

@import url(../../../../css/generic.css); EUR-Lex - 61999J0206 - EL

Avis juridique important

/

61999J0206

????????? ??? ??????????? (????????? ??????) ??? 21?? ??????? 2001. - SONAE - Tecnologia de Informação SA ??? Direcção-Geral dos Registos e Notariado. - ?????? ??? ??? ??????
?????????????? ??????????: Tribunal Tributário de Primeira Instância do Porto - ??????????. -
????????????? ????????? - ?????? 69/335/??? - ??? ?????????????? ????????? - ????
????????? ??? ?????????? ??????. - ?????? C-206/99.

????????? ??? ??????????? ??? ??????????? 2001 ?????? I-04679

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1. ??????????? ?????????? - ?????????? ??? ?????????? - ??????? ?????? ??? ??
????????????? ?????????? - ?????? ??? ?? ?????? ??? ??????? 69/335 - ?????? - ????
????????????? ?????????? ??? ?????????? ?????????? ?????????????? ?????????? ???
????????????? ??? ?????????? ?????????? - ??????????

(?????? 69/335 ??? ??????????)

2. ??????????? ?????????? - ?????????? ??? ?????????? - ??????? ?????? ??? ??
????????????? ?????????? - ?????????? ??? ?????????? ?????????? ??????????
????????????? ?????????? ?? ?????????? ?????? - ?????????? ?????? - ?????????? ?????
????????????? - ??? ????????????

(?????? 69/335 ??? ??????????, ??? 10, ?????. ?_)

3. ??????????? ?????????? - ?????????? ??? ?????????? - ??????? ?????? ??? ??
????????????? ?????????? - ?????????? ?????? ??? ?????????? ?????????? ??????????
????????????? ?????????? ?? ?????????? ?????? - ??? ?????????????? ?????????? - ?????? -
???? ?????? ?????? ??? ?? ?????????? ?????? - ??? ?????????? - ??? ?????????? ??
????????? ??? - ?????????? ?????????? ?????? ?????? ??? ?????? ?????????? - ??????????

(?????? ??? ?????????? 69/335, ??? 12 § 1, ?????. ?_)

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1. ?? ???? ??? ?????? ??? ??????? ??? ??????? ???????????, ??? ?????? ??? ?????????????? ??? ???????
????? ??? ?????? ?? ??? ????? ?????????????? ?? ??? ????? ??????????, ? ?????? 69/335, ??? ??
?????? ??? ?????? ??? ?????????????? ??? ??? ?????????????? ??????????, ??? ??? ?????? ???
?? ??? ?????? ??? ?????????????? ??? ??? ?????????? ?????????? ??? ?????????? ??????????
????????????? ?????? ?? ??????? ??? ??????? ??? ?????? ??? ?????????????? ??? ?????? ???
????????????? ?????? ??? ??????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ???.

(???. ??????? 24-26)

2. ?? ????? ??? ??????????? ??? ?? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????????? ??? ??????? ?? ??????? ??????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
?????? 69/335, ??? ?? ?????? ?????? ??? ?????????????? ??? ?? ?????????????? ??? ??????????????
?????????, ???' ??? ?? ?????????????? ??? ?? ????? 10, ???????? ?_, ??? ?? ??? ??????.
????????, ??? ?? ?????? ??? ?????????? ?????????? ?????????????? ?????????? ??? ?????? ??
????????????? ?????????? ??? ?????????? ??????, ?????????????? ??? ?????? ??? ??????
???? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????
????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??

(???. ??????? 30-31)

3. ?? ?????? 12, ?????????? 1, ??????? ?_, ??? ?????? 69/335, ??? ???? ???? ?????? ???
????????????? ??? ?? ?????????????? ????????, ??? ?? ?????? ??? ?? ??? ?? ???? ??
????????????? ??? ?? ?????????? ????????, ??? ?? ?????????? ????????, ?????????? ??????????????
????????? ?? ??????? ??????, ?? ?????? ??????? ?????????????? ??? ?????? ?????? ?????? ??
????????? ?????????? ??????? ??? ?? ?????????????? ?????? ??? ?????? ??? ?????? ??
????????? ??????????, ??? ?????? ?????????????? ??????????.

? ??????? ?????????? ?????? ?? ?????? ??? ?????????? ?? ?????????? ?? ? ? ?????? ??? ?????? ??'
?????? ?? ?? ???? ?????????? ?????????????? ??????????, ?? ?? ???? ?????? ?? ?? ????
?????????? ?? ???? ?????? ?? ?? ???? ?????? ?? ?????? ??? ?????????? ?? ???? ?????? ?? ?? ????
????????? ??????????. ???????, ??? ?????? ?????? ??? ?????? - ?????? ?? ?????????? ???
????????????? ?????????? ??? ?????? - ?? ?????????? ??? ?????? ?????? ??? ?????? ?? ?? ????
?????????? ?? ?????????? ?????????? ?????????? ??? ?????? ?????? ?????????? ?????????? ?? ????
?????? ?? ?????? ??????, ??????????, ??? ?? ???? ??? ?? ???? ??????, ???
????????????? ?????? ?? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ??' ?, ?? ??
???????? ?? ?????????? ?????????? ???????, ?????? ? ?????? ??? ?????? ??? ?????? ?? ????
???????? ?? ?? ???? ?????? ???????.

(???. ?????? 43 ??? ????????.)

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???? ??????? C-206/99.

??? ?? ??? ?? ?????????????? ??? ?????? ??? Tribunal Tributário de Primeira Instância do Porto

(??????????) ??? ? ? ???????????, ???' ?????????? ??? ?????? 177 ??? ??????? ?? (??
?????? 234 ??), ?? ??? ???? ???????, ??? ??????? ??? ??????? ??? ??????? ???????
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SONAE - Tecnologia de Informação SA

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Direcção-Geral dos Registos e Notariado,

? ?????? ?????????????? ?????????? ?? ??? ?????? ??? ??????? ??? ?????? 10 ??? 12 ???
?????? 69/335/?? ?? ???????????, ?? 17?? ??????? 1969, ??? ?? ??????? ??????? ??
????????????? ?? ?? ??? ?????????????? ??????? (?? ???. ???. 09/001, ?. 20), ?? ??? ???
???? ??? ?????? 85/303/?? ?? ??????????, ?? 10?? ?????? 1985 (?? 1985, L 156, ?. 23),

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

?????????? ?? ??? ?. ??????, ??????? ???????, *R. Schintgen* (?????????) ??? *N. Colneric*,
???????,

?????? ??????????: *D. Ruiz-Jarabo Colomer*

?????????: *R. Grass*

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

- ? *SONAE - Tecnologia de Informação SA*, ?????????????? ??? ??? *C. Osório de Castro*,
advogado,

- ? ?????????? ???????, ?????????????? ??? ??? *L. Fernandes, Â. Seiça Neves* ??? *R. Barreira*,

- ? ?????????? ???????, ?????????????? ??? ??? *S. Ortiz Vaamonde*,

- ? ?????????? ??? ?????????? ??????????, ?????????????? ??? ??? *H. Michard* ??? *A. ?.*
Alves Vieira,

?????? ?????? ??? ?????? ??? ??????? ????????,

???? ?????? ??? ?????? ?????????? ??? ??????? ??? ??????? ??? ??????? ??? ??? ?? ??????????
?? 20?? ?????????? 2001,

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

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1 ?? ??????? ??? 16?? ??????? 1999, ??? ??????? ??? ?????????? ??? 31 ??_?? 1999, ??
Tribunal Tributário de Primeira Instância do Porto ???????, ??????? ??? ??????? 177 ???
????????? ?? (?? ???. ???. 234 ??), ????? ?????????? ??????? ?? ??? ??? ??????? ??
?????? 10 ??? 12 ??? ??????? 69/335/?? ?? ???????????, ?? 17?? ?????? 1969, ??? ??

? ?????? ???? ?? ?????????????? ?? ?? ?? ?????????????? ?????????? (?? ????. ??? 09/001, ??. 20), ?? ????. ??? ?? 85/303/???. ??? ??????????, ??? 10?? ?????? 1985 (?? 1985, L 156, ?. 23, ??? ?: ?????? 69/335).

2 ?? ?????????? ???. ??????? ???. ??????? ???. ??????? SONAE - *Tecnologia de Informaçā? SA* (???. ????: SONAE) ???. *Direcção-Geral dos Registos e Notariado*, ??????? ???. ???. ??????? ???. ???. ??????? ???. ??????? ???. *Registo Comercial* (???????. ???.) ???. ???????-.???????. ??????? ???. ??????? ???. ??????? ???. ??????? ???. SONAE.

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3 ????. ?????????? ???. ????. ????. ????. ?????????? ???. ?????, ??????. ????. ??????. 69/335 ???. ???. ?????????? ???. ?????????? ???. ?????????? ???. ?????, ??. ??????. ?????????? ???. ??????. ?????????? ???. ???. ?????????? ???. ??????. ?????????? ???. ??????. ??????. ??????. ??????. ??????. ??????.

4 ????. ????. ????. ?????????? ???. ??????. ????. ??????. 69/335, ??. ??????. ????. ??????. ??????. ???. ????. ????. ??????. ????. ??????.

5 ????. ???. ????. 4 ????. ??????. 69/335:

«1. ?????????? ???. ????. ??????. ???. ??????. ??????. ???. ??????. ??????.

) ? ??????. ?????????????? ??????.

[...]

) ? ??????. ???. ??????. ??????. ??????. ??????. ??????. ??????. ??????. ??????. ??'. ??????. ???. ??????. ??????.

[...]

3. ????. ??????. ??????. ????. ????. ??????. ????. ??????. 1, ??????. ?_, ??????. ??????:

) ? ??????. ??????. ??????. ??????. ??????. ??????. ??????. ??????. ??????. ??????. ??????.

) ? ??????.

) ? ??????. ??????. ??????. ??????. ??????. ??????. ??????. ??????.

) ? ??????. ??????. ??????. ??????. ??????. ??????.

6 ???. ????. 7, ??????. 1 ????. 2, ????. ??????. 69/335 ??????:

«1. ?? ?????? ???. ??????????????? ???. ???. ???. ?????????? ???. ???. ?????????? ???. ???. ???.
?????????????? ???. ???. ???. 9 ???. ???. ???. ???. 1? ???. ???. 1984, ?????????????? ??. ?????????? ???.
????????? ???. ???. ???. 0,50 % ??. ???.

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

[...]

2. ??? ?????? ??? ??????? ?? ???? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????,
????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? 1, ??? ???? ???? ?????? ??? ??????
????????? ??? ??? ?? ?????????? ?? 1 %.»

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

?) ??? ??? ???????, ?? ?????? ?????????????? ??? ??? 4.

?) ??? ??? ????????, ?????? ? ???????, ??? ?????????????????? ??? ?????? ??? ??????
??? ?????????????? ??? ?????? 4.

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

8 ?? ?????? 12, ??????????? 1, ?????????? ?, ??? ??????? 69/335 ??????????????:

«???? ?????????? ??? ?? ?????????? ??? ?????? 10 ??? 11, ?? ?????? ??? ?????????? ?? ??????????:

[...]

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

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

9 ? Código do Registo Comercial (?????????????? ??????? ?????????? ???????), ??? ??????? ?? ?? Decreto-Lei (?????????? ???????) 403/86, ??? 3?? ?????????? 1986, ????????, ??? ?????? 3, ??????? q, ??? ??????? ?????????? ???????, ??? ? ???????????, ? ?????? ? ???????????, ? ?????????? ? ?????????? ??? ? ??? ?????????, ?????? ??? ? ???????, ?????? ? ?????????? ??? ?????????? ?????????? ?????????????????? ???????, ?????? ?? ??????????????? ??? ???????.

10 ?? ?????? 13 ??? ?????? ?????????? ???????? ????????

«1. ??? ??????????? ?? ?????????? ???????, ??? ???? ?? ???????????????, ??? ???? ???????
?????? ??? ?????? ??? ??? ??????? ???.

2. ??????????? ?? ??????? ??????? ??? ??????? ??? ?? ?????????????? ???, ??? ??
????? ??????????? ?? ??????? ??? Código das Sociedades Comerciais.»

11 ?? ???? 14, ??????? 1, ??? ???? ??????? ??????? ??????:

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

12 ?? ???? ??? ?????????????? ?? ?????????? ??????? ?????????? ?????????? ??????? ???
????????? ?????? ??????????????, ??????? ??? ?????? 6 ??? ?????????????? ??????????????
403/86, ??? 3?? ?????????? 1986, ??? Cofre dos Conservadores, Notários e Funcionários de
Justiça (?????? ???????????????, ??????????????? ??? ?????????? ???????????, ??? ???:
??????), ?? ????? ????, ?????? ????, ?? ????? ?????????????? ??? ??????????? ???
????????? ???????.

13 ?? ???? ??? ????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ??????? ???
????????? ?????? ?????????? ??? ??? Tabela de Emolumentos do Registo Comercial (?????
????? ?????????? ???????, ??? ????: ???????).

14 ??????? ?? ?? 1, ?????????? 1 ??? 2, ??? ??????, ?? ?? ?????? ??? ?? ?????????? ??
Portaria (????????? ???????) 883/89, ??? 13?? ?????????? 1989 (Diário da República ?, ???.
236, ??? 13?? ?????????? 1989), ??? ??? ?????????? ??? ????? ?????????? ??? ??
??????.

15 ??? ???? ?????????? 3 ??? ????? ??????, ?? ? ?????????????? ?????? ??? ?????????? ???
????????????? ?? 100 000 ?????????? ??????? (PTE), ??? ?????????????? ??? ??????????????
1 ??? 2 ??? ????? ?????? ??? ??????? ?????????????? ?????????? ???, ?? ??? ??? ?????,
????????????? ??? ??? ?????? ??? ?????? ??? ???????, ?????????, ??? ??? ????? ?????????? 1
000 PTE ? ?????? ??? ?????? ??? ?????? ??? ?????? 200 000 PTE, ?? 10 PTE, ?? 5 PTE ??
?? ??????? ?????? 200 000 ??? 1 000 000 PTE, ?? 4 PTE ??? ?? ??????? ?????? 1 000 000
?? 10 000 000 PTE ??? ?? 3 PTE ??? ?? ??????????.

16 ? Portaria 996/98, ??? 25?? ?????????? 1998 (Diário da República ?, ??? B, ????. 273, ???
25?? ?????????? 1998), ??????? ??????? ??? ?? ?????????? ???' ?????????? ??? ??????
????. ??? ?? ??? 23, ??????? c, ??? ?????, ?? ??? ??? ?????? ??? ?????????? ??? ???????,
?? ??? ??? ?????????? ??? ??? ?????????? ?????????? ??????? ??? ? ?????? ???
????????? ?????????? ??? ??????? ?? ??????? ?? ??? ?????? ??? 15 000 000 PTE.

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

17 ??? 30 ?????????? 1997, ? SONAE ?????? ??? ?????????? ?????????????????? ???????
????????????? ?????????? ??? ?????????? ???, ??????-????????? ??? ?????? ???
????????? ??? ?????????? ???' ?????????? ??? ?????? 1, ?????????? 3, ??? 14 ??? ?????,
?? ??? ??? ??? ?????????? ?????? 883/89, ?? ?????????? ??? ?????????? ??????
????????? ?? ??? ??? ??? ?????????????? ??? ?????????????? ?????? ?? 7 662 000 PTE.

18 ? SONAE ?????????? ??? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ???
Tribunal Tributário de Primeira Instância do Porto, ?????????? ??? ?????????? ???
????????????? ??? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ?????? ?? ???
?????? 69/335.

19 ?? Tribunal Tributário de Primeira Instância do Porto, ?????????? ??? ??? ?????????? ???
?????? 69/335, ?????????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? 1, ?????????? 3,
?? ???, ?????????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????? ??? ?????????? ??

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

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

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

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

?????????? ?????? ??? ?????????? ??? ?????? 10 ??? 12 ??? ?????? 69/335/???,

1) ??????? ?? ?????????????? ??? ??? ?????????? ?????? ??? ?? ?????????????? ???
????????????? ?? ?????????? ??? ??? ??? ??? ??? ??????;

?) ?????? ? ??? ??? ??? ???? ??????????;

?) ?????? ? ??? ??? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? 1 ??????, ??
????????? ?? ?????? ???;

2) ?????????? ?? ?????????? ??? ??????? ??????, ?????????????? ??? ??? ??????
[69/335], ?? ?????? ?? ?????????? ???, ?????? ?? ?? ?????? ??? ?? ??? ?????? ??? ?? ?????? ????
????? ?????????? ??? ??? ??? ?????????? ??? ??????;

3) ????? ?? ?????????????? ??? ??? ?????????? ?????? ??? ?? ?????????????? ?? ??????? ??
????????? ?????? ??? ?????? ??? ?????? ??? ??????;

4) ????? ?? ?????? ??? ?? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????????? ?? ??????????
??? ?????? ?????????? ??? ??? ?????????? ???;

5) ??? ??? ?????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ??????????
????????? ???, ?????? ?? ?????????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??????
????? ??? ??? ?????;»

??? ??? ??????, ??? ?????, ??? ?????? ??? ??? ?????? ??????????

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

21 ??' ?????? ??? ???????, ?? ?? ?????, ?? ?????, ?? ?????? ??? ?? ?????? ??????, ???
????????? ?? ??????????????, ?????? ???' ?????? ?? ?? ?????, ?? ?????????????? ??? ??
????? ?_, ??? ?????? 69/335 ??? ?? ?????? ??? ?? ?????? ??? ?????????????? ??? ??
????????? ?????? ??? ?????? ?????? ?????????? ?????????????? ?????????? ?? ??????
?????, ?? ?????? ?????????????? ?? ?????????? ??? ?????? ??? ?????????????? ??????????
????? ?? ?????? ??? ?????? ???, ?????? ?????????? ?????????? ?? ??, ??? ?? ??????
????? ???????, ?? ??? ??? ?????? ??? ?????? ?? ?????????????? ?????????? ?? ??? ?????? ???,
?? ?????? ??? ?????????? ??????????, ?? ?????? ?????????? ?? ?????????? ??? ?????? ??? ??????
????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????????????? ?????????? ?? ?????? ??? ??????

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

22 ??? ?? ?????? ?????????? ?????????? ??? ?????????? ???, ??????, ??????, ??????, ??
?????????????? ?? ? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??????????
???? ??? ?????? ??? ?????? 69/335 ??, ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??????, ??
????????? ??? ?????? ?????????? ??????.

23 ??????, ?????????? ? ?????????? ???, ???' ?????? ??? ?????????? ?????? ?????????? ??????????,
?? ?????????? ?????? ?????????? ?????????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???,
????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (??.
????? ??? 29?? ?????????? 1999, C-56/98, *Modelo*, ?????? 1999, ?. ?-6427, ?????? 20).

24 ??????, ?? ?????? ??? ?????? ???, ?? ?????? ?????????? ???' ??????????
????????? ?????? ??????, ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????????????
????????? ?????? (?. ?????????? ?????? *Modelo*, ?????? 21).

25 ?????? ??? ?????? ??? ?????????? ?? ??? ?????? 69/335 ??????, ?????? ???
????????? ??? ?????? ??? ?????? ?? ??? ?????? ?????????? ?? ??? ?????? ??? ?????? ??????,
????????? ?? ?????????? ?? ??????, ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????
????????? ?? ?????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??????
??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? (??.
????????? ?????? *Modelo*, ?????? 22).

26 ??????, ??? ?????? ?? ?????? ??? ?????? ???, ?? ?????? ?????????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ??? ??????
?????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 69/335.

27 ??????, ????, ??????, ?? ??????, ?? ?????????? ?? ?? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????? 10 ?? ?????? 69/335 ?? ?????? ??? ?????? ??? ?????? ?????? ??????
????????? ??? ??? ?????? ??? ?????? 12, ?????? 1, ?????? ?, ??? ?????? 69/335.

28 ??? ?????, ???' ?????, ?? ?????? 10 ?? ?????? 69/335, ?????????? ???, ??? ?
????????? ??? ?, ?????????? ???, ??? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????? ???
??? ?????????? ??? ?????? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
??? ??????. ? ?? ??? ?????? ?????? ?????? ??? ?????? ???, ?????? ??? ?????? ?? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ???, ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????? (????????? ??? 11?? ?????? 1996, C-2/94, *Denkavit Internationaal* ?.,
????? 1996, ?. ?-2827, ?????? 23, ??? *Modelo*, ?., ??? 24).

29 ??? ?????? ?????? ??????, ? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

????????????????? ??? ?????????????? ???????, ? ?????????? ??? ?????????? ?????????? ?????????? ???
????? ?? ??????? ?????????? ??? ??? ?????? ??? ?? ??????? ??? ?????????? ??? ?????????? ?????? ???
(??., ?????? ????, ?????? ??? 26?? ?????????? 2000, C-134/99, IGI, ?????? 2000, ?. ?-
7717, ??? 23).

30 ?????? ? ?????? ??? ?????????? ?????????? ?????????????? ?????????? ???????, ?? ???
?????? ??????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?????????? ?????? ?????????? ???
????????? ????, ?????????? ??? ?????????? ??? ? ?????????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ???
????? ??? ???? ?????? ??? ?????????????? ???.

31 ???????, ?? ??? ???? ?????????? ??? ??? ?????????? ??? ?????? ?????? ??? ??????????
????????? ?????????? ??? ?????? ??? ?????? ???, ??? ???? ?????? ??? ?????? ???
???, ???' ????? ??????????????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 69/335,
?? ???? 10, ?????? ?, _, ??? ???? ??????.

32 ??? ???? ?, ???????, ?? ???? 12, ?????????? 1, ??????? ?, _, ??? ?????? 69/335,
????????????? ??? ???? ?????? ?????? ??? ?????????????? ??? ?? ?????? 10 ??? ?? ???
????? ??? ???? ??? ???? ?????????????? ???????, ??? ?????? ?????????????? ?
????????, ?????????? ??? ?? ??? ?????? ?????? ?????????????? ?????? ??? ?????? ??? ?????? ??
???? ?????????? ??? ?? ??? ?????? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ??????
?? ??? ??? ?? ??? ?????? ?????? ?? ??? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ??????
?? ??? ?? ?????????? ??? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???
??????????, ??? ?? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???
????????????? ?? ??? ?????? ??? ?????? ?????? ?????? 10 ??? ?????? 69/335 (?????? ??? 20??
?????? 1993, C-71/91 ??? C-178/91, Ponente Carni ??? Cispadana Costruzioni, ??????
1993, ?. ?-1915, ?????? 41 ??? 42).

33 ?????? ?? ?????????? ???, ??? ??? ?????????? ???????, ??? ? ?????????? ?????????? ???
??????, ?????????? ?? ??? ?????? ??????? ? ?????????? ??? ??????? ??? ???????, ???
????? ?? ?????? ??? ????' ?????? ??????? ??? ?? ??? ?????, ?????? ?????? ??? ??
???? ?????? ?? ?????????????? ???' ?????? ???, ?????????? ?????? ?????? ??? ??
????? ??? ??? ?????????? ??? ?????????, ??? ?????? ??? ?? ?????????? ???
??????????, ??? ?? ??? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ??
?????????? ??? ?????? ??? (?. ?????? ?????????? ?????? IGI, ??? 27).

34 ??? ???? ?, ??????? ?? ?? ?????????? ??? ???????????, ??? ?????, ?? ?????? ??????
????????? ??? ?????? ?????? ??? ?? ?????? ?????????? ?????????? ??? ???????, ??? ??????, ???
??? ??? ?? ???, ?? ?????? ?????? ??? ?????????????? ?????????? ??? ?? ?????? ??? ??
????? 69/335. ???????????, ??? ??? ?? ?? ?????????? ?????????? ??? ??????? ??
????????? ??? ?????? ??? ?????????????? ??? ?????? ?????????? ?????????? ??? ??
????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?? ?????? ???
????? ??? ?? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??????????
????????????? ? ?????? (????????? ??? 2?? ?????????? 1997, C-188/95, Fantask ?.??.,
?????? 1997, ?. ?-6783, ??? 31, ??? IGI, ??.?, ??? 31).

35 ???????, ??? ?? ?????? ??? ?????????? ??????????? ??? ?????? ?????? ?????? ??? ??
??? ?????????????? ???, ?? ??? ??? ?????????? ??? ??????? ??? ?? ?????????? ???
????????? ??? ?????????? ?????????? ?????????????? ?????????? ??? ?????? ???????, ???
?? ?????? ??? ?????? ???, ??? ?????????? ??? ?????????? ?????????????? ?????? ???
????? ??? ?????? 12, ?????????? 1, ??????? ?, _, ??? ?????? 69/335.

36 ??????? ?? ?????????? ???, ??? ?? ? ??????? ??????? ?????? ??????? ??????? ??????? ??? ??
????????????? ?? ?????????? ??? ?????? ??? ?????????????? ?????? ?????? ??? ?? ?????
????????????? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????? 69/335, ? ?????? ??? ?? ?????
????? - ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ?? ?????? - ???
????? ??' ?????? ??? ?? ?????????? ?????????? ??? ?? ?????? ??? ?? ?????? ???.

37 ??????????, ?????? - ??? ?????? ??? ?????????? ??? ?? ?????? 32 ?? 33 ?? ??????
????????? - ?? ??? ?????? ??? ?????????? ?? ?????????? ?????????? ?????? ???,
??? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? 12, ?????????? 1,
????? ?, ?? ?????? 69/335, ?? ?????????? ??? ?????? ?? ?????? ??? ?? ?????? ???
????? ????, ??? ?? ?????? ??? ?????? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ???'
????????? ??????, ? ?????? ?????? ??? ?????? ?? ?????? ?? ?????? ?? ?????? ??? ?????? ???
????? ?? ?? ??? ??????, ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????? ???
?????.

38 ??????????, ???????, ???, ??? ?????? ?????????? ??? ?? ?????? 30 ??
????????? ?????? Fantask ???., ??? ?????? ???, ??? ?? ?????????? ???
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? - ??????? ???
????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? 69/335
??? ?? ?????? ?????? - , ?????? ?? ?????? ??? ?????? ??? ?????? ?? ??????,
????????? ??? ??????????, ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?? ?????? ?????????? ??????????, ??? ?? ?? ?????? ??? ??????
????? ?? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???.

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

40 ?????, ??? ?????? ?? ?????? ???, ??? ?? ?????????? ???, ??? ?????? 28 ??
????????? ?????? Fantask ???., ??? ?????? ?? ?????? ??? ?????? ??? ??????
????? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ???
????????? ?' ??? ?? ?????? ?????? ?????????? ?????? ??? ?????????? ?????????? ???
??? ?? ?????? ??? ?????? ?????? ??? ?? ?????????? ?????????? ?????????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??? ??? ??
??????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???,
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???.

41 ??????, ??????? ???, ?? ?????????? ? ?????? ?????????? ??????????, ? ?????????? ???
????????? ??? ?????????? ?? ??? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ??????
????? ?????????? ?? ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ???
????? ?????? ??? ?????? ???????, ???????????, ??? ?? ??? ?? ??? ?????? ???, ???
????????????? ?????? ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??' ?? ??
????????? ?? ?????????? ?????? ???????, ?????? ?? ?????? ??? ?????? ??? ?????? ?? ??
????? ?????? ??? ?????? ??? ?????? ???.

42 ?? ?????????? ??? ?????? ?????? ?? ??? ?????? ??? ?????? 69/335 ??? ???
????? ?? ?????????? ?? ??? ?????????? ?????? ??? Ponente Carni ??? Cispadana
Costruzioni. ??????, ??? ?????? ??? ?? ??? 44 ??? ?????? ???, ?? ??? ??
????????? ?? ?????????? ?????????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???
?? ?? ?????? ??? ?????? ??? ???????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

43 ??? ????? ??? ??????? ??? ????????????, ??? ?????, ?? ?????, ?? ??????? ??? ?? ??????
?????? ?????? ?? ????? ? ??????? ??? ?????? ?? ????? 12, ?????????? 1, ???????? ?, _, ???
?????? 69/335 ??? ?????? ?? ?????? ?? ?????? ??? ?????????????? ??? ?? ?????????? ??
?????? ??? ??????? ?????????? ?????????? ?????????????? ??????? ?? ?????????? ???????, ??
????? ??????? ?????????? ?????????? ?? ?????? ??????? ?????? ?? ??????? ?? ?????????? ????????
?? ?? ?????????????? ?????? ?? ?????? ?????????? ?? ?????? ?????????? ?????????? ???????, ???
????? ?????? ???, ??? ????? ?????????? ?????????? ?????????? . ? ?????? ?????????? ?????? ?? ?????
??? ??????? ?? ??????? ?? ?? ?????? ??? ?????? ??' ?????? ??? ?? ????? ??????????
?????????? ?????, ?? ?? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????? ?????? ?? ????? ??
????? ??? ??????? ?? ??????? ?? ?? ?????? ??? ?????? ?????????? ?????????? ?????????? , ??? ??????
????? ??? ?????? - ?????? ?? ?????????? ??? ?????????????? ?????????? ?????????? ??? ?????? - ??
????????? ??? ?????? ??? ?????? ?? ?????? ?????????? ?? ?????????? ?????????? ??????????
????????? ??? ?????? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????????? , ???????????,
??? ??? ??? ??? ??? ???????, ??? ?????????????? ?????? ?????? ?????? ?????????? ?? ?????????? ??????????
????????? ??? ?????? ?????????? ??' ?? ?? ?? ?????????? ?? ?????????? ?????????? ?????????? , ?????? ?
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44 ??? ??? ??????? ???????????, ??????????? ? ??????????? ???, ?????? ??? ?? ???????
?? ? ?????? 69/335 ??????? ??? ?????????? ?????????? ??? ?????????? ?????????? 996/98,
?? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??????
???? ?????? ??? ?????? ?????, ???' ???? ?? ?????? ??? ?????? ??? ?????? ?????????? ??????? ???
????? 23, ??????? c, ??? ?????? ?????, ?? ??? ?????? ??? ?????????? ?????????? 996/98, ???
15 000 000 PTE, ?????? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????? ?????????? ??
????????? ? SONAE.

45 ????? ???????, ????? ??????? ??? ?? ?????? ??? ??????? ???????, ??????? ??? ??
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46 ????? ?????? ??????????, ??? ??????????? ?????? ?????? ?? ??????? ?????? ??? ??
????????? ??? ?????????? ??????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????????
????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? (??., ?????? ?????, ??????? ??? 29?? ??????? 1998, C-375/96, Zaninotto,
?????? 1998, ?. ?-6629, ????? 79).

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