

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

YVES BOT

??? 17?? ??????????? 2016 (1)

?????? C?518/14

**Senatex GmbH**

????

**Finanzamt Hannover-Nord**

[?????? ??? Niedersächsisches Finanzgericht (?????????)  
??? ??? ?????? ?????????????? ?????]

«????????????? ?????????—????????—????? ?????????????? ?????—????????? ???  
????? ?????—????? ?????????? ?????? ?????? ?????????? ?????? ???—?????  
?????? ?????? ?????????? ??? ex tunc ?????? ??????????»

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

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

3. ??????, ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ???  
?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??? ???????????,  
??? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ???, ??? ??? ?  
????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????  
?????????, ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??? ?  
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??? ??? ???  
????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? (????? ??? ??????????)  
??? ?? ??? ???????, ??? ?????, ?????? ? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? (????? ??? ???????????????).

| - ?? ?????? ????????

? — ?? ?????? ??? ??????

4.      ?? ?????? 63 ??? ??????? ??? ??? ??? ??? ?????? ?? ???:

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

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

«???????????? ?????????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ? ?????? ?????????? ??????  
????????? ??????????»

6.      ?? ?????? 168, ????????, ??, ??? ?? ???? ?????? ?????? ?? ???:

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

7.     ?? ?????? 178, ?????????? ?, ??, ??? ??????? ??? ??? ??? ?????? ?? ???;

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

?) ??? ??? ???????????? ??? ??? 168, ????????, ??, ???????, ??? ?????? ???  
?????????? ?????? ??? ??? ??????? ???????????, ?? ??????? ???????????, ?? ?????? ???  
?????? ??????? ?? ?? ????? 220 ??? 236 ??? ?? ????? 238, 239 ??? 240».

8.      ?? ?????? 179 ??? ??????? ?????? ?????? ?? ????:

«? ??????? ??????????? ?? ???? ??????????? ????? ?? ???? ???????, ??? ?? ???????  
???? ?? ???? ?? ???? ??????? ?? ???? ??????????? ???????, ??? ??????????? ????? ?? ????,  
??? ?? ???? ?? ???? ??????? ?? ???? ???????, ??????? ?? ?? ???? 178, ?? ??????? ?? ???? ???????,  
??? ?? ???? ??????? ?? ???? ???????.

??????????, ?? ????? ???? ?????? ?? ?????????????? ??? ?????????????? ??? ?????? ?? ?????? »

9.      ?? ?????? 219 ??? ?? ??? ?????? ?????????? ?? ????;

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

10.    ?? ????? 226 ??? ??????? ??? ??? ??? ?????? ?? ????:

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

?????????? ??? ?????????? ???' ??????? ??? ?????????? ??? ?????? 220 ??? 221:

[...]

3) ? ??????? ?????????? ??????? ??? [...] , ?? ??? ???? ????? ? ?????????? ??? ?????  
????????????? ??? ??????? ??? ?????? ? ?? ?????? ??? ?????? ??? ???????,

[...]»

11. ?? ??? 239 ??? ?????? ?????? ?????? ?? ????:

«?????? ?? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????????????? ??? ?????? 272,  
????????? 1, ??? ??????, ??????, ?????? ?) ??? ? ?????? ?????? ?????????? ?????????? ??????  
??? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????????? ?????? ??? ?????? ??? ??????  
??? ?????? 20, 21, 22, 33, 36, 138 ??? 141, ??? ?????? ?? ?????? ?? ?????????? ??? ?????? ??? ??????  
????? ??? ?????? ?????????? , ? ?? ??? ?????? ?????? ?????????? ?????? ??? ?????? ??? ??????  
????? ? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????  
??? ?????? ?????? ?????????? ??? ?????????? , ??? ?????????? ??? ?????? ??? ?????? ??? ??????  
????? ???.

? — ?? ?????????? ??????

12. ??? ?? ??? 15, ?????????? 1, ??? ?????? ???????, ?????? 1, ??? Umsatzsteuergesetz  
2005 (????? ??? 2005 ??? ?? ?????? ?????? ???????, *BGBI.* 2005 I, ? . 386, ??? ????: UStG)  
(3), ? ?????????? ??? ?????? ?? ???????, ?? ??? ???? ??? ???????, ??? ??????  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ???  
????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????  
????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????  
????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?? ?? ??? 14 ??? 14a  
??? UStG. ??? ?????? ???????, ??? ?????? ???, ?? ?????? ??? ?????? ??? ??? ??????  
??? ?????????? ??? ?????? 14, ?????????? 4, ??? UStG.

13. ?? ??? ??? ?????? ?????? ?? ?????????? ??? ?????? ?? ?????????? ???  
????????? ??? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 15,  
????????? 1, ??? UStG.

14. ??? ?? ??? 31, ?????????? 5, ??? Umsatzsteuer-Durchführungsverordnung  
(????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???????, ??? ????: UStDV),  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ??? ?????? ?? ?????????? ???  
????????? ??? ?? ??? 14, ?????????? 4, ? ?? ??? 14a ??? UStG ?????? ??? ? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? , ??? ?????? ?? ?????? ??? ??????  
????? ?????? ?? ?????????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????  
????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? 14 ??? UStG.

15. ??? ?????? ?????????? ?????????? ? ??? ?????? ?????? ?????? ?????? ??? ???,  
????????? ???' ?????? ?? ?????? 17, ?????????? 1, ??? UStG. ??? ???? ??? ?????? ???,  
????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

16. ?? ?????? ??????????? ???????????, ??????, ???, ??? ??????????? ?? ?????? ??  
????????? ??? ?????? ??????? ??? ?????? ? ?????????? ?????????? ??? ???????????, ??  
????????? ??? ?????? ??????? ??? ?????? ? ?????????? ?????????? ??? ??????????? ???  
????????? ??? ?????? ??????? ??? ?????? ? ?????????? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? ??????? ??? ?????? ? ?????????? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? ??????? ??? ?????? ? ?????????? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? ??????? ??? ?????? ? ?????????? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? 233a ??? Abgabenordnung (?????????? ??????, ??? ????: AO), ??? ??????  
????? ?? ??????? ??? ?????? ??? ?????? ?????? ?????? ???????, ??????????????  
????????? ?????????????????? ??????????????.

## II – ?? ??????? ??? ??????? ??? ?????? ????

17. ? Senatex GmbH (??? ????: Senatex) ?????????????? ?????????? ???????????  
????????????? ?????????? ????. ??? ?? ?? 2008-2011, ????????, ??? ???????????  
????????? ???, ??????? ??? ?????? ??? ?????? ?????? ??? ?????????????? ??????????? ???  
????????????? ?? ??? ?????? ?????????? ?????????????? ??? ?????? ??? ?????? ??????????  
????????? ?????????? (??? ????, ??? ??????: ?? ?????? ??????????).

18. ?????? ??? 11?? ??????????? ??? ?? 17?? ?????? 2013, ? Senatex ?????????? ??  
????? ??? ?? Finanzamt Hannover-Nord (????? ??? Hannover-Nord) ??? ?? ?? 2008-2011.  
????? ??? ?????? ????, ??????????? ??? ?? ?????? ?????????? ??? ??????????? ???  
????????? ??? ?????? ??? ?? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? 15,  
????????? 1, ??? 14, ?????????? 4, ??? UStG. ???????, ?? ?????????? ??? ?? ??? ??????  
??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????????  
????? ??? ?????? ?????????? ???????, ??? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ??  
????????????? ???????.

19. ??? 2 ?????? 2013, ?????? ??? ?? ?????? ?????????? ??? ???????, ? Senatex  
????????? ?? ??? ?????? ??? ??????????? ???????????, ??? ?? ?? ?? 2009-2011,  
????????????? ?? ?? ??? ?????? ??? ?????? ?????????? ?????????? ? ??????? ??? ??  
????????? ???????????. ?????? ?????? ?????? ??? ?????? ??? ?????? ?? ?????????? ???  
????????? ?????????? ??? ?? ??? 2009-2011.

20. ??? ??? ?????????? ????, ?? Finanzamt Hannover-Nord ??????, ??? 2 ??????  
2013, ??????????? ?????????? ??? ?? ?? ?? 2008-2011, ??? ?????? ?????????? ???  
??? ?? ?????????? ??? ?????? ??? ?? ?????? ?????? ??? ?????????? ?????????? ???  
????????? ?? ?????????????? ??? ?? ?? 2009-2011, ?? ?? ?????????? ??? ??  
????????????? ??? ?????????? ?????? ?????????? ??? ?? ??? ?????? ??? ??  
????????????? ??? ?????????? ?????, ?????? ??? ?? ?????????? ??? ?? 2013, ???  
??? ?? ?? ?? 2009-2011.

21. ? Senatex ??????, ?? ?? ??????, ?????? ??? ?? ?? ?????? ??????????????  
??????????. ??????, ??? ?? ?????? ??? ?? ?? ?????? ?????? ??? ?????????? ?????????? ???  
?????????, ?????????? ??? ?? ?? ?????? ??? ?? ?????? ?????????? ??? ?????????? ??????????  
??? ?? ??? 2008. ??????, ??? 11 ?????????? 2014, ? Senatex ?????? ?? ??? ????  
????????? ??? ?????? ?????? ??? ?? ?? ?????? ??? ?????? ?????????? ?????????? ??? ??  
????? ?????? ?????? ??? ?????? ??? ?? ?? ?????? ??? ?????? ?????????? ?????????? ??? ??  
????? 2008.

22. ?? ?????? ??? 3?? ?????? 2014, ?? Finanzamt Hannover-Nord ?????? ??? ??

23. .... 5 ..... 2014 ? Senatex ..... ?????? ..... ?????? ..... ??? ..... ??? ..... ?????? ..... ??? ..... ??????  
.... ..... ?????? ..... ??????..... ?????? , ..... ?????? , ??? ?? ..... ?????? ..... ??? ..... ??????  
..... ?????? ..... ?????? ..... ??? ?? ..... ?????? , ..... ?????? ??? ?? ..... 2008-2011, ??? ..... ??? ..... ??? ??  
..... ?????? ..... ??? ..... ?????? ..... ?????? ..... ?????? ..... ??? ..... ??? ..... ?????? ..... ?????? ..... ?????? ,  
..... ??? ..... ??? ..... ??? ..... ??? 3? ..... ?????? 2014. ..... ?????? , ..... ?????? ??? ?? ..... ?????? ..... ?????? ??  
..... ?????? ??? ..... ?????? ..... ?????? ..... ?????? ..... ?????? ..... ??? ..... ?????? ?? Finanzamt Hannover-Nord  
??? ?? ??? 2008-2011.

III – ?? ?????????????? ?? ??????????

24. ?? Niedersächsisches Finanzgericht (?????????? ??????????? ??? ??? ????? ???????),  
?????? ?????????? ?? ??? ?? ??????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ????? ?? ??  
????????? ?? ??? ??????? ?? ??? ?? ???, ?????????? ?? ??????? ?? ?????????? ?? ?????????? ?? ??? ???????  
?? ??????? ?????????????? ??????????:

«1) ???????????, ??????? ??? ?????????? ??? ???????????? Pannon Gép (C?368/09, EU:C:2010:441) ??? Petroma Transport (C?271/12, EU:C:2013:297), ? ?????????? ??? ?????????? ??? ?????????? ??? ????? Terra Baubedarf?Handel (C?152/02, EU:C:204:268) ??? ??? ex nunc ?????? ??? ?????? ?????????? ?????????? ??? —?? ?????????? ??????— ?????????? ??? ?????????? ?????? ?????????? ??????, ??? ??? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????';

2) ?????? ?????????? ?????????? ?????? ?? ?????? ??? ?????????? ?????? ?? ?????? ??  
????????? ?? ?????????? ???; ?????? ?? ?????? ?????????? ?? ?????????? ?? ??????  
????????? ?????? ? ?????? ??? ? ?????? ?????? ?? ?????????? ??????????, ?? ??????  
?? ?????????? ?? ?????? ??? ? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ??????????;

3)      ?????? ?????? ?????????????? ? ?????????? ??? ?????????????? ??? ?????????????????????? ???  
????????? ?????????????? ?????????? ??????????, ? ?????? ?????????? ??? ??? ??????????  
(????????????? ??????) ??? ?????????? ?????;»

## IV – ? ??????? ???

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

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

28. ??? ? ? ?????????? ??????????, ??? ? ? ?????????? ??? ?????????? ??? ?????? ??? ? ?  
????????? ??? ? ? ?????????? ??? ?????? ??? ?????? ?? ?????? ?????? ??? ?????????? ???  
????????? ??? ??????????????. ???????, ?? ?????????? ??? ?????????? ?????? ?? ??????????, ???  
??? ?????? ??? ?????? 167 ??? ?????? ??????, ???, ???????, ? ?????????? ??? ?????? ???  
????? ?? ?????? ??? ?????????? ??? ?????? 178 ????, ?????? ??? ??????  
????????????? ? ?????? ?????????? ??? ?????? ?????? ?????? ?? ?? ?????? 220 ??? 236  
??? 238 ??? 240 ??? ? ? ?????? ??????, ?? ?????????? ?????????? ?????????? ??????????, ?? ???  
????? ?????????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ??? ???  
??? ?????? ??? ?????? ?????? ??????????. ???????, ?? ?????????? ??? ?????? ??? ??????  
????? ????

29. ??? ?????????????? ??? ??????? ??? ?????? ??? ?????????? ???.

30. ??? ? ???? ??????????, ?? ??????? ?????????? ?????????? ?????????? ?????? ??? ????  
????????? ??? ? ? ???? ?????? ?????? ???????, ???????, ?? ?????????? ??? ?????????? ?? ??????  
??? ? ? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? (4). ?? ?????????? ???  
????????? ???, ???????, ?????? ??? ?????????? ??????????. ???????, ??? ??????????????  
????????????? ?? ??????????, ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????????????? ??? ? ???? ??? ?????????? ??? ?????????? ??? ?????? ??? ???  
????????? ??? ?????????????? ?????????????? ??? . ??? ??????????, ?? ?????? ?????????? ???  
????????????? ??? ?????????????? ?? ??? ? ???? ?????????? ?????????? ??? ?????? ???  
????????????? ??? ??????????????, ?????????????? ??? ?????? ??? ?????? ??? ?????????????? ???, ??? ???  
????????????? ??? ? ? ???? ?????????????? ???????, ???????, ??? ?????? ??? (5).

31. ?????? ??? ?????? 167 ??? ?????? ??? ? ??, ?? ?????????? ?????????? ??? ??????  
«????? ??? ?????? ??? ?????? ? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????????? ??? ?????????????? ??? ? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????? 168, ??????? ??, ??? ?????? ??????. ???????, ?????????? ?? ?????????????? ??? ?????? ???,  
????????????? ?? ?????????? ???, ?????, ?????, ?????? ?? ?????? ?????????? ??? ???,  
??? ??? ?????? ??? ? ???? ??????, ???, ???????, ?? ?????? ?? ? ???? ?????? ??? ??????  
????????? ?????? ??? ?????????? ??? ?????????? ?????? ?? ?????? ?? ?????????????? ??? ???  
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????????  
????????? ???, ?? ?????? ??????, ?? ? ???? ?????? ?????? ?? ?????????????? ??? ??? ? ?  
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? (6).

32. ?? ?????????? ?????????????? ??? ?????????? ??? ?????????? ?????? ?????????? ???  
????????????? ??? ?????? 178 ??? ?????? ??? ??. ? ?????????? ??? ?????? ??? ??????  
?????, ?? ?????? ???????, ?? ?????? ??? ?????? ?????? ??? ?????? ?? ?? ?????? 220 ??? ??????  
????? (7), ??? ?????? ?? ???????????, ?????? ?????, ? ?????? ?????? ?????????? ?????? ???  
(8).

33. ?? ?? ??? ??????????????, ??? ?????? ?????? ?? ?????? ? ?????????? ?????? ???  
????????? ?? ?????? ?? ?????? ??? ?????? ?????, ?????????????? ?? «?????»  
????????? ??? ? ? ?????????? (9). ??? ?????? ??? ?????? ?????? ??? ?????? ???

???????????? ???? ?? ??????? ???? ?????????????? ????? ?????????? ??? ???, ????? ?????????? ?????  
 ?????????????? ?????? ?? ?????????????? ?? ?????????????? ????? ?? ?????????? ?????????? ??? ???  
 ?????????? ??? ???, ?????? ??? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????????????  
 (10).

34. ????? ?????????? ????? ??, ??? ???????????, ?? ?????????????? ?????, ??? ???? ?????????? ?????? ????? ??  
????????????? ??? ???????, ?????????????? ?????? ?????? ? ?????????????? ??? ?????? ??? ?????? ???  
??????????, ? ?????????????? ??? ?????? ??? ?? ?????????????? ?? ?????????????? ?? ?????????????? ?? ?????  
????? ?????????? ??? ?????????????? ??? ?????? ??????. ? ?????????????? ??? ????? ?????????????? ???  
????? 219 ??? ??????? ??? ??? ???, ?? ?????? ?????? ??? «[?]??? ?????????? ? ??????, ???  
?????????? ?? ??????? ?????????? ??? ??????????? ?????? ??? ????? ?????????????? ??? ?????  
?????????, ?????????????? ?? ??????????». ?? ??????????? ?????? ?????? ??? ? ?????? ???  
??? ?????????? ?? ??????? ?????????? ?????????? (11).

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

36. ???????, ?? ?????? ?????????? ?????????? ??? ?????????? Terra Baubedarf-Handel (C?152/02, EU:C:2004:268), Pannon Gép Centrum (C?368/09, EU:C:2010:441), ????? ?? Petromta Transports ??. (C?271/12, EU:C:2013:297). ?? ??? ?????? ?????? ?????????? ??????????, ??????? ?????? ?????? ??? ?????? ?? ?????? ?????? ?????????? ?????? ?????? ?????? ??? ?????????? ??? ??????, ?????? ??????, ?????? ??????, ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

37. ????????, ? ?????? Pannon Gép Centrum (C?368/09, EU:C:2010:441) ??????? ??  
????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
?????? ??????? ? ???????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ???????????  
????????? ??? ??? ??? ??? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??? ?????????? ???  
????????? ??? ??? ??? ??? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??? ?????????? ???  
????????? ??? ??? ??? ??? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??? ?????????? ???, ?  
????????? ??? ??? ??? ?? ?????????? ??? ?????? ?????????? ??? ?? ?????? ?????????? ??? ??? ???  
????????? ??? ??? ??? ?? ?????????? ??? ?????? ??? ?????? ?????? (12). ??? ??????????, ??  
????????? ??? ??? ??? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ???  
????????? ??? ??? ?????????? ??? ?????? ??? ?? ?? ?????? ?????? ?????? ?????? ??? ?????????? ???  
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ??? ??? ???, ?? ?????????? ?????????? ??? ?????? ??? ?????????? ???  
????????? (13). ??? ?????? ??? Petroma Transports ??. (C?271/12, EU:C:2013:297), ??  
????????? ?????????? ??? ?? ?????? ?????? ??? ?? ??? ?????? ?????????? ?? ?????????? ?? ??????????  
????????? ??????????, ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ??????????  
??? ??? ?????? ?????????? ? ?? ??? ?????? ??????, ?? ?????????? ?????????? ?????? ??? ?? ??????????  
??? ?????????? ??? ?????????? ?????????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
????????? ?? ??? ?????? ?????????? ?? ?????????? ??? ?????? ?????? ???, ?? ?????????? ???, ???  
??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ???  
??? ?????? ?????? ??? (14). ???????, ?????????? ??? ?????????? ??? ?????? ??? ?????????? Pannon  
Gép Centrum (C?368/09, EU:C:2010:441) ?????? ??? Petroma Transports ??. (C?271/12,  
EU:C:2013:297) ??? ?????????? ??? ?? ??? ?????? ??? ?????????? ??? ?? ??? ?????? ??? ??????????

38. ?????? ??? ?? ?????? ?????? ? ??????? ?? ?????????? ??? ?????????? ??? ?????? ??? ??  
?????? Terra Baubedarf-Handel (C?152/02, EU:C:2004:268) ??? ?????? ??? ?????? ???  
????????? ??????????. ???????, ??? ?????? ??????, ?? ?????????? ?????? ??? ??  
????????? ??? ?????? ?????? ??? ?? ?????? ?? ?????????? ??? ??? ?????? ?????? ?????? ??? ??

????? ??? ?????? ??????????? ?? ??? ?????????????? ??? ?????????????? ??? ?????? ??? ?????? ??????  
77/388/??? (15) (????? 18, ?????????? 2, ?????? ?????? (16)). ????????, ?????????? ??  
??????????, ? ????????, ??? ?????? ? ? ?????? ??? ?????????? ?????? ?? ???  
????????????? ??? ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (17).  
?? ??????????, ??????, ? Terra Baubedarf-Handel GmbH ??? ?????? ?????????? ??? ???  
????? ??????? ??? ?????????? ??? ?????? ??? ??? ??? ?????????? ??? ??? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ?????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ??????  
????? ???????, ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? (18). ??? ??? ??? ???, ?? ?????????? ?????? ??? ?????? ?????? ?????? ??? ??????  
??? ?? ??? ?????????? ??? ?????? ?? ?????? 18, ?????????? 2, ?????? ??????, ??? ???  
????? 77/388, ?????????? ?? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ??? ??????  
????? ??? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????.

39. ???????, ? ?????? ??? ??? ?????? ?????? ?????? ?????? Terra Baubedarf-Handel  
(C?152/02, EU:C:2004:268) ??????? ??? ??? ??? ?????? ???????, ??? ?????? ??? ? Senatex,  
????????? ??? Terra Baubedarf-Handel GmbH, ??????? ??? ?????? ?????????? ??? ???  
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ??? ??? ??? ???  
?????????, ? ?????? ??? ??? ?????? ?????? ?????????? ??? ??? ??? ?????? ??? ?????? ???  
????????? ?????????? ??? Senatex. ??? ???????, ?????? ??? ??? ?????? ??? ??????  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ???????, ?????????? ??? ?????????? ???  
?? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ???  
????? ??? ?????????? ??? ??????.

40. ???????, ?????? ??? ? ?????? Terra Baubedarf-Handel (C?152/02, EU:C:2004:268)  
????????? ??? ??????? ??????. ???????, ??? ?????? 35 ??? ?????????? ???????, ??  
????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????????? ??????????  
??? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
??? ??????. ??? ?? ?????? 179, ?????? ??????, ??? ?? ?????? ??????, «[?] ??????  
????????? ??? ??? ?????????? ??? ?????? ??? ?? ?????? ???????, ??? ?? ?????????? ??? ???  
????? ??? ?????????? ??? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ???, ??? ???  
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 178, ?? ?????? ??? ???????, ??? ??  
????? ??? ?????? ??? ??????».

41. ? ?????? ?????????? ??? ?????????? ??????????, ????, ??? ?????????? ???  
????????????? ??? ?????? ?????????? ??? ??? ??? ?????? ?????? ??? ??????????  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (19). ??? ??? ?????? ???, ??? ?? ???  
179 ??? ?????? ??? ??? ??, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????? 12 ??? ?? ???  
??????, ?? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (20),  
????? ??? ??? ?????? ??? ??????.

42. ? ?????????? ??? ?????? ??? ? ?????? ?????? ?????????? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

? ?????????? ?? ??????? ? ?????????????????? ??????? ?? ???? ?????????? ?????? ????, ???  
????? ???, ?????? ?? ?????????? ?????? ?????? ?????? ??? ???? ?????? ?? ?????? ???, ?????? ???  
????????? ???, ??? ?????? ??? ???? ?????????? ??? ???? ?????? ??? ???? ?????? ???, ???  
??? ??????????, ?? ??????? ?? ?????????? ??? ?????? ?????? ??? ???? ??????????, ???  
?????????, ??????, ? ?????????? ??????, ?????? ?? ??? ?????? ?????? ?????? ??? ???? ??????  
????? ?????? ?????????? ??????, ?????? ?? ??? ?????? ??? ???? ?????? ?????? ??? ????  
??????, ?? ??? (21).

43. ??? ???, ??????, ?? ??????? ?? ??????? ??? ?????????? ??? ???? ?????? ??????? ???  
???. ?????? ?????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ???? ?????? ??? ????  
????????, ? ?????????????? ? ?????? ?????? ??? ?????? ?????? ??? ???? ?????? ??????????  
???????? ?????????? ?? ??? ??? ??? ?????????? ??? ???? ?????? ?????? ??? ???? ??????  
??????, ?? ?????????? ??? ?????? ?????? ??? ?????????? ??? ???? ?????? ?????? ??? ????  
?? ?????????? ?? ?????????? ??? ?????? ???, ??? ??????????, ?? ?????? ??? ???? ??????  
?????????, ? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???  
????????? ?? ?????????? ?????????? ??? ???? ?????????? ??? ???? ?????????? ?????? ??? ????  
??? ? ?????????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ???? ?????????? ??? ????  
?????????.

44. ??????, ??? ??? ?????? ???' ?????????? ?? ??????????, ? ?????????? ??? ????  
????????????? ??? ??? ?????? ?? ?????? ??? ???? ?????? ??? ???? ?????????? ??? ????  
????????????? ??????, ??? ??? ?? ???? ?????? ??? ???? ?????? ??? ???? ?????????? ?? ????  
????????? ?????? ?????? (22). ? ?????????? ??? ?????????? ??? ???? ?????? ??? ????  
????????? ??? ?????????? ?? ??????????, ??? ?????? ??? ???? ?????? ??? ???? ??????  
????????? ?????????? ??? ?????? ??? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ????  
????? ??? ?????????? ??? ??????????, ?????? ??? ???? ?????? ??? ???? ?????? ??? ????  
????????? ??? ??????.

45. ??????, ??????? ?? ??? ?????? ??? ?????? ?????? ?????????? ?? ?????????? ??? ????  
????????? ??? ??? ?????? ?? ?????? ??? ???? ?????? ??? ???? ?????? ?????????? ???  
????????? ?? ??? ?????? ??? ?????? ?? ?????????? ??? ???? ?????? ??? ???? ??????, ???  
????????? ?????? ??? ?????? ?? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ????  
????? ??? ?????? ??? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ????  
????????????? ??? ?????????? ?? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ??????  
????????? ??? ?????? ??? ???? ?????? ???, ?????????? ??? ???? ?????? ??? ???? ?????? ??? ????  
??? ?????? ??? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ???  
????? ??? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ???  
?? ?????????? ??? ?????????? ??? (23). ??????, ?? ?????? ??? ?????? ?????? ?????? ??? ????  
????? ??? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ??????, ???, ?????, ??? ???? ????  
?????????????.

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

? ???????, ??? ?? ?????????????????, ?????? ??????????? ?? ?????????? ?????? ?????? ??????  
????????????? ??????? ???, ??????????? ?? ???? ?????? ??? ?? ?????????? ??? ??????????, ??? ??  
?? ??? ?????????? ??????? ???????, ?????? ???, ??????????, ?? ??????? ??? ?????????? ??? ??????????  
????????????? ?????? ??? ?? ?????????? ??? ?????? ????. ????, ????, ? ??????????  
????????????? ?????????? ????, ? ?????? ?????? ?? ?? ?????? ??? ?????????? ??? ?????????? ??? ??  
????????? ?????? ?????????? ????. ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ??????  
?? ??? ?????????? ?? ??????? ??? ?? ?????????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?? ??  
Senatex, ?????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?? ??  
????????????? ?????? ?????????? ?? ?? ?????????? ?????????????????? ??????????. ??????  
?? ??? ?????? ??????? ??? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?? ??  
????????????? ?????? ?????????? ??? ?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ????  
????????, ???? ??? ??? ?????? ?????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??  
?????????????????.

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

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

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

50. ???????, ??????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??  
—????????? ??? ?????????? ?????— ?? ??? ? ?????????? ??? ?????? ??? ?? ??  
????????? ? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?? ??  
?????????. ? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??

51. ?????, ??????, ??? ?? ?????? ?? ??? ?? ?????? Petroma Transports ?.?.  
(C?271/12, EU:C:2013:297) ?????? ?????????? ?? ?? ?????? ??? ?????? ?? ?? ?????? ??? ?? ??  
????? (24).

52. ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ??  
167, 178, ?????? ??, 179 ??? 226, ?????? 3, ??? ?????? ??? ?????? ??? ?????? ??? ??

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

V - ???????

53. ?????????? ??? ?????????? ????????, ?????????? ??? ?????????????? ?? ??????????? ?? ?????? ???  
????????????? ?????????? ?? Niedersächsisches Finanzgericht ?? ???:

T? ?????? 167, 178, ??????? ??, 179 ??? 226, ?????? 3, ??? ?????? 2006/112/?? ???  
??????????, ??? 28?? ???????? 2006, ??????? ?? ? ? ?????? ??????? ?????? ??????????????  
?????, ????? ?? ?????? ??? ?????????? ?????? ???????, ????? ? ??????? ????? ?????? ???,  
?????? ?? ?????? ? ?????? ?????????? ?????????? ??? ?????? ?????????? ???????, ?????? ??  
????? ?????????? ???, ??? ?????? ?????????? ??? ?? ??????? ?????? ?????? ?????? ??? ??  
????????? ??? ?????? ?????? ??? ?? ?????? ?? ?????? ??? ?? ?????? ??? ?? ?????? ??? ??  
????????? ?? ?????? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????? ?????? ??? ??  
????????? ???.

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

1 — ??????? ??? ?????????????; ? ???????.

2 — ?? L 347, ?. 1, ??? ?????: ??????? ??? ??? ???.

3 — BGBI. 2005, I ?., 386.

4 — ?. ?????? PPUH Stehcemp (C?277/14, EU:C:2015:719, ????? 26 ??? ???? ?????????????? ??????????).

5 — ?. ?????? PPUH Stehcemp (C?277/14, EU:C:2015:719, ????? 27 ??? ???? ?????????????? ??????????).

6 — ?. ??????? PPUH Stehcemp (C?277/14, EU:C:2015:719, ????? 28 ??? ??? ?????????????? ??????????).

7 — ?. ????? 178, ??????? ?, ??? ?? ??? ????? ??????.

8 — ?. ????? 226, ?????? 3, ??? ?????? ??? ??? ??? ??.

9 — ?. ?????????? Collée (C?146/05, EU:C:2007:549, ????? 25)? Polski Trawertyn (C?280/10, EU:C:2012:107, ????? 41) ??? PPUH Stehcemp (C?277/14, EU:C:2015:719, ????? 29).

10 — ?, ??? ?????? ??? ????? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? Nidera Handelscompagnie (C?385/09, EU:C:2010:627, ?????? 49 ??? 50) ?????? ??? VSTR (C?587/10, EU:C:2012:592, ?????? 44 ??? 45).

11 — ?????????? Pannon Gép Centrum (C?368/09, EU:C:2010:441, ?????? 43 ??? 45) ?????? ??? Petroma Transports ??. (C?271/12, EU:C:2013:297, ????? 34).

12 — ?. ????? 36 ??? ???????? ????.

13 — ?. ?????? 42 ??? 45 ??? ?? ??? ????????

14 — ?. ?????? 21, 34 ??? 35 ??? ?? ??? ????????

15 — ??? ?????? 77/388/??? ??? ??????????, ??? 17?? ????? 1977, ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ????, ??? ?????????? ?? ??? ?????? ?????? ?????? ?????? — ??? ?????? ?????? ?????? ?????????? ????: ?????????? ?????? ?????? (?? ???. ??? 09/001, ?. 49).

16 — ? ?????? ??? ?????????????? ??? ?? ????? 179, ????? ??????, ??? ?????? ??? ?????? ??? ??? ???.

17 — ?????? Terra Baubedarf-Handel (C?152/02, EU:C:2004:268, ????? 34).

18 — ?????? Terra Baubedarf-Handel (C?152/02, EU:C:2004:268, ????? 35).

19 — ??? ?????? ?? ?????????? ??? ?????????? ?????????? ??? ?????? ?????? ?????????? ?????????? ???????, ?? . ??? ?????? ?????? ??? ?????? (C?274/10, EU:C:2011:530, ????? 45 ??? ??? ?????????? ??????).

20 — ?. ????? 179, ??????? ????, ??? ??????? ??? ?? ??? ???.

21 — ?. ????? 5 ??? ??????? ??? ??????????.

22 — ?. ?????????? Nidera Handelscompagnie (C?385/09, EU:C:2010:627, ?????? 50 ??? 51) ?????? ??? Polski Trawertyn (C?280/10, EU:C:2012:107, ????? 43). ?. ??????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ?????????? ?????? ?????????? ?????? ?????? Dankowski (C?438/09, EU:C:2010:818, ?????? 33 ??? 36) ???, ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? Ecotrade (C?95/07 ??? C?96/07, EU:C:2008:267, ????? 63).

23 — ???????, ???????, ??? ?????? ?????? ??? ?????????? ?????? ?????? ?????? ?????? (?. ????? 70 ??? ??????? ?????? ??? ??? ???, ????? 77 ??? ?????????????? ?????? ??? ??? ???).

????????????? ????? ? ????? ????? 1737 ??? ?????????? ??????? ?????????????? ??????).

24 — ?? ??? ??????? ??????? ?? ??????????? ??????? ?? «????????????? ? ?????????? ??? ??  
????? ??????? ?? ?? ?? ?????????? ?? ??????? ??????? ??????? ??????? ??????? ??????? . ???????????,  
????? ?????????? ?? ??????? ?? ?????????? ??????? ?????????? ?? ?? ?? ??????? ???, ?? ??  
????????? ?? ?? ?????????? ?? ?????????? ???????, ? ??????? ?????????? ?? ?? ?? ??  
?????????? ???????, ??? ?? ??? ?????????? ??????? ?? ?? ?? ??? ??????????? ?? ?? ???????  
???? ?? ?? ?? ?? ?? ?? ??????? ??????? ??????? ??????? ???????» (?????? 34, ? ???????????  
????? ??? ??).