

????????? ??? ?????????????? (???????)

??? 18?? ??????? 2013 (*)

«????????? ?????????? – ????? 107 ??? 108 ??? – ?????????? ??? “????????? ?????” – ?????????? (?) 659/1999 – ????? 1, ??????? ?, ?????????? i – ?????????? ?????? – ?????? ?????????? ?????? ?????????? ?????? ?????????? ?????? – ?????? ?????????? ?????? – ?????? ?????? – ?????????? ?????? – ?????? ?????? – ?????????? ?????? – ?????? ?????? ?????? – ?????? ?????? ??????»

???? ??????? C-6/12,

?? ?????????? ?? Korkein hallinto-oikeus (?????????) ?? 30?? 2011, ?
????? ??????? ??? ?????????? ??? 3 ?????????? 2012, ??? ??????? ??? ?????

P 0y

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

?????????? ?? T. von Danwitz, ??????? ????????, A. Rosas, E. Juhász (?), D. Šváby ?? C. Vajda, ????????

?????? ??????????: E. Sharpston

?????????: M. Alekseiev, ??????? ??????????,

????????? ?????? ??? ??????? ?????????? ??? ?????????? ??? ??' ?????????? ?????????? ???
22?? ??????? 2012,

????????????? ?????? ??? ?????????????? ??? ??????????;

- ? P Oy, ?????????????? ??? ??? O. A. Haapaniemi, asianajaja,
 - ? ?????????? ????????, ?????????????? ??? ??? J. Heliskoski ??? S. Hartikainen,
 - ? ?????????? ????????, ?????????????? ??? ??? T. Henze ??? ??? K. Petersen,
 - ? ?????????? ????????, ?????????????? ??? ??? I. Koskinen, R. Lyal ??? T. Maxian Rusche,

???? ??????? ?? ?????? ??????????? ??? ?????????? ??? ?????????? ??? ?????? ?? ???????????
?? 7?? ??????????? 2013,

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

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2 ? ??????? ??? ?????????? ??? ??????? ??????? ??????? ??? P Oy (???) ????:
P) ??? ??? ???????? ??? ??? ?????????????? ??????? ??????? ??????, ?? ???????????
??? ??????? ??? ????????? ?? ?? ??????????, ??????, ?? ??????? ?? ?????????? ??? ??????
??? ??????? ??? ??????? ?? ?????????????? ?????????? ???, ?? ?????? ?????????? ??? ??????
????????? ??? ??????? ?????????, ???, ???????, ?? ?????????? ??? ?????? ??? ??????
????????? ???.

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

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

3 ? ?????????? (??) 659/1999 ??? ??????????, ??? 22?? ?????? 1999, ??? ?? ??????
????????? ?????? ?????????? ??? ?????? [108 ???] (EE L 83, ?. 1), ??????, ??? ??? 1,
?? ?????? ?????????? «?????», ?? ????:

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

[...]

i) ?) “????????? ????”:

i) ?? ??? ?????????? ??? ?????? 144 ??? 172 ??? ?????? [???] ??? ??? ??????????????
??? ?????????? ??? ?????????, ??? ??????????? ??? ?????????? ??? ?????????? ??? ??????
????????? ??? ??? ?????????? ??? ??????? ??? ??? ?????? ??? ?????? ?????????? ??? ??????
(EE 1994, C 241, ?. 21 ??? ?? 1995, L 1, ?. 1, ??? ????: ?????? ??????????)] ??? ??
????????? ??? ?????? ?????????? ??? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ????
????? ????, ?????? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??????
????????? ????, ??? ?????????? ??? ?????? ??? ?????, ??? ??? ?????? ??? ?????? ??? ?? ???
?????????

[...]»

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

4 ? ?????? 1535/1992 ??? 30?? ?????????? 1992, ??? ?????????? ??????????
(Tuloverolaki, ??? ????: TVL), ??? ?????? ?? 117, ?? ?????? ?????????? «????? ????
????????? ????, ??? ??????????», ????: ?? ????:

«?? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ???
????? ?? ??? ?????? ??? ?????? ??? ?????? ???.

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

5 ?? ?????? 119 ??? ?????? ????, ?? ?????? ?????????? «????? ??? ?????????? ????
????? ??? ?????????? ? ?????? ?????? ????, ??? ??????:

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

?? ??? ??? “????? ?? ?????? ?????? ??? ?????? ?????????? ?????????? ????” ????
?? ??? ??? ??????, ?? ?????? ?????????? ??? ??? ??? ?????? ??????????

?? ?????????????? ?????????????? (laki elinkeinotulon verottamisesta), [...]»

6 ?? ???? 122 ??? ???? ?, ?? ????? ???? «????????? ?? ???? ? ?????????? ?????????? ???? ????, ?????????? ???? ?????? », ??????????, ??? ?????????? 1, ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????.

7 ?? ?? ???? 122 ??? TVL ????, ??? ????? 3, ???, ?? ?? ?????????? ??? ?????????? ??? ???? 1, ? ??? ?????? ??? ?????? ???? ?????? ??? ?????? ??????? ??????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

8 ??? ?????????? ??? ?????????? ??? ?????? 122, ?????????? 3, ?? TVL ?? ???? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? 14 ?????????? 1996 ?? ??' ???. 634/348/96 ?????????? ??? ??????, ??? ?????? ?? ?????? ??? ?????????? ??? ?????? ?? ???:

«2. ?????????? ?????????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???

2.1 ?????????? ?????? ??? ?????? ??

???? ?? ???? 122 ??? TVL, ??? [?????] ?????? ?? ?????? ?????? ????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???.

? ??????? ???? , ???? ?? ?????? ???? :

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

2.1.1. ?????? ????????????

????? ??? ?????? ??? ?????? 122 ??? TVL ???? ?? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? , ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? .

[...]

2.1.2 ????????? ???? ?????????????????

? ?????? ?????????? ??? ?????? ??????? ?? ?????????? ?????? ? ?????? ?????? ?????? ?????? ???
?? ?????????? ??? ?????????????? ??? [?????????]. ?? ?????? ?????????? ?????? ???
????????? ? ?????????? ??? ?????????????? ??? [?????????] ??? ???? ?????? ???
????????????? ?????????? ???.. ?? ????, ????, ????, ?[????????] ??? ???? ?????? ???
????????????? ??? ??? ???? ??? ?????????? ??? ??? ??? ?????????? ?????? ??? ?????????? ???
????????????? ??? ?????? ?????????? ??? ?????? ??????»

9 ? ?????????? 2/1999, ??? ?????? ?????????? ? ?????????? ?????????? ??? ??????????
???? 17 ?????????? 1999, ?????????? ??????, ?? ?????? ???, ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??????.

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

10 ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? P, ?????? ????
????????? ?? 1998, ?????? ??? 3 ?????????? 2008 ??? ??? ?????? ?????????? ??? ??
??? ?????????, ?????? ??? ?????? 122, ?????????? 3, ??? TVL, ?? ?????? ??? ?????? ???
????? ?????? ??? ?????????? ??? 1998 ??? 2004, ??? ??? ?????? ??? ?????????? ???
????????? ??? ??? ?????? ??? 2004. ? ?????????? ?????????? ??? ?????????? ??? ??????????
????????? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???
??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????, ?? ??? ?????? ??? P ??? ??????
?? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???, ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ???.

11 ?? ?????? ??? 2?? ?????????? 2009, ?? Helsingin hallinto-oikeus (?????????)
????????? ??? ?????) ?????? ??? ?????? ??? P, ?????????? ??? ??? ?????? ?????? ??
???? ??? ?????? ?????????? ????. ? P ?????????? ??? ?? ??? ?????? ?????? ???
Korkein hallinto-oikeus, ?? ?????? ?????????? ???' ?????? ?? ?? ?????????? ??? ?????? ???
????? ??? ?????? ?????????, ??? ?????????? ?? ?????????? ??? ?????????? ??? ??????????
????????? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????
????????? ??? ?????????? ??? ??????, ??? ?????? ??? ?????? ??? ?????????? ??? ?? ??? ??????
?? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????
??, ??? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
???? ?? ?????? 108, ?????????? 3, ???.

12 ??? ???? ?????? ??????????, ??? ???? ?????? ? ?????????? ?????????? ???
??????, ?????? ?? ?????????? ??, ??? ?????? ?????????? ?????? ??????????, ?? ???
???? ?????? ?????????? ??? ?????? ?????????? ?????????????? ?? ?????? ?? ?????? ???
????????? ?? ?????????? ?????????? ??? ?????? ?????? ?????????? . ??? ???? ??? ?????? ???,
????????? ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??????????
??????, ?????? ? ?????????? ??? ?????? ?????????? ?????????????? ?????? ?? ?????????? ???
??? ?????????? ?? ?? ?????????? ??? ?????????? ??? «????????».

13 ?? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??????. ? ?????? ?????????? ?? ??? ?? ?????????? ?? ??????
????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?? ?????? 117 ??? 119 ???
TVL. ??? ???? ?????? ???, ? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
??? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? 122,

? ?????????? 1, ??? TVL, ??? ? ? ????? ??? ?????????????? ???????? ??? ?????? ??? ???? ?
?????? ??? ?????????????? ??????????. ?? ????? ?? ??? ?????? ?????????? ????????, ?
????????? ?????? ??? ?????? 122, ?????????? 3, ??? TVL ?? ?????? ??? ??????????
????????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????????????? ?? ?????????? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ??????
???? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ?????? ?????.

14 ?? ?????? ?????????? ?????????? ???, ??? ?????? ?????????? ???
??????????, ?? ?????? ??? ?????? ?????? ?????????? ?????????????? ?????? ?????????????? ???,
?? ?? ??????, ??? ?????? ?????? ?????????? ?????????? ?? ?????? ?? ?????????????? ??? ?
????????????? ??? ?????? ?????? ??? ?? ?????? ?? ?????? ?????? ?????????? ??? ??????????
??? ?????? ?????????? ?? ?????? ??? . ?????? ?????? ?????? ??? ? ?????? ??? ?????? ??? ??????????
????????? ?? ?????? ??? ?????????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ?? ?????? ??? ?????????? ?????????? ?????????? ??? ?????? ?????? ??? ?????????? ???
????????? ? ?????? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ???
????????? . ? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

15 ?????? ??? ?????? ??????????, ?? Korkein hallinto-oikeus ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???:

1) ??? ?????? ?????????? ?????????? ???, ??? ? ?????????? ?? ?? ??? ???? 122,
????????? 3, [?? TVL], ??? ? ? ?????? ??? ?????????? ?????????? ??? ?????????? ???
?? ????? 107, ?????????? 1, ??? ? ? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ???
????? ?? ?????????? ?????? ??? ?????????? ?????????? ?????????? , ?????? ??? ?????? ???
????? ? ?????????? ??? ?????? 108, ?????????? 3, ?????????? ?????? , ???;

2) ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ???,
????????? , ??? ?????? ??? ?????????? ??? ?????? ?????? , ?????? ?? ??????????
????? ? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????? 117 ??? 119 [?? TVL] ? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
?????????;

3) ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ???' 107 ???, ??? ? ? ?????? ??? ?????? ??? ?? ?????? 122,
????????? 3, [?? TVL] ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ???;

4) ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???, ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
?????; ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? , ?????? ?? ??????
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????;»

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

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

16 ?? ?? ???????, ?? ?????? ?? ???? ?????? ?????????????? ??????? ???, ?? ?????? ??????
?? ?????????? ?? ?????? ?? ?????? ?????? ?????, ?? ?????? ?????????? ??????, ???' ?????,
?? ?????????? ?? ?????? ?????? ?????? ?????, ??? ?????? ?????????? ??? ?? ?????? 122,
????????? 1 ??? 3, ??? TVL, ?????? ?? ?????????? ??? ?????????? ??????????, ? ??????
????????? ?????? «???????? ?????????» ??? ???? 107, ?????????? 1, ???,
??, ??? ?????????? ?????????, ?? ? ?????? ??? ?????????? ?? ??? ?????????? 3 ???
????? ?????? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?? ??? ???
????????? ?????? ??????????.. ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ?????? ?????? ???
??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

17 ?????????? ?????? ??? ?? ?????? 107, ?????????? 1, ??? ?????????? ??????
?? ?????????? ??? ?????????? «[???????? ?????????? ?? ?????????? ?????????? ?
????????? ?????? ??????]», ??? ?????? ?????????? ?????????? ??????.

18 ??????????, ???? ?? ?????? ?? ?????? ?? ?????????? ?????? ?????????????? ?? ??????????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?? ?????? ?? ?????? ?????? ?????????????? ?????? ?????? ?????? ?????? ??????
?? ?????? ?? ?????? 107, ????. ??????, ?? ?????????? ??? ?????? ?????? ?????? ??????
????????? ?? ?????? ?? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????????????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 107 ??? (????????? ?? 15??
????????? 2011, C-106/09 P ??? C-107/09 P, ?????????? ??? ?????? ??? Government of
Gibraltar ??? ?????? ?????????, ?????? 2011, ?. ?-11113, ?????? 72 ??? 73 ??? ???
????????? ??????).

19 ???? ?? ?????????? ??? ???????????, ? ?????????????? ??? ?????? ?????????? ???
«?????????» ???????????, ??????, ??? ?? ?????? ?????? ?????????? ??? ?????? ???
????? ? «?????????» ?????????? ?????? ?????? ??? ?????????? ??? ?????? ?????? ???
????????, ? ?????????? ?????? ?????????? ?????? ??? ?????????? ??? ?????? ?????? ???
?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
?? ?????????? ?????? ?? «?????????» ?????????? ?????? ??? ?????? ?????? ???
????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? (?. ??' ???, ?????? ??? 8?? ?????????? 2011, C-
78/08 ??? C-80/08, Paint Graphos ???., ?????? 2011, ?. I-7611, ??? 49 ??? ???
????????? ??????).

20 ?????? ?????? ?? ?????????? ??? ?????????? ??? ? ?????????? ??? ?????? ?????????? ???
????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??????
?? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
?? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ???
??????.

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

22 ??? ?? ?????????? ??? ???????????, ??? ?????? ??? ?????????? ??? ??????????????
????????? ??? ?????, ??????????? ??? ?? ?????? ?????????? ?????? ?????? ??????????
????????? ??? ?????????? ??? ?? ??? ? ??? ?? ?????? ?????????? ??? ?????? ??????????
????? ??? ?????? ?????????? (??????? ?? 8?? ?????????? 2001, C-143/99, Adria-Wien
Pipeline ??? Wietersdorfer & Peggauer Zementwerke, ?????? 2001, ?. I-8365, ??? 42 ???
???? ?????????? ?????? ??????). ???????, ?????????? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ?????????? ?????????? ?????? ?? ?????????????? ?????? ??
????? ?????? ?????? ?????? ?? ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??
????????? ? ?? ?????????????? ?????? ??? ?????????????? ??? ?????? ??? ?????????? (?).
????????????? ?????? Paint Graphos ???., ????? 65 ??? ??? ?????????? ?????????).

23 ?????????????? ?????? ??? ? ?????? ?????????? ?????????? ?????????? ???
????????? ??? ?????? ?????????? ??? ?? ??? ?????????????? ???.

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

25 ??? ?????? ??? ?????? ??? ?????? ??? ???????, ??? ?? ?????????? ??? ??????????
????????? ??? ? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??
????????? ??? ??? ?????? ?????? ?????????? (?., ??' ????, ?????? ??? 29?? ?????? 1999, C-
256/97, DM Transport, ?????? 1999, ? I-3913, ????? 27 ??? ??? ?????????? ?????????).

26 ???????, ? ??????? ?????????? ?????????? ???????, ??? ?? ???????, ??? ??????
??? ?????? ?????????? ?????? ? ??????? ?????? ?????? ?? ?????? ?????????? ???, ??? ??????
????????? ?? ??????? ??? ??? ?????? ?????????? ???????, ??? ?????? ?????? ???, ??? ?? ???
??? ?????????? ??? ??? ??? ?????? ?????????? ???????, ?????????? ?????? ?????? ??????
????????? ? ??? ?????? ?????? ?????????? ?????? ?????????????? ?????????? ??? ?????? ???
????? ?????????? ??? ?????? ?????? ?????????? ?????? ?????????????? ??? ?????? ???, ??? ??? ???
????? ?? ?????????? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????.

27 ???????, ?? ?? ?????? ?????? ?????? ?????????? ?????? ?????????? ?????????? ???
????????? ??? ?????? ?????? ??? ?? ?????? ?????????? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ???????, ??? ?????? ??? ??????
??? ?????????? ??? ?????????? ?, ?????? ??? ?????? ?????? ?????? ?????? ?? ?????????? ???
????? «????????? ?????????? ? ?????? ?????? ?????? ?????? ?????? ??????» ?????? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???, ?? ??????????
????????? ??? ?????? ?????? ?????????? (?., ??' ????, ?????????????? ?????? ?????? ???
????? ??? Government of Gibraltar ??? ?????? ?????????, ??? 75).

28 ??????, ??? ?????? ?????????? ??? ?? ?????? ?????????????? ??????????, ? ??????
????????? ?????????? ?? ?????????? ?????????? ?? ?????????? ?? ?????? 8 ???
????????? ?????????? ?????????? ?? ??????, ?????? ?? «?????? ?????» ??
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?????, ?????? ??? ?????????? ?????? ?????? ??????.

29 ??? ?????? ???, ?????????????? ??? ?? ?????????? ??? ?????? ??? ? ??????????
????????? ??? ?? ?????????? ?????? ?? ?????? ?????????? ?????? ??? ?????? ???
????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????????? ??
????????????? ??? ?? ??? ?? ??? ?? ?????? ?????? ?????? ?????? ?????????? ??????????
(??., ??' ?????, ??????? ??? 6?? ?????????? 2006, C-88/03, ?????????? ??? ??????????,
?????? 2006, ?. I-7115, ????? 82).

30 ??????, ??????? ??? ?? ?????? ?????????????? ?????????? ?????????? ??? ??
????????? ?????????? ?????? ??? ?? ?????? ?????? ?????? ?????????? ?????? ???, ??????????
????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ?????????? ??
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ?? ?? ??????
????????? ??????, ??? ?????? ?? ?????? ?????? ?????? ?????????? ??? ?????????? ??, ???'
????? ??? ?????? ?????? ??? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ??
«????????? ?????????? ? ?????? ?????? ?????? ?????? ?????? ??????» ?????? ??? ??????, ???
????? ??? ?????????? ???, ?? ?????????? ?????? ??? ?????? ??????.

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

32 ??? ??? ?????? ???, ??? ??????, ??? ?????? ??? ?? ?????? ?????????? ??????????
?????? ??? ?? ?????? ?? ?????? ?????? ?????? ?????????? ???????, ??? ?? ?????? ???
????? ???, ??? ?????? ?????????? ?? ?????? ??? ?????? ?????????? ??? ?????????? ???, ?
????? ?????? ?????? ?? ?????? «????? ??????» ??? ?? ?????? 107, ??????????
1, ???, ?? ?????????? ???, ???, ??? ?? ?????? ?????? ???, ??? ?? «?????»
?????», ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ???
????????? ???, ??? ?? ?????? ?? ?????? ???, ?? ?????? ?????? ??? ?????? ?? ??????
????????? ?? ??? ?????? 3 ??? ?????? ?????? ?????? ??? ??????. ?? ?????? ???
????? ?? ?????????? ??? ?? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ??? ??????
????? ?? ?????? ??? ?????? ???, ?? ??? ?????? ??? ?? ?????? ???, ???, ???
?? ?????? ??? ?????? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?? ?????? ???
??? ??????, ??? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?? ?? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?? ???.
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

33 ????????, ?????????????? ??? ? ?????????? ?????? ?????????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ???????.
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ???.

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

34 ?? ?? ?????? ?????????? ???, ?? ?????? ?????? ?????? ???, ???' ??????, ??
? ?????????? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? 108,

? ?????????? 3, ????, ?????????? ??? ???????? ??? ?????????? ?????????????? ?????????? ???
?????????? ?? ???? 122, ?????????? 1 ??? 3, ??? TVL.

35 ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? 107 ??? 108 ???, ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ??????.

36 ?? ????? 108 ??? ?????? ?????????? ?????????? ?????????? ??? ?? ??
????????? ??? ?????? ?????? ??? ?????? 108, ?????????? 3, ????, ?? ???
????????? ??? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???, ??
????????? ?????? ?????? 108, ?????????? 1, ????, ?? ?????????? ??
????????? ?????? (????????? ??? 29?? ?????????? 2012, C-262/11, Kremikovtzi, ?????? 49 ???
???? ?????????? ?????? ??????????).

37 ??? ?????? ??? ?? ??? ?????????? ???????, ? ?????????? ??? ?? ?????? ??????????
????? ?????????? ??? ?????? ?????????? ?????? (????????? ??? 9??
????????? 1994, C-44/93, Namur-Les assurances du crédit, ?????? 1994, ?. I-3829, ?????? 14).

38 ?? ?? ??? ?????? ?????????? ??? ?????? ?? ?????????? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? 107, ?????????? 1, ????, ?????? ??????, ????, ?? ?????? ?? ?? ?????? ??? ?????? ???
????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? 108, ??????????
3, ???? ?????? ?? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ????. ???????, ?? ??????
????????? ??? ?????? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ??????
????????? ??? ?????? ?????? (????????? ??? 18?? ?????? 2007, C-119/05, Lucchini,
????????? 2007, ?. I-6199, ?????? 50 ??? 51 ??? ?????? ?????????? ??????????).

39 ??? ? ?????? ?????????? ?? ?????? ?? ?????? ??? ?????????? ??????????
?? ??? ?????? ???, ????, ???? ??? ?????? ?????? ??? ?????? ?? ?????????? ????
????? ??? ?????? ??? ?????? ?????? ?? ?? ?????? 108, ?????????? 3, ?????????? ???????,
????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ???
????????? ???, ???? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ????
????????? (??., ??' ????, ?????? ??? 12?? ?????????? 2008, C-199/06, CELF ???
Ministre de la Culture et de la Communication, ?????? 2008, ?. I-469, ?????? 38 ??? ???
????????? ?????? ??????)).

40 ??? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ?? ?????? 108,
????????? 1, ????, ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ??????
????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??
????? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???).

41 ?? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????? ??? ?????? ??? ??????
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? (????????? ??? 18?? ??????????
2010, C-322/09 P, NDSHT ??? ??????, ?????? 2010, ?. I-11911, ?????? 52 ??? ???
????????? ??????)). ???????, ??' ?????? ??? ?????????? ??? ?????? 108, ??????????

3, ????? ???? ??????? ??? ?????? ??????????? ??? ?????????????? ?? ?????????????? ??? ??????????
????????????? ??????????.

42 ??? ???? 1, ????????, ??? i, ??? ?????????? 659/1999, ??????????
«?????????? ??????????», ?? ??? ?????????? ??? ?????? 144 ??? 172 ??? ??????
?????????????, ??? ???? ?????????? ?? ?????? ?????????? ??? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ?????, ?????? ?????????? ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????, ??? ?????????? ?????? ??? ?????? ???
????????? ??? ?????? ???.

43 ??? ?????????? ??? ???? ?????????? ??? ?????? ??? ?????????? ?????????????? ??? ???
????????????? ??? ???? ?????????? ?????????? ??? ??? ???? ??????, ?? ?????????? ???
????????????? ?? ?? ?????? 122, ?????????? 1 ??? 3, ??? TVL ?????????? ??? ??? ???
??? ??????, ??? 1? ?????????? 1994, ??? ?????????? ??? ??? ?????????? ?????????? ???,
??? 2? ?????? 1992 (EE 1994, L 1, ?. 3) ??? ?????????? ?? ?????? ??? ??? ???
????????? ????. ? ?????????? ??? ?????????? ?????????? ??? ?????? ?????????? ??? 1?
????????? 1995.

44 ????????, ??????? ?? ??? ?????????? ???? ???????, ??? ??? ?????? ?????????? ???
?????????? ?? ?????????????? ??? ??? ???? 144 ??? 172 ??? ?????? ??????????????
??????????, ??? ??? ?????? 1, ????????, ??? i, ??? ?????????? 659/1999,
?? ??? ?????? ??? «????????? ??????» ??? ?????????? ??????????.

45 ?????????????? ??? ???? ?????????? ??? ?????????? ?????????? ?????????? ??????????
????????? ????, ??? ?????????? ?????????? ??? ??? ???? ?????? ??? ??????????
??? ?????????? ??? ???? ??????????.

46 ??? ?????? ?????????? ?????????? ?? ?????? ?? ?????????????? ?? ??????????????
????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????????.

47 ?????? ?????????? ??? ?????? ?????????? ?????????? ?????????? ?????? ?? ?????????? ???
????????? ??? ?????????? ?????????? ??? ?????????? ?????, ?? ??? ?????????? ??????????
?? ?????? ??? ?????????? ??? ?????? ?????????? ?? ?????????? ??? ??????????
????????? ??? ?????????? ?????????? ??? ?????????? ?? ?????? 108, ?????????? 3,
????.

48 ????????, ??? ?????? ?????????? ?????? ?????? ??? ?????? ???? ?????? ??? ?? ??????
108, ?????????? 3, ??? ?????? ?????????? ?? ?????????? ?? ?????????? ?????? ??????
?????????? ???????, ??? ?? ?????????? ?? ?? ?????? 122, ?????????? 1 ??? 3, ??? TVL,
????? ?????????? ?? «?????? ??????», ?? ?????????? ?????? ??? ?????? ??????
?? ?????? ??? ?????????, ?????????? ??? ?????????? ??? ?????????? ?????? ??????????
?? ?????? ??? ?????????? ?? ?? ??? ?????? 108, ?????????? 3, ??? ?????????? ???
?????????.

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

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

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

1) ?????????? ???????, ??? ???? ?????? ???, ?????? ???????????
?? ?????? ??? ?????????? ??? ?????????? ??????????, ? ??? ?????? ?????????? ??????????
??? ?????? «?????? ??????» ??? ???? 107, ?????????? 1, ???, ??
?????????????, ????, ??? ???? ?????? ?????????, ?????? ?? «????????? ??????»,
????????? ??? ?????????????? ?????????? ??? ?????? ?? ?????????? ?????????? ???
????????????? ??????????, ??? ???? ?????? ??? ?????? 122, ?????????? 1, ???
????? 1535/1992, ??? 30?? ?????????? 1992, ??? ?????????? ??????????
(Tuloverolaki), ???, ????????, ???, ?? ?????? ?? ?? ?????? ???, ?? ??????
????????? ??? ?????? ?? ?????? ?????????? ?? ??? ?????? 3 ??? ?????? ??????
????????? ??????. ?? ?????? ?????? ??? ?????? ?? ?????????????? ??? ?? ??? ???? ? ???
??? ?? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????, ?? ???
????????? ??? ? ?????????? ???, ??? ?????? ?? ?????? ??? ?????? ?? ??? ??? ??????
????????? ?????? ??? ?????????? ??? ??? ?????????? ?????????? ??? ??????, ??? ?????? ??
????????? ??? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ?? ??? ?????? ???
????????? ?????? ?????????, ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ?? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ?? ??? ?????? ???.
????????? ??? ?????????? ?????????? ??? ??? ??? ?????? ?????????? ???.

2) ?? ??? 108, ?????????? 3, ??? ???? ?????????? ?? ?????????? ??
????????? ??? ?????????? ?????????? ?????????, ??? ???? ?????????? ?? ?? ??? ???
122, ?????????? 1 ??? 3, ??? ?????? 1535/1992, ?????? ?????????? ?? «???????
?????????», ?? ?????????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ??????????,
????????? ??? ?????????? ??? ?????? ?????????? ?????????, ?????? ?? ?????? ??
????????? ?? ?? ??? ?????? 108, ?????????? 3, ??? ?????????? ?? ???

(?????????)

* ?????? ??????????: ? ??????????.