

@import url(../../../../css/generic.css); EUR-Lex - 61993J0425 - EL

**Avis juridique important**

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# 61993J0425

?????? ?? ?????????? (?????? ?????) ??? 16?? ?????????? 1995. - CALLE  
GRENZSHOP ANDRESEN GMBH & CO. KG ??? ALLGEMEINE ORTSKRANKENKASSE FUER  
DEN KREIS SCHLESWIG-FLENSBURG. - ?????? ??? ??? ?????? ?????????????? ??????????:  
SCHLESWIG-HOLSTEINISCHES LANDESSOZIALGERICHT - ??????. - ?????????? ???????  
??? ?????????? - ?????????? ??? ?????????? ??????????. - ?????? C-  
425/93.

?????? ?? ?????????? ??? ?????????? 1995 ?????? I-00269

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??? ?????? ?????? ?????? ??? ?????????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? \*  
????????? ??? ?????? ??? ??????????

(????????? 1408/71 ??? ??????????, ??? 14, ??? 2, ????. ?, ??????? i)

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? ?????????? ??????? ???????????, ? ??????, ??????? ?????? ?????? ??????? ???????,  
????????????? ?????????????? ??? ?????????? ?? ??? ?????? ?????? ?????? ??? ? ??????, ???  
?????? ??? ?? ??? ?????? ???????, ??? ???????, ?????????????? ??? ????????????,  
????? ??? ??????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????? ??? ??????? ??? ???  
?????????? ??? ?????? ?????, ??????? ??? ?? ??? 14, ?????? 2, ??????? ?,  
????????? i, ??? ?????????? 1408/71, ??? ? ?????????????? ??????? ??? ?????????? ???  
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???? ??????? C-425/93,

??? ??? ?? ??????????? ??? Schleswig-Holsteinisches Landessozialgericht (?????????)  
??? ?? ??????????, ???' ??????? ?? 177 ??? ??????? ???, ?? ??? ???  
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Calle Grenzshop Andresen GmbH & Co. KG

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Allgemeine Ortskrankenkasse fuer den Kreis Schleswig-Flensburg,

?????????? ??? Bundesanstalt fuer Arbeit, ??? Bundesversicherungsanstalt fuer Angestellte  
??? ??? Boerge Wandahl, ??????????????? ??? ????? ????,

? ?????? ?????????????? ?????????? ?? ??? ?????? ??? ??????? ??? ?????? 14, ?????? 1,  
???????? ?', ??? ?????? 2, ??????? ?', ??????? i, ??? ?????????? (???) 1408/71 ???  
??????????, ??? 14?? ??????? 1971, ??? ?????????? ?? ?????????? ?????????????  
?????????? ????? ??????????, ????? ?? ?????????? ??? ??? ?????? ??? ?????????? ??? ???????  
?????????? ????? ??? ??????????, ??? ??? ?????? 12? ??? ?????????? (???) 574/72 ???  
??????????, ??? 21?? ??????? 1972, ??? ??? ?????? ?????????? ??? ?????????? (???)  
1408/71, ??? ??????????????? ?? ??? ?????????? (???) 2001/83 ??? ??????????, ??? 2??  
?????? 1983 (?? L 230, ?. 6),

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

?????????? ??? ??? F. A. Schockweiler (?????????), ??????? ???????, G. F. Mancini ??? G.  
Hirsch, ???????,

?????? ??????????: C. O. Lenz

???????????: H. ?. Ruehl, ?????? ?????????? ????????????,

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

\* ? Firma Calle Grenzshop Andresen GmbH & Co. KG, ?????????????? ??? ??? Reinhold  
Steinhusen, ??????? Flensburg,

\* ?? Bundesversicherungsanstalt fuer Angestellte, ?????????????? ??? ??? Michael Mutz,  
Verwaltungsdirektor,

\* ? ?????????? ??????????, ?????????????? ??? ??? Ernst Roeder, Ministerialrat ???  
????????????? ?????????? ????????????,

\* ? ??????? ??????????, ?????????????? ??? ??? Danilo del Gaizo, avvocato dello Stato,

\* ? ??????? ??? ?????????? ????????????, ?????????????? ??? ??? Christopher Docksey,  
????? ??? ??????? ??? ??????????, ??? Horst Peter Kreppel, ??????? ??????? ????????,  
?????????? ??? ?????? ??????? ??? ????????,

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??? ??????? ????????????, ??? ?????????? ??? ?????????? ???????????, ???????????????  
??? ??? Philippa Watson, barrister, ??? ??? ???????, ??? ?? ?????????? ??? 24??

????????? 1994,

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? 19?? ?????????? 1995,

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1 ?? ?????? ??? 15?? ?????????? 1993, ? ?????? ?????? ??? ?????????? ??? ?????????? ??? 18  
????????? 1993, ?? Schleswig-Holsteinisches Landessozialgericht ??????, ?????? ???  
????? 177 ??? ?????? ???, ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? 14, ?????? 1, ?????? ?!, ??? ?????? 2, ?????? ?!, ?????? i, ??? ?????? ???  
(???) 1408/71 ??? ??????, ??? 14?? ?????? 1971, ??? ?????? ??? ?????? ???  
????????? ?????? ?????? ?????? ?????? ?????? ?????? (???) 1408/71 (???) 1408/71  
1408/71), ??? ??? 12? ??? ?????? (???) 574/72 ??? ??????, ??? 21??  
????? 1972, ??? ??? ?????? ?????? ??? ?????? (???) 1408/71 (???) 2001/83 ???  
????????? 574/72), ??? ?????? ??? 1983 (?? L 230, ?. 6).

2 ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Calle Grenzshop Andresen  
GmbH & Co. KG (???: Calle) ??? ?? Allgemeine Ortskrankenkasse fuer den Kreis  
Schleswig-Flensburg (???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???:  
???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???:  
???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???: ???:  
Boerge Wandahl.

3 ? Calle ?????????? ??? ??????, ?????? ??? ?????????? ?????? ??? ?????????? ???  
?????????, ? ?????? ??? ?????? ??? ?????????? ?? ?????? ?????? ?????? ?????? ??????????  
????????????? ??? ?????? ??????. ?????????? ?????? ?????? ?????? ?????? ??????????????  
????????????? ??? ??????, ?????? ??? ?????? ??? Wandahl, ? ?????? ?????? ??? ???  
Calle ??? ?? 1979, ??? ??? ?? ?????? ???, ??? ?? 1981, ?? ??????.

4 ? Calle ??? ?????? ??? Wandahl ??? ?????? ??? ?????? ??? ?????? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 21?? 1987,  
?? ??? ?????? ??? ??? Calle ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???  
Wandahl ??? 74 627,23 ??? (DM) ??? ?? ?????? ??? 1? ???  
1982 ??? ?? 31 ?????? 1987. ? Calle ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ???, ??? ?? ?????? ??? ?? ?????? ??? ?????? ???  
????????? ??? ?????? ???, ??? ??, ??? ?????? ??? ?? 14, ??? 2, ???  
?!, ??? ?????? i, ??? ?????? 1408/71, ?????? ?????? ??? ?????? ??? ?????? ???

5 ?????? ?? ??? ?????? ??? ?????? ?? ?????? ?? 17?? ?????? 1990, ? Calle ??????  
????????? ?????? ??? Sozialgericht Schleswig. ?????? ??? ? Wandahl ??? ?????? ???  
????????? ??? 14, ??? 2, ??? ?!, ??? i, ??? 1408/71  
??' ??? ?? ?????? ??? ?? ?????? ?????? ??? ?????? ??? 14, ??? 1,  
????? ?!, ??? ??, ??? ?????? ??? ?????? ??? ?????? ??? 14, ??? 2,  
Sozialgericht ?????? ??? ?????? ??? 4?? 1992.

6 ??? 9 ?????? 1993, ? Calle ?????? ??? ?????? ??? ?????? ??? ?????? ???  
Schleswig-Holsteinisches Landessozialgericht. ??? ?????? ??? ?????? ???, ? Calle

? ?????????? ?????????? ?????? ?????????? 27 ?????????? 1993, ??????? ?? ????  
????????? ?????????? ?????????? ??? ?????? 101, ?????????? ??? ???? 12?, ??????  
2, ?????? ? ', ??? ?????????? 574/72, ?? ?????? ?????????? ???, ??? ??? 1? ??????????  
1985, ? Wandahl ?????? ??? ?????????? ??? ?????? 14, ?????? 2, ?????? ? ', ???  
????????? 1408/71, ?? ?????????? ???, ??? ??? ?????????? ?????????? ???  
????????? ???, ?? ??? ?????????? ??? ?? ?????????? ???, ???, ???, ???, ???, ???  
????? ???, ?? ?????????? ??? ? Wandahl ??? ??? ?????????? ?????????? ???  
?????.

7 ?????????? ??? ? ??? ???? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ???  
????????? ???, ?? ??? ?????????? ??? ???? Schleswig-Holsteinisches  
Landessozialgericht ?????????? ?? ?????????? ?? ?????????? ??? ?? ?????????? ???  
????????? ?? ?????????? ?????????? ??????????:

"1) ?????????? ?????????? ??? ???? ?????? 14, ?????? 1, ?????? ? ', ???  
????????? (???) 1408/71 ? ?????? ?? ?????????? ?? ??? ?????? ?????????? ? ?????????? ???  
?? ?????? ??? ?????????????, ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?????????, ?????????? ?????? ??? ?????? ??? ?????? ?????????, ??? ?????????? ???  
????????? \* ?????? ?? ?????????? ?? ?????? ??? ?????? ?????? ? ?????????? ???  
????????? \* ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ???;

2) ?????? ?? ?????????? ??? ???? ?????? ?????? ?????? ?????? ?????????? ?????????? ??? ??????  
?? ?????? ??? ?????? ??? ?????? ??? ?????? 14, ?????? 2, ??? ?????????? (???) 1408/71,  
??? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ???  
????????? ?????? ??? ?????? ???, ??? ?????? ??? ?? ??? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ?????? ??? (????????? ??? ?????? ??????????) ???  
????? ??? ?????? ??? ?????? ???;

3) ?????????? ? ??? '?????????????' ??? ?????? ??? ?????? 14, ?????? 2,  
????? ? ', ?????? i, ??? ?????? (???) 1408/71 ??? ??? '????? ?????? ?????????? ???  
????? ??? ?????? ??? ?????? ???;

4) ?) ?????????? ?????? ? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ??????  
?? ?????? ? 101 ??? ??? (?????????) ?????? ?????? ?????? ??????, ?????? ?? ?? ???  
12? ??? ?????? (???) 574/72;

) ?? ?????????? ?????????? ??????????: ?????? ??? ?????? ??? ?????? ??? ?? ??  
????????? ??? ?????? ???;

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8 ?? ?? ??? ?????? ?????? ???, ?? ?????? ?????? ?? ?????????? ???, ?? ??????  
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????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ??? ? ? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ? ?  
????? ??? ? ? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ? ?  
????? ??? ? ? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ? ?  
????? ??? ? ? ?????? ?????? 14, ?????? 1, ?????? ? ', ? ??? ?? ?????? 14, ?????? 2, ?????? ? ',  
????? i, ??? ?????? 1408/71.

9 ?? ????? 14 ??? ?????? 1408/71 ?????? ?????? ??? ?????? ?? ?? ?? ?? ??  
?????????, ??? ?????? ?? ??????, ?????? ?? ?????? ?????????? ??? ??????????,  
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?????? ?????????? ?????????? ??? ????? ??????, ??? ?? ?????????????? ?  
?????? ?????????? ??????? ?????????? ??? ?? ?? ????? ?????????? ?? ??????????  
????????? (?., ????, ?????? ?? 24?? ??????? 1994, C-71/93, Van Poucke, ??????  
1994, ?, ?-1101, ????? 22).

10 ?? ?????? 14, ??????? 1, ?????????? ?', ??? ?????????? 1408/71 ?????? ??? ?? ??????? ???  
????? ??????? ?????????????? ??? ?????? ??????? ?????? ?? ??????????, ??? ??????  
????????? ????????, ??? ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???  
????????? ????????, ??? ?????? ??? ?????? ??? ??????????? ?????? ??? ?????????? ??? ?????? ???  
????? ??????? ??????, ??? ??? ??? ??? ??? ? ?????????????? ?????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ?????? ??? ??? ??? ??? ?????????????? ?? ?????????? ??? ?????????? ???  
????????? ??? ?????? ?????? ??? ??? ??? ?????????????? ?? ?????????? ??? ?????????? ???.

11 ???????, ?????????? ??? ????? ???? ?????????????? ??? ??? ????? ??????????????  
????????? ??? ?????? ?? ?????????? ??? ?????? ???, ?????????? ??? ? ?????????? ??? ??? ??  
????? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????????? ??? ??????????????, ?  
????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????????? ????????, ??????????, ???' ????  
?? ?????????? ??? ?????????? ??? ??????????.

12 ??????????, ? ?????????? ??? ?????????? ??? ?????? 14, ?????? 2, ??????????'?, ?????????? i,  
??? ?????????? 1408/71, ?? ????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??????  
?????????????? ??? ?????? ??? ? ?????????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ?????? ??????, ?? ?????? ?????? ??? ?????????????? ???  
??? ?????? ??? ? ?? ?????????????? ??? ?????????? ?????????????? ?????????????? ?????????????? ?  
????????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???  
?????.

13 ??????????, ??? ?? ??????????????? ??? ?????????? "?" ?????????? ??? ?? ?????? ?????? ???  
????????????? ?????????? ?????????? ?????? ??? ?? ???? ?????? ?????? ?????? ???  
????????????? ??? ?? ?????? ??? ? ?????????? ?????? ?????? ??? ?????? ???  
??? ?? ?????? ???????????,

15 ??????????, ??? ??? ????? ??????????? ?????? ?? ?????? ?? ?????????? ??? ? ?????????? ?????  
???????????, ?????????????? ??? ?????? ??? ?????????????? ?????????????? ??? ??????????  
?? ??? ???? ???????, ? ??????, ??? ?????? ??? ?? ??? ????? ??????? ???????, ??????  
??????, ?????????????? ??? ??????????????, ??? ??? ?????? ??? ?? ??? ?????????????? ???  
????? ????, ??? ??? ?????????????? ??? ??? ????, ?????????? ??? ??? 14, ?????? 2,  
?????? ?!, ??????? i, ??? ?????????? 1408/71.

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16 ?? ?? ?????? ??????? ???, ?? ?????? ??????????? ?????? ?? ? ??? "?????????????" ????  
??? ?????? ?? ?????? 14, ?????? 2, ??????? ?', ??????? i, ??? ?????? 1408/71  
????????????? ?? ?? "?????? ???????????".

17 ??? ??????? ??????? ?? ????? ?????????? ??????????

18 ???????, ??? ?? ??????? ??? ?? ????? ?????????? ?????????? ?????????? ??? ?? ????? 14,  
?????? 2, ???????? ?!, ??????? i, ??? ?????????? 1408/71 ?????????? ?????? ??  
?????? ?? ????? ????? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ? ??????????????  
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19 ????????, ? ????????, ????????, ?? ?????? ?????? ?????? ?? ?????? ?????????? ??????????????  
?? ?????? ??? ? ?????????? ?????? ??? ? ?????????? ???????, ?? ?????? ???  
????????? ?????? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?????? ??? ? ??????????  
????? ?????, ?????????? ?????????? ??? ?? ?????? 14, ?????? 2, ??? ?? ?????? 14 ? ???  
????????? 1408/71.

20 ????????, ??? ?? ?????? ??????? ?????? ?? ?????? ?? ?????? ??? ? ??? "?????????????"  
??? ?? ?????? ??? ?????? 14, ?????? 2, ?????? ?!, ??????? i, ??? ?????????? 1408/71  
????????? ??? ?? "?????? ??????????".

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21 ??? ?? ??????? ??? ?????????? ??? ?????????? ????? ?????????? ?????????? ??? ?? ??????? ???  
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????? ?? ??????? ??? ?????? 14, ?????? 1, ?????? ?!, ??? ?????????? 1408/71.

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

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23 ?? ?? ?????? ?? ?????? ?????????? ? ?????????? ??? ? ??????? ??????????, ? ?????????? ??  
????????? ????????, ??? ?? ??????? ??? ?????????? ??? ?????????? ??????????, ?? ??????  
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?? ?????? ?????? ??? ?????? ?????? ?????????? ?, ?' ??? ?????????? ?? ?????????? ??? ??  
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?? ?? ?????? ????,

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

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Schleswig-Holsteinisches Landessozialgericht, ??????????:

1) ? ?????????? ?????? ????????????, ?????????????? ??? ?????? ??? ??????????????  
????????????? ??? ?????????? ?? ??? ?????? ??? ???????, ? ??????, ??? ?????? ??? ?? ???  
?????? ????????, ?????? ??????, ?????????????? ??? ??????????????, ??? ??? ?????? ???  
??? ?????????????? ??? ?????? ?????? ???, ?????? ??? ?????????????? ??? ??? ??????, ??????????  
??? ?????? 14, ?????? 2, ??????? ?', ?????????? i, ??? ?????????? (???) 1408/71 ???  
?????????, ??? 14?? ?????? 1971, ??? ?????????? ??? ?????????? ?????? ??? ?????? ???  
????????? ??? ?????? ??????????, ?????? ?? ?????????? ??? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ??????????.

2) ? ??? "?????????????" ??? ???? ?????? ??? ?????? 14, ?????? 2, ??????? ?',  
????????? i, ??? ?????????? (???) 1408/71 ?????????? ??? ??? "????????? ?????????????".