

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

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

??? 14?? ?????????? 2017 (*)

«????????????? ?????????? – ?????? ?????? – ?????????? ?????????????? – ?????????? ??????
????????? – ?????????? ?????????? ??? ?????????? – ?????????? – ?????????????????? –
????? ?????? ?????? – ?????? – ?????? ?????????? ?????????? ?? ?????????????? ??????
????????????? ??? ?????????? ??? ?????? ?????????? ?????????? ?????????? ??? ??????????????????
?? ??? ?????? ?????? – ?????????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ?????? – ?????? ?????? ??? ?????? – ?????????? – ??????????????»

????? ??????? C?646/15,

? ? ?????????? ?????? ?????????????? ?????????? ??????? 267 ????, ??
?????? ?? First-tier Tribunal (Tax Chamber) (?????????? ?????????? ??????????,
?????????? ????, ?????? ???????) ?? ??????? ??? 30?? ?????????? 2015, ? ????
????????? ??? ?????????? ??? 3 ?????????? 2015, ??? ??????? ??? ????

Trustees of the P Panayi Accumulation & Maintenance Settlements

????

Commissioners for Her Majesty's Revenue and Customs,

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

????????? ??? ??? R. Silva de Lapuerta, ??????? ????????, E. Regan, J.?C. Bonichot, C. G.
Fernlund (????????) ??? S. Rodin, ????????,

?????? ??????????: J. Kokott

?????????: R. Schiano, ?????????? ????????,

?????? ??? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???
20?? ??????? 2016,

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

– ?? Trustees of the P Panayi Accumulation & Maintenance Settlements, ??????????????
?? ?? M. Lemos, barrister, ??? ?? P. Baker, QC,

– ? ?????????? ??? ??????? ????????, ?????????????? ??? ??? ?? . Holt ?? D.
Robertson, ??? ?? ?? S. Simmons, ?????????????? ??? ??? R. Hill ?? J. Bremner,
barristers,

– ? ?????????? ????????, ?????????? ??? ??? C. Pesendorfer,

– ? ?????????? ????????, ?????????? ??? ??? K.B. Moen, ??? ?? ?? ??? K.?.?
Kloster ?? J.T. Kaasin,

- ? ?????????? ????????, ?????????????? ??? ??? W. Roels ??? ??? J. Samnadda,
- ? ?????????? ??? ??? ?, ?????????????? ??? ??? C. Zatschler ??? Ø. Bø, ???
??? ??? ??? A. Steinarsdóttir,

???? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ??????????
??? 21?? ?????????? 2016,

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

???????

1 ? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? 49, 54, 56 ??? 63
????.

2 ? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? Trustees of the
P Panayi Accumulation & Maintenance Settlements (??? ????: ?????????????????? ????) ???
??? Commissioners for Her Majesty's Revenue and Customs (??? ????: ?????????? ????) ???
????? ?? ?????????? ?????????? ?????????? ?? ?????????? ?????????? ??????????
????????????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ??????????????
??? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??????????.

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

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

3 ??? ?? ?????????? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ???, ??? ???
??? common law, ? ??? trust (??? ????: ??????????) ??? ?????? ?????????? ??? ?????????? ???,
??? ??? ?????? ? ?????? ??? ?????????????? ?????????????? ?????????? ??? ?????????? ?? ???
???????, ??? trustee (??? ????: ??????????????), ?????????? ??? ?????? ?? ??
????????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????????????? ??? ??????????
????? ????????, ??? ??????????. ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????
????????????? ?????????? ?????????? settlements.

4 To ?????????? ?????????????? ??? ?? ?????? ??? ? ?????????? ??? ??????????????
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????????, ??
????? ????????????, ????????????, ??? ?????????????? ??? ?????? ??? ??????????.

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

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

6 ? Taxation of Chargeable Gains Act 1992 (????? ??? 1992 ??? ?? ?????????? ???
?????????), ??? ?????? ??? ??? ??? ??? ?????? ??? ?????????? ?????????????? ??? ?????? ???
(??? ????: TCGA), ?????????? ??? ??? 2, ?????????? 1, ??? ??? ?????? ?????? ???
????????? ?????????? ??? ?????? ?????????? ?? ??? ??? ?????? ??? ?????????? ??? ?????????????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

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

7 ????. ?? ?????? 69 ??? TCGA, ?? ?????????????????? ?????????????????? ?? «?????? ??
?????? ?????? ???????», ?????????? ??? ???? ?????? ?????? ??? ?????? ??????????????
?? ?????????? ??? ??????????????????. ?? ??? ?????? ?????? ?????????? ?????? ??? «????? ??
?????? ??????? ?????????? ??? ?????????? ???? ?????????? ???? ?? ?????? ?????? ??? ?? ??????
???????, ????? ?? ???? ?????? ?????????? ??? ?????????????? ?????????????????? ???????
????? ?????????? ?????????? ??? ?? ?????????????????? ??? ?????????????? ??? ??????? ???
????? ??? ?? ?????????? ??? ?? ?????? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ?????? »..

8 ?? ?????? 80, ??????????? 1 ??? 4, ??? TCGA ?????????? ?? ??????????:

«????????????????????????? ??? ?????????? ?? ?????????????? ??? ?????????? ?????????? ??????????

1) ?? ?????? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?? ??????????????????????
?? ?????????????? ?????? ???' ?????????? ??? (????????? ??????????) ?? ?????? ???
????????? ? ?? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??????????.

2) ??? ???? ?????????? ??? ???? ?????????? ??????, ?? ?????????????????????????? ?????????????? ???;

a) ?????????? ?? ?????????? ?????????? ?????????? ??????? ?????? ??? ??????

b) ?? ?????????? ?? ??? ??????? ????, ????. ????? ?????????? ????. ??? ?? ??? ????? ?????????? ????.
??? ??????

3) ??? ??? ?????????? ??? ?????????? ??? ?????????? 4 ??? 5 ???????, ?? ??????????
????????? ??? ?????? ??? ?? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ??? ?????? ?????????? [...].

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

a) ?? ?????????????????? ?? ?????? ?? ??????? ?? ?????????????? ?? ?? ??????? ?? ??????? ?? ??
????????????????? ? ?? ??????????? ???

b) ?????????? ??????????? ?????????? ?? ??????? ?????????? ?? ?????? ??
????????????????? ?? ??????? ? ?? ??????? ?????? ?????????? ??????????????, ??
????????????????? ?? ?????????? ?? ??????? ?? ?????? ?????????????? ?? ?????? ??????????, ??
????????????? ?? ??????? ?? ?????? ?????? ?? ?????? b ?????? ?? ??????????
????????????? ?????????? ??????»

9 ??? ??? ?????? ?????????????? ?????????? ???, ??????? ?? ?? ?????? 87 ???
TCGA, ?? ?????????? ?? ?????? ?????????????????? ?? ?????????????????? ?? ?????? ???
??? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?????????? ?????????????? ?? ??????
?????????????, ?? ?????? ?? ?? ?? ????? ?????????????? ?????????????? ?? ?????????? ?? ??????????
????????? ?? ?????? ??????????. ?? ?????? ?? ?????????????? ?? ?? ?????????? ?? ??????
????????????????? ?? ?????????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????????? ?? ??
????????????????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ??????????. ?? ??????????, ?? ?????? ???
????????? ?? ?????????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ?????????? ??????????
?? ??? ?????? ??????????????. ? ??????? ?? ?????????? ?????????????? ?????????? ?????, ??? ??
????????????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?????????? ?? ??
?????????????. ?????????? ?? ?????? ?????? ?????????? ?? ?????? ?????????? ?????????? ?? ?????????? ??
???? ?????????? ?? ?????? ?? ?????? ?? ?????????????? ?? ?????? ?????????? ?????????? ?? ??????

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

10 ???????, ?? ??? 91 ??? TCGA ??????? ?????? ??? ?????? ??? ?????? ??? ??????.

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

11 ?? ?????? ?????????????? ??? ?????????? ?????????????? ??? ?????? ?????? ?????? ?????? ?????? (??? ????:
????????????? ??????) ??? ???? ?????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? . ?
?????? ?????????? ??? ?????????????? ??? ?? 40 % ??? ?????????? ??? Cambos Entreprises
Limited, ??????? ?????????? ??? ?????????????? ??? ?????? ??????.

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

13 ??? ??? ?????? ?????? ??? ?????????????? ??? ??????, ? ?????, ? ?????? ??? ?? ???
???? ?????????? ??? ?????? ??????. ?????? ?????????????????? ??? ?????? ??? ?????? ???
???? ? ?. ?????? ??? KSL Trustees Limited, ??? trust company (?????? ??????????)
?????????) ?????????????? ??? ?????? ??????. ? ?????? ??? ?. ?????? ?????????? ???
????????????? ??? 2003.

14 ??? ??? ??? 2004, ?? ?????? ?????? ?????????? ??? ?????? ?????????????? ?? ??????????
????????? ??? ?? ?????????? ?????? ?????? ?????. ??? ?? ?????????? ???, ??????????
????????????? ??? ?? ?????? ?????? ?????????????? ??? ?????? 19 ?????????? 2004. ??? ???
?????, ?? ?. ?????? ?????? ?? ?????????????? ??? ?????? ??? ?????? ??? ?????? ???
?????????????????, ?????? ?????? ??????. ???????, ? KSL Trustees Limited,
????? ?? ??? ?? ?????? ??????, ?????????? ??? ?????? ??? ?????? ??? ??????????????????
????? ??? 14 ?????????? 2005. ??? ??????, ??? 19 ?????????? 2004, ? ?????????? ???
????????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

15 ??? 19 ?????????? 2005, ?? ?????????????? ??? ?????? ?????????? ?? ?????? ???
????????? ??? ?????????? ??? ?????????????? ??? ?????? ?????? ??? ?????? ??? ??????. ??? 31
????????? 2006, ?? ?? ??? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????????? ??? 2004/2005, ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?? ??? ??? ?????? ?????? ??? ?? ?????????? ??? ??????. ?? ?????????? ???
????????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??????.

16 ?????????? ??? ?? ?????? ?????? ?????? ??? ?????? ??? ?????????????? ??? ??????
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? 80 ??? TCGA, ?
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? 19 ?????????? 2004, ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ??
????? , ? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????? ?????? ??? ? ?????????? ??? ?????????????? ?????? 2004/2005. ?? ???? ??????,
????????????? ??????????? ??? ???? ?????????? ??? ?? ???? ?????? ?????????? ? 31? ???????????
2006.

17 ?? ?????????????????? ?????? ??????? ?????????? ?????? ??? First-tier Tribunal (Tax
Chamber) (????????????? ?????????????? ?????????, ?????????? ?????, ?????? ?????????),
????????????? ?? ??? ?????? ?????? ?????????????? ??? ?????? 80 ??? TCGA ?????????? ???
????????? ??? ???? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??? ??????????
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

18 ? ?????????? ??? ?????? ???, ??? ???? ?????? ?????? ??? ???? ?? ?????????? ???
?? ?????? ??? ??????? ??? ?????, ?????? ??? ?????? ?????????? ?????????????? ???
????????? ?? ??????????. ?? ?????????? ??? ?????? ?????????? ??? ??? ??? ??????????
?????, ? ?? ??? ?????? ?????????? ??? ?????? ?????????? ??? ???? ?????? ?????????? ??? ?????? ???
????????? ?????? a priori ??????????, ? ?????? ??? ?????? ?????????????? ???
????????? ??? ??? ?????? ??? ??????????????.

19 ?? ?????? ?????????? ???, ?? ?? ?????????????????? ?????? ?????? ?????????? ???
????????? ??? ?????????? ?????????? ?????????, ? ?????????????????? ??? 19 ??????????
2005 ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????. ? ?????? ?????? ?? ???
????????? ?????? 31 ?????????? 2007.

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

21 ??? ?? ?????? ???, ?? First-tier Tribunal (Tax Chamber) (?????????)
????????? ???, ?????????? ???) ?????????? ?? ?????????? ??? ?????????? ???
????????? ??? ?? ?????????? ??? ?????? ?????????? ?? ?????????? ??????????:

«1) ?? ?????? ?? ??? ?????????? ??????????????, ??? ?????? ?????????? ?????????? ???
????????? ???, ? ?????? ??? ? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ??? ?????? ??? ?????? 80 ??? TCGA, ??? ? ?? ?????? ??????????
????? ??? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????????????
??, ???' ?????????? ???, ?? ?????????????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ??? ?????? ???;»

2) ?? ?????? ?????? ??? ? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ??????????
??? ?? ??? ?????? ???, ?????? ??? ? ?????? ?? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ???;

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

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

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

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

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

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

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

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

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

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

24 ?? ??? 49 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? 54, ??? ?????? ???, ???, ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ???, ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

25 ??? ? ? ?????? 54, ??????? ??????, ???, ?? ??????? ?????????? ?? ?????????? ??????? ?
? ?????????? ???????, ?????????????????? ??? ??????????????, ??? ??? ?????? ?????? ??????
????????? ??????? ? ?????????? ??????, ?? ??????? ?????? ??? ??? ??????????
????????? ?????? ???.

26 ???????, ?????????????? ??? ? ?????????? ??????????????, ? ?????? ?????????? ??? ???
??? ?????????? ?????? ??? ?????? ??? ?????? (?????? ??? 24?? ??? 2011,
????????? ??? ??????, C?47/08, EU:C:2011:334, ??? 77 ??? ??? ???????????
?????????) ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??????
(??., ??????, ?????? ??? 13?? ?????????? 2005, SEVIC Systems, C?411/03, EU:C:2005:762,
????? 19), ??? ?????????? ??? ???????????.

27 ??? ? ? ?????????? ??? ?????????? ??????????, ??????, ??? ? ?????????? ??? ?
?? ??? ?????????? ?????? ?? ?????????? ?????? (??., ??????, ?????????? ??? 21??
????????? 1974, Reyners, 2/74, EU:C:1974:68, ?????? 43 ??? 55, ?????? ??? 1??
????????? 2017, ??????? ??? ??????????, C?392/15, EU:C:2017:73, ??? 106 ??? ???
????????? ??????), ???????, ??? ??? ??? ?? ? ?????????? ??? ?????????? ??? ???
?? ??? ?????????? ??? ?? ?????? ?? ?????????? ?????? ??? ?????????? ?????? ??????
??? ??? ?????????? ?? ??? ??????????, ?????????? ?????????? ?????? ??? ??????
????????? ?? ?????????? ??? ?????????? ?? ??? ?????????? ?????? ??? ?????? ??? ??????
??? ? ??? ?????????? ??? ??? ?????????? ?????? ?? ?? ?????????? ??? (????????? ??? 27??
????????? 1988, Daily Mail and General Trust, 81/87, EU:C:1988:456, ??? 16, ??? 21??
??? 21?? ??? 2015, Verder LabTec, C?657/13, EU:C:2015:331, ??? 33 ??? ???
????????? ??? ?????????? ???, ??????, ??? ? ?????? ??? ?????????? ??? ?? ??????????
????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ?? ??????????
?? ?????? ??? ?????? ???, ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ?????????? ??? ??? ?? ?????????? ?????? ???, ?????????????? ??? ??? ???
????? ??? ??? ?????????? ??? ?????????? ?????? ?????????????? ??? ?????? ??? ??????
(??., ??????, ?????? ??? 30?? ?????????? 1995, Gebhard, C?55/94, EU:C:1995:411, ???
25).

28 ?? ??????????, ??? ???????????, ??????, ??? ? ?????? ??? ???? ?????? ???
????????? ??? ?????????? ??? ?? ??? ?????? ??? ?????? ?????????? ???, ???????,
??? ??? ???????, ??? ?? ?????? ???, ?????? ?????? ?????? ? ?????????? ???????,
????????????????? ??? ?????????? ?????? ?????? ?????? ??? «????? ?????? ??????» ????????
????????? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????, ??? ??? ?????? ??? ??????
????????? ?????? ?????? ??? ?????????? ?????? ?????? ?????? ?????? 54,
????? ?????? ???, ???.

29 ??????, ??? ??????? ???' ?????? ??? ? ?????? ?????????? ?? ?? ?????? 33 ???
34 ??? ??????? ???, ? ?????? ??? «????? ?????? ??????» ?????????? ???
????????? ? ???, ?????? ??? ?????? ?????? ??????, ??? ?????????? ??? ?????????? ???
??? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????, ??? ??? ??????
????????? ?????? ?????? ???, ??? ? ?????? ?????????? ?????????? ??? ???.

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

31 ????????, ??? ??????????????? ?? ??? ?????? 7 ??? 8 ??? ??????? ????????,
??????, ??????? ?? ?? ????? 69 ??? TCGA, ?? ?????????????????? ??????? ????? ?? ??????
?????? ?? ??????? ??? ??????? ?????? ???????, ??????? ??? ?? ??????? ??????? ???
?????? ??????????? ?? ??????? ??? ?????????? ?????? ??????????????????. ?? ??? ??? ??? ????
????????? ??????? ??? ??? ?? ??????? ??????? ?????????? ??? ?????????? ? ??? ?? ??? ?? ??????
?????? ?? ?? ??????? ???????, ????? ?? ? ?? ??????? ?????????? ??? ???????????????
????????????? ??????? ??????? ?????? ?????? ?????? ??? ?????????? ??? ?? ?????????? ?????? ??
????????????? ??? ??????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?? ??????? ?????? ???
????????? ??????? . ???????, ??? ?? ????? 80 ??? TCGA, ??? ?? ?????????????????? ???
????????????? ???' ?????????? ?????? ?? ?????? ??? ?????? ??? ?????????? ? ?? ??????? ???????
???? ??? ??????? ???????, ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ???
????????? ?? ?????????? ??????? ??? ?? ??? ????? ?????????? ??? ?? ?????????? ???
???? ?????? ???, ?????????? ??? ??????? ??? ?? ??? ????? ?????????? ??? ?????? ???

32 ??????????, ?????????? ???, ??? ??? ?????? ??? ??????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ???????????, ?? ?????????????????? ?????? ?????????????????? ?? ???????????, ??? ?????????, ??? ?????? ???
??? ??? ???????????, ??????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????????? ??? ?????? ???
?????????? ?????????? ?????????? ?? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????????? ???
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ??????????. ? ?????????? ??? ?????????????????? ??? ?????? ??? ?????????? ???
????????????????? ??? ?????? ?? ?????? ?? ??? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ??????????
??? ?????????????????? ?? ?????? ?? ??? ?????? ?? ?????????? ??? ?????? ?? ?????????? ??? ?????? ???
????????? ??? ?????????????? ??? ?????? ?? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?? ?????????? ???,
?? ?? ??????, ?????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?? ??????????. ??? ?? ?????? ??????, ??? ??
????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?? ??????, ?????? ??? ?????? ??? ?????????? ???,
????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????????? ???,
????? ?????????? ???.

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

34 ????????, ??? ??????? ? ????, ?????? ?? ?????????????????, ??? ?????????????????
????????????? ??? ??? ?????????????? ?? ?????? ?? ?????? ??? ? ?????? ??? ??????????????
????????????? ?????????????????? ?????? ?? ?????????????? ?? ?????????????? ??????????????.

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

Grid Indus, C?371/10, EU:C:2011:785, ????? 33).

37 ????? ??????? ??? ?????? ?????? ??????????????, ??????, ???, ?????????? ??? ??
????????????????? ?????? ?? ?????????? ??? ???? ?????????? ?? ?????????????? ??
????????????? ?????? ??? ?????????? ??? ???? ?????????? ?????? ??? ?????????? ??
??? ?????????? ??? ?????????? ?? ???? ?????????? ?????? ??? ?????????? ?????? ???
????????? ??? ?????? ?????????? ??? ???? ?????????? ?????? ?????? ??? ??????
?????????, ?? ???? ?????? ?????????? ??? ?????? ?????????? ?????????? ??????, ??? ?? ??????
??? ??????? ???????, ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??????????????.

38 ????????, ??? ?? ?????????? ??? ?????????? ?????? ?????? ??? ?????????? ?????????? ??
??? ? ??????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????????? ??
????????, ??? ?? ?????? ??? ???? ?????? ???????, ?? ???? ??? ?????????? ??? ??????
????? ?????????????? ?? ??????.

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

40 ?????? ?? ?? ?????? ?? ?????????? ?? ?????????? ?????? ???????, ??? ? ??????
????? ?????? ???, ? ?????, ??? ?????????? ?????????? ??? ?????? ??????????
????????????? ?? ??? ?????? ?????? ?????, ?????????, ??????, ?? ?????????? ??????????
????????? ?? ?? ?????????? ?????? ?????????? ?????? ??? ?????? ?????????? ?????? ???,
????????, ??? ?????? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??????????, ???????
?????? ?????? ??? ?????? ??????????.

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

41 ??? ?????? ???????, ?? ?????? 49 ??? ?????? ?????????? ??? ?????????? ??? ??????????
??? ?????????? ??????????.. ? ?? ??? ?????? ?????????? ???????????, ??? ?????? ???
????????? ??? ?????? ?????????? ?????? ?? ?? ?????????? ?????? ?????? ??? ?????? ???
????????? ??? ?????, ??? ?????? ?????? ?????? ??? ???? ?????? ?????????? ?????? ??? ?????? ???
??? ??????, ?? ?????? ?? ?????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?????????, ?????????????? ? ?????????? (?????? ?? 21?? ????? 2015, Verder LabTec,
C?657/13, EU:C:2015:331, ????? 32 ??? ?????? ?????????? ??????????).

42 ??? ??? ?????????? ?? ?? ?????? 27 ??? ?????? ?????????? ?????????, ?????????? ?? ??????????
??? ??????? ?? ?? ?????? ??? ?????????? ?????????? ?????? ?? ???, ?????? ??? ??
?????? ???, ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????????
??? ?????????? ?? ?? ?????? ??????, ?????????? ?????????? ??? ??? ?????? ??? ?????? ???
????????? ?? ?????????? ??? ?????????? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
??? ? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???.

43 ?????? ?? ?????????? ?? ?????????? ??? ?????????? ?????? ?????????? ??????????
????????? ?????? ?????? ?????????, ?????????? ? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? (?????? ?? 21?? ????? 2015, Verder LabTec, C?657/13, EU:C:2015:331,
????? 34 ??? ?????? ?????????? ??????????).

44 ?? ??????????, ??? ?? ?????????? ??? ?????????? ?????? ??? ??????????

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

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

48 ?? ??????? ?? ????? ?? ????? ?? ????? ?? ????? ?? ????? ?? ?????? ??????????? ?? ?? ?? ??
?????????????? ?? ??????????? ?? ?? ??????????????? ?? ?? ??????????????? ?? ?????? ?? ??????
?????????????? ?? ??????????????? ?? ?? ?? ?? ????? ?? ??????? .. ????????, ??? ?? ??????????? ??
??????????, ?? ??????? ?? ??????? ?? ?? ????? ?? ??????????? ?? ?? ??????????? ?? ?? ??????????? ??
?????? ?? ?? ?? ????? ?? ??????????? ?? ?? ?? ?? ??????????? ?? ?? ??????????? ?? ?? ?? ??????????? ??
?????? ?? ?????? ?? (?????? ?? 17?? ??????????? 2015, Timac Agro Deutschland, C?388/14,
EU:C:2015:829, ??????? 26 ?? ?? 29 ?? ?? ??????????????? ???????????).

49 ????? ??????, ????????, ?? ?????????????? ??? ?????????? ????????????, ????? ?
????????? ???, ??? ?? ?????? ??? ?????????? ?????? ?????? ?????? ??? ?????? ?? ?????? ??
????????? ??? ?????????? ? ?????? ?????????????? ??? ?????? ??????, ? ?????????? ??????????????
??? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????? ?????? ?????? ?????, ?? ?????? ??
????????? ?????????? ?????????? ?? ?? ?????????? ?????? ??? ?????? ?????????? ??
????? ?????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??????, ?????? ??
????? ?????????????? ?? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??
????? ?????? (??., ???????, ??????? ??? 29?? ??????? 2011, National Grid Indus,
C?371/10, EU:C:2011:785, ????? 38).

50 ?? ????????, ???? ?? ??????? ??????????, ?? ??????? ???? ?????????????????? ?? ????
????? ??????? ??????????? ?? ???? ?????????? ?? ?? ?????????? ?? ???? ?????????? ?????????? ?? ????
?????????? ?? ??????? ?? ?????? ?? ?????? ?? ?????? ?? ?????.

51 ??? ??????? ???, ????????????, ??????, ??? ? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????? 2015, Verder LabTec, C?657/13, EU:C:2015:331, ??? 42 ??? ??? ????????????

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

52 ?? ???????????, ??? ?? ?????????? ??? ??????????? ??????????? ??? ? ?????????? ???
?????? ??????????? ??? ?? ??????????? ??? ??????????? ??? ?? ?????? ??? ?????? ??? ?????? ??
?????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ?? ??????????? ??? ?????????? ??? ??
?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?? ??????????? ??? ?????????? ??? ??
?? ??? ?????? ??? ????????. ??????, ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ???, ??????
?? ??? ??? ??? ?????????? ?????????? ??? ?????? ?????? ???????????, ?????? ?? ??????????
????????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ?????? ?????? ???
??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ??? ??
???? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
?? ?????? ?? ?????????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??? ?????? ???
????? ?????? ?? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ???
??? ?????????????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? (????????? ??? 29?? ?????????? 2011, National Grid Indus,
C?371/10, EU:C:2011:785, ??? 46 ??? ?????? ?????? ?????? ??????).

53 ????????, ?? ?????????? ??? ?????????????? ??? ? ?????? ??? ?????????? ???
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ???
????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ???
????????? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ??
(????????? ??? 23?? ?????????? 2014, DMC, C?164/12, EU:C:2014:20, ??? 56).

54 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????????????? ??? ?????? ??????????????
???, ??? ?????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ???,
????????? ?????? ??? ?? ?????? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ???, ?????, ?????? ??? ?????? ??? ?????? 87 ???
TCGA, ?????????? ??? ?????????????????? ??? ?????? ?????????????????? ??? ?????????? ??? ??
????? ?????????????????? ??? ?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???.

55 ??? ?????????? ??? ? ?????? ?????????? ?? ?? ?????? 50 ??? ?????????? ???, ???
????????? ??? ? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????????? ??? ???? ?????? ???, ??? ?????? ?? ?????? ??? ?????? ??? ??
????????? ??? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???
????????? ??? ?????? ???.

56 ??? ???????, ?????????????? ??? ?????????? ?????? ?????? ???? ?????? ?????????? ??
????????? ??? ? ?????? ??? ?????? ???, ?? ?????????? ?????????? ?????????? ???
????????? ?? ?????????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ???? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???, ??? ???? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ???? ?????? ?????? ???, ?????? ?? ?????? ?? ?????????? ??? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???, ?????????? ??? ?? ?? ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???
??? ?????? ???.

57 ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ?????? ??????, ??? ?? ?????????? ???
????????? ??? ??????, ??? ?????? ?? ??? ?????? ??? ?????? ?????? ?????????? ??? ??
??? ?? ?????? ??? ?????? ?????? ???, ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ???

???? ??????????????, ?????????? ?? ??? ???? ?????? ??? ????? ?????????????? ?????????? ?? ???????
????????????? ??? ?????????????? ??? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ?
????????? ?? ??? ?????? ?????? ??? ?????? ?????????????? ?????, ?? ?????????? ?????? ??? ??????
????????? ?? ??? ?????? ?????? ?????? ??? ?????? ?????????????? ??? ?????????????? (????????? ???
29? ?????????? 2011, National Grid Indus, C?371/10, EU:C:2011:785, ????? 52). ???????,
????????? ?????? ?????? ???? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????
????????? ??? ?? ??? ?????? ?????? ??? ?????? ?????????? ?? ?????????? ?????? ??? ?????? ??????????
??? ?????? ??? ?????? ??? ?? ??? ?????? ?????????? ? ??? ?????????????????? ?????????? ??? ??
????? ?????? ????, ??????????, ??? ??????????, ?? ?????? ?????? ?????????? ?? ??? ?????? ??????????
????? ?????? ????, ?? ?????????? ?????? ??? ?? ??? ?????? ?????????? ??? ?????? ??????????
????????????? ???' ?,?? ? ?????? ?????????? ??? ?? ??? ?????? ?????? (??., ???????, ??????? ??? 21??
????? 2015, Verder LabTec, C?657/13, EU:C:2015:331, ????? 49 ??? ??? ??????????????
?????????).

58 ????????, ??? ?????? ???, ?????????????? ??? ?? ??? ?????????????? ?????????? ???
?????? ?? ?????????? ?????????? ??? ?????? ?????? ?????????? ?? ?????? ?????? ??? ?????? ???
????????? ?????????? ??? ?????????? ??? ?????????????? ??? ?? ?????????? ??? ?????? ???
????????? ?????????????? ?? ??? ?????? ?????? ?????? (??., ???????, ??????? ??? 21??
????????? 2011, National Grid Indus, C?371/10, EU:C:2011:785, ????? 61).

59 ??? ??? ?????? ?????????? ??? ?? ?????????? ??? ?????????? ?????????? ??? ??????????????, ?
????????? ??? ?????? ?????? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ??????
????????? ??? ?????????? ?????. ????????, ? ?????????? ??? ?????? ?????? ?????? ??? ??????????
????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ??? ?????? ?????????? ???
????? ?????????? ??????????.

60 ? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????? ???, ??? ??? ?????????????? ???
?????? ????, ?? ?????????? ?????????????? ??? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ??????,
????? ??? ?????? ?????????? ?????????? , ?????????? ??? ? ?????????? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?? ?????? ??? ? ?????????? ??? ?????? ???
????????? ?? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???.

61 ??????? ??? ?????? ??? ??????????????, ? ?????????? ??? ?????? ?? ?????? ???
????????? ?????? ???, ??? ?????????? ???, ??? ?????????? ??? ?????? ?? ?????????? ??? ?????? ???,
????? ?? ?????????????? , ??? ?? ?????? ???, ?????????????? ??? ?????? ??? ?????? ???
????????? ?????? ?????????? ?????????? ??? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????????????????? , ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
?? ??? ?????????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????, ? ?????? ?????????? ?? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?? ??
????????? ?????? ?????????? ?????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?? ?????????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

62 ?????????? ??? ? ?????? ?????????? ?????? ??? ?? ??? ?????? ??? ?????????? ??? ?????? ???
?? ?????????? ?????????????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ?????????? , ?' ???
????????? ?? ?????????? ??? ?? ?????? ?????? ?????? ????. ?? ?????? ??? ?????? ??????????
????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??????????.

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

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

(?????????)

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