

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

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

EVGENI TANCHEV

??? 11?? ??????? 2017 (1)

?????? C?462/16

Finanzamt Bingen?Alzey

?????

Boehringer Ingelheim Pharma GmbH & Co. **KG**

[?????? ??? Bundesfinanzhof (?????????????? ??????????? ????????????, ????????)?? ??  
?????? ????????????] ???

«?????? ?????????????? ??? – ??????? ?????????????? ??????????? ??? ?? ??????????????  
?? ?????????? ??? ??????????? – ??? 73 ??? 90 ??? ??????? 2006/112/?? ??  
?????????? ??????? ?? ?? ????? ?????? ?????? ????? ?????????????? ????? – ??? ??????? ??  
????? – ?? ??? ????? ?????????? ??? ?????????????? ?? ??????? ?????????????? ??????? ??  
??? ????? ?????? – ?????????? ??? ?????? ?????? ?????????????? ??? ??????? ??  
????? ??? ????? ?????? ?????? ??? ??????? ??? ??????? “??????” ???  
??? ??? ??????? ?????? ?????????? ?????? – ??? ??? ?????????????? ??? ??????? ??  
C?317/94, Elida Gibbs – ??? ??? ????? ???????????»

## I. ???????

1. ? Boehringer Ingelheim Pharma GmbH & Co. KG (??? ????: Boehringer) ???  
?????????? ?????????????? ?????????????? ???????????, ??????????? ??? ??????? ???????,  
??????????, ? ??? ????? ???????????, ????? ?????????? ??????????? ??? ??????? ??? ???????,  
?? ???????, ??? ??? ?????????????? ??? ???????????, ?????????? ??????? ??? ??? ??? ??? ???  
?????????? ??? . ??? ??????? ??? ?????? ?????? ?????? ??? ?????????????? ?? ??????? ??  
????? ??? ?????? ?? ?? ?????????? ? Finanzamt Bingen?Alzey (?????????? ??????????? ???  
Bingen?Alzey, ??? ????: ?????????? ??? ?????? ?????? ?????? ??????) ??? Boehringer ?? ???????  
????? ??? ??? ??????? ??? ??? ?????? ??? ?????? ??? ??????????? ??? ?????? ??????? ??? ???  
??? ??? ?????? ??????????? ??? ??? ??? ?????? ?? ?????????? ?????????????? ???????????  
??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ??? ???????????  
?????????? ???.

2. ??? ?????? ?? ??????? ??? ?????????? ?? ?? ??????? ??? ??????????? ???  
Bundesfinanzhof (????????????? ??????????? ???????????, ???????) ??? ?? ???

????????? ???????? ??? ?????? 90 ??? ?????? 2006/112/?? ??? ???????????, ??? 28??  
????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????????????? ?????? (2). ??  
Bundesfinanzhof (????????????? ?????????????? ??????????????) ?????? ??? ? ??????? ???  
????????????? ??? ?????? Elida Gibbs (3)????? ?????????? ?????????? ??? ??? ?????? ???  
?????????. ??? ?????? Elida Gibbs ?????? ?????? ??? ? ?????????? ??? ?????????? ??? ???  
????????? ?????????? ??? ??? ?????? ?????????? ?????????? ??? ?????????? ???  
????????? ??? ?????????? ??? ??? ?????? ?????? ?????????? ??????????, ??? ??????????  
????????????? ??? ??? ??? ???? ?????? ?????????? ?????????? ??? ?????????????? ??? ???  
?????????, ?????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?? ??? ??? ???  
??? ?????????? ??? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ???  
?? ??? ?????????? ??? ??? ?????? ??????????.

3. ??? ?? ?????? ?????? ???????????, ?? ?????? ?????? ?????????? ?????? ???  
????????? ?????????????? ??? ?????? ?????? ?????????? ?? ?????????????? ?????????? ??? Boehringer,  
??? ??? ?????? ?? ??? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? . ?????????? ???  
????????? ??? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ?? ?????? ???  
????????? ??? ?????? ??? ?? ?????? ?????? ?????? ?????????? ??????;

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

## II. ?????? ??????

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

5. ?? ??? 73 ??? ?????? 2006/112 ??????:

«??? ??? ?????????? ??? ?????? ??? ?????? ??????????, ?????? ?????? ??? ?????????? ???  
????? 74 ??? 77, ? ??? ?????? ?????? ??? ?????? ?????????????? ?????????? ?????????? ???  
?????????, ??? ?????? ?????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???  
? ?????? ??? ?????????? ??? ??? ??????????, ??? ?????? ? ?????? ?????? ??????,  
????????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ?? ??? ??? ??? ?????? ?????? ???»

6. ?? ??? 90, ?????????? 1, ??? ?????? 2006/112 ?????? ?? ????:

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

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

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

7. ??? ?? ?????? ?????? ??? ?????????? 1 ??? ?????? 10 ??? Umsatzsteuergesetz  
(????? ??? ?????? ?????? ??????, ??? ???: UStG), ? ?????????? ?????????? ???  
????????? ?????? (?? ?????????????? ??? ?????? ?????? ?????? ??????) ??? ??????  
????????? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ??? ?????? ?????? ??????????.

8. ??? ?? ?????? ?????? ??? ?????????? 1 ??? ?????? 17 ??? UStG, ??????  
????????????? ? ??? ?????????? ??? ?????? ??? ??? ?????????????? ???, ? ?????????????? ???  
??? ?????????????? ??? ?????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?? ??? ???  
????????? ???.

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

9. ???? ??? ?????? ??????? ??? ?????????? 1 ??? ?????? 2 ??? Fünftes Buch Sozialgesetzbuch (????????? ?????? ??? ?????? ?????????? ??????????, ??? ????: SGB V), ?? (?????????) ?????? ?????????? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? 2 ??? ?????? 2 ??? SGB V, ?? ?????????? ?????? ???' ?????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????. ??? ??? ?????? ?????? ?????? ?????? ?????? 2 ??? ?????? 2 ??? SGB V, ?? (?????????) ?????? ?????????? ?????? ?????????? ?????????? ??? ??? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? 129 ??? SGB V, ?????????? ? ?????? ?????? ?????? ?????? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 129 ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????).

10. ???? ??? ?????????? 1 ??? 4 ??? ?????????? 1 ??? ?????? 130a ??? SGB V, ?? ?????????? ?????????? ??? ?????? ?????? ?????? ?????????? ??????, ??? ?? ?????????????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 7 % ??? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? Boehringer ?????????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????).

11. ???? ?????? ??? ?????? 130a ??? SGB V ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????).

12. ???????, ?? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????????? ?????? ??? Boehringer ??? ?????????? ?? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????).

13. ??????, ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????, ??? ?? ?????? 1 ??? Gesetz über Rabatte für Arzneimittel (????? ??? ?????? ?????? ??????, ??? ?????????? ??? ??????, ??? ????: AMRabG) ??? 22? ?????? 2010, ?? ?????????? ?????? ??? Boehringer ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? 1, la, 2, 3, 3a ??? 3b, ??? SGB V.

14. ??? ?? ?????????? ??? Bundefinanzhof (????????????? ?????????? ??????????), ? ??? ?????? ??? ??????, ??? ?????? ??? ?????? ?????? ??????, ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Boehringer ??? ?????? ??? ?????? ??? ?????? ?????? ??????).

III. ?? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????).

15. ? Boehringer ??? ?????? ?????????? ??? ?????? ? ?????? ?????????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? 2011.

16. ??? ??????, ?? ?????? ??? ?????? ??? ?????? ?? ?????? ?????? ?????? ??? Boehringer ?? ?????????? ?????????? ??? ?????? ??? (?????????) ?????????? ?????? ?????? ?????? ?????? ?????? ??????).

?????. ?? ?????????????? ??????? ?????????????? ??? ??????? ??????? ?????????????? ???????,  
?? ?????? ?? ?????????? ?????? ?????????????? ??? ?? ??? ?????? ?????.. ?? ?????????? ???????  
??? ??????? ?????? ?????????? ?????? ?????? ?????? ??? ?? ??? ?????? ??? ??????????????  
?????????. ?? ?????????????? ???????, ? Boehringer ??????????, ??????? ?? ?? ?????? 130a,  
????????? 1, ??? SGB V, ?? ?????????? ??? ?????????? –? ??? ?????????????? ??????  
????????? ??? ??????????– ?? ??? ??? ?????????? ?????.. ??? ??? ?????? ?????? ?????? ???  
????? ?????? ???????, ? ?????????? ??? ?????????????? ??? ?????? ?????? ?? ?????? ???  
??????????.

17. ?? ?????????? ?????????? ?????????????? ?????????? ?? ?????????????? ?? ??????????  
?????? ?????????? ?????? ?????? ?????????? ?????????? ??? ?????????? ?? ??????. ??  
????????? ?? ?? ?????? ?????? ?????????? ???????, ?? ?????????? ?????? ??????????  
????? ??? ?????????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??????????,  
????? ?????? ?????????? ?????? ?????????????? ??? ?? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ?????? ?????????? ?????????? ??? ??????, ?? ??????????????  
????????? ??? ? Boehringer ??????????, ??????? ?? ?? ?????? 1 ??? AMRabG, ??  
????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????????? ?????? . ? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
?????????. ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ???, ??? ?????? ??? ? Boehringer ??? ?????????? ?? ?????????? ??  
????? ??? ?????????? ?? ?? ?????? 1 ??? AMRabG ?? ?????????? ?? ?? ?????? 130a ???  
SGB V (4).

18. ??? ? ? ? ? ? 2011, ? Boehringer ?????? ??? ?????????? ?????????? ???  
????????? ?????????? ?????????? ???, ???????, ??? ?????????? ??? ?????? ???  
????????? ?????? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???  
????????????? ?????? ?? ?????????? ??? ?????????? ?????????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ???  
????????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???  
????? ??? ?????????? ??? ?? ??? ?????? ?????? ??? ??? ?????? ?????? ???  
?????????. ? ?????????? ??? ?????? ??? Boehringer ??? ??? ?????? ???  
?????????.

19. ?????? ???, ? Boehringer ?????? ?????? ?????? ??? Finanzgericht  
(????????? ?????????? ?????????? ???). ?? Finanzgericht (?????????)  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ??? ??? ?????? ??? ?????? ??? Boehringer ?? ?????????? ??? ?????? ???  
????????? ?????????? ??? ?????? ??? ?????? . ? ?????????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ??? ? Finanzgericht (????????? ??????????)  
????????? ??? Bundesfinanzhof (????????? ?????? ??????????).

20. ?? ?????? ??? Bundesfinanzhof (????????? ?????? ??????????)  
?????? ??? ?????????? ?? ??? ?????? ?????????? ??????:

«????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? (????? ??? 24??  
????????? 1996, Elida Gibbs, C?317/94, EU:C:1996:400, ?????? 28 ??? 31) ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 90 ??? ?????? 2006/112/??

??? ???????????, ??? 28?? ???????? 2006, ??????? ?? ???? ?????? ?????? ?????  
????????????? ????, ????

- ??????? ?? ??????? ??? ?????????? ????? ???????????????,
- ?? ?????????? ?????????? ?? ???????, ?? ??????? ?????????????? ????, ??  
????????????? ?? ?????????? ?????????? ?????????? ????????, ??
- ? ?????????? ?? ?????????? ?? ?????????? ?????????? ?????? ?? ??????? ??????????  
(????? ? ?????????? ?????????? ?????????? ??????) ?????????? ?????? ?????????????? ???  
??? ?????? ??? ?? ?????????? ??? ????????, ???
- ? ?????????? ?????? ?????????? ?????????? ?? ??? ?????? ?? ??????? “???????” ???  
????????? ?????? ?????????? ???????;»

21. ?????? ?????????? ?????????? ? Boehringer, ? ?????? ?????? ?????????? ??? ?  
????????? ??? ?????? ??????, ?????? ??? ?????? ?????? ??????. ??? ?????? ??? ?  
????????? ??????.

#### IV. ?????????? ?????????? ??? ?????????? ?????????????? ??????????????

##### 3. **? Boehringer ??? ? ???????**

22. ? Boehringer ??? ? ??????? ?????????????? ??? ?????????????? ? ??? ?????? ??? ????  
????????????? (?? ??? ??? ?? ?????????? ?????? ?? ?????? 20 ??? ?????? ???  
????????? ?????????? ??? ?????????? ?????? ??????) ?????? ??? ?? ?????????????? ???  
????? ?????? ?????????? ???.

23. ???? ??????, ? Boehringer ?????????? ??? ?? ????? ?????????? ?????????? ??? ????  
?? ????? 73 ??? ?????? 2006/112, ??? ????? ?????????? ??? ?? ??? ?????? ??? ????  
????????? ??? ?????? Glawe (5). ??? ???? ??????, ?? ?????????? ?????? ???,  
????????? ??? ?????? ?????????? ?? ??????, ??? ???? ?????? ?????????? ??????????  
??? ?????, ??? ?????????? ?? ?????? ?????? ??? ?????? ?? ?????????? ?? ?????? ?? 60 %  
????????? ??? ?????? ??? ?????? ?? ?????? (?? ?????), ? ?????????? ??? ??????????  
???? ?????????? ? ?????????? ??? ?????? ??? ??????, ?????? ??? ?? ??? ???? ?? ???  
????????? ??? ?????? 73 ??? ?????? 2006/112 ?????? (6), ?????????? ??? ?? ???  
????? ??? ?????????? ??? ?????? ?????????? ?? ?????? ??? ?????????? ??? ?????????? ??? (7).

24. ??? ??? Boehringer, ??? ?????? ??? ? ?????? ??? ?????? ?????? ?? ???????  
????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ?????, ?????????? ??? ?? ??? ???? ??  
??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ??????, ??? ??? ? Boehringer ????  
????????? ??? ?? ?????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????????? ?????? ???  
????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????? ???.

25. ? Boehringer ??? ? ?????????? ?????????????? ?????? ?? ??? 90 ??? ?????? 2006/112,  
????? ?????????????? ??? ?????? Elida Gibbs, ??? ?????????? ??? ?????? ?????????? ???  
????? ?????? ??? ?????? ?????????? ??? ? ?????? ??? ? ?????? ??? ?????? ????????,  
????? ??? ???? ?????? ? ?????? Elida Gibbs??? ?????????? ?????????? ??? ? ?????? Ibero  
Tours (8) (??? ?????????? ??? ?????? 35 ??? 39 ??????) ?????????? ??? ?????? ??? ?  
????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ????????, ???  
????? ??? ?????? ?????? ?????????? ???, ??? ?????? ?? ?????????? ?? ?????? ??? ??????  
??? ?????????? ??? ??? ?????????? ??? ??? ?????? ??? ?????? ?? ?????? ??? ?????? 90 ???  
????? 2006/112.

26. ????? ??? Boehringer ??? ??? ????????, ? ?????? ??? ?????????? ?? ?????? ??? ??????  
????? ?????? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ??? ??????  
?????????. ? ?????????? ?????????? ??? ??? ?????????? ??? ?????? ?????? ?????????? ??? ??????  
????? ?? ??? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ??? ?? ?? ??? ??? ???  
????????? ? ?????????? ??? ?????????? (9). ?????????? ?????????????? ??? ?????? ???  
????????????? ?????????????? (10). ? ?????????? ?????????? ???, ??? ?????????????? ???????,  
?? ???????? ??? ?? ?????? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??????  
????.

27. ?????????? ?????????? ??? ? ?????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???  
????? ??? ?????????? ?????? ?????? ??? ? ?????????? ??? ?????? ?????? (11). ??? ??? ?? ????????, ??  
????? ?????? ??? ?????? ?????????? ??? ???? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

28. ???????????????, ??? ? ???????? ??? ?? ??? ???? ?????? ?????????? ?????? ??? ??????  
??? ? ?????????? ??? ???? ?????? Elida Gibbs ????, ??? ?????? ??? ?????????? ??  
????????? ?????????? ??? ???? ?????? ??? ?????? ?????????? ??? ??? ?????????? ???  
???? ?????? ??? ?? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??? ???  
?? ?????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ???, ?????????? ???  
??? ?? ?????????? ??? ?? ?????? ?????? ?????? ?????? ??? ?????? ?????????? ?????? ???  
????? ??? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? .? ?????? ??? ?? ?????? ???  
????????? ??? ???? ?????????? ??? ?????? ?????? ??? ??? ?????? ??? ?????????? ???  
????? Ibero Tours (??? ?????????? ??? ?????? 35 ??? 39 ??????) (12), ?? ?? ??????  
????? ??????????, ???????, ??? ?? ?????????? ??? ?????? ?????? Elida Gibbs?????  
????????? ??? ?? ??? ???? ?????? ?????? ??? ?????? (13).

29. ? ?????????? ??? ?? ??????? ?????????? ?????????????? ??? ?? ??? ?????? ?????? ?? ???????  
?????????? ??? ?? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????????????? ??? ??  
??? ?? ?????????????? ?????????????? (14) ??? ?? ??? ?????????? ?????? ??? ?????? ??? ??  
Boehringer ??? ?? ?????????? ?????????? ?????????? ????. ?? ????? 73 ?? ??????  
2006/112 ?????? ?? ?????????? ?????? ?? ?? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ??  
??? ?? ?????? ?? ?????????? ?????? ??? ?????? ?????????? (15). ? ??? ?????????? ???  
????? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ? ?????????? ??? ?? ??? ??  
??? ?? ??? ?? ?????? ?????????? ?????? ?????????????? ?????????? (16). ? ??????????  
?????????? ???, ??? ?? ?????????? ??? ??????????????, ? ?????????????? ?????????? ???  
????? ??? ?????????? ??? ? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??  
??? ??????, ?? ?? ?????? ??? ?????????? ? ??? ?????? ?????????????? ?? ?????? ?? ??????????  
????????? ??? ?? ?????? ??? ?????????? ??? ?????????????? (17). ???????, ?  
????????? ??? ?? ??? Boehringer ?????????? ?? ??????, ??? ?????? ??? ?????????? ??  
????????????? ?? ?????? ?????????? ?????????? ?? ?? ??? ?????? ??? ?????????? ??

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

30. ?? ??????? ?????????? ?????????? ??? ?? ??????? ??? ?????????????? ? Boehringer  
??? ??????? ?? ?????????? ?? ?????????? ??? ?? ??????? 73 ??? ?????? 2006/112 (18) ???  
??? ?? ??? 90 ??? ?????? 2006/112 ??? ?????? ?? ?????????? ?? ?????????? ??? ??  
?????? ?????? ?????? ??? ?? ?????????? ?? ?????????? ??????, ?????? ? ??????????  
(??? ?? ???????, ?????????????? ???, ??? ?? ?????????? ? ?????? ?????????? ??????  
?????????). ?? ??????? ?????? ?????????? ??? ?? ?????????? ?????? ?????????? ?????????? ??????  
??? ?????? ?????? ?? ??????. ? ??????? ?????? ?????????? ??? ?? ?????? 79, ??????? ??, ???  
????????? 2006/112, ?? ?????? ?????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ?????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ???  
??????, ??? ?????? ?????? ??? ?? ?????? ?????????? ??? ?????? ?????????? ?????? ?????? ??????  
????? ??? ?????????????? ?????????? ?? ?????????? ??? ?????? ?????? ?? ?????????? ?????? ???  
? ??? ?????????? ??? ?? ?????? ?? ?????????? ?????? ??? ?????? ?????? ? ?????????? ??????  
????????? ?? ?????????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ?????????? ??? ??????  
?????????, ?????? ? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??????????  
??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????  
????????? ?????? ??? ?????????? (19).

31. ??? ?????? ??? ?????????????? ?????????? ??? ?????? ??? ?????? ?????????????? ???  
??? ?????????????? ??? ??????, ? ??????? ??? ?? ??????? ?????????? ?????????????? ??? ?  
????????? ??? ?????????? ? Boehringer ??? ?????????? (??? ?? ?????????? ??????????????  
????? ??????? ??????????) ??? ?? ??????? ?????????????? ?????????? ??? ??????????  
?????? ?????????? ?????? ??? ?????? ?????? ?? ??? ?????????? ??? ?????????? ??? ??????????  
Boehringer ?? ??????? ?????? ?????????? ?????? (20). ? ??????? ?????????? ??? ?????? ???  
????????? ?????? ?????????? ??? ?????????? ??? ?????????????? ?? ?????????? ?????????? ???  
????????? ?? ?????? ?????????? ??? ?? ?????????? ?????? ??? ?????????? ?????????? ???  
????????? ?? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??  
????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????  
??? ?????? ?? ??? ?????? ?????? ??? ?????????????? ??? ??????????.

32. ?? ?????? ?????????? ?????????? ??? ?? ?????? ??? ?????????? ?????????????? ?, ???  
?????? ?? ?????? ?????? ??? ?? ??? ?????? ?????? ??? ?? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????  
????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 73 ???  
??? ?????? 90 (21).

## V. ??????

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

34. ?????? ??? ? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ? ??????  
Elida Gibbs ??????? ??? ?????? ??? ?????????? ??? ? ?????????? ??? ?????? ??? ??????  
????????? ?? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? 90 ??? ?????? 2006/112 (22). ???????, ? ?????? ?????? ?????? ???  
Boehringer ??? ??? ?????????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??????????  
????? ?? ?????????? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? 90 ??? ??????

2006/112.

35. ????????, ??? ???????? ?? ??????? ??? ?????? ??? ??????????? ??? ?????? ???  
Ibero Tours (23)????????????? ??? ?????????????? ? ?????????????? ?? ?????????? ??? ? ?????????? ???  
????????????? ??? ????? Elida Gibbs ?????????? ??? ?????? ?????????? ??? ? ?????????? ???  
??? ?????????? ??? ? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ???  
????? ?????????? ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???, ??  
????????? ??? ??? ?????? ?????? ?????? ?????? ?????? Elida Gibbs ??? ??  
????????? ??? ??? ?????????? ??? ?????? ??? ? ?? ??? ?????? ?????? ?????? ??? ??  
????? ??? ?????? 11?, ?????????? 1, ??? ?????? ?????? ??? (24) (??? ?????? 90 ???  
????????? 2006/112) ?? ?????? ??? ?????????? ??? ?????? ?????????? ?????????? ???  
????????? ??? (25).

36. ? Ibero Tours, ?? ?????????? ??? ?????? ?????? ?????? ?? ??? ?????? ???, ???  
????????? ??? ?????? ??? ?????? ?????????? ?? ?????? ?????? ?????? ?????? ?????????? ???  
????????? ??? ??? ?????? ?????? ??? (??? ????: ??????????). ?? ?????? ?? ??? ??? ??? ???  
??????, ? ?????? ?????? ??? ?????????? ??????????, ? ?????? ?????? ?????????? ??? ???  
?????????. ? Ibero Tours ?????????? ?????????? ??? ?????? ?????????? ?????????? ??? ???  
????????? ??? ?? ?????????? ?? ??? ??? ??? ?????? ?????? ?????? ?????????? ???  
????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?? ?????????? ???' ?????? ???  
?????????, ?????? ?? ??? ??? ?????????? ?? ?????????? ??? ?????????? ?????? ?????????? ???  
??? ??? ??? ?????????? ?? ?????? ? Ibero Tours ??????????, ?????????? ???  
????? Elida Gibbs, ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ??  
????????? ??? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ???  
??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? Ibero Tours.

37. ?? ????, ?? ?????? ??? Ibero Tours ?????????? ??? ?????? ?? ?????????? ???  
????? ??? ?????????? ?? ??? ??? ?????? ??? ??? ?????? ??? ?????????? ????. ??  
????????? ?????? ??? ?????? Ibero Tours ??? ? ?????????? ??? ?????????? ?  
????????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? Elida Gibbs ??????????  
????? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ???  
????????? ?????? (26), ??? ? Ibero Tours ??? ?????????? ?? ?????????? ???  
????????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ???, ?????????? ???  
????????? ??? ? Ibero Tours ?????? ?????????? ?? ?????? ??? ?????????? (27). ???  
????????? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ? Ibero Tours ??? ??? ??????????  
??? ?????????? . ??????, ??? ?? ?????? 11 ?, ?????????? 1, ?????? ??, ??? ??????  
????? (??? ??? 73 ??? ?????? 2006/112), ? ?? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ??? ?? ??? ???  
????? ?????? ??? ??? ?????????? ??? ?????? (28).

38. ????????, ?????????????? ?? ?????????? ??? ?????????? ??? ?????? ?????? Ibero Tours  
????? ??? ?????? ? ?????????? ?????? «??? ?????? ??? ?????? ??? ?????? ?????? ??????»  
????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???, ? Ibero Tours ?????? ???  
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (29). ??????, ? Boehringer  
??? ?????? ??? ??? ???.

39. ???????, ??? ? ?????????????? ??? ?????? Elida Gibbs ??? ? Ibero Tours  
????????? ?????????? ??? ?????????? ?????????? ?????????? ?????? ??? ?????? ??  
??? ?????????? ??? ?? ??????, ?????????????, ??? ?????????? ??? ?????? ??? ?????? ??? ??????????????  
?????. ???, ????, ?????? ??? ?????????? ??? ?????? ?????? ??? Boehringer, ???  
????????? ??? ?? ??????????.

40. ???, ??????, ???, ?????? ?? ?? ?????????? ??? ??????????, ? Boehringer ???  
«?????? ?? ??????? ??? ?? ?????? ?? ?????? ??? ?????» ??? ?????????? ??? ??  
????????? ?????? ??? ?????????? ??? ?? ?????????? ?? ?? ?????????? ?????????? (30). ?  
Boehringer ??? ?? ??? «????? ?????????? ??????????» (31) ??? ?????? ???  
????????????? ?????????? ?? ?????? ?????????? ?? ?????????? ?????? ??? ?????? ???  
????????? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ???, ????, ???, ?????? ??????????  
??? ???? ??? ?????????? ?????????? ??????????.

41. ?? ?????????? ?????????? ?? ??? ?????? ?????????? ?????? ?????? ??? International  
Bingo Technology, ??? ?????? ?????????? ?????????? ?????????? ?????? ??? ?? ???  
??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? (32). ?? ??????????  
????? ???, ??? ?????? ??? «?? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????????? ???  
????? ?????? ??? ?? ??? ?????? ?????????? ??? ?????? ?????? ??????????, ??? ???  
????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ??????  
??? ??? ?????? ??? ?????? ??? ??????» (33).

42. ?????????? ??? ??? ?? ?????? 73 ??? ??? ?? ?????? 90 ??? ?????? ??? ?????????? ???  
?? ?????? ??? «????? ??????? ??? ???», ??? ?????? ??? ?????? ??? ? ?????? ???  
????????? ??? ??? ?????????? ??? ?????? ??? «?????????» ??? ?????? ??? ?????? 73  
????? ?????? International Bingo Technology??? ?????? ?? ?????????? ??? ??? ??????  
??? ?????? «?? ?????? ??? ?????? ??? ???» ??? ?????????? ??? ?????? 90 (34).  
????, ?? ?????? ?? ??????, ?????? ?????????? ?????? ?? ?????? ?? ? Boehringer  
????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???  
????????? ?????? ?????? (35). ?????? ?????? ??? ?????? ?????? ??? ??????????.

43. ?????????? ??? ?? ?????????? ?????????? ??? «??? ?????? ?????? ???  
????????? ?????? ?????? ??????» ??? ?? ?????????? ?????? ??? ?????????? ??? ??  
????? «????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????»  
(36). ??????, ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ? ?????????? ???  
????? ?????? ?????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
??? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?? ?????? ?????? ???' ?????????? ???  
??? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ?????????? ??? ?? ??????. ?? ?????????? ?????? ??? ?????? ??? ?????? Town and County  
Factors ???, ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ???, ?? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ???, ????, ???, ???, ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? (37).

44. ???????, ?? ?? ?????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ???  
????????????? ?? ?????? ?????? ?????????? ???, ??? ??? ?? ?????? ?? ??????, ?? ?????? ??  
????? ?? ?????? ??????, ??? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ?? ??????  
????????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?? ?????????? ??? ?????? ??? «? ?????????? ??? ?????? ??? ?????? ???  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

??? » (38).

46. ?????????????? ??? ?????????? ?????????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??  
????????? ?????? ??? ?????? ??? ?????? ?? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??  
Boehringer ?? ?????????? ??? (41). ????????, ?????????? ?????????? ?? ??  
????????? ??? ??? ?????????? ???, ??? ??? ?????? ?? ??? ?????? ?????????? ??? ???? ? ?????? ??  
????????? ?????????? (42), ?????? ??? ??? ?????? ??? ?????? 90 ??? ?????? 2006/112  
????????? ?? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??????, ??? ??? ??  
????????????? ??? ??????????, ?????? ?? ?????? ??? ?????? ?????????? ??? ?????? ??????????  
?? ??? ?????????? ??? (43).

47. ??????, ?????????? ?? ?? ?????? 90 ??? ?????? 2006/112 ??????? ?? ?????????????? ??  
????? ?? ?????? ?? ?? ?????? ?? ?? ?????? ????? ??????????????, ?? ?? ?????? ?????????? ?? ?? ??????  
20 ??? ?????, ?? ?? ?????????? ?? ?? ?????? ????? ?????? ?????????????? ?????????????? ?? ??  
????????? ?????????????? ??????. ?????????????? ?? ?? ?????????? ?? ?? ?????????? ?? ?? ??????????????  
????? ?? ?? ?????????? ?? ?? ?????????? ?????????????? ?????????? ?????????? ??????????????  
?????????, ?? ?? ?????????? ?? ?? ?????? ?? ?? ? ?????? ?? ?? ?????? ?? ?? ?????? ??????????????  
?? ?? ??????????, ?? ?? ?????????? ?? ??, ?? ?? ?????????? ?? ?? ??????????  
????????????? ?? ?? ?????? ?????????????? ??????????????, ?? ?? ? ?????????? ?? ?? ?????? ?? ??  
????????? ?? ?? ?????? ?????? ?????????????? ?? ?? ?????????????? ?? ?? ?????? ?? ?? ?????? ?? ??  
????????? ??????????, ?? ?? ?????????? ?????? ?? ?? ?????? ?????????????? ?? ?? ?????? ?? ?? ??????  
(44). ?????????? ?? ?? ?????? ?? ?? ?????????? ?? ?? ?????????? ?????????????? ?? ?? ?????? ?? ??  
????????? ?????? ?????? ?? ?? ?????????????? ?? ?? ?????? ?? ?? ?????? ?? ?? ?????? ??????????????  
??, ?????????? ?? ?? ?????????? ?????????? ?? ?? ?????? ?? ?? ?????? ?? ?? ?????? ?? ?? ?????? ?? ??  
?????????.

48. ??? ?? ??????? ??? ?????????????? ??? ?????? 90 ??? ?????? 2006/112, ???  
????????????? ??? ??? ?????? ??? ?????? ?? ?????? ?? ?????????????? ??? ? ??? ?????? ?????????????? ???  
??? ?????????? ??? ?????? ?????? ?????????????? ??????????, ?????? ??? ??????????????  
?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??? (45), ?????? ??? ??  
????????? ?????????????? ??? ?????? ?? ?????????? ??? ?????????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ?????? ?????????????? ?? ?????? ?????????? ?????????????? ?????????????? ?????  
?? ??? ??? ???, ?????? ??? ?? ?????? ??? ?????? ?????? ?????????? ??????????????  
????????????? ??? (46).

49. ?? ????????????, ??????? ??? ? ??? ????? ????? ????? ?????? ?????? ?????? ?????????????? ??  
?????? ?? ????????????, ??? ? ????????????, ?????? ?????? ?????????????? «?????? “?????” ??  
????????????????? ?? ????????????, ??? ??????????» (47). ????????????, ????????, ?? ??

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

## VI. ??????

50. ??????? ??? ???????, ??????? ?? ??? ?????? ??? ??????????????? ??????? ???  
Bundesfinanzhof (?????????????? ??????????? ???????????, ????????) ? ????????  
?????????:

?? ??? ?? ??????? ??? ??????????? ??? ??????????? ??? ?????? (?????? ?? 24??  
?????????? 1996, Elida Gibbs, C?317/94, EU:C:1996:400, ??????? 28 ?? 31) ???  
?????????? ??? ?????? ??? ?????? ??? ????? ??????????? ??? ??????? ??? ??????? ???  
??????, ??? ??????????? ?????? ???? ????? ??????????? ??????????? ??????? ???????????  
?????????? ??? ?????? ?????????? ??? ????? ?????????? ?? ?? ????? 90 ??? ??????? 2006/112/??  
??? ???????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ????? ?????????? ??????  
?????????????? ????, ????

- ?????????? ?? ?? ??? ??????????????? ?????????? ?? ?????????? ??? ?????????? ???????????,  
-
- ?? ?????????? ?????????? ?? ?????????? ???, ??? ??????, ?? ??????? ??????????? ??  
????????? ?????? ?????????? ????,
- ? ??????? ??? ??????????? ?????? ?????? ?????? ?????? (? ??????? ??????? ???????????  
??????) ?????????? ??? ??????????????? ??? ?? ??? ????? ?????????? ??? ?? ??? ??????? ???  
????????????? ?????????? ????
- ? ?????????????? ?????? ??????????? ?? ?????????? ?????????? ??? «?????????» ???  
????????? ?????? ?????????? ?????? ?????? ?? ?????????? ?????????? ???.

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

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

3 ?????? ??? 24?? ??????? 1996, C?317/94, EU:C:1996:400, ??? ????: ??????? Elida  
Gibbs.

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

5 ?????? ??? 5?? ??? 1994, C?38/93, EU:C:1994:188.

6 ???, ?? ??? 11?, ?????????? 1, ??????? ??, ??? ??????? 77/388/?? ??  
??????????, ??? 17?? ??? 1977, ??? ??????????? ??? ??????????? ??? ??????? ???  
????? ??? ?????? ??????? - ??? ?????? ?????? ????? ?????????????? ????: ?????? ???  
?????????? (?? ??. ??. 09/001, ?. 49, ??? ????: ??? ?????? ???).

7 ?????? ??? 5?? ??? 1994, C?38/93, EU:C:1994:188, ?????? 9. ? Boehringer  
?????????? ?????? ??? ????? 12 ?? ?????? ???????, ?????? ??? ?????????? ??? 17??  
?????????? 2002 Town & County Factors(C?498/99, EU:C:2002:494, ??? 30), ??? 27??  
?????? 2014, Le Rayon d'Or (C?151/13, EU:C:2014:185, ??? 29), ?????? ??? ??? ???????  
Elida Gibbs, ??? 27. ??? ?????????? ??? ???????, ?? ?????????? ?????????? ???, ???

????? ????????, «??? ?????????? ??? ?????? ? “????????????” ???, ?????? ?? ?????? ?????????? ?????? ?? ??? ?????? ???, ??? ??? ? ???? ??? ?????? ?????? ?? ??? ?????? ?????? »..

8 ?????? ??? 16?? ?????????? 2014, C?300/12, EU:C:2014:8.

9 ?????? ? Boehringer ?????????? ??? ?????? 29 ??? 35 ??? ?????????? ??? ?????????? ??? 27?? ?????? 2014, Le Rayon d'Or (C?151/13, EU:C:2014:185), ??? ??? ?????? 28 ??? ???????? Elida Gibbs. ? ???????? ?????????? ??? ?????????? ??? 3?? ?????? 1997, Goldsmiths (C?330/95, EU:C:1997:339, ??? 15), ??? ??? 26?? ?????????? 2012, Kraft Foods Polska (C?588/10, EU:C:2012:40, ??? 20).

10 ? ???????? ?????????? ??? ?????? ??? 9?? ?????????? 2011, Connoisseur Belgium (C?69/11, ?? ????????????, EU:C:2011:825, ??? 21), ????? ??? ??? ?????? ??? 8?? ?????? 2006, L.u.P. (C?106/05, EU:C:2006:380, ??? 48 ??? ??? ??????????? ??????????).

11 ? ???????? ?????????? ??? ?????? 17/3698 ??? Bundestag, ?. 60 ??? 61 (<http://dipbt.bundestag.de/dip21/btd/17/036/1703698.pdf>).

12 ?????? ??? 16?? ?????????? 2014, C?300/12, EU:C:2014:8.

13 ?????? ??? 15?? ?????????? 2002, C?427/98, EU:C:2002:581.

14 ??? ?????? ??? ?????????? ???, ? ?????? ?????????? ??? ?????????? ??? 21?? ?????????? 2013, Dixon's Retail (C?494/12, EU:C:2013:758, ??? 33). ?? ?????? ?????????? ?????????? ??? ?????????? ??? 5?? ?????????? 1981, Coöperatieve Aardappelenbewaarplaats (C?154/80, EU:C:1981:38, ??? 12), ??? 23?? ?????????? 1988, Naturally Yours Cosmetics (C?230/87, EU:C:1988:508, ??? 11), ????? ??? ??? 8?? ?????? 1988, Apple and Pear Development Council (C?102/86, EU:C:1988:120, ??? 11 ??? 12).

15 ??? ?????? ??? ?????????? ???, ? ?????? ?????????? ??? ?????? ??? 7?? ?????????? 2013, Tulic? ??? Plavo?in (C?249/12 ??? C?250/12, EU:C:2013:722, ??? 34).

16 ??., ??? 33.

17 ? ???????? ?????????? ??? ?????? ??? 15?? ??? 2001, Primbrack (C?34/99, EU:C:2001:271, ??? 25).

18 ?? ?????? ?????? ?????????? ??? ?????? ??? 22?? ?????????? 2011, Office des produits wallons (C?184/00, EU:C:2001:629, ??? 18).

19 ? ?????? ?????? ??? ?????? ??? 25?? ??? 1993, Bally(C?18/92, EU:C:1993:212, ??? 16), ??? ??? 15?? ??? 2001, Primback (C?34/99, EU:C:2001:271, ??? 38).

20 ? ?????? ?????? ???, ?????? ???, ??? ?????????? ??? 10?? ?????????? 2008, Marks & Spencer (C?309/06, EU:C:2008:211, ??? 49), ??? 19?? ?????? 2012, Lietuvos geležinkeliai (C?250/11, EU:C:2012:496, ??? 45), ??? ??? 6?? ?????????? 2014, Feakins (C?335/13, EU:C:2014:2343, ??? 49 ??? 51).

21 ????? ??????? ??? ?????????? ??????, ?? ?????? ??????? ??????????? ??? ?????????? ??? 15?? ?????????? 2012, Zimmermann (C?174/11, EU:C:2012:716), ??? ??? 19?? ?????????? 2012, Grattan (C?310/11, EU:C:2012:822).

22 ?? . ?????????? ??? ?????? ?????????? J. Kokott ??? ?????? Grattan (C?310/11, EU:C:2012:568, ?????? 32), ??? ? ?????? ?????????? ?????????? ??? «?? ?????????? ?????????? ??? ?????? ??? ???? ?????? Elida Gibbs ??? ? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? M. Wathelet ??? ?????? 29 ??? ?????????? ??? (C?300/12, EU:C:2013:502). ? ?? ??? ?????????? ??? ?????? ?????????? ?. Wathelet ??? ??? «?? ?????????? ??????????, ??????, ??? ?????????? ??? ?????? ??? ??? “????? ?????? ??? ?????? ?????? ??????”, ?????, ???, ??? ?????? ?????? ?????? ?????? ?????? Elida Gibbs, ??? ? ?????????? ??? ?????? »..

23 ?????? ??? 16?? ?????????? 2014, C?300/12, EU:C:2014:8.

24 ?????? ??? 29?? ??? 2001, Freemans (C?86/99, EU:C:2001:291,????? 33).

25 ???.

26 ?????? ??? ?????????? ??? 16?? ?????????? 2014, Ibero Tours (C?300/12, EU:C:2014:8,????? 29).

27 ???., ??? 31.

28 ???., ??? 32.

29 ???., ??? 30.

30 ?????? ??? 19?? ?????? 2012, International Bingo Technology (C?377/11, EU:C:2012:503, ????? 31). ??., ?????, ???????? ??? 5?? ??? 1994, Glawe (C?38/93, EU:C:1994:188), ??? ??? 24?? ?????????? 2013, Metropol Spielsttten (C?440/12, EU:C:2013:687).

31 ?????? ??? 19?? ?????? 2012, International Bingo Technology (C?377/11, EU:C:2012:503, ????? 19). ?????????? ??? ??? ?????????? ??????????.

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