos Respublikos finans? ministerijos

[?????? ??? Lietuvos vyriausiasis administracinis teismas (??????????) ??? ??? ?????
????????????? ?????]

«?????????? ????????? – ??? ?????????????????? ????? – ??? 168 ??? ?????? 2006/112/??
– ??????? ????? ?? ?????????????? ??? ??? ?????????? ??? ??? ?????????? ?????? ?????????? –
?????????? ????? ?? ?? ?????????????? ????? – ?????????????? ????? ???
????????????? ?????»

I – ????????

1. ? ??? ??? ????? ?????? ?????????????? ?????????? ?????? ?? ?????????????? ??? ????? ???????????
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ?????? [??? ????: ???]. ??? ?????????? ?????????? ?????????? ?????????? ???
????????? ?????? ?? ?????????? ????. ??? ??? ??? ???, ? ?????????? ?????????? ?????????? ???
???? ?????????? ??? ?????? ??? ??? ??? ??? ?????? ?????????? ?????????? ??? ?? ???
?????????. ??????, ?????? ? ??????????, ????? ?? ?????????? ?????????? ??? ?????? ??
????????? ?????????? ??????, ??? ?????? ??? ??? ??? ?? ?????? ??? ?????? ??? ??????????, ??? ??
????????, ?????? ??? ?????? ?????? ?? ?????? ??? ??????????.

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

II – ?????? ???????

3. ??? ??? ?????? ??? ?????????? ?????????????? ??? ?????? ?????, ? ??? ??? ?????? ???
????????? ??? ??? ?????? 2006/112/?? ??? ?????????? ??? 28?? ?????????? 2006, ???????
?? ?? ?????? ?????? ?????? ?????????????? ?????? (2) (??? ????: ?????? ???).

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

[...]

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

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

10. ?? ?????????? ?????? ?????????????? ?????????? ?????????? ?????????? ??? ??
????????????? ?????? ??? ?????? ????.

III – ?????? ??? ?????? ????

11. ? ?????? Sveda UAB (??? ????: Sveda) ?????? ? ?????????????? ??? ?????? ???
????? ????, ?????????? ??? ?????? ?????? ?? ?????? ?? ?????? ??? ?? ?????? ?????? ???
????? ????.

12. ??? ?? ??? 2012, ? Sveda ?????????? ?? ??? ?????????? ??? ?????? ??????????????
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? (??? ????: ??????????
?????????). ??? ??????, ?????????? ?????????, ?????????, ?????????, ?????????, ??????????
????????? ?? ??? ?????? ??????, ?????????? ?????? ?????????? ?????? ??? ??????
????????? ?????? ??????.

13. ?? ?????? ??? ?????? ?????????? ??? ?? ??? ?????? ?????????? ??????
????????????? ??? ?????? ?????? ?????????? ??? ?????????? ?? ?????? ??? ?????? ???
Sveda ?? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? (??? ????:
????? ?????? ?????????? ??????). ?????? ??? ?????????? ????, ? Sveda ?????????? ??
????????? ?? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???????. ?????? ??? ??????
?????????, ?????????????? ??? Sveda, ?? «?????????», ?????? ?? 90 % ??? ??????
????????? ??? ??????.

14. ??? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ?????? ??? Sveda ?????? ??
????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ???
9, ?????????? 1, ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???, ??
????????? ??? ?????? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

15. ??? ?????? ??? ???, ? Sveda ?????? ?? ??? ?????? ?????? ?????? ??? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????? ??? ? Sveda ?????????? ?????????? ??? ?????? ???.

IV – ?????????? ?????? ??? ??????????

16. ???? 17 ??????? 2014 ?? Lietuvos vyriausiasis administracinis teismas (???????)
?????????? ?????????? ??? ??????????), ?? ?????? ??????? ??? ?????????? ??? ???????,
?????? ??? ?????????? ?? ??????? ?????????? ???????, ??????? ?? ?? ??? 267,
?????????? 3. ????:

17. ????? ?? ??????????? ?????????? ?? ??????????????, ? ?????????????? ?? ??????????????, ??
????????? ?????????? ?? ?????????? ?????????? ?????????? ?? ?????? ?????????? ?????????? ?????? ??
????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????? 2014 ??? ??????
????? ???' ?????????????? ?????????? ??? 4?? ?????????????? 2015.

V - ??????? ??????????

19. ????? ?? ????????, ??? «????????????? ??? ????» ??? ?????????? ?????????? ???
??? ??? ??? ?????? ??????? ??? ??? ?????? ??? ?????? «????????????? ??? ????»
??? ?????????????? ??? ».

? - ??????? ???. ??????? ?????????????? ????. ?????????????????? ??????????

20. ? ??????????? ???. ??????????? ?????? ???, ??? ??????????? ??????????, ?? ???????
????????? ??? ???. ??????????? ??? ???. ??? ???. ??? ?????? ???, ??? ? Sveda ?????? ??????
????????? ?????????? ??? ???. ???, ?????? ??? ?????? ??? ??????????? ??? ?????????? ??????????
??? ?????????? ??? ???. ?????? ??? ?????????? ??? ?????????????? ??? ???????.

21. ????? ?????? ??????????, ? ??????? ??? ?? ???? ?????????????? ??? ?????????????? ?????
????????????? ???, ??? ???? ?????????? ??? ??????, ? ?????????????? ??? ?????? ?????? ??????
????????? ??? ???? ?????????? ??? ?????, ?????? –????????????? ??? – ??? ???? ?????? ???
????????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? 9, ?????????? 1, ??????
??????, ??? ?????? ??? (4). ?? ??? ?????? ??? ??? ?????? ?????? ??? ?????? ?????? ??? ???
????????? ??? (5).

22. ? ?? ??? ?????????????? ???????????, ?? ??????? ????????, ??? ?????? ? ??????? ??????? ??????
?????? ????? ?????????????????? ??????????? ??? ?????????????? ??? ???????, ?????????????? ?? ???
????????????? ?? ??? ?????????????? ?? ??????? ??? ??????? ??? ??????? ?????????? ? ??? ??????? ???
?????? ?????? (6). ?? ??????? ??? ??????? ??? ??????? ?? ??????????? ?? ??????????? ?? ??? ??? ??
?????? ??? ?????????? ??? ?????????????? ???????????, ??????? ??? ?????? ?????????????????? ?
???? ??? ??????? ??????? ??? ?? ??????? ?????????? ??? ??????? ??? ??????? ??????? ??? ?????????? ???
??? ??? ??????? ??? ??? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ?????????? ???
????????????? ??? ??? (7).

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

?????????? ??????????? ??? ???? ????? ?? ??????? ?????? ?????????????? ??????? ???
????????????? ??????? ??? Sveda. ??? ?? ??????? ??? ?????? ?????? ?? ??? ??????
????????? ??????, ? Sveda ??????????? ?? ??????? ?????? ??? ?????? ?? ??????
????????, ??? ??????? ?? ?? ?????????????? ??? ?????????? ?????????? ?????????? ???
?????????????. ??????, ? Sveda ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??.

24. ??????, ?? ?????????? ??? ?????? ?????? ?????????????? ??? ?? ?????? ??? ??????
????? ??? ?? ?????? ??? ?????????????? ??? ?????????????? ??? ?? ?????? ??? ?????? 9,
????????? 1, ?????? ??????, ??? ?????? ??? ??, ?? ?????? ?? ?????????? ??? ?????? ???
????? ??? ?? ?? ?????? ??? ?????????????? ??? ?????? ??? ?? ?????????? ???
????????????? (8).

25. ??????, ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ??????????, ? Sveda
????????, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????, ?? ??????????
????? ??? ?? ?????? ??? ?????? ?? ?? ??? ?????? ?????????? ??? ?????? ?????????? ???
?????????.

? – ?????? ??? ?? ?????? ?????????????? ????????

26. ??? ?? ??? ???? ? Sveda ??????? ?????????? ??? ??, ?? ?????? ?????????? ??????
??? ?? ?? ?????? ??????? ??? ?????????????? ??? ??????????, ?????? ?? ??????????
????????? ??? ?????????? ??? ?????????????? ??? ??????????????, ??? ?? ?????? 168 ???
????????? ??? ??, ?? ?????????????? ??? ?? ?????? ?????? ??? ?????????????? ?????? ???.

27. ????????, ? ?????????? ??? ?????? ??? ??????, ? ? ?????? ??? ?????????? ??' ???,
????????? ??? ?????? ??? ?????????? (9). ??????, ?????????????? ?????????? ??? ?????? ??????
? ?????????????? ???, ?????, ??? ?? ????? 63 ??? 167 ??? ?????? ??? ??, ?? ??????
????????? ??? ?? ?????? ?????????? ??? ?????? ?? ?????? ?????? ??? ?? ??????
????????? ??? ?? ?????? ?????????? ??? ?????? ?? ?????? ?????? ??? ?? ??????
????????? ??? ?? ?????? ?????????? ??? ?????? ?? ?????? ?????? ??? ?? ?????? (10).

28. ??? ?????? ??? ?????? ?????? ?????????????? ??? ? ?????????????? ?????? ???
????????????? ? ?????????? ??? ?? Sveda ?????? ??????????.

29. ??????, ? ?????????? ?????????? ?????????? ??? ?????? ??????. ? ?????????? ???
??????????. ??? ?????????? ?????? ???, ??? ? Sveda ??? ?????? ?????? ??? ?????? ??????????. ???
????? ??? ?? ?? 26, ?????????? 1, ?????? ??, ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ?????? ?? ?????? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ????. ??????????, ??? ?? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????????? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????? (11).
?? ?????? ?????????? ?????????? ??? ?? ??? ? Sveda, ??? ?? ?????????? ???
????????? ???, ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? (12).

30. ??????, ? ?????????? ?????????? ?????????????? ??? ?? ?????? ??????????????
?????????, ??? ?? ??? ? Sveda ?? ?????? ??? ?? ?????? ?????????? ??? ?????? ??? ??????????.
????????? ?? ?? ?????? 2, ?????????? 1, ?????? ??, ??? ?????? ??? ?????? ???, ??
????????????? ??? ?????? ??? ??????????.

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

? ??????? (?????????? ????), ? ??????, ??? ???? 168 ??? ?????? ???, ???
????????? ?????? ?????? ????. ?????????? ?????? ???? ?????? ??? ??????
????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??????
(????????? ??????), ??? ??? ?????? ?????? ?????? ?????? ?????? ????. ??? ???? ?? ???
?? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? 168 ???
????? ??? ????;

32. ??? ?????? BLP Group, ?? ?????????? ?????? ?????? ??? ???? ?????????? ???
??? ?????????? ?? ?????????? ?????? ?? ?????????? ?????? ??? ?????????? ???
????? ??? ?????????? ?????? ???, ??? ??? ?????? ???, ??? ??? ?????? ??????
? «?????» ?????? ?????? ?????? ?????????? ??? (13). ??? ??????????, ??
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??????
????????? ??????, ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??????
????? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???.
????? ?????? ??? ?????? ?????? ?????? ???.

33. ??????, ?? ?????????? ?????? ?????? ??? ?????????? ????. ??? ???? ?????????? ???
????? 168 ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ????
????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ???? ?
????????? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? (14). ???
????? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
??? ?????????? ????, ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??????
????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????? ?????? (15).

34. ?? ?????????? ?????? ??? ???? ?????? ?????? ??? ?????? ?????? ?????? ??????
?????, ??? ???? ?????? ??????, ? ?????????? ??? ?????? ??? ?????? ?????? ???
????? ?????????? ???? ???? ?????? ??? ?????? ??? ?????? ?????? ??? (16). ???
????? ??? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ????
????? ???? (17).

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

36. ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ??????
????? ??????. ??? ???? ??????, ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ? Sveda ?????? ?? ?????? ?????? ?????? ??????
??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????
????????? (??' ???? ?????? ??? 2). ??? ???? ?????? ??????, ??????, ??????
????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????
????? ?. ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????? ???????. ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 1).

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

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

????? –????????????? ??? ?????????? ??? ?????????????? ?????????? ?????????????? ?????????? –
?? ? ??? ? ?????????? ??? ?????????? ?????????? ??? ?? Sveda ?????????? ??????????????
????? ??????. ??????????, ? ?????????? ??? ?????????? ?????????? ?? ?????????? ??
????????? ?? ? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ?? ??????
????????? ?? ??? ?????? ??? ?? ?????? 2, ?????????? ?? ? ?, ??? ?????? ??? ??.

38. ??? ?????? ?????? ??????????, ? ?????? ?? ?????????? ?????? ?????????????? ?????? ??? ??????
????? ?????? ?????? ??? ?????????? ?????? ??? ?????? ?????? ?????????? ??? ?? ??? ??????
????????? ??? ?? ?????????? ?????? ??? ?????????? (18). ? ?????? ??? ??????
????????? ??? ??????, ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ?????????????? ?????????? ?????? (19), ?????? ??? ?? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? (20). ?????? ??? ? ?????????? ???
????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ??? ?????? ??? ?????? (21).

39. ??? ?? ?????????? ??? ?????????? ??????????????, ? Sveda ?????????? ??? ??????????,
????? ?????????? ?? ??? ?????? ?????????? ??????????, ?? ?????????????? ?? ??????????
?????????. ??? ??????, ??? Sveda ?????????? ??? ?? ?????? ??? ?????? ?? ??????
????????? ??? 90 % ??? ?????? ?????????? ?????? ??? ?? ?????? ??????????????????
?? «?????????». ??????, ?????? ?? ?????? ??? ?????????????? ?????????????? ??? ??????????
??? ?????? ?????? ?? ?????? ?? ?????? ??? ?????????? ?????? ?????, ??? ?? ?????? ???
????????????? ??????????, ?????? ??? ?????????????? ??? ?????? ??? ?????????? ?????????? ??? ??
«?????????».

40. ?? ?????????? ??? ??? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ???, ??? ??
?? ?????????? ??? ?????????? ??????, ? Sveda ?????????? ??? ?? ??????????????
????? ?? ?????? 2, ?????????? ?? ??, ??? ?????? ??? ?????? ??? ?????, ??? ?? ?????????? ??
????????? ??? ?????? ?????????? ??? ?????????? ?????????? ?? ?????? ?? ?????? ??? ??????
????? ?? ?? ?????????? ??? ?????? ??? ??????. ?????? ??? ?? ?????? ??? ?????? ??? ??
????????? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

2. ??? ??? ?????????? ??? ?????????????? ??????

41. ????????, ?? ?? ?????? ?????????? ?????????????? ??? ? ?????????? ??? ?? Sveda
??? ?????????? ?????????? ??? ?????????? ?????????????? ??? ?????? ??? ??????
????????? ??????, ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????????? ???
?? ?? ?? ?????? ?????????? ??? ?????????? ?????????? ?????????????? ??? ?????? ??? ??????
??? ?????? 168 ??? ?????? ???, ??? ?? ?????????? ?????????? ?????????? ?????????? ???
????????? ?????? ??????????. ??? ??????, ?? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ?????????? ?????? ?? ?????????????? ??? ?????? ??? ?????? ??? ??????

?) ??? ?????????????? ?????? ??? ??????

42. ?? ?????????? ??? ?? ?????????????? ??? ?? ?????? ?????????? ??? ?????? ??? ??
????? ?? ??? ?????? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ??
????????? ??? ?? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ??

43. ????????, ??? ?? ?????? Becker, ? ?????? ?????? ??? ?????? ?????????? ??? ??
????????? ?????? ??? ?????? ?????????? ?? ??? ?? ?????????? ?????????? ?????????? ???
????????????????? ?????? ?????? (22). ??? ??? ?????? BLP Group, ?? ??????????
????? ????, ??? ?? ?????? ???, ??? ? ?????????? ?????? ?????? ??? ?????? ??? ??????

??? ??? ??????? ?????? ??? ?????? ?? ?????????????? ?? ??? ??? ?????????? ???
?????????? ??? ??? (23).

44. ?????????????? ?????????????? ??? ??? ?????? ?????? ?????? ??? ?????????????? ???
????? ?? ??? ?????? ?????????????? ?? ??? ??? ?????? ??? ?????? (24). ??? ??????????
????, ? ??? ?????????????? ??? ?????? ?????? ?????????? ??? ??? ?????????? ??? ??? ???
?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ?????? ???
?????????, ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??? ?????? ??? ?????? ???
??????, ?????????????? ??? ?????????? ??? ?????? ??? ?????? 1, ?????????? 2, ???????
??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ??? ?????, ??? ?????? ?????????, ? ?????????????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (25), ?????????? ???,
??? ?????? ?????? ???, ? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?? ?????? ??? ??? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? (26).

45. ?????????????? ?????????? ??? ?? ?????? ?? ?? ?????? ??????????????, ??? ???
????? ?? ??????????, ??? ??? ?????? ?????? ?????? ?????? ?????? ? ?????? ??????????????
????????? ?????? ?????? ?????? ?????? (27). ??? ?????? ??? ??????
?????? ??? ?????? ?????? ?????? (28). ??????, ?? ??? ?????? ?????? ?????? ?????? ???
????????????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????, ??? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ???
????? ??? ?????????? ?? ??? ?????? ?????? ?, ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????.
???? ?????????? ??? ??? ?? ?????? ??? ?????? 168 ??? ?????? ??? ??? ???, ?????? ???
????????? ? ?????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????.

46. ??? ?????????? ??????????, ? ?????????? ??? ?????? ?????? ?????????? ??????????,
??? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ??? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ???.

47. ??????, ?????? ??? ?????????? ? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??????
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) ??? ?????????? ??? ?????? ??? ?? ?????????????? ?????? ?????? ???

48. ?? ?????? ??? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?? ?????? ?????? ??? ???.

49. ??? ??? ?????? ?????? ? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????????? . ??? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
?? ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??? ??? ?????? ???
(29).

50. ??????, ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ? ?????????? ???
????????? ?? ?????? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??? ????. ??
????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
??? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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????????? ?????????????? ??? ?????????? «??????» ?????? ? ?????? ?????????????? ???
????????????? ??? ?????? (30).

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

52. ???????, ? ?????? ??? ?????? ?????? ??? ??????? ?????? ?? ??? ?????????? ?????? ???
????????? ??? ?????? ?????? ?????????? ?? ?????????? ?????? ?? ? ?????????? ??????
??? ?????????? ????????, ?????? ? ?????? ?????????? ?????? ??? ?????????? ??? ???
?????????, ?????????? ?? ?????????? ?????????? ??? Sveda. ??? ? ??????????, ???
????????? ?????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
???? ??? ??? ?????? ??? ?????? ?????????? ?? ??? ?????? ??? ?????????? ??????????????
(31).

53. ??? ??? ?????????? ??? ?????? ??? ?????????? ????????????, ??? ??? ?????? ???
????????? ??? (32). ??? ??? ??? ?? ?????? ??? ?????? ??? ?????? ?????????? ??????
??? ?????????? –?????? ??? ?????? ??? ?????? ??? ?????????? – ?? ?????????? ??????????
??? ?????????? ????. ??? ?? ?????? ???, ?? ?????? ?????????? ??????????
?????????, ??? ??? ?? ??' ?????????? ????????, ??? ?????????? ??? ?????????? ??????????
????? ?????????? ?????? ?????? ?????? ??? ?????? ?????????? ??????????.

?) ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????????

54. ??? ?? ?????????? ?????????? ??? ?? ??? ?????? ?????? ??? ?? ?????? ??? ????
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?? ??? ?????? ?????????? ???????. ?? ?????? ??? ?????? ?????? ??? ?? ??? ?? ??????
?????????.

55. ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?????? ?????????? ??? ?? ?????? ??? ??, ???, ???, ??? ??????????
(33), ??? ??? ?????? ??? ?? ?????? ?????? ?? ?? Sveda ?????????? ?????? ???
????????? ??? ?????????? ??? ???.

?) ?????? ??? ??? ?????? (??) 1698/2005

56. ??? ??? ? ?????????????? ??? ?? ?????? ?????????? ?????????? (?) 1698/2005
?? ??????????, ??? 20?? ?????????? 2005, ??? ?? ?????? ??? ?????????? ?????????? ???
?? ?????????? ?????? ??? ?????? ?????????? ?????????? (34), ?????? ?????? ??? ?? ???
????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ???.

57. ??? ?? ? ?????????? ??? ?????? ??? ?????????? ?????? ??? Sveda ?????????? ???
?? ?????????? ??? ?? ?????? ?????????? ?????? 36, ?????? ??, ?????? vii, ??? ?? ???
?????????, ?????? ??? ?????? ?????????? ?????? ?????? ?????? ?? «?? ??????????
?????????», ?? ?????? ?????? ?????????? ??? ??? ?? ?????? ??? ?????? . ???, ??? ???
?????????, ? ??? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ??????
????????? ??? ?????? ?????????? (35).

?) ?????? ??? ?????? ??????????

58. ????? ???? ??? ? ?????????? ??? ?????????? ??? ?????????? ? ????? ???? ???
????????? ?? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ??? ??????????
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59. ??? ? ? ????? 187 ??? ?????? ???, ?????????? ??? ?????? ?????? ?????? ???
?? ??? ? ? ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ???
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60. ? ?????????? ??? ?????????? ?????? ?? ?????? ??? ?????? ?????? ?????????? ???
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61. ??????, ??????, ? ?????? ?????????????? ??? ?????? ?????? ?? ?????????? ???
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???? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????????? ???
????????? (36). ??? ??????, ??????, ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????????????? ???, ?????? ??? ?????? ?????? ?????????? ???, ??? ?????? ?? ???
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????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? Sveda, ?????? ?? ??? ?????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ??????
????????? ?? ?????????? ? ?????? ?????? ??????.

??) ??? ???? ?????? ????

62. ?????, ?????? ??? ? ?????????? ?? ?? ?????? ??? ? ?????? ??????????
????????? ?????? ??? Sveda ?????? ?? 90 % ??? ?????? ?????????? ? ?????????? ???
????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

63. ?? ?????? ?????? ??? ?????? ?? ?????? ??? ? ?????? ??? ? ?????? ??? ?????.
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????.

64. ??????, ??? ? ?????????? ??? ?????? ?????? ??? ? ?????? ?????? ??? ? ??????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????.
????????? ??????. ??? ?? ?????? 168 ??? ?????? ??? ???, ?????? ??? ?????? ??? ?? ?? ??
????????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??????. ??????,,
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??????.

65. ??????, ?? ?????????? ??? ?????? ??? ? ?????? ??? ? ?????? ??? ?????.
?? ? ?????? ?????? ??? ? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????.
????????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? (37).

66. ???????, ??? ?????????? ??? ?????? ???, ??? ?????????? ??? ?????.
????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???.

VI – ??????

67. ?????? ??? ?????? ??????, ?????? ?? ?????? ??? ?????? ?????? ?????? ???
????????? ??????:

? ? 168 ??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???

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

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

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

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???. ??????. ????. ????. ????. /??. ??????.

1 – ??????? ??? ?????????????: ? ???????????.

2 - ?? L 347, ?. 1.

3 - ?? L 145, ?. 1.

4 – ?. ?????????? Lennartz (C-97/90, EU:C:1991:315, ????? 15), Bakcsi (C-415/98, EU:C:2001:136, ????? 29), Eon Aset Menidjmunt (C-118/11, EU:C:2012:97, ??????? 57 ??? 58) ????? ??? Klub (C-153/11, EU:C:2012:163, ??????? 39 ??? 40).

5 – ???. ??????? ???. ?????????? ???. ??? ????? ??????? ? (C-334/10, EU:C:2012:108, ?????? 25
??? ????. ????????????. ??????????).

6 – ??., ??? ??? ?????? ????, ??????? Bakcsi (C-415/98, EU:C:2001:136, ?????? 28 ?? 29) ????? ??? Eon Aset Menidjmunt (C-118/11, EU:C:2012:97, ?????? 56 ??? 59). ?. ?????? ????? 168, ??????? ?, ??? ?????? ????.

7 – ????????? Lennartz (C-97/90, EU:C:1991:315, ????? 21), Bakcsi (C-415/98, EU:C:2001:136, ????? 29), Eon Aset Menidjmunt (C-118/11, EU:C:2012:97, ????? 58) ??? Klub (C-153/11, EU:C:2012:163, ??????? 39 ??? 40).

8 – ?????????? Lennartz (C-97/90, EU:C:1991:315, ????? 14), Klub (C-153/11, EU:C:2012:163, ????? 44) ??? Gran Via Moine?ti (C-257/11, EU:C:2012:759, ????? 25).

9 – ??., ?????? ????, ??????? Lennartz (C-97/90, EU:C:1991:315, ????? 15), X (C-334/10, EU:C:2012:473, ????? 17) ??? FIRIN (C-107/13, EU:C:2014:151, ????? 49).

10 – ???. ?????? Klub (C-153/11, EU:C:2012:163, ????? 36)- ???. ?????? ??? ?????????? ??? ?????? ?????? X (C-334/10, EU:C:2012:108, ?????? 81 ??? ????? ?????????????? ??????????).

11 – ??., ??? ??? ?????? ????, ??????? BCR Leasing IFN (C-438/13, EU:C:2014:2093, ????? 26)- ??., ??? ??????????, ?????????? Vereniging Noordelijke Land- en Tuinbouw Organisatie (C?515/07, EU:C:2009:88, ????? 38) ??? Gemeente ‘s-Hertogenbosch (C-92/13, EU:C:2014:2188, ????? 25).

12 – ??, ???????, ?????? 23 ??? 25.

13 – ??????? BLP Group (C-4/94, EU:C:1995:107, ????? 19)- ??????, ??????????, ??????? Portugal Telecom (C-496/11, EU:C:2012:557, ????? 38).

14 – ??., ?????? ??????, ?????????? Midland Bank (C-98/98, EU:C:2000:300, ????? 24),
Halifax ??. (C-255/02, EU:C:2006:121, ????? 79) ??? Malburg (C-204/13, EU:C:2014:147,
????? 34).

15 – ??., ??? ??? ?????? ????, ?????? ????, ??????? Midland Bank (C?98/98, EU:C:2000:300, ?????? 30 ??? 31), Investrand (C-435/05, EU:C:2007:87, ????? 24), SKF (C-29/08, EU:C:2009:665, ?????? 58 ??? 60), Becker (C-104/12, EU:C:2013:99, ????? 20) ??? Malburg (C?204/13, EU:C:2014:147, ????? 38).

16 – ??., ?????? ????, ???????? SKF (C-29/08, EU:C:2009:665, ????? 60), X (C?651/11, EU:C:2013:346, ????? 55) ??? PPG Holdings (C-26/12, EU:C:2013:526, ????? 23) · ??., ??? ??? ??? ?????? ????, ?????? Kretztechnik (C-465/03, EU:C:2005:320, ????? 36).

17 – ??., ??????, ??? ???????? ??? ??? ?????? TETS Haskovo (C-234/11, EU:C:2012:352, ?????? 31 ??? ??? ?????????? ??????????).

18 – ???. ?????????? ?????? Serebryannay vek (C-283/12, EU:C:2013:599, ?????? 37 ??? ??? ?????????? ?????? ??????????).

19 – ??., ?????? ????, ???????? Tolsma (C-16/93, EU:C:1994:80, ?????? 14), MKG-Kraftfahrzeuge-Factoring (C-305/01, EU:C:2003:377, ?????? 47) ??? Le Rayon d'Or (C-151/13, EU:C:2014:185, ?????? 29).

20 – ??., ?????? ????, ???????? Tolsma (C-16/93, EU:C:1994:80, ?????? 13 ??? 20) ??? Fillibeck (C-258/95, EU:C:1997:491, ?????? 12 ??? 17) · ??., ??????, ??? ?????????? ??? ?????? ?????? Ch. Stix-Hackl ??? ????? Bertelsmann (C?380/99, EU:C:2001:129, ?????? 32).

21 – ??., ??? ??? ?????? ????, ?????? Hotel Scandic Gåsabäck (C-412/03, EU:C:2005:47, ?????? 22).

22 – ?????? Becker (C-104/12, EU:C:2013:99, ?????? 22 ??? 23 ?????? ??? 33).

23 – ???. ?????? BLP Group (C-4/94, EU:C:1995:107, ?????? 24).

24 – ???. ??????, ?????? 38.

25 – ??., ?????? ????, ???????? Rompelman (268/83, EU:C:1985:74, ?????? 19), Ghent Coal Terminal (C-37/95, EU:C:1998:1, ?????? 15), Halifax ?.. (C-255/02, EU:C:2006:121, ?????? 78), Securenta (C-437/06, EU:C:2008:166, ?????? 25) ??? Idexx Laboratories Italia (C-590/13, EU:C:2014:2429, ?????? 32).

26 – ??., ?????? ????, ???????? Elida Gibbs (C-317/94, EU:C:1996:400, ?????? 19), Pelzl ?.. (C-338/97, C-344/97 ??? C-390/97, EU:C:1999:285, ?????? 21), KÖGÁZ ?.. (C-283/06 ??? C-312/06, EU:C:2007:598, ?????? 51) ??? Lebara (C?520/10, EU:C:2012:264, ?????? 25).

27 – ???. ?????? AES-3C Maritza East 1 (C-124/12, EU:C:2013:488, ?????? 31).

28 – ???. ?????? Becker (C-104/12, EU:C:2013:99, ?????? 31).

29 – ??? ?? ?????????? ?????????? ??? ?????? ??????, ???. ?????? TETS Haskovo (C-234/11, EU:C:2012:644, ?????? 34).

30 – ???. ???????? BLP Group (C-4/94, EU:C:1995:107, ?????? 19), SKF (C-29/08, EU:C:2009:665, ?????? 62 ??? 71) ??? X (C-651/11, EU:C:2013:346, ?????? 56).

31 – ?????????? Securenta (C-437/06, EU:C:2008:166, ????? 30) ??? Vereniging Noordelijke Land- en Tuinbouw Organisatie (C-515/07, EU:C:2009:88, ????? 37).

32 – ?. ???????, ?????? 23 ??? 25.

33 – ?. ???????, ?????? 42 ??? 45.

34 – ?? L 277, ?. 1.

35 – ?. ??????????? ?????????? Fischer (C-283/95, EU:C:1998:276, ????? 28), CPP (C-349/96, EU:C:1999:93, ????? 33) ??? GfBk (C-275/11, EU:C:2013:141, ????? 32).

36 – ?. ??????? Lennartz (C-97/90, EU:C:1991:315, ????? 20).

37 – ?. ??????? ???????? ??? ?????? (C-243/03, EU:C:2005:589, ????? 33).