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MACIEJ SZPUNAR

??? 5?? ?????????? 2017 (1)

????????? C?387/16

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

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

NideraB.V.,

Vilniausapskritiesvalstybin? mokes?i? inspekcija

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

«????????????? ?????????? – ????? – ????? ?????????????? ????? – ?????? 2006/112/?? –
????? 183 – ?????? ??? ????? ?????? – ?????????? ??? ?????????????? ?????? ???
????????????? ????? – ?????????? ????? ????? ?????????????? ?????????????? ??? ??????????????
????? – ?????????? ?????? ??? ?????????????? ?????? ??? ?????? ?????????????? ??? ???
????????????? ??? ??? – ?????????????? ??? ?????? – ?????? ??? ?????????????? ??? ???
????????????? – ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????????? ???
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1. ?? ?????????? ??? ?????? ??? ?????????????? ?????? ?????? ?? ?????????????? ???
????????? ??? ?????? ??? ?????? ?????? ??????????. ??? ?????????? ?????? ?????????????? ??? ??
?????????????, ?????????? ??? ?????? ?????????? ?????? ??? ?????????? ??? ?? ?????? ???
?????????????. ?? ?????? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ???
??? ??? ??? ?? ?????????? ??? ???????????. ??????????, ?? ?????? ?????????? ???, ?
????????? ??? ?????? ?????? ?????? ?????????? ?? ??? ?? ?????? ?????? ? ?????????? ??? ??
????????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?? ??? ??????????. ??
?? ??????, ?? ?????? ?????????? ??? ??? ?????? ?????? ?????? ?? ?????? ??? ?????????????? ??, ??
??? ?????? ??? ?????? ??????????????, ?? ?????? ?????? ?????? ?????? ?? ?????????? ??? ?????? ??
????? ??? ???, ?????? ??? ??? ?????? ?????? ?? ?????? ??? ?????? ?????? ??? ??????????.

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

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

2. ?? ?????? 183, ?????? ???????, ??? ??????? 2006/112/?? ??? ????????????, ??? 28??
?????????? 2006, ??????? ?? ?? ????? ??????? ?????? ?????? ??????????????? ?????? (2), ??????? ??
?????:

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

3. ???? ??????????? ??????, ? ???? ??? ??????????? ??? ?????????????? ?????? ???
????????????? ?????? ?????????????? ?????? (??? ????: ???) ?????????? ?? ?? ???? 91,
????????? 10, ??? Lietuvos Respublikos prid?tin?s vert?s mokes?io ?statymas (????? ???
????????? ??? ?????????? ??? ?????? ??? ????? ?????????????? ???). ? ?????????? ???
????????????????? ??? ?????? ??? ?????? ??? ?????? ? Lietuvos Respublikos mokes?i
administravimo ?statymas (????? ??? ?????????? ??? ?????????? ??? ????? ??????????????
?????????).

4. ????? ?? ?????? 87, ?????????? 6, 7 ??? 9 ??? ????? ??????, ?? ??????????
????????????? ????? ?????????????? ?????? ??????? ?????? ?? ?????????? ????? ????,
????????? ????? ?????????? 30 ??????. ?? ?????????? ????? ?? ?????? ?????????? ?????? ?
????????? ?????????? ??????, ? ?????????? ?????? ?? ?????????????? ?????? ?????
????????? 20 ?????? ??? ??? ?????? ?????????? ? ?????? ??????????????, ??? ?? ??????????
?? ??????, ?? ?????? ??? ??????????. ?? ?????????? ?? ?????? ??? ?????? ??????????
?? ??? ?????? ??? ?????????? ??? ?????????? ?????? ??? ?????????? ?????, ?? ??? ??? ??
????????? ?????????????? ?? ?????? ?????????????? ?????? ??? ?????????? ??????????
?? ?? ?????? ??? ?????? ?????????? ??? ?????? ?????????????? ?????? ??? ?????????? ??????????
?? ?????????? ?????????????? ???.

5. ????? ?? ?????? 99 ??? ?????? ?????? ??????, ?? ?????? ??? ?????? ?????????????? ??? ???
????????? ??????????????, ? ?????? ?????????? ?????? ?? ??? ?????? ?????? ?????????? ??? ??????????
????????? ??? ?????? ?????????? ??? ?????? ?????? ?????????????? ??????. ?? ??? ?????? ??? ??????
????????????? ??? ?????? ?????? ??? ?????????????? ?????? ?????? ?????????? ??? ?????? ??? ??????????
?????????.

6. ? Nidera B.V., ??????? ?????????? ??????? (?? ???: ?????? Nidera), ??????? ?? ?????????? ??? ?? ?? ?? 2008 ??????? ??????? ??? ?????????? ???????, ?????????????? ??? ?? ?? ?????????? ????? ?? 11 743 259 ????? (LTL) (??????? 3 400 000 ???). ? ?????? Nidera ??????? ?? ??????? ?? ?????? ??? ?? ?????? ?????? ???, ?????????? ??????? ??? 0 %.

7. ???? 12 ?????????? 2008 ? ??????? Nidera ?????????????? ??? ?????? ??? ??
????????? ??? ??????, ?? ?????? ??? ?????????? ??? ??? ?????? ??? ??? 12 ??? ????
31 ??????? 2008, ?? ??? ?????????? ? ??? ??? ?????? ??? ?????????? ??? ??? ??????
??? ??? ?????????????? ??? ?????????? ??? ??? ?????? ??? 2008. ??????, ?? ??????? ???
19?? ??????? 2009, ?? ?????????? ?????????? ??? ?????????? ??? ??? ????? ???????,
????????????? ???, ?????? ? ?????? Nidera ??? ??? ?????????? ??? ?????????? ???

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

8. ? ???????? Nidera ?????? ??? ?????? ?????? ?????? ???????????, ? ?????? ???????
????? ?????? ?????????????? ?????? ??? ?? ?????????? (3). ???????? ??? ??????
?????, ??? 22 ?????????? 2010 ?????????? ??? ?????? Nidera ??? ??? 11 743 259
LTL, ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ????. ? ?????? Nidera ?????? ??
????????? ?? ??? ?????????? ?????? ?????????? ?? ?????? ?? ??? ?????????? ??? ???. ??
????????? ?????? ??? ?????????? ?? 214 902,27 LTL (??????? 60 000 ????) ??
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????? ? ?????? Nidera ??? ??? ?????? ?????? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ??????.

9. ? ?????? Nidera ?????????? ?? ?????? ?????? ??? Vilniaus apygardos
administraciniis teismas (????????????? ?????????? ?????????? ??? ???????,
?????????), ???????? ?? ?????? ? ?????????????? ?????? ??? ?? ??? ?????????? ??
????????? ??? ?? ??? 3 864 706,66 LTL (??????? 1 100 000 ????) ?? ??????
????????? ??? ?? ??? ?????? ??? 21 ?????????? 2008, ?????????? ?????? ???
????????? ??????, ??? ?????? ?????????? ?????????? ??? ?. ?? ?????????? ???
????? ?? ?????? ??? ?????? Nidera, ?????????????? ??? ?????? ??? 17
????????? 2009. ? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
Lietuvos vyriausiasis administraciniis teismas (????????? ?????????? ???
?????????), ?? ?????? ?????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ???.

10. ?? ?????? ?????????? ?????????? ?? ??? ?????? ?????????? ?? ?????????? ??
????? ?????????? ?? ?????? ?????? ?????????? ?????????? ?????????? ???,
????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?? ?????? ?? ?? ?????? ??? ??
????? ?? ?? ?????? ??? ?????? ?????? ?????? ?? ?????????? ??? ?????? ??? ??
?????, ?? Lietuvos vyriausiasis administraciniis teismas (????????? ?????????? ???
????????? ?? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?? ?????????? ???
????????? ?????????? ????:

«????? ?? ??? 183 ??? ?????? [2006/112], ??? ?? ?????? ??? ?????? ??? ??????????????
?? ?????, ?? ?????????? ??? ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ???
????????? ?? ??????????, ??? ??? ?????? ?????????? ??? ?????????? ??? ?????? ???
??? (????????? ???) ? ?????? ??? ?????????? (?????????) ???????, ??? ???
????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ???, ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ???, ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
?????, ??? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???;».

11. ? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? 12 ?????? 2014.
?????? ?????????? ?????? ??? ?????? Nidera, ?? ?????????? ??? ?????????? ???
??? ?????? ??? ? ?????? ??? ?????? . ? ?????? Nidera, ? ?????????? ?????????? ???
????????? ?????????? ??? ?????? ??? ?' ?????????? ??? ?????? ??? ?????? ?????? ??? 8
?????? 2017.

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12. ?? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ??????, ?? ?????? ?????????? ???
???' ?????? ?? ?????????? ??? ?? ??? 183 ??? ?????? 2006/112, ??? ?? ?????? ???

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

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

13. ?????????? ??? ?????????? ??? ? ?????????? ?????????? ???, ?????? ??? ??????
183 ??? ?????? 2006/112, ??? ?? ?????? ??? ?????? ??? ?????????????? ??? ??????, ???
????????????? ??? ?????? ??? ?????????????? ??? –??????, ?? ?????????? ??? ? ??????????
????? ?? ?????????????? ??? ?????? ?????? ??????????– ??????? ??? ?????? ??????????
??? ?????????? (4). ??? ??????, ?? ?????? ?????????? ??? ??? ?????????? ??? ?????? ???
????? ?????? ?? ??????????, ???????, ? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????????? (5). ? ?????????? ??? ??? ?????????? ?????????? ?? ??????????
?????? ??? ??? ?????? ?? ?????????? ?????? ?????????? ?? ?????????? ?? ?????????? ?? ??????????
????????? ??? ?????, ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ? ?????????? ??? ??????
????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??? ?????????? ??? ?????? ???, ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? (6).

14. ?????? ???, ?????? ? ?????????? ?????? ?????????? ?????????? ?????????? ?????? ??? ??
????? ?? ??? ??? ? ?????? ?????????? ?????????? ??? ?? ?????? ??? ?????? (7). ??
????? ?? ?????? ??? ? ?????????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ???
?????????, ?????????? ??? ?????? ??? ?????????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

15. ??????, ???? ??? ??? ?????????? ??? ? ?????? Nidera ??? ??????,
????? ??? 183 ??? ?????? 2006/112, ??? ?? ?????? ??? ?????? ??? ??????????????
??? ??????, ?? ??? ?????????? ? ?????????? ??? ?????? ???, ?????? ????
????????????? ??? –?????? ?? ?? ?????????? ??? ?????????? ??????????–
????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? (8).
????????, ? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? 19 ?????? 2009 ?????? ?????? ??? ?????? ??? ??????
?????.

16. ?? ?????? ??????????, ?????? ?????? ?? ?????? ?? ?????? ?????? ??? ?????????? ???
????? ?????????? ?? ??? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????? ?????? ? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ?? ?? ?????? ??? –????? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?????? ? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????–,
????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

17. ?????? ?? ??? ??? ?????? ?????? ?????? ?????????? ?????????? ?, ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ???, ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????????? (9).

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

18. ??????? ?? ??? ??? ????? ??????????????, ?? ??????? ?? ??? ??????? ?? ??? ??????????
????? ?? ??? ?????? ?????????????? ?? ?????????????? ?? ??? ?????? ?????? ?? ?????? ?? ??? ??????
?? ??????? ?? ??? ?????? ?????????? ?? ??????? ?? ??? ?????? ?????????? ?? ??????? ?? ??????????
?????????? ?? ?? ?????? ??????.

19. ????? ?? ?????? ???, ??? ??? ??????????? ??? ?????????????? ?????????? ??? ??????
?????????? ? ?????? ?????????????? ?????????? ??? ?????????? ?????? ?????? ?????? ???
????????????? ?? ?????????? ?? ??? ?????? ?????????????? ??? ?????????????? ?????? ?????????????? ???
????????????? ??? ?????? ??? ?????? ?????? ?????????????? ?????? ?? ?????? ?? ?? ?????? ??? ?????? ???
????? ??? ?????????????? ?????? ??? ?????????????? ??????????????. ? ?????????? ??? ??????????
????????????? ??? ?????????????? ?????????????? ?????????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????????? ?????????????? ??? ?????? ????. ????????, ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?
????? ??? ?????? ?? ?????????? ?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ???
????????????? ?????????? ?????????? ?????????? ??? ?????????? ?? ?????? ??? ?????? ?????????? ??? ?????????? ???
????????????? ?????? ??? ?????? ??? ?????????? ??????????.

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

22. ?????????????? ??? ?? ?????????????????? ??????????, ? ?????????????? ??? ??
????????, ??? ?? ?????? 183 ??? ?????? 2006/112, ?? ??? ?????????? ? ?????? ???
????????? ?? ?????????? ??? ?????? ?? ?????? ?? ?????? ?? ?????? ?????? ?????????? ?? ???
????? ?? ?????? ?????? ?????????? ? ?????????? ????. ?????? ?????????? ??? ?? ??????????
?? ?????????? ??? ??, ? ?????? ?????? ?? ?????? ??? ?????????? ??? ?????????? ?????? ?
?????????, ??? ?? ?????? ?????? ?? ?????? ?????????????? ??? ?? ?????? ?????????? ??????.
?? ?? ?????????? ??? ?????? ??? ?? ?????? ??? ?????????????? ??? ?? ?????? ??? ??
????????? ??? ??.

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

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

24. ?? ?????? ?? ?????? ?????????? ?? ??????? ? ?????????? ???? ?????? ??? ?????? ???
????????????????? ?????????? ??? ?????? ?????? ?? ?????? ?????????? ??????. ??????????
????????? ??? ?????? ?????? ?????? ??? ?????????? ?????? ?????? ??????, ??? ??????????
?????????, ??? ?????? ??? ?????? ?????? ?????????? ??????????, ?? ?????? ??? ?????? ?????? ???, ???
?? ?????? ?????? «?????????» ??? ?????????? ??? ?????????? ?????.

25. ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?? ?????????????? ??????????, ????
????????? ??? ?????? ?? ?????????? (lucrum cessans), ?? ?????? ?? ?????????? ??
????????? ? ?????????? ??? ?????? ?????? ?????????? ?????? ?????????? ?????????????? ??????,
????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ?? ??????????????????
?????????. ???????, ?????????? ??? ?????? ?????? ?????? ?? ?????? ?????????? ?????????? ???
????????????? ????, ?? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ??? ??????
?????????.

26. ??? ?? ?????? ???, ? ?????? ?????? ?????? ?????? ?????????? ?????? ?????? ????
????? ? ?????????? ???, ?? ?????? ?????????? ?? ?????? ???' ?????? ?????????? ?. ????
????? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????? (?? ??????????, ???
????????? ????) ?????? ?????? ?????????? ?????????? ?????????? ?????????? ??????????????
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??????, ?????????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????? ???.

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

28. ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ????
??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??????. ????????, ? ??????????
??? ?? ?????? ??? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ??
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ???
????????? ??? ??????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???, ???
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

29. ?? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ?? ??? ?????????? ??? ??????
????? ??? ?????? ????. ??? ?????? ?????? ??? ?????? ??? ??????, ?? ?????? ??? ?????????? ??
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ????
?????????, ??? ?? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??????,
????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ???
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???, ???
????????? ???, ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?
????????? ??????.

30. ?? ?? ??????, ?? ??? ?? ?????? 183 ??? ?????? 2006/112, ??? ?? ?????? ??? ??????

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

32. ??????????????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????????? ?????? ?? ??????????????
????????????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?? ???
????????? ??? (11). ??? ?????? ?????????? ????????, ? ?????????? ??? ?????? ?????? ??????????
?????????, ??? ?????? ?????? ??? ?????? ??? ?? ?????? ?????????????? ??????????????, ??
??????, ?? ??????, ??? ?????? ?????? ?? ?????????????? ??? ?? ?????????????? ??????????.
????????, ? ?????? ?????????? ?????? ?????????? ?????????????? ?????????????? ?? ??????????
????????? ???????, ??? ?? ?????? ?????????? ?????????? ?????? ??? ???????, ??? ?? ??????
??? ?????????? ??? ?????? ?????? ??? ?????????? ?????????????? ?????????????? ??? ?????? ??????
????????? ??? ??? ?????????? ?????????? ??? ?????????? ?????? ?????????? ??????. ?? ?????????? ???
????????? ?? ??? ?????? ?????? ?????? ?????????????? ??? ?????? ??? ??? ?? ???
????????? ??? ?????? ?? ?????? ?????? ?????? ?????????? ?? ?????????????? ?????? ?????????? ??
?? ??? ?????? ?????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ??

33. ????????, ??? ?????? ?? ?????? ???????????, ?? ?????????? ??????????? ?? ???
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????. ??????, ??? ?????? ?????? ?????? ?????????? ?????????? ?? ??? ?????? ?????? ??????????
??? ?? ?????? ???' ??????, ? ?????, ?? ?? ??????, ?????????????????? ?? ??? ??
????????? ?? ?? ?????????? ?????? ?????? ?? ?????? ?? ?????? ? ?????????? ?? ??? ??
????, ??? ?? ?????? ?????? ?? ?????? ?????? ?????? ??????. ? ?????????? ?? ??? ?? ?????? ??????
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34. ?????????? ????????????, ??? ?????????? ????? ? ?????????????? ?????????? ??????
????????? ?????? ??? ???????, ? ?????????? (? ?? ?????? ?????? ???) ?????? ??
????????? ?????????? ?????????? ??? ?? ??? ?????? ??? ?????? ???????????. ?? ??? ?????? ???
????? ?????? ?????? ?????? ??? ?????????? ?????? ????. ??????????, ? ?????? ???
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38. ?????????????????????? ??? ???? ?? ?????? ??? ?????????? ?????.

39. ???????, ??? ?????? ?????????????????? ?????????? ?????????????????? ?????????????? ?????? ??????

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????????????? ?????????? ?????????? ?????? ??? ?????? ??? ??' ?????????? ?????????? ???, ??
???? ????????, ? ??? ?????? ?????? ?????? ?????????? ???????????. ?????? ?? ?????? ?? ??????
????????? ??? ??? ?????? ??? ?? ?????? ??????????, ?????????????????? ??? ??? ?
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ??? ??????
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?????. ???????, ? ?? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ? ??????????
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????????? ??? ???????, ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
??????, ??? ??? ??? ?????? ??? ?????? ?????? (12).

40. ????????, ??? ?????????????? (13), ?? ??? ???? ?????????????? ?????? ?????? ??????
????? ?????????????? ?????? ?????????? ?? ???? ?????????? ???????, ??? ?????? ?????? ??????
????? ??? ?????????? ??? ?????? ? ?????????? ??? ???? ?????? ?????????? ?????? ?????
?????????. ????????, ??? ?????????? ??? ???? ?????????? ??? ? ?????????? ??? ?????? ?????? ??
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?????????, ??? ??? ?????? ??? ?????? ?????? ? ?????????? ??? ?????????? ?????? ??? ?????? ???
????????? ?????????? ?????????? ??? ??????. ??????????????, ??? ?????????? ???, ?
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????????????
?????????????????, ??? ?????????? ?????? ?????? ? ?????????? ?????? ?????????? ??????????,
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?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????????????
????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???, ???
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41. ??????, ? ?????? ??? ????? ?????????????? ? ?????????????? ?????????????? ?????????????? ??? ??
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?????. ???? ?????????????? ???? ??? ?????????? ???? ?????????? ???? ?????????? ???? ?????????? ???
??????, ???? ?????????????? ???? ?????????????? ?????? (14) ???? ???? ???? ????
????????????????? . ??????????????, ?? ?????????? ?????????? ???? ??????, ?????? ????
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??? ???? ???? ??? ?????? ???? ?????????? ???? ?????????????? ???? ???? ?????????????? ???.
???????????, ??? ???? ?? ?????? 183, ?????? ??????, ??? ?????? 2006/112 ?????? ??? ??
????? ???? ?????????? ???? ?????????????? ???? ?????????? ???? ???? ?????? ?????????? ???? ?????????? ????
??? ?????????? ????, ???? ???? ? ?????? ?????????? ???? ???? ?????? ?????????? ???? ???? ?????????? ????
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? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ?????????????? ? ??????????????
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??? ?????????? ???, ?????????? ?????????? ?????? ??? ?????? ??? ?????, ??? ?????? ??
????????????? ad hoc, ??? ?????? ? ?????????? ??????????, ??? ??????????
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????. ??? ?? ????? ???, ??? ?????? ?????????? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??
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42. ?????, ? ?????????? ?????????? ?????????? ??? ?? ?????????????? ??? ?????????????? ??? ??????????????
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??? ?? ??? ?? ?????? ?????????? ??? ?????????? ??????.

43. ???????, ??? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ?????? ?????? ?? ??
????? ??? ???????????, ?? ?????? ???????, ?? ?????????? ???????, ?? ?????????????????? ??? ?????? ??? ??????????
?????????? ???, ?????? ?????? ??? ?????? ???????, ?????????? ?????????? ??? ?????????? ??? ??
????? ?????????? ?????????? ??? ?????????? ??????. ???????, ??? ?? ?????? ???, ?? ?? ???
??? ?? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????????? ???????, ?? ?????? ?????? ??? ?? ?????????? ?????????? ??????????????
??????????, ?????????? ??? ??? ?? ?????????? ??? ?? ?????????? ?????????????? ???
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?? ??????, ?? ?????? ?????? ?? ?????????? ?? ?????????? ?????? ?????????? ??? ?????????? ??? ?????? ???
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?? ??? ?????????????? ?? ?? ??????, ? ?????????? ??? ?????? ?? ?????? ??? ?????? ?????? ??????
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44. ???????????, ??? ?? ?????? ??? ?? ?????? 183 ??? ?????? 2006/112, ??? ??
?????? ??? ?? ?????? ??? ?????????????? ??? ?????? ?????? ??? ?? ?????? ??? ?????????????? ???
??? ???????????????, ??? ?? ?????? ???, ?? ?????????? ??? ? ?????????? ??? ?????? ??? ??????
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45. ???? ??? ?????? ??????, ?????? ??? ?????????? ?? ?????????? ??? ?????????? ???
????????? ??? Lietuvos vyriausiasis administracinis teismas (???????)
????????? ??? ??????????, ??????????) ?? ???:

? ?????? 183, ?????? ??????, ??? ?????? 2006/112/? ? ? ??????????, ??? 28? ??????????
2006, ?????? ?? ?? ?????? ?????? ?????? ?????????????? ?????, ?????????????? ??? ??
????? ??? ?????? ??? ?????????? ??? ??????, ??? ?? ?????? ??? ?????? ??? ?????????? ??
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?? ??? ???? ?????? ?? ?????????? ??? ?????????? ??????, ??? ???? ?????? ??????????
?? ?????? ?? ?????????? ?? ?? ?????????? ???.

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

2 ?? 2006, L 347, ?. 1.

3 ?????? ??? 21?? ??????? 2010, Nidera Handelscompagnie (C?385/09, EU:C:2010:627).

4 ?. ?????? ??? ?????? ??? 6?? ?????? 2017, Glencore Agriculture Hungary (C?254/16,
EU:C:2017:522, ?????? 18-22 ??? ??? ?????????????? ??????????).

5 ??., ??? 23

6 ??., ??? 24.

7 ?. ?????? ??? ?????? ??? 30?? ?????? 2016, Toma ??? Biroul Executorului Judec?toresc
Hora?iu-Vasile Cruduleci (C?205/15, EU:C:2016:499, ??? 32 ??? ??? ??????????????
?????????).

8 ?? ?????? ??? ?????????? ??? ??? ?????? ?????? ?? ?????????????? ?? ?????????? ???
????? ??? ?????? ??? ?????????? ?????????????? ??? ?????????????? ?????????????? ??????????????
????? ??? ?? ?????????? ?????????????? ??? ?????? ??? ?????? ?????????????? ??? ?????????????? ???
????????? ?????? ?????????? ??? ?????? ??? 17? ?????????? 2009. ??????????,
????? ?? ?????????? ???, ??? ?????????? ??? ?? ??? ?????????????? ?? ??????????????
????????? ???, ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ??
????? ?? ??????, ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???
????? ?? ??????, ??? ?? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ???
????????? ??? 21?? ??????? 2010, Nidera Handelscompagnie (C?385/09, EU:C:2010:627).
??????, ?? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ?????? ??????????????
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ???
????? ?? ?????? ?? ?????????? ??? ?????? ??? ?????? (??., ??? ?????? ???, ??? ??????
?? 27?? ?????? 1980, Denkavit italiana, 61/79, EU:C:1980:100, ??? 16, ?? 19??
????????? 1995, Richardson, C?137/94, EU:C:1995:342, ??? 33, ??? 14?? ?????????? 2015,
Manea, C?76/14, EU:C:2015:216, ??? 53). ???' ???????, ??? ?????????? ?????????? ?
????????? ??? ?????????? ??? ?????????? ??? ?????? (??, ??? ?????? ??? 14??
????????? 2015, Manea, C?76/14, EU:C:2015:216, ??? 54), ?? ?????????? ?????? ???
????? ??? ?????? ??? 21?? ??????? 2010, Nidera Handelscompagnie
(C?385/09, EU:C:2010:627).

9 ?. ?????? ??? ?????? ??? 30?? ?????? 2016, Toma ??? Biroul Executorului Judec?toresc
Hora?iu-Vasile Cruduleci (C?205/15, EU:C:2016:499, ??? 34 ??? ??? ??????????????
?????????).

10 ?. ?????? ??? 6?? ?????? 2017, Glencore Agriculture Hungary (C?254/16,
EU:C:2017:522, ?????? 20, 22 ??? ??? ?????????? ??????????).

11 ?????????? ??? ?????? ?????????? ?????????? ??? ?????????? ?????? ?? ?????? ??
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12 ???. ?????? 20 ??????.

13 ???. ?????? 27 ??????.

14 ???. ?????? 13 ??? 14 ??? ??????? ??????????.