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

??? 25?? ??????? 2018 (*)

«?????? ?????????? – ??????? ?????????? – ????? 107, ?????????? 1, ??? – ??????????
????????? ??? ????? ?????????? ?????????? ?????????????? ?????????? ??? ??? ?????
?????? (????????? ?????????? ?????????? ?????????? ?????????????? ?????????) – ?????????????? ???
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???? ??????? C128/16 P,

? ? ?????????? ?????? ?????????? ?????? ??? ?????? 56 ??? ?????????? ???
????????? ??? ?????????? ??????, ??? ?????????? ??? 29 ?????????? 2016,

????????? ???????, ?????????????? ??? ??? V. Di Bucci ??? E. Gippini Fournier, ???
??? ??? ??? P. N?me?ková,

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

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

? ??????? ??? ???????, ?????????????? ??? ??? A. Sampol Pucurull,

? **Lico Leasing SA**, ?? ??? ?? ?????? (??????),

? **Pequeños y Medianos Astilleros Sociedad de Reconversión SA**, ?? ??? ?? ????????,

????????????? ??? ??? M. Merola, avvocato, ??? M. Sánchez, abogado,

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

Bankia SA, ?? ??? ?? ?????? (??????),

Asociación Española de Banca, ?? ??? ?? ????????,

Unicaja Banco SA, ?? ??? ?? ?????? (??????),

Liberbank SA, ?? ??? ?? ????????,

Banco de Sabadell SA, ?? ??? ?? Sabadell (???????),

Banco Gallego SA, ?? ??? ?? Santiago de Compostela (???????),

Catalunya Banc SA, ?? ??? ?? ?????????? (???????),

Caixabank SA, ?? ??? ?? ????????????,

Banco Santander, SA, ?? ???? ?? ??????? (??????),
Santander Investment SA, ?? ???? ?? Boadilla del Monte (??????),
Naviera Séneca AIE, ?? ???? ?? ??? ?????? ??? ?????? ??????? (??????),
Industria de Diseño Textil SA, ?? ???? ?? Arteixo (??????),
Naviera Nebulosa de Omega AIE, ?? ???? ?? ??? ?????? ??? ?????? ????????,
Banco Mare Nostrum SA, ?? ???? ?? ???????,
Abanca Corporación Bancaria SA, ?? ???? ?? Betanzos (??????),
Ibercaja Banco SA, ?? ???? ?? ??????? (??????),
Banco Grupo Cajatres SAU, ?? ???? ?? ???????,
Naviera Bósforo AIE, ?? ???? ?? ??? ?????? ??? ?????? ????????,
Joyería Tous SA, ?? ???? ?? Lérida (??????),
Corporación Alimentaria Guissona SA, ?? ???? ?? Guissona (??????),
Naviera Muriola AIE, ?? ???? ?? ???????,
Poal Investments XXI SL, ?? ???? ?? San Sebastián de los Reyes (??????),
Poal Investments XXII SL, ?? ???? ?? San Sebastián de los Reyes,
Naviera Cabo Vilaboa C?1658 AIE, ?? ???? ?? ???????,
Naviera Cabo Domaio, C?1659 AIE, ?? ???? ?? ???????,
Caamaño Sistemas Metálicos SL, ?? ???? ?? Culleredo (??????),
Blumaq SA, ?? ???? ?? Vall d'Uixó (??????),
Grupo Ibérica Congelados SA, ?? ???? ?? Vigo (??????),
RNB SL, ?? ???? ?? Pobla de Vallbona (??????),
Inversiones Antaviana SL, ?? ???? ?? Paterna (??????),
Banco de Caja España de Inversiones, Salamanca y Soria SAU, ?? ???? ?? ????????,
Banco de Albacete SA, ?? ???? ?? Boadilla del Monte,
Bodegas Muga SL, ?? ???? ?? Haro (??????),
????????????? ??? ??? J. L. Buendía Sierra, E. Abad Valdenebro ??? R. Calvo Salinero, abogados,

Aluminios Cortizo SAU, ?? ???. ?? Padrón (??????), ??????????????? ??? ???. A. Beiras Cal, abogado,

????????????????? ???' ????????,

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

?????????? ??? ??? M. Ilešić, ?????? ????????, A. Rosas, C. Toader, A. Prechal ??? E. Jarašićnas (?????????), ????????,

????????? ??????????????: M. Bobek

?????????: L. Carrasco Marco, ?????????? ????????,

????????? ?????? ??? ??????? ?????????? ??? ???????? ??? ??' ?????????? ??? ?????????? ???
1?? ?????? 2018,

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1 ?? ??? ??????? ???????????, ? ?????????? ???????? ?????? ??? ??????? ??? ??????? ???.
???, ??????? ??????????? ??? ?????????? ?????? ??? 17?? ?????????? 2015, ??????? ???.
???? ??????? (T?515/13 ??? T?719/13, EU:T:2015:1004, ??? ????: ??????????????????
??????), ?? ??? ?????? ?? ?????? ?????????? ??????? ??? ??????? 2014/200/?? ???
??????????, ??? 17?? ??????? 2013, ??????? ?? ?? ??????? ?????????? SA.21233 C/11
(????? NN/11, ?????? CP 137/06) ??? ?????? ?? ??????? ?????? – ?????????? ???????
???, ?????? ??????? ??????? ?????????? ?????????? ???????, ?????? ??? ?? «???????
????????? ??????? ?????????? ??????????» (?? 2014, L 144, ?. 1, ??? ????: ???????
??????).

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3 ??????? ?? ??????? ?????????? ?????????????? ??????? ?? ??? ?????? ?? ?????????? ?? ?????????? ???????????
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 ?????????????? ?? ??????? ?? ??? ??? ?????? ?????? (?? ????: ?????????? STL), ??????? ?? ???
 ?????????? ?? ??????? ?? ?????????? ?? ?????????? ?? ?????????? ?????? ?????????????? ?? ??? ???????
 ?????????? ?? ??? ?????? ?????????? ?? 20 % ?? 30 %, ? ??????? ?????? ?? ??? ???????
 ?????????? ?? ??????? ?? ?????????? ?? ?????? 108, ?????????? 2, ??? ?? ??? ???????
 C(2011) 4494 ??????, ??? 29?? ?????? 2011 (?? 2011, C 276, ?. 5).

4 ????? ?? ??????????? ?????, ? ?????????? ??????????? ??? ?? ?????????? STL
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????????????? ?????? (??), ? ?????? ?????????????? ??? ?? ?????? ?????? ??? ?? ?????????? ??
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5 ? ?????????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? STL
????????????? ??? ?????? ?????? ?? ?????? ?????????????? ?? ?????????? ?????????? ??? Real
Decreto Legislativo 4/2004, por el que se aprueba el texto refundido de la Ley del Impuesto sobre
Sociedades (????????? ?????????? ?????????? 4/2004, ?? ?? ?????? ?????????? ??
????????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????), ??? 5?? ?????? 2004 (BOE
????. 61, ??? 11?? ?????? 2004, ?. 10951, ??? ????: TRLIS), ??? ??? Real Decreto
1777/2004, por el que se aprueba el Reglamento del Impuesto sobre Sociedades (?????????
????????? 1777/2004, ?? ?? ?????? ?????????? ? ?????????? ?????? ??? ?????? ??? ??????
?????????), ??? 30?? ?????? 2004 (BOE ????. 189, ??? 6?? ?????????? 2004, ?. 37072, ???
????: RIS). ?? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ?? ??????????????
????????? ?????????? ??? ??????????, ??? ?? ?????????? ??? ?????? 115, ?????????? 6 ???
TRLIS, ? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??
????????????? ?????????? ??? ??????????, ??? ?? ?????????? ??? ?????? 48,
????????? 4, ??? ?? ?????? 115, ?????????? 11, ??? TRLIS ?????? ??? ?? ?????? 49 ??? RIS,
?? ?????????? ???, ?? ?????????? ?????????? ?? ??? ?? ??????????????, ??? ??
????????? ??? ?????? 124 ??? 128 ??? TRLIS, ??? ?? ?????????? ??? ?????? 50, ??????????
3, ??? RIS.

6 ??? ?? ?????? 115, ?????????? 6, ??? TRLIS, ? ?????????? ?????????? ???
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?????. ??????, ?? ?????? 115, ?????????? 11, ??? TRLIS ?????? ??? ?? ??????????
????????? ??? ?????????? ??????, ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????? ?????????? ?????? ?????? ??? ?????? 115, ?????????? 11, ??? TRLIS ?????? ??? ?? ?????? 48,
????????? 4, ??? TRLIS. ? ?????????? ?????? ??? ?????? 115, ?????????? 11, ???
TRLIS ?????????? ?????? ??? ?????? 49 ??? RIS.

7 ?? ?????????? ?????????? ?? ??? ?? ?????????? ?????? ?? 2002 ?? ??????
????????? ?????? ?? ??? ?????? ?????? ??????, ?????? ?? ??? ?????????? ?????????? ??? 5??
?????? 1997 (?? C 205, ?. 5), ??? ?????????? ??? 17 ?????????? 2004 (?? 2004, C
13, ?. 3), ?? ??? ?????? C(2002) 582 ?????? ??? ????????, ??? 27?? ?????????? 2002,
?????? ?? ??? ?????? ?????? N 736/2001 ?????????? ??? ??? ?????? - ??????
????????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? (?? 2004, C 38, ?. 4). ???
?????? ?? ?????????? ??????, ?? ?????????? ??? ?????? ?????? ?????? ?? ??? ??? ?? ??????
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? ???????????. ? ??????? ?????????? ?????????? ?????? ?? ?????????????? ?? ??? ?? ???? ?? ?
????? ????, ??????? ?? ???? ?????????? ?????? ??????.

8 ?? ????? 125, ?????????? 2, ??? TRLIS ?????????? ?????? ?????????? ?????????? ?? ???? ?? ???? ??
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??????????, ? ??????? ?????????? ?????????? ?????????? ?????????? ?????? ??? ?????? ???
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????? ??? ?????? ??? ?????????? ??? ??????. ???????, ??? ?????????? ??? ?? ???? ?? ???? ?? ???,
?? ?????? 50, ?????????? 3, ??? RIS ????, ??? ?????? ??? ?????? ?????? ??? ?????? ??????????
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??? ??? ?????????? ??????, ?? ?? ??? ?????? ?????? ?????????? ?????????? ??? ??
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????????? ?????? ?????????? ??? ?????? 115, ?????????? 11, ??? TRLIS, ?????
??? ??? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??????????
????? ?????? ??? ?????? ?????????? ??? ?????????? STL ???, ??? ?????? ?????????? ???, ???
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9 ?? ??? ??????? ??? ?????? ??? ?????? ??????, ? ??? ?????????? ?????????? ??????????
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??? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ?????????? ?????????? ??????????
????????, ?????? ??? ?????????? ?????????? ?????????? ?????????? ??? ?? ??? ??, ??
?????, ??? ?????? ?????????? ?????????? ???, ?????????? ?? ?????????? ??? ?????????? ??? ??
????????? ???' ?????????? ??? ?????????? ?????????? ??? ?????? ????. ?????????, ? ?????? ???
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????????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??
????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ?????? ??? ???????, ??? ??,
????? ?? ?????? ??? ??????, ?? ??? ?????? ??? ?????????? ?????? ??? ?? ?????????? ??? ?????????? ??? ??
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10 ? ??????? ?????? ??? ?? STL ?????? ?? ?????????? ?? ???????, ??? ?????? ???
?? ?????? ?????? ?????? ??? ?? ?????? ??? ??????. ?? ??? ?????? ??? ???????, ? ???????
????? ???, ?????? ??? ?????? ????, ?? ?????? ??? ?????????? ??? ?? ??? ?? 115,
????????? 11, ??? TRLIS ?????? ?? ??? ?????? ?????????? ??? ?????????? ??
????????? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? 50, ?????????? 3, ??? RIS (??? ????: ??????)
????????? ???) ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 1?
????????? 2002, ??? ?????? ??? ?????? 108, ?????????? 3, ????. ???? ??? ?????? ???
?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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11 ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? 25
????????????? ?? ??? ?? 30 ?????????? 2013, ?? ?????????? ?? ??????????, ????, ??? ?? Lico
Leasing, SA ?? Pequeños y Medianos Astilleros Sociedad de Reconversión, SA (???:
PYMAR), ???????, ??????? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ??
?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ???????.

12 ?? ??? ??????????????????? ???????, ?? ?????? ??????????? ??????? ???.
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13 ?? ?????????? ?? ?????????? ?? ?????????????? ?? 21?? ?????????? 2016 ??????
?????? ?? ?????????? ?????????????? ?? Bankia SA ?? 32 ????? ?????????? (?? ?????: Bankia
??.), ???. ?? ?? Aluminios Cortizo SAU ???. ?? Lico Leasing ???. ?? PYMAR.

14 ?? ??? ??????? ?? ????????????, ? ?????????? ?????? ??? ?? ??????????? ?? ??????????
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15 ?????????? ???? ?????????? ?????? ?? ?????????????? ? ?????????? ?? ?????????? ?? ??
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16 ? Lico Leasing ??? ? PYMAR ??????????? ??? ?????????? ??? ?????????? ??????????? ??
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17 ?? Bankia ?.?. ???. ??. ? Aluminios Cortizo ??????? ???. ?? ????????????. ???. ????????????. ???. ??????. ????????????. ???. ??????. ???. ??????. ???. ??????. ???. ??????. ???. ??????. ???. ??????. ???. ??????. ???.

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18 ? Lico Leasing ??? ? PYMAR ?????????? ?????????? ?? ??? ?? ?????????? ??
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19 ????????????????, ????, ??? ?? ?????????? ?????? ??? ?????? ?????????? ?????????? ??? ??????????
???????????, ????, ??? ???????, ?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ????????, ????
?? ??? ?? ?????????????? ??? ?? ?????????? ?????????? ??? ?????? ?????????? ?????? ??????????????
????????? ????, ??? ?? ?????????????? ??? ?????????? ? ?????? ?????????? ??? ?????? ?????????? ??? ??????????
??? ????????????, ?? ????, ??? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ???
???????????????, ??? ?????????? ??? ?? ?????????? ??????. ????????, ?? ??????????
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20 ????????, ? ?????? ??????????? ??? ????? ?????? ?? Lico Leasing ??? PYMAR
?????? ?? ??????????.

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22 ?????????? ???? ?????? ?????????? ??? ?????? ?????????????? ??????, ? ??????????
?????????????, ??????, ??? ?? ?????? ?????????? ?????? ?? ?????? ?????? ?????? ???
????????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? «?????????»,
«?????????» ??? «????????? ?????». ????????, ?????????? ??? ?????? ?????????? ???
????? ?? ????? 296 ????, ??????? ?????? ??? ? ?????????? ??? ?????????? ?????? ??????
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- ?????????????? ??? ????????

23 ????? ??????? ????? ?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ?????????????????
??????, ? ?????????? ?????????????? ??? ?? ?????? ?????????? ?????????? ?????????? ?? ?????? ??????,
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«?????????????». ?? ??? ?????? 116 ?? 118 ??? ?????????????????? ??????????, ??
?????? ?????????? ?????? ?????????? ???, ??? ??? ?????????? ?????????? ?????????? ??? ???, ??
????????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?????? ????. ??
?????? ?????????? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ?????? ?????????????????? ???????
??? ??? ?????????? ?????? ??????????, ? ??? ????? ?????????? ??? ?????? ??? ???, ???
????????? ??? ?? ?????????? ??? ?????????? ?????? ?????? ?????? ?????????? ?????????? ??? ??? ???????
??? ?????? ?????????? ?????????????? ??? ?????????? ?????? ??????, ??? ?????????? ??? ??
????????? ?????????? ?????? ?????? ?????? ??? ?????? ?????????? ?????????? ??????????, ??????? ?? ???
??? ??? ?????????? ?? ?????? ?? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ?????? ???
? ?????????? ???, ??? ????? ?????????? ?????????? ?? ?? ?????? ?????? ?????? ??? ??? ??
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24 ????? ???? ??????????, ?? ?????????? ??? ????? ?????? ?????????? ???????, ???' ?????, ?? ?????? ??????
???? ??? ?????????? ?? ?????? ?????? ??? ?????? ?? ?????? ?? ?????????? ?????????? ?????????? ??????????
???? ?? ?????? ?????????? ??? ?? ?????? ?????????? ?????? ?? ?????????? ?????? ?? ?????????? ???
????????????????????????? ?? ?????????????? ??????. ?? ?????????? ?????, ? ?????????????? ??? ??

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

25 ?? ?????????? ??? ?????????? ???, ?????????? ??? ?????? ??? ?????????????? ????
?? ?????? ?????????? ??? ?????????, ?? ??? ?????????????????? ??????, ??? ?????? ???
«?????????» ? ??? «?????????????». ?? ??? ?????? ?????????? ?????????????? ??
????????? ??? ???? ?????????? ??? ?????????? ??? ?????? ?????????? ??????????????,
??? ? ?????????? ??? ??? ?????????? ?? ??? ?????? ??????, ???, ??????,
????????????? ?? ?????????? ??? ???? ?????????? ?????????? ?????????? ?? ?????????? ???
????????????? ?????????????? ??? ??? ??? ???, ?????? ??? ?????????? ??? ?? ??? ???
????????????? ?? ?????????????? ??? ?????? ?????????? ??? ?????????? ?????????? ???, ???
????????? ??? ??? ??? ?????? ??????. ?? ?????, ?? ????? ?????? ??? ???? ???
??? ?????????? ??? ?????????? ??? ???? ?????????? ??? ?????? ???, ??? ?????? ????
????????? ??? ?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
??? ??? ???? ?????? ?????????? ??? ?????? ?????????? ??? ???? ?????? ?????? ??? ????
??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ??????
????????? ??? ?????? ?????????? ?????????? ??? ?????????? ???, ?? ?????????????? ??? ??????????
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??????????.

26 ? Lico Leasing ??? ? PYMAR ?????????????? ??? ???? ?????? ?????????? ??? ?????????? ??
?????? ?????? ??? ?????? ??? ?????????????? ??? ?????????? ??? ?????????????? ???
????????? ??? ?? ?????? ?????????? ???, ? ?????? ?????? ?????????? ?????????? ??? ???
????? ??????. ???????, ????? ?????????? ??? ???? ??? ?????? ?????????? ?? ??????????
????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??????
????????? ????. ?? ?????? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??
????????????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
???? ?????????? ??? ???????, ?????????? ??? ???? ?????????? ??? ?????????????? ???
??? ??? ?? ??? ?????????????? ??? ?????? ?????????? ?????????? ??? ?????? ?? ?????????? ??
????? ?? ??? ?????????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ?????????? ??
???? ???????, ?? ?????????? , ? ?????????? ??? ?????? ?????????? ?????????? ??????? ??
????????? ?? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?? ??? ?????????? ??? ??
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??????????.

27 ???????, ??? ?? ??? ?????????? ?????????? ??? ?? ??? ?????? ?????????????? ?? ???
????????? ? ?????????????? ??? ?????????????? ??? ?????????? ?????????????? ???.
????????????? , ??? ?? ?????? ???? ?????? ??? ?????? ??? ?????? ??? ?????????????? ???
????????? ??? ?? ??? ?????? ?????? , ?????? ?? ??? ?????? ??? ?????????? ??? ?????? STL ??
????????? ??? ?????? ?????????????? ??? ??????.

28 ? ?????? ??? ?????????? ??? ?? ??? ??? ?? ?????????? ?????????? ?????????? ???
????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ??' ?????????? ?????????? ?????????? ???
????????? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ?????????? , ??????????????
??? ?????? ??? «????????? ??????», ? ?????? ?????????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ??? ?????? ?????? ??? ?? ?????????? ?? ?????????? ?????????????? , ?????? ??
????? , ??? ?????????? ??? ??????.

29 ?? Bankia ??? . ?????????? , ???' ?????? , ??? ? ?????????????? ??? ?????????? ,
????????? ?? ??? ?????? ?? ??? ?????? ?? ?????????? ??? ?????????????? ??? ?????????? ???
?? ?????? ?????????? ???, ?????? ?????????? ???, ?????? ?????????? ???, ?????? , ?????????? . ?????? ???,
?? ?? ?????????? ?????????????? , ?????????? ?????????? ???, ?????? ?????????? ???

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

30 ? Aluminios Cortizo ??????????, ??????, ??? ? ??? ?????????? ???? ??? ??????????
????????? ? ?????? ??? ?????? ?? ??? ?????? ??? ?????????? ??? ?????????? ??? ??,
???? ?????? ??? ????? ?????????? ?????? ?? ?????? ?????? ???, ??? ?????????? ?? ???
???? ?????????? ? ?????????? ??? ?????????????? ?? ?????????? ??? ?????????? ?? ???
????????? ?????, ??? ????? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ???
??? ?????????? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ???
????????? ?????? ??? ?????????? ??? ?????????? ?????, ??? ?????? ??? ?????????? ??? ?????????? ???
????????? STL ?????????? ????? ?????????? ?????????? ?????????? . ? ??????????????
????????? ??? ??? ????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ???

- ?????? ??? ??????????

31 ?????? ??? ? Lico Leasing ??? ? PYMAR ?????????? ?? ?????????? ??? ??????
????????? ??? ?????? ??????? ??? ?????? ?????????????? ??? ?????? ??? ?????????? ? ??????????,
????????? ?? ?????? ?????? ??? ?????? ?????????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?? ?????? ?????????? ???, ?????????????? ??? ?????????? ???
????????? ?????, ??? ?????? ?? ?????????? ???, ??? ?????? ?????????? ?????????? ???
????????? ?????? ??? ?????? ?? ?????????? ??? ?????????? ???, ??? ?????? ?????????? ???
????????? ?????? ??? ?????? ?? ?????????? ??? ?????????? ???, ??? ?????? ??? ?????????? ???
????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ???, ??? ?????? ???
????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
General Motors ??? ???????, C?551/03 P, EU:C:2006:229, ??? 51, ??? 22? ??????????
2008, British Aggregates ??? ???????, C?487/06 P, EU:C:2008:757, ??? 96, ??? ???
?? 20?? ?????????? 2017, Comunidad Autónoma del País Vasco ?.?. ??? ??????????,
C?66/16 P ??? C?69/16 P, EU:C:2017:999, ??? 97).

32 ???, ?? ??? ?????? ???, ? ?????? ??? ?????????? ?? ?????????? ?? ?????????? ???
?? ?????? ?????????? ?? ?????? ?????????? ???, ??? ?????? ?????????? ?? ?????????? ?? ???
????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
??, ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????????? ???
???? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????
???? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???

33 ????? ?????? ?? ??????????? ??? ?????????? ??? ? ??? ??? ?? ??? ????? ??? ??????????
?????????? ?????? ??? ?????? ?? ?????????? ??? ??????????????? ??? ?????????? ??? ??
????????? ?????????? ??????, ?? ?????? Lico Leasing ??? PYMAR ?????? ??? ?? Bankia ?.?.
????????????? ??????????, ?????????????? ??? ?? ?????????? ??? ?????????? ?????? ?????????? ??????
?? ??????? ??????????, ??? ?????????? ??? ??? ?????? 167 ??? 168 ???
????????????????? ???????. ??? ???????, ??? ?????????? ?? ?????????? ?????????????? ??????????
???? ??? ?????????? ?????.

34 ???. ??? ????????, ??????????????? ???. ???. ?????? ???. ??????????????? ???. ?????? ???.
??????????, ? ??????????? ???. ?????? 107, ??????????? 1, ????? ??????? ???.
?????????????? ???. ??????????????. ? ?????? ???. «????????????» ??????????????? ???. ???.
???. ?????? ??????????? ???????????????, ??????????? ???. ??????????? ??????????????? ???. ???.
????? ???. ???. ?????? ??????????? ??????. ???. ?????? ??????????? ??????????????? ???.
?????????????? ?????????? ???. ???. ? ?????? ??????????? ???. ??????????????? ???. ?????? (??.,
??????, ??????? ???. 27?? ??????? 2017, Congregación de Escuelas Pías Provincia Betania,
C?74/16, EU:C:2017:496, ??????? 39, 41 ???. 45 ???. ??????????????? ???????????).

35 «?????? ?????? ??????????? ??? ????????????, ? ?????????????? ?????? ?????? ??
????????? ?????????», ??? ??? ?????? ??? ?????? 107, ?????????? 1, ????, ?????????? ??
????????? ??? ?????????? ?????????? ?????????? ??????, ?????? ?? ?????????? ???
????????? ?????????? ? ??? ?????????? ??? ?????????? ??????. ????????, ? ?????????? ???
?????? ?? ?????? ?? ?????????? ?? ??????? ?????? ??? ?????? ??? ?????? ??????. ??????, ?????? ??
????????? ??? ?????????? ?????????? ?????????? ??????. ????????, ?????? ?? ?????????? ? ??
????????? ?? ?????????? ??? ?????????? (????????? ??? 10?? ??????? 2010, Fallimento
Traghetti del Mediterraneo, C?140/09, EU:C:2010:335, ??? 31 ??? ??? ??????????????
?????????, ??? 21?? ?????????? 2016, ??????? ??? Hansestadt Lübeck, C?524/14 P,
EU:C:2016:971, ??? 40, ??? ??? ??? 21?? ?????????? 2016, ??????? ??? World Duty
Free Group ?.??., C?20/15 P ??? C?21/15 P, EU:C:2016:981, ??? 53).

36 ????? ?????? ??? ??????????? ????? ?????????????? ?????????????????? ??????????????????, ??? ?????
??????????, ??????????? ?????????? ?????????? ?????????? ?? ?????????????? ?? ???????, ??? ??????????????
??????, ??????? ?? ?????????? ?????? ? ??????? ?????????????? ?? ?? ??????? ??????? ??
?????????? ?????????? ?????????? ??????? ?? ?????? ? ?????????? ?????????? ?? ?? ??????? ??
?????????? ?????????? ??????? . ??? ??????? ???, ???????????, ??????? ???????, ??
?????????? ?? ?????????? ?? ???????, ??? ??????? ???????, ??????????? ??
????????????? ??? ?????????? ??? ?? ???????, ?? ?? ???????, ??????? ?? ????? ??????????????
??? ?? ?????? ??????? ??? ??, ????? ?? ?????? ?????? ??????? ? ??????? ?? ????? ??????????????
(?????? ?? 27?? ??????? 2017, Congregación de Escuelas Pías Provincia Betania, C?74/16,
EU:C:2017:496, ??????? 65 ?? 66 ????? ?? ?? ????? ?????????????? ??????????). ?? ?????? 107,
?????????? 1, ??? ?????? ?????? ?????????? ??????? ??? ??????? ? ?? ??????? ?? ?????? ??? ??????????
??????????, ??? ?? ?????? ??????? ?? ?????????? ?? ?? ?????????? ??????? ???, ???????,
?????????? ?? ?????????????????? ?????????? [??., ???????, ?????????? ?? 15??
?????????? 2011, ??????? ?? ??????? ??? ??????? ????? ?????????? ??? ?????????? ??? ??????????
??????????, C?106/09 P ??? C?107/09 P, EU:C:2011:732, ??????? 87, 92 ??? 93, ????? ??
?? 28?? ??????? 2018, Andres (Heitkamp Bauholding ??? ???????) ??? ???????????,
C?203/16 P, EU:C:2018:505, ?????? 911.

37 ????? ??????, ???????????, ?? ?????? ?????? ??? ?????????? ??????????? ???????????,
????????????? ??? ?????? ?????? ?????? ?? ?????, ?????????? ??? ?????????? ?????????? ??????????
????????? ????, ?????????? ???? ?????????? ???? ?? ?????????? ?????????? ?????????? ???
????? ?? ??? ????? ?????? ?????????????? ?????????? ?? ?????????? ??????????

????????????? ????? ?????????? ??? ??, ?? ???? ?????, ??????? ?????? ?????? ?????? ?????? ???
????? ??? ?????? 107, ?????????? 1, ????. ??????????, ??? ?????? ?????? ?????? ?????? ??????
????? ??? ?????? ??? ?????????? ???, ?????????? ?????? ?????? ?????? ??? ?????? ??? ??????
????? ?????? ???, ?? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????? [??.,
????? ?????? ??? 15? ?????????? 2011, ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? C?106/09 P ??? C?107/09 P, EU:C:2011:732, ?????? 72
??? 73 ??? ??? ?????????? ???, ???, ???, ??? 21? ??????????
2016, ?????? ??? World Duty Free Group ???., C?20/15 P ??? C?21/15 P, EU:C:2016:981,
????? 56, ??? ??? 28? ?????? 2018, Andres (Heitkamp Bauholding ??? ??????) ???
?????????, C?203/16 P, EU:C:2018:505, ??? 85]. ??????, ? ?????? ??? «?????????
?????????» ??? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??????
????????? ??? ?????, ?? ?? ??????, ?????????? ?? ?????? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??
?? ??? ?????? ?????? [????????? ??? 21? ?????????? 2016, ?????? ???
Hansestadt Lübeck, C?524/14 P, EU:C:2016:971, ??? 41, ??? 28? ?????? 2018,
Andres (Heitkamp Bauholding ??? ??????) ??? ??????, C?203/16 P, EU:C:2018:505,
????? 87].

38 ?? ??????????, ?? ?????? ?????????? ??????????, ?? ?? ?????? 116 ???
????????????? ???, ???, ??? ?? ?????? ??? ?????????? ??? ??????
????????? ??? ?????? ??? ?????????? ??? 1 ??? ?????? ?????? ?????? ??? ?? ???,
?????????, ??? ?? ?????????? ??? ?????? ???, ??? ?? ?????? ?????? ?????????? ??????????
??? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ?? ?????? ??? ??, ?? ?????? ???,
????????, ? ?????????? ?? ?? ?????? 4 ??? ?????? ?????? ?????? ?????????? ??????????,
????? ?? ?? ?????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?? ?????? ??? ??????, ?? Lico ??? ??? PYMAR Leasing, ?????? ??
????????? ??? 107, ?????????? 1, ????, ??? ?? ?????? ??? ?????????? ??? ?????????? ???
??? ?????????? ???, ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ???, ???' ??????, ? ?????? ??? ?? ?????? ?????????? ?????? ???
????????? ??? ?? ?????? ??? ?? ?????? ?????? ??? ?????? ?????????? ?? ?????????? ??
?? ?????? 117 ??? ?????????? ???, ?? ?????? ?????????? ?????? ??? ?? ???,
????????? ?????????? ??? ?????????? ??? ?? ???, ??? ?????? ?????? ??? ?????????? ???
????????? ??? ?? ?????? 1 ??? ?????? ?????? ???, ??? ?? ??? ?????? ?????? ??????
????????? ??? ?? ?????? ??? ?????? 107, ?????????? 1, ????. ??? ?????? ???, «????? ?? ?????? ???
118 ??? ?????????? ???, ???, «????? ?? ?????? ??? ?? ?????? ??? ?? ??? ?? ???
??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??
????????? ??? ?????? ??? »..

39 ??? ??????????, ??? ??? 164 ??? ?????????? ??????, ??? ? ??????
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????, ?????? ?? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??? ???
????????? ?? ?????????? ???, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 171 ???
176 ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? STL, ???
??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

? ?????? ? ?????????? ???? ? ? ??????????. ?? ? ?????? ? ?????????? ? ??????????, ?? ???
?????? 176 ??? 180 ??? ?????????????????? ???????, ??? ? ?????????????? ???
????????? ?????????? ??? ?????? ??? ?????? ?? ?????????????? ?????? ??? ??????????????
????.

40 ??? ??? ?????????????? ?????????? ??? ?????????? ??? ?? ?????? ???????????, ??? ???
????????? ??? ?? ?????? ??? ?????????? ?????????? ??? ?????????? STL ??? ??????
??????, ?????????? ? ?????? ?????????? ??? ?????????????? ?????? ?????????? ???
????????? ??? ?????? 4 ??? 9 ??? ???????, ???, ???????????, ??? ?????????????? ???
?? ?????? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????????? ???
????????????? ???, ???????, ?????????? ??? ?????????? ??? ?? ??? ??? ?????????? ??
????? ?????????? ?????????? ???, ??? ??? ??? ??? ???, ??? ??? ??? ?????????? ???
????????? ??? ???, ?????????? ??? ?????????? ??? ?????????? ??? ?????????????? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???.

41 ??????, ?? ?????????? ???, ?????? ??? ??? ?????????? ??? ?? ?????????? ???
????? 116 ??? ?????????????????? ???????, ??????? ?? ??? ????? ?????????? ??? ???
????????? ??? ?????? ??? ?????????? ??? ?????? 1 ??? ?????? ?????? ?????? ??? ?? ???,
????????? ?????? ?? ?????????? ??? ?????????? ??? ?????? 107, ?????????? 1, ???.

42 ??????????, ??????? ?? ??? ?????????? ??? ?????????? STL, ?? ??? ??????
????????? ??????????, ??? ?????????? ??? ?????????? ?????? ??? ?????????? ??????????????
??????, ?????????? ?? ?????? ?? ?????? ?????? ?????? ??? ??? ?????????? ?? ??????????
????, ????? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 107,
????????? 1, ??? ??? ??? ?????????? ??? ?????????? ??? ?????? 34 ??? ??????
????????, ??? ?????????? ??? ? ?????? ??? ?????????? ??? ?????? 126 ??? ??????
??????.

43 ?? ??? ??? ???, ???, ??????, ?????????? ??? ?????????? ??? ?? ?????????? ???,
?????? ?? ?? ??? 115, ?????????? 11, ??? TRLIS, ?? ?????????? ??? ?????????? ??????????
??? ?????????? ?? ?????????????? ??????? ?????????? ??? ?????????? ???, ???????,
????????????? ??? ?? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ?? ??????????
????????????? ?? ??? ?? ?????????????? ??? ?????? ?????????? ?????? ??? ?????? 50,
????????? 3, ??? RIS. ??????, ??????? ?? ??? ?????????????? ??? ?? ??? ??????????
????????????? ?? ??? ??????, ??? ?????????????? ??? ?????? 9 ??? ?????????? ??????????,
???? ?? ?????????? ??? ?????????? ?????????????? ??????.

44 ?? ?????????? ?????????? ??? ?????????????? ?????? ?? ?????????? ?? ?? ??????????
????????? ??? ?????????????? ?? ?? ??? 5.3.2.6 ??? ?????????? ??????????, ??
????????? ??? ?? ??? ?? ?????? ??? ?????????? ??? ?????? ?????????? ?? ?????? ??????????
???? ?? ?????? ??????, ??? ?????? ?????? ??? ?????????? ??? ?????????? ?????? ??? ??
????????????? ??? ?? ?????? ?????? ?????????????? ??? ?????? ?????? ?????????? ??? ?????? ???
????????????? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? STL ??????????, ???????, ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??????
????????? ?????? ??? ?????????? ???, ??? ?????????? ?????? ??? ?? ??? 5.3.3 ???
????????? ??????.

45 ??????, ?? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ??? ??? ??? ??? ???,
????? ?? ??? ??? ?????????? ?????? ??? ?????? ?? ??? ??? ??? ?????? ??????
????????, ??? ?? ??? ??? ? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ??? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???

? ??????? ?? ?????????? ????. ????????, ???????, ??????? ???? ???? ??????? ?????????? ????????????
????? ?????????? ????, ?? ?????? ??? ???? ???? ???? ??????? ?????????? ??? ???? ?????? ???
????????? ??? ?????. ?? ?? ??? ???????????????, ??????? ???? ???? ?????????? ?????? 157 ???
????????? ????????, ?????????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????? ??? ??????????
????? ??? ?????????? ?????????????? ????????, ?????????? ?? ???? ???? ???? ???? ???? ????
????? ??? ??? ?????????? ?? ?????????? ???.

46 ??????? ?? ?????????? ??? ???? ?????? ?????????? ?????? ???????????, ?????? ???
????????? ??? ?????????? ??? ???? ?????? 35 ??? 37 ??? ??????? ?????????, ??????????
????????? ??? ??? ??? ???, ?? ?? ??????, ?? ??????? ?????? ??? ???? ???? ???? ???? ????
????????? ??? ?????? ??????, ?? ?? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????
?????????, ?? ?????? ?????????? ?????????? ?? ?????????? ??? ?????? ?? ???? ???? ???? ????
????????? ?????????? ?????????? ??? ??? ??? ??? ?????? ?????? ?????? ??? ??? ??? ???
????????? ?? ?????? ?????? ?????????? ??? ?????? . ??????, ? ?????????? ??? ???? ???? ???? ????
????????? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? 34 ??? 36 ???
????????? ????????, ??? ??? ?????? ?????????? ??? ???? ?????????? ??? ?????? ???
«????????? ?????????» ??? ?????? ?? ?????????? ??? ???? ?????? ?????? ??? ??????
????????? ??? ??? ??? ?????????? ??????.

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

48 ???????, ? ??? ?????? ??? ???? ?????? ??? ?????? ??? ?????? ?????????? ?????? ???
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?? ???? ?????? ??? ???? ?????? ??? ?????? ?????????? ????

- ?????????? ??? ??????

49 ?? ?????? ??? ?????? ??? ?????? ??? ???? ?????? ?????????? ????, ? ????????
????????? ??? ?????? ?????????? ???, ?? ??? ?????? 157 ??? 163 ???
????????? ?????? ?????????? ???, ?????? ?? ?????? ?????? ??? ???? ???? ???? ???? ???? ????
????????? ?????????? ??? ?????????? ??? ???? ???? ?????? ?????? ?????? ??? ?????????? ???
????. ? ?????? ??? ?????? ??? ???? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ???? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????.

50 ???????, ??? ???? ?????? ??? ???? ?????? ?????? ?????????? ???????, ??? ???????,
?????? ???? ?????????? ?? ?????????? ?????? ?????????? ?????????? ?? ?????????? ???????
????????? ?? ?????? ?? ?????, ?????????? ?? ?????? ?????????? ?????? ?? ?????? ex
post, ?????????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ?????? ?? ??? de facto ?????????? ???, ? ?????? ?????? ??? ???? ??
????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ??
?????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ??
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ??
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ??
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ??.

51 ?? ??????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???

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

52 ? Lico Leasing ??? ? PYMAR ?????????? ??? ?? ?????????? ??? ?? ?????????? ???
????????????? ?? ?? ?????????????? ?????? ?????? ?????????? ??? ?? ?????????? ??? ?? ?????????? ????
??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? STL ?????? ??
????????? ??????????. ????????, ?????????? ??? ?? ?????? ?????????? ?????????? ??????? ??
???? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ??
????????? ?????????? ??? ?? ?????????? ?????? ??? ?????? ?????????? ?????????? ??? ?? ??? ??
????????? ?????????? ??? ?? ?????????? ?????? ??? ?????? ?????????? ?????????? ??? ?? ??? ??
????????? ?????????? ??? ?? ?????????? ?????? ??? ?????? ?????????? ?????????? ??? ?? ??? ??
????????? de facto
?????????????.

53 ??????, ?? Bankia ??. ?????????? ??? ?? ?????? ?????? ?????? ?????? ? ?????? ? ??????????
??? ?????? ?????????? ??? ?? ?????? de jure ??? de facto ??????????????. ???'
?????, ?????? ?? ?? ?????? ??? ?????? ?????????????? ?????? ?????? ??? ??????????
??? ?? ??????????, ? ?????????????? ??? ?? ?????? ?????? ?????? ?????? ??? ??????????, ?? ??????,
?????, ?????? ?????????????? ?? ?? ?????? ??? ?????? ?????? ?????????? ??? ??????????
????????? ??????.

54 ? Aluminios Cortizo ?????????? ?? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ???
Lico Leasing, ??? PYMAR ??? ??? Bankia ???.

- ?????? ??? ??????????

55 ?????????? ???, ??? ?? ?????????????? ? ?????????? ??? ?? ?????????? ?????????? ???
????????? ?????????? ?????????? , ??? ?????? ?????????? ?? ?????????? ?? ?????????? ??????????
????? ?????????? ?????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????????? ??????. ??????, ??????
????????? ?????? ???????, ?? ?? ?????? ?????? ?????????? ?? ?????? ?? ?????????? ??
????????? ?????? ?????????? ? ?????????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????, ??????
????????? ?????????? ? ?????????? ?????? ?????? ?????? ?????? ?????? 107, ?????????? 1,
???? (??., ??????, ?????? ??? 15?? ?????? 2004, ?????? ??? ??????????, C?501/00,
EU:C:2004:438, ??? 121). ?????? ????????, ?????? ???, ?? ?????????? ??? ?? ??????????
????? ?????????? ?????????? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ?? ??????????
??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????????
????? ?????????? , ??? ?????? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ??????????
????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????????
????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????????
????? ??????, ?????? ??? ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????????
(??., ??????, ?????? ??? 18?? ?????? 2013, P, C?6/12, EU:C:2013:525, ?????? 26 ??? 27).

56 ?? ??????????, ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ? ?????????? ???
????????? ? ?????????? ??? ?????????? ?????? 156 ??? ?????? ?????? ?????? ??? ??

??? ?????? ?? ?????????????? ??? ?????????? ??? ?? ?????????? STL ??????? ???
?????????? ????????, ?????? ?????????? ??? ?? ?????????? ??????? ??? ??????????
??????, ?? ?????? ?????????? ??????? ??? ?????? ??? ?? ?????????? ??? ?????????? ???
????? 158 ??? ?????????????? ???????, ??????? ?? ??? ?????, ??? ?????????? ???
????????? ??????? ?? ?????? ?????? ??? ?????? ?????? ?????????? ?????????? ???
?????? ?????????????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ?????????? ?
?????? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??????
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??????
????? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??
????? ?????????? ??? ?????? ??????.

57 ??? ???????????, ?? ?? ??? 159 ??? ?????????????????? ????????, ??? ??
?????????? ??? ??????? ?? ??????? ?????????? ????????, de jure, ?????????????? ???
?????? ?? ??????? ?? ?????????? ??? ??????? ?? ??????? ?? ?????????? ???, ??? ?
????????? ??? ??????????, ?? ??? ??????? ???????, ???, ??? ?? ?????? ??? ??????????
????????? ?? ??????????, ? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??????????
??? ?????? ??? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????????? STL ??? ?????????? ??? ?? ?????? ?????????? ??????????, ??
?????? ?????????? ???, ?? ??? ?????? 160 ??? 162 ??? ?????????????? ???????,
??, ??? ?????? ?? ??????? ?????? ??? ?????????? ??????? ??? ?????????? ???, ???,
????????? ??? ?? ?????? ??? ??????, de jure ??? de facto, ??? ?? ??? ? ?????????? ???
??? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??????????
?????????????, ?????? ??? ??????? ??? ?????? ??? ?????????? STL ??? ??????? ???
????????????? ???, ?????????????? ???, ??????? ???, ??? ?? ??? ??????????,
???? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????????? ???
????????? ??????????????. ?? ?????? ?????????? ??? ? ?????? ?????????? ?????????? ???
????????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??
?????????.

58 ???????????, ????, ??? ?? ?????????? ??? ????? ?????????? ??? ??????????
????????? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?? ??????? ??? ??????????
????? ?????????? ?? ??? ?????? ??? ?? ?????????? ??? ?? ??? ?? ???, ???, ???, ? ??????
?? ??? ?????????? ?????? ?????????? ??? ?? ?????????? ?? ?????? ?? ??? ?????????? ???
??? ??? ??? . ???????, ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????? ?????????? ???
????????? ??? ?? ??????? ?????? ??? ?????? ??????????, ??????? ?? ?? ??? 48,
????????? 4, ??? ?? ??? 115, ?????????? 11, ??? TRLIS, ????? ?? ?? ??? 49 ??? RIS,
?????? ?? ?????????? ??? ?? ?????????? ?????? ?? ?????????? ?? ?????? ?? ?????????? ???
??? ??? ?????????? ??? ?????? STL ? ??? ?? ?????????? ?? ?????????? ??? ?????? ???.
?????????.

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

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

- ?????????? ????

60 ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ???, ? ????????
????????? ??? ?????? ?????????? ???, ?? ??? ?????? 139 ??? 155 ???
????????????? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? 7?? ?????????? 2014,
Banco Santander ??? Santusa ??? ?????? (T?399/11, EU:T:2014:938), ??? ?? ??? 7??
????????? 2014, Autogrill España ??? ?????? (T?219/10, EU:T:2014:939), ??? ?? ???
??? ?? ?????????? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ?? ??????????
?????, ?????????? ??? ?????? ?????? ??? ?????? ??????????, ??? ?? ?????? ??????????
????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??????????

?????????. ??????, ?? ??????????? ??? ??????????? ?? ??? ??????, ????? ?????????? ?? ???? ??
?? ?????????? ?? ??? ??????? ?? 21?? ??????????2016, ??????? ?? World Duty Free
Group ?.?. (C?20/15 P ??? C?21/15 P, EU:C:2016:981). ??????, ?? ?????? ??????????
????? ?? ?????????? ??????? ?? ??????????.

61 ????? ?? ?????????? ??? ??????????, ? ?????????? ??????????? ?? ?????????????? ??? ??
?????? ?????????? ??? ????? ?? ?????? ??? ??? ?????????? ??? 7?? ?????????? 2014, Banco
Santander ??? Santusa ??? ???????? (T?399/11, EU:T:2014:938), ????? ?? ??? ?? 7??
????????? 2014, Autogrill España ??? ???????? (T?219/10, EU:T:2014:939), ??? ??
????????? ??? ????? ?? ?????????? ??? ??????? ?? ?????????? ??? ?????????? ??? ?????????? ??
????????? ??? ????? ?? ?????????? ??? ??????? ?? ?????????? ??? ?????????? ??? ?????????? ??
????????? ??? ??? ??????? ?? ?????????? ??? ??????? ?? ?????????? ??? ?????????? ??? ??? ??? ??
????????? ??? ?????????? ??? ?? ?????????????? ??? ?????????? ??? ?????????? ?? ?????????? ??
????????? ??? ?????????? ??? ??????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??
????????? ??? ?????????? ??? ??????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??
????????? ??? ?????????? ??? ??????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??

- ?????????? ??? ????????????

64 ??? ??? ??????? 130 ??? 132 ??? ?????????????????????? ???????? ?????????? ??? ??
????????? ??? ????????, ? Lico Leasing ??? ? PYMAR ??? ?????????????? ?????? ???
????????? ?????????? ??? ? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? STL
???, ???????, ? ??????? ??? ??????? ?????????????? ??? ?????? ??? ?????? ??? ????? ??????????
??? ??????? ?????????????? ??? ??? ?????????????? ???, ?????? ??? ????? ??????????

???????????? ? ?????? ?????????????? ???????????, ?????? ?? ?????????????? ??? ??????????? ??
????????? ??? ?? ??? ?????? ?? ?????????? ???????????, ?????? ??? ?? ?????? ???
????????? ??? 7?? ?????????? 2014, Banco Santander ??? Santusa ??? ??????????
(T?399/11, EU:T:2014:938), ?????? ??? 7?? ?????????? 2014, Autogrill España ???
????????? (T?219/10, EU:T:2014:939), ?????? ??? ? ?????????? ?????????? ??? ?? ??????
????? ??? ?????????? ?????? ??? ??????????, ?????? ?????? ?? ?????????????? ???
????????????????? ?????????????? ?????? ?????????? ?????? ??? ?????????? ?' ???, ??? ??
????????????? ??? ?????????? ?? ?????????? ?????????? ?????? ??? ?????? ?????? ?????? ???
????????? ?? ?????????? ??? ?? ??? ??????????.

65 ?? ?????? ?????????? ?????????? ?? ?????????? ?????? ??? ?????????? ?? ?? ??? 144
??? ?????????????? ???????, ?????????? ??? ?????????? ??? 7?? ?????????? 2014,
Banco Santander ??? Santusa ??? ?????? (T?399/11, EU:T:2014:938), ??? ?? ?? 7??
????????? 2014, Autogrill España ??? ?????? (T?219/10, EU:T:2014:939), ???, ???
????????? ???, ??? ?? ??? ?????? ??? ?? ?????? ?????????? ?? ?? ??? ?????? ??????????,
???? ?????????????? ?? ?????? ??? ?????? ?????????? ?????????? ?????????????? ??????????????,
????????????? ?????? ?????? ?????????? ??? ?????? ?????????? ?????????? ?? ?????? ??? ?? ???
?????????????, ?????????? ???, ??? ?? ??? ?????? ?????????? ?????????, ?? ?????? ??? ??
????????? ?????????????? ?????????? ??? ?????? ??? ?????????? ?? ?????????????? ??????,
????????????? ?????? ?????? ?????? ?????? ?????????? ?????, ??? ?? ?????????? ??????????
????? ??? ?????????? ?????? ?????? ?????? ?????????? ?????? ?????????? ??
????????? ?????????? ??? ?? ??? ?????? ?????? ??????????.

66 ?? ???????, ??? ??????, ?? ??? ?????? 146 ?? 154 ??? ??????????????????
????????, ??? ?????? ??? 19?? ?????????? 2000, ?????????? ??? ?????????? (C?156/98,
EU:C:2000:467), ??? ?? ??? ?????? ??????????, ?? ?????? ?????????? ??????, ?? ??? ??????
148 ?? 150 ?? ?????????????????? ???????, ??? ?????? ?????????? ???, ??? ?? ???
????????? ??????????, ?? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????????? ?????? ?????????? ?????? ?????? ?????? ?????? ?? ?????? ???
????????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ???????, ?? ?? ?????? 155 ?? ??????????????????
????????, ??? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ?? ?????????? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? STL ?? ?????? ?? ?????? ???
????? ?????????? ?? ?????????? ??? ?????? ?????? ?????????? ?? ?????? ?????????? ???
????????? ?????? ?????????? ??? ?? ???.

67 ??????, ?????????? ??? ? ??????, ??? ?????????????? ???????, ???
????????? ??? ?????????? ???' ?????????? ?? ?????? ??? ?? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????? ?????????? ?? ??????????
????? ?? ?????????? ??? ?? ??? ?????? ???, ??????, ? ?????? ??? ?????????? ???
????????? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ?? ??? ?????? ???.

68 ??? ?? ???, ?? ??? ?????? ??? 21?? ?????????? 2016, ?????????? ??? World Duty
Free Group ??. (C?20/15 P ?? C?21/15 P, EU:C:2016:981), ?? ?????????? ?????? ??
????????? ?? ?????????? ?????????? ??? ?????? ?? ?????? ?????????? ??????????
????????? ??? ?????????? ??? ?????? 107, ?????????? 1, ???, ? ?????????? ???
????????? ??? ?????? ??? 7?? ?????????? 2014, Banco Santander ??? Santusa ???
????????? (T?399/11, EU:T:2014:938), ?????? ??? ??? 7?? ?????????? 2014, Autogrill España
???? ?????? (T?219/10, EU:T:2014:939), ?????? ?? ??? ?????? ?????? ?????? ??????????
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???' ???.

?????? ?? ??????????? ?? ?? ??????? ?????? ?????? «?????????? ??????????????? ? ???????????
?????? ??????????», ??? ?? ?????? ??? ?????? 107 ????, ?????? ??? ?????? ?????? a
priori ??????? ?? ??????? ??? ??????????? ?? ?????? ?? ?? ?????? ?????? ??? ?????? ???
?????? ?????????? ???????????, ?? ?????? ?? ??? ?? ?????? ??? ?????????? ??? ??????????? ??
????? ????, ??? ?????? ??? ?????????? ??????????? ???????.

69 ???????????????, ?? ?? ????? 67 ??? ???????? ??? 21?? ??????????? 2016, ?????????
????? World Duty Free Group ?.?. (C220/15 P ??? C221/15 P, EU:C:2016:981), ?? ??????????
?????????? ??, ??? ????? ?? ????? ?????? ?????? ??? ?????? ?????? ??????????? ???????????
?????? ??????, ? ??????? ?? ??? ?????????????? ??????????? ??????????? ?????? ? ?????? ? ???????
?????????? ?? ?????????? ??? ?? ??? ????? ?????? ?????????????? ??? ?? ??? ?????? «????????»
?????????? ?????????? ??? ??????? ??? ?????? ?????? ?????? ???, ?? ?? ??????, ???????, ???
??? ??????????? ???, ?????????? ?????????? ?????????? ?????? ???????????, ??? ??
????????? ??? ?? ?????????????? ?? ?????? ?????????? ??? ?? ?????????? ?????????????? ???
????????? ?? ?????? ?????????? ??? ????? ??????????, ??? ?? ?????? ??? ?????? ???
?????????? ?? ?? ?????????? ?????????? ??? ?? ??? ?????? ?????????? ??????, ?? ??????????
?????????? ?? ?????? ??????????. ?? ??? ?????? 70 ??? 71 ??? ?? ??? ??????????, ??
?????????? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??????????
???? ?????????????? ??? ?????? ?????????????? ?????????????? ??????????????, ?? ??????? ????? ??
???? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????????? ????? ??
????? ?? ?????????? ??? ?????? ??????????.

70 ???????, ?? ??? ?????? 80 ??? 81 ??? ???????? ??? 21?? ?????????? 2016, ???????
???? World Duty Free Group ??. (C220/15 P ??? C221/15 P, EU:C:2016:981), ?? ??????????
????????? ??? ?? ??????? ??? ?? ?????????? ?????????????? ?????????? ?? ??????????????
????????? ?????????????? ??? ?????? ??? ?? ?????? ? ?????????? ?????????? ??? ?? ??????
??? ?????? ??? ? ?????????? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??
????? ?????????? ?? ??????? ??? ?? ?????? ??? ?? ?????? ?????????? ??? ?? ?????? ??? ?????? ??
????????? ?????????????? ??? ?????????? ?? ?????? ??? ?? ?????? ?????? ?????? ?????? ??????????????
??????, ??? ?????????? ??? ?? ?????? ?????? ?????????????????? ??????, ? ??? ?????? ???
????????? ??? ?? ??? ??? ?????????????? ??? ?????? ?????? ?????????????????? ??????.

71 ??????????, ?? ?????? ??????????? ??????? ?? ?????? ??????, ??????????????? ??
?????????? ?? ?????????? ???' ?????????? ? ????????, ??????? ?? ?? ??????? ??
????????????? ?? ??????????? ?? ?????????? ?? ?????????? ?? ??????? ?? ??????? ??
????????? STL ??? ?????????? ?? ?????????? ???????????, ?????? ??? ???????????
????????? ??? ?????????? ?? ?????????????? ?????? ?????????? ??? ?? ?????
??????????, ????? ?? ?????????? ??? ? ?????????? ??? ?????????????????? ??? ?? ?????
????????? ????? ??????????, ??? ?? ?????? ?????????????? ???, ?????????????? ??????????
????? ??????????????, ??? ?? ?????? ??? ?? ?????????? ??? ?????????????? ??? ?????????? ??? ??
????????? ?????????????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????? ??????????, ??? ??
????? ??? ?????????????? ?? ?? ?? ??? ????? ?????????? ???????, ?? ??????????

72 ????? ????????, ?????? ?? ????? ?????? ?? ?????? ?????? ?????? ??? ?????? ??????????????????????

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

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

??????, ? ?????????? ?????????? ???, ?? ??? ?????? 169 ??? 177 ??? ??????????????????????
?????????, ?? ?????? ?????????? ?????? ?? ?????? 296 ???, ?????????? ??? ? ??????????
??? ??????? ?????????? ??? ??????? ? ??????? ??????????. ??????????????, ? ??? ??
?????????? ?????? ??? ?????????? ??? ??? ??? ??? ?? ??? ??? ??? ?????? ??? ?????????? ??????
??? ??????? ???????, ? ?? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??
??? ?????????????? ??? ?????????????? ??? ?????????? ??? ?? ?????? ?????????? ?????????? ???
????????? ??? ?????? ??? «?????????» ??? ?? ?????? 107, ?????????? 1, ????. ??????
?? ?????? ?????????? ??? ?? ??? ?????? ??? ?? ?????? ?????? ?????? ?????????? ??????
????????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??????????
?????????????, ???????, ??? ???????, ?????????? ??? ??? ??? ??? ??? ??? ??? ???,
????????????? ??? ??????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????????.

74 ????. ????. ????????, ?? ?????????????? ????. ?????? ?????? ?????????? ?? ?????? ?????????? ??
?? ?????? 175 ??? ?????????????????? ?????? ?????? ????. ?????? ?????? ?????????? ?????? 28 ???
????????? ?????????? ?????????? ?????????? ????. ?????????? ????. ?????? ????. ?????????? ????.
????????? ??????. ?????????? ?, ?? ????. ?????????? ????. ?????? ????. ?????? ????. ????. ????. ????. ????.
????????? «?????????», ????. ?????? ?????? ?????? ?????? ????. ?????? ????. ?????? ????.
????????? ?? ????. ?????? ?????????????? ????. ?????? ?? ?????????????? ????. ????. ?????? ????.
????????? ????. ????. ?????? ?????? ????. ?????? ?????? ?????? ?????? ????. ?????. ????. ?????? ????.
?? ????. ????. ????.

75 ????? ??????? ?? ???? ??????? ?????????????? ??????, ? ?????????? ?????????????? ???, ?? ???
?????? 198 ??? 208 ??? ?????????????????? ???????, ?? ?????? ?????????????? ??????? ??
?????? ??????? ??? ???? ?????? ?????????? ?????????????? ??? ?????????????? ?? ??????????????
?? ?????????? ????????. ?? ?????? ?????????? ??????? ???, ??? ?? ??????????
?????????? ?? ???????, ?????????? ?? ?????????????? ?????????????? ?????????? ?? ?? ?? ??
????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????????????? ??? ?? ??? ?????????? ???
??????????, ??? ?? ???, ??? ?? ???????, ?? ?????? ?? ??? ?????? ??? ?? ??? ?????? ??? ?? ??? ??????
????????? ? ??????? ??? 30?? ??????? 2009, ??????? ??? ?????? ??? Wam (C-494/06 P,
EU:C:2009:272), ??? ?????? ??????????? ?? ?????? ???????????, ??? ??????????? ??
?????????? ??? ?? ??????????? ?????????????? ??? ?? ?????????? ?????????? ?? ?? ???????
??????????. ???????????, ??? ?????? ?????? ?????? ?????????? ??? ?? ?????????? ??? ?? ??????????
?????????? ?????? ??? ???? ?????? ?????? ??? ?????????????? ??? ?????? ??? ?? ??? ??????
?????????? ? ??????, ??? ?? ??? ??? ?? ??? ????? ?????????????????? ?? ???????????????
?????????? ?????? ??? ?????? ?????????????? ??? ?????????????? ??? ?? ??? ?? ??? ????.
????????????? ??? ?????? ??? ?????? ?????????????? ??? ?? ?????????? ??? ?? ??? ?? ??? ???.

76 ? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????????????? ??? ? ???????
????????? ??? ??? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????????
????? ?????? ??? ?????? ?????? ?????????????????? ?? ???, ?? ?? ?????????? ??? ???
????????????????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ??? ?? ?? ??? ???
????????????? ?????? ?????????? ??????. ??????????????, ?????????????? ?????, ? ??????
????????? ??? ?????????? ?????? ?? ??? ?????? ??? ?????? ?? ?????????? ??? ?? ?????????? ???
????????? ? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? 107, ?????????? 1, ???.

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

78 ?????????? ????? ???? ?????????????? ? ??????????, ?? ?????? ?????????????? ??? ??????????
????? ?????? ??? ??????? ?????????????? ??? ?????????????? ??? ?????? ?????????? ??? ??????????????
????? ?????????? ??? ?????????????????? ?????????????? ?? ?????? ?? ?????? ??? ?????? ??? ?????????? ?
?????????, ?? ?????????? ??? ?????????????? ?????????????? ?????????? ??? 30?? ?????????? 2009,
????????? ??? ????? Wam (C?494/06 P, EU:C:2009:272), ??? ??????????????????
????????? ??? ????? ?????????????? ?????????? ??? ?? ?????????????? ??? ?????????? ??? ??????????
??? ?????????? ?????????????? ?????????? ?? ??? ?????????????? ??? ?????????? ??? ??????????. ??????,
????????? ?????????????? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????? ??? ?????? ?????????? ? ??
????? ?????????? ??? ?????? ??? ?????? ?????? ??????. ??????, ?????????? ??? ? ?????????? ???
????????? ?????? ? ?????????? ?????????????? ??? ?? ?????????????? ??? ?? ?????????? ??? ??????????????
?????, ??? ?????????? ? ?????????? ??? ??? ?????? ?????????????? ?????????? ?? ??? ?????? ???
????? ?????????? ??? ?????????????? ?????????????? ?? ?????? ??? ?????????? ??? ?????????? ???
????? ?? ?????????? ??? ?????????????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??????????, ???
??? ?????????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ??? ?????????? ???
?????????.

79 ? Lico Leasing ??? ? PYMAR ?????????????? ?????? ???, ?????? ??? ?? ?????????? ??? ?
????? ??? ?????????????? ??????? ?????????????? ??? ??? ???? ??? ?? ??? ???? ????? ????
?????????? ?? ??? ??????? ???????, ? ??? ???? ????? ?????????? ?????????????? ?? ???
?? ?????? ???, ??? ?????????? ?????????? ?? ??????? ?? ?????? ?????????? ??????????. ????, ???
??? ???? ?????? ?????????? ??? ??????? ??? ?????????? ?????????? ?????????? ??? ???? ???
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ???,
????????? ?????????? ??? ?????? ?????????? ??????????, ????, ??? ???? ?????????? ?????????? ???
??? ?????????? ?? ??? ?????????? ???????, ?????????? ??? ?????? ??? ?????? ???, ?
????????? ?????????? ??????????. ??????, ? ?????????? ??? ?????????? ??? ?????????? ?? ??? ????
??????, ??? ???? ?????????? ??? ?????????????? ??? ?????????? ??? ???? ?????? ??? ??????????
????? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ???? ??
????????????? ??? ??????? ?? ??? ?????? ??? ????? ?????????? ?????? ?????? ?????????? ??? ????
????????????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? STL ?????????? ??????????
?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ????
?????. ??? ???? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??????, ??? ???? ??? ????
????????????? ??? ?, ???? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????
?????? ? ???? ?????????????? ??? ??? ???, ???????, ??????? ? ???? ???? ?????????? ??? ????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ????
????????? ??? ?????? ??? ??????????.

80 ????. ??? Bankia ?.??., ?? ????. ?????? ?????????? ?????????????? ?????? ?????????????? ???
????? ??? ?? ???? ?? ?????? ?????? ?????? ?????????? ?????????? ??? ?? ???? ?????????? ??? ??
????????? ???????, ?????? ?????? ?? ?????? ?????????? ??????????, ???????????, ???????????, ??? ?
????????? ??? ?????? ?????? ?????????? ??????????. ?????????? ?????? ??? ??????????
?????????? ??? ?? ???? ?????? ??????????, ? ??????? ???????, ??? ?? ???? ?????? ???, ??
????????? ??????????? ?????? ??? ?? ?????????? ??????? ?? ?????????? ??? ?? ?????????? ??? ?? ????
??? ?????????? ?? ?????????? ??? ?? ?????????? ?????? ?????????? ??? ?? ?????????? ??? ?? ????
????????????? ??? ?????? ?? ?????????? ? ?????????? ?? ?????????? ? ?????????? ?? ?????????? ??? ?? ????
?? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ?? ?????????? ?????????????? ??
????????? ???.

81 ? Aluminios Cortizo ??????????? ??? ? ??????? ??? ???????????, ?? ??? ???????
??????, ??? ?????? ??? ??? ?????? ??? ??????? ??? ??????? ??? ??????????????? ???
????????????? ??? ?????????? ??? ??????? ??? ??????? ?????????? ??? ????? ???
????????? ???, ??? ??????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ?????????? ??? ??????? ??? ??????? ?????? ?????????? ???, ???????
??? ?????? ???, ??? ??????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ?????????? ??? ??????? ??? ??????? ?????? ?????????? ??? ?????????? ???
???? ?????? ?????????? ??? ?????????? ?????????? ??? ??????? ??? ?????? ??? ?????? ???, ???
????? ?????? ?????????? ??? ?????????? ?????????? ??? ??????? ??? ?????????? ??? ?????? ???
????. ?????????? ??? ?? ??? ?????????? ?????? ?????????? ?????? ??????, ?????? ???
????????? ??? ?????????? ?????????? ???, ??? ?????????? ?????????? ??? ?????? ??? ?????? ???,
????? ??? ?????????? ?? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????.
????????? ??? ??????????

82 ??? ?????????? ?? ??? ?????? ?????????? ?? ?? ??? 185 ??? ???????????????????
?????????, ?????????? ??? ?????? ?????????? ??? ? ?????????????? ??? ?? ??? 296 ???
????????? ??? ?????? ?? ??? ?????? ?????????? ??? ??? ?????? ??? ?????????? ??? ??? ??
????????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????, ??? ?? ?????????? ? ?????????? ??? ?????? ??? ?????????? ??? ?? ??????
????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????, ??? ?? ?????? ??? ?????????? ???
????? ?? ??????? ??? ?????? ????. ? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???
????????? ?????????? ??? ?????? ??? ??????, ?????????? ?? ?????? ??? ?????????? ??? ??????
????????? ?????????? ??? ?????????? ??? ?????? 296 ??? ?????? ??? ?????? ?? ?????????? ??? ??
????? ??? ??????????, ??? ?? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?? ??????
??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (??., ?????? ????, ?????????? ???
6?? ?????????? 2006, ?????????? ??? ?????? ??????, C?88/03, EU:C:2006:511, ?????? 88,
????? ??? ?? 2?? ?????????? 2009, ?????????? ??? ?????????? ????.??., C?89/08 P,
EU:C:2009:742, ?????? 77).

83 ?????????? ??? ?????????????? ??? ?????? ??? ?????? ?? ??????????, ? ??? ?????? ??? ??????????
?? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ??? ?? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????? 107, ?????????? 1, ????. ??????, ??????, ?????? ???
???? ?????????? ???, ??? ?? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????????, ??????????
??? ??? ?????? ??? ?????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ??? ?? ?????????? ??
????????? ?? ?????????? ??? ?????????? ?, ?????????? ?????? ?????? ?????????? ?? ??????????
??? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ??? (????????? ??? 6??
????????? 2006, ?????????? ??? ?????? ??????, C?88/03, EU:C:2006:511, ?????? 89, ??? ??
30?? ?????? 2009, ?????????? ??? ?????? Wam, C?494/06 P, EU:C:2009:272, ?????
49).

84 ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????????, ?????????????? ???
?? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??? ?? ???
????????? ?? ?????????? ???, ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??
????????? ?????????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????
(????????? ??? 19?? ?????????? 2000, ?????? ??? ?????? C?156/98,
EU:C:2000:467, ??? 30, ??? ?? ?????? ??? 3?? ?????? 2005, Heiser, EU:C:2005:130,
????? 55).

85 ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????????, ??? ?????????????? ???
????? ?????????? ?? ?? ??? 191 ??? ?????????????? ??? ???????, ??? ?? ??? ??????????
??? ?????????? ??? ?????????? ??? ? ?????? ??? ?????????? ??? ?????? ??? ??????, ??? ?? ???

????????????? ???????????, ?? ?????????? ??? ??? ?????????????????? ??? ?????? ?? ?????? ?? ??????
??? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????? ???, ??? ??????, ??? ?????? ??
?????????? ???, ?????? ?? ?? ??? ?????????????? ??? ?????? ?????????? ??????????????
??? ??????? ?????????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??????????????
(????????? ??? 3?? ?????? 2005, Heiser, C?172/03, EU:C:2005:130, ??? 35, ??? ?? 30??
????????? 2009, ??????? ??? ?????? ??? Wam, C?494/06 P, EU:C:2009:272, ??? 51).
????????, ??? ? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??
????????? ?? ??? ?? ?????? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??
??????, ?????? ?? ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? (???????
?? 10?? ?????????? 2006, Cassa di Risparmio di Firenze ?.., C?222/04, EU:C:2006:8, ???
141).

86 ??? ?????? ?????? ?????????, ??? ??? ?????????????? ?????? ??? «?????????
????????» ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ???
????????? ?????? ?????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ??????????????, ???
?? ?????????? ?????? ??? ?????? ?????????? ?????? ?? ?????????? ??? ?????????? ??? ?? ??????????
??? ?????????? (??.. ??????? ??? 10?? ?????????? 2006, Cassa di Risparmio di Firenze
?.., C?222/04, EU:C:2006:8, ??? 140 ??? ?????? ?????????? ??????????).

87 ?? ??????????, ?? ??? ?????? 169 ??? 173 ??? ?????????????? ???????, ??
?????? ??????????, ?????????? ?? ?????????? ??? ?????????? ??? ??? ?????? ??? ??????????
????????? ?????? ??? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ???
????????? ?? ??????????, ??? ??? ?? ???, ?????????? ??? ?????????? ??? ?????????? ???
?????????????, ?????? ??? ?? ?????????????? ??? ??? ?????? ?????? ?????????? ?????? ???
????????? ??? ?? ?????? ?????? ?????????? ??? ?? ?????????? ???, ??? ?????, ?????? ? ?????????? ?????? ???
?? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ???
???? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ???
????????????? ???, ??? ?????????? ?? ?????????? ??? ?????????? ???, ?? ??? ?????? ??? ??????, ???
?? ?????????????? ??? ?? ?????????? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ???
????????????? ???, ??? ?????????? ??? ?? ?????????? ??? ?????????? ???, ??? ?????? ??? ?????? ???,
????????? ??? ?????????? ??? ?? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ???, ???
????????? ??? ?????????? ??? ?? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ???
????? ?? ?????????? ??? ?? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??????????
????? ??? ???/? ??? ?????? ?????????? ???, ?????? ?? ?????????? ?????? ?????????? ?????? ??????????
?? ?????? ?? ???????, ???, ??? ?????? ??? ?????? ?? ?????????? ?? ?????? ??? ?? ?????? ??? ??
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ???
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ???.

88 ?? ?????? ?????????? ?????????? ???, ?? ?? ?????? 174 ??? ?????????????? ???????
????????, ??? ? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ?????? 172 ??? ??????????
????????, ??? ?????? ?? ?????????? «????????????? ??? ?????? ??? ?? ?????? ???
????????? ?????? ?????? ??? ?? ??? ?????? ??? ?????? [...] ???», ?????????? ?? ??????????
????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

89 ??? ???????, ?? ??? ?????? 176 ??? 177 ??? ?????????????? ???????, ??
????????? ?????? ??? ?????????? ??? ? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ?? ?????????? ??? ?????????? ?? ?????????? ?????????? ?????? ??? ?????? ??? ??????????
?? ?????????? ??? ?????? ?????? ??? 157 ??? ?????????? ?????? ??? ?????? ??? ?????? ???
????????? STL ?????? ??? ?????????? ??? ???, ??? ???, ??? ?????? ??? ?????? ??? ?? ???
????????? ??? ? ?????????? ?????? ??? ?? ?????????? ?????? ??? ?????? ??? ??? ??????

? ?????????? ??? ???? ??????? ??? ?????????? STL, ??? ?????????????? ??? ???, ?
?????????? ??? ??????? ??????? ??? ?????? ??????? ? ?????? ??????????.

90 ???????, ?? ?? ????? 208 ??? ?????????????????? ???????, ?? ?????? ??????????
?????? ??? ? ??????? ?????????? ??? ??????? ?????????? ??? ?????? ??????,
??????????, ?? ??? ?????????? 171 ??? 173 ??? ??????? ???????, ??? ??
?????? ?????? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ??? ??????
?????? ?????? ??????????. ?? ?????? ?????????? ??????? ??? ?????? ???, ???,
?? ??? ?????? 198 ??? 204 ??? ?? ??? ?????, ???????, ???' ??????, ??? ? ??????????
??? ?????????? ??? ?? ?????????? ?????????? ?????????? ?? ??? ?????? ??? ?????? ??? ??????????
??? ??? ?? ?????????? ?????????? ?? ??? ?????? ??? ?????? ?????? ?????? ??? ??????????
??????????, ?????? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ???
?????? ??? ??? ?????????? ?????????? ???????, ?????????????? ?????? ??? ? ?????????? ???
????????? ?????? ?????? ?????????? ??? ?? ?????????? ?? ?????????? ?????, ???, ??? ??
?????? ??? ?????????? ?????????? ??? ?? ?????? ?????? ?????? ??? ?? ?????? ??? ??????????,
? ?????????? ?????? ?? ?????????? ?????????? ?????????? ??? ?? ?????? ??? ?????? ?? ??????
????????? ??? ?? ?????? ??? ?????????? ?? ??????????, ??? ??? ?? ?????????? ?????????? ?
?? ???????, ?? ?????? ? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??????????
??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??????????.

91 ???????, ?? ?? ?????? 205 ??? 207 ??? ?????????????? ???????, ?? ??????
?????????? ??? ?? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ? ?????????? ???
?????????? ??? ?????? 172 ??? ??????? ???????, ??????? ?? ??? ??????,
???? ?? ?????? ??? ?????????? ??? ?????????? STL, ?? ?????????? ?????????????? ???,
???? ?? ??? ?????? ??? ?????????? ??????? ??? ?????? ??? ?????????? ???????, ??
?????? ?????? ?????????? ??? ?????????? ???????, ?????????? ??? ? ?????????? ???
??????????, ?? ??? ??????? ???, ??? ?????? ??? ?????? ?????? ?????????? ??? ?? ??? ?? ???
?????????? ??? ?? ?????? ??? ?????????? STL ??? ?? ??? ?????? ?????????? ??? ??
?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?? ?????????? ???
??? ?????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???.

92 ???????, ?????????? ??? ??? ?????? ?? ?????????? ?????????? ??? ??????????
??? ?????????? ??? ?????????????? ??? ?????????? ??? ?? ??????? ?????????? ???
????????? ?? ?????????? ??? ?? ?????????? ??? ?? ???????, ??? ???????, ??
????????? ??? ?? ?????????? ??? ?? ???????, ??? ??? ?? ???, ?????????? ???
????????? ?????????, ??? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?? ??????? ?????????? ??? ??
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????. ???, ???
????????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ??, ?
????????? ??? ?????? ??????.

93 ???????, ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????????????? ???
????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????????
?????, ?? ?????????? ??? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
?????, ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??.

94 ??? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????? STL ??? ?????? 2.2
??? ?????????? ???????, ? ?????? ?????? ???????, ??? ?????????? ?????? 15 ??? 20 ???
????????? ???, ??? ?????? ??? ?????????? STL ??? ? ?????? ?????????? ?????????? ???
?????? ??? ?????? ??? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????. ???
????????????? ??? ?????? 9 ??? ?????? ???????, ? ?????? ?????? ?????? ??? ?????? ??? ?? ???
????? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??.

????????? ?????????????? ??????. ??? ?????? 5.3.2.6 ??? ?????????? ??????????, ? ??????????
?????? ??? ?? ?????? ??? ?????? ?????? ?????????? ?????????????? ?????????????? ?? ?????? ?? ???
?? ?????????? ?? ?????? ?????? ?????? ??? ?????? ?????????? ?????? ?? ?????? ?????? ?????? ?? ???
??????????, ???????????, ??? ?????????????? ?????? ??? ?????????????? ?????? ?? ?????? ?????????? ??
????????????? ??? ?? ?????? ?????? ??????????, ??? ?????? ?????? ?????? ?? ??? ??????????????
????? ??? ?? ?????? ??? ?????????????? ?????? ??? ?????????????? ?????????????? ?? ??? ??
????????????? ??? ?? ?????? ?????? ?????? ??? ?????????????? ?????? ??? ?????????????? ?? ??? ??
?????. ? ?????????? ??????????, ??? ?????? 5.3.3 ??? ?????? ??????, ??? ?? ?????????? STL
?????????? ?? ?????? ?????? ?????? ??? ?????? ?????????? ?????????????? ?????? ???
?????????? ?????.

95 ?????? ?????? ??? ?????????????? ?????????? ??? ?? ???????????, ? ?????????? ???????, ???
????????????? ??????? 162 ??? 167 ??? 170 ??? ?????????? ??????????, ???, ??? ??????????????
?????????, ?????????? ?????? ??? ?????????????? ?????????????????? ??? ?????????????? ?? ???
????????????? ?? ?????????? ?????? ?????? ?????? ??? ??????, ???, ??? ??, ??? ??
????????????? ??? ?????????? ?? ?????????? ?????, ?????? ???, ???????, ?? ??????????, ??
????????? ?? ?????????????? ??? ??????, ?????? ?????????? ??? ??? ?????????? ?????????
????????? ?????? ?????? ?????????? ?????????? ???????.

96 ????? ???? ?????? ??? ???? ???? «??????????», ? ?????????? ????????, ???? ??????????????
????? 28 ??? ?????????? ????????, ???, «[?]????????? ??? ???? ???? ???? ?????????????? ?? ?????
????? ??? ?????????? STL, ?????????? ??? ???? ???? ???? ?????????????? ?????? –??? ???
????? ??? ?????? ??????? ??? ??????????????– ?? ??? ???? ??? ???? ?????????????? ??? [??
?????] ??????? ?? ??????????», ??? ??? ??????????, ?? ??? ??????? ???, ??? ?? ??? ??? ??
????????? ?????????????? ?????????? ??????.

97 ????. ?? ??????, ??? ?????????? ????? ????. ????. ????. ????? ?????????????? ?????? ????. ????. ????.
???????. ????????. ?????????? ????. ????. ?????????? ?????? ????. ?????? ????. ????. ????. ?????????? ????.
???????. ?????????? ????. ????. ?????? ????. ????. ?????? ????. ?????? ????. ?????? ????. ????.
«?????????» ????. ????. ????????, ????. ????. ????. ?????? ????. ????. ????. ????. ????. ????????, ?????.
?????????, ?? ????. ?????????? ????. 126 ????. ?????????? ????????, ????. ????. ????. ????. ????. ????.
????????? ????. ????. ????. ?????? ????. ?????? 107 ????. ????. ????. ????. ?????? ????. ????.
?????????, ????. ????. ?????????? ?????????? ?????? ????. ????. ????. ?????? ????. ????.
?????. ?? ?????????? ?? ?????????? ????. ????. ?? ?????????? ????. ????. ?? ?????????? ????.
????????? ???????????. ????. ?????? ????. ????. ?????? ????. ????. ?????? ????. ????.
????????? ????. ????. ?????????? ????. ????. ?????? ????. ????. ?????? ????. ????. ?????? ????.
5.3.2 ????. ????????, ????. ????. ?????????? ????. ????. ?????? ????. ????. ?????? ????.
?????. ?????? ????. ????. ????. ?????? ????. ????. ?????? ????. ????. ?????? ????. ????.
?????. 157 ????. ????. ?????? ????. ????. ?????? ????. ????. ?????? ????. ????.
????????? ????. ????. ????. ?????? ????. ????. ?????? ????. ????. ?????? ????.
????????? ????. ????. ?????? ????. ????. ?????? ????. ????. ?????? ????.
????????? ????.

98 ? ?????????? ?????????? ????????????????, ??? ???? ????? ?????????????? ?????? 16, 17,
28, 29 ?? 45 ??? ??????? ????????, ??? ?????? ??? «????????????? ?????????? ??? ???»,
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?? ?????? ?????????? ??? ??????. ??? ?????? ??????????, «[?]?? ?????? ??? ??????
??? ?????????? ??? ?????? STL, ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? [, ???] ??? ??????????
????????? ??? ?? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???
«????????? ??? 166 ??? ?????? ?????? ???».
(????????? ??? 166 ??? ?????? ?????? ???).

99 ??? ?????? ??? ?? ????????, ? ?????? ?????? ??????????, ??? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? 171 ?? 173 ??? ?????? ??????????, ??? ?? ??? ?????? ??? ??????????
??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????????, ??? ?????????? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ???, ??? ???, ?????????, ??? ??? ??????
??? ?????? ??? ?????? STL, ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ??????, ?? ?????? ?????? ?????? ??????
????? ?????? ?????? ?????? ??????????, ?????? ?? ?????????? ?????? ??? ??????????
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ???.

100 ? ?????????? ??? ?? ?????????? ????????????????????, ??? ???? ??? ?????? ???
????????? ??? ?????? ??? ?? ?????????? ??????, ??? ???? ??? ?????? ??? ?????????? ???
??? ?????????? ??? ?????? 28 ?? ?????? ?????? ??????, ??? ?????????? ??? ?????? ???, ?? ??????
?? ?????? ??????????, ?? ??? ?????????? ?????? 27 ?? ?????? ?????? ??????, ??? ??? ???
?? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ???.

101 ??? ?? ?????????? ??? ?????????? ??? ? ?????? ?????? ??????????, ??? ?????? ???
??? ?????????? ??? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? 296 ???, ??? ?????? ??????
????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ?????? 82 ?? 86 ??? ??????
?????????.

102 ??????, ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
????? ??? ?????? ??? ?????? ???.

103 ??????, ? ?????????????????? ?????? ?????? ??? ?????? ?????? ??????????

104 ??? ?? ?????? 61, ??? ??????, ??? ?????????? ??? ?????????? ??? ?????????? ???
??????, ?? ?????????? ??? ??????, ?? ?????????? ?????????? ??? ?????????? ??? ??????????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

105 ?? ??????????, ?????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ???

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

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

106 ??? ?????? ??? ? ?????? ?????????? ?????? ??? ?????? ????????????, ??
????????? ?????????? ?? ?????? ??? ?????? ???.

107 ??? ?? ??? 140, ?????????? 1, ??? ?????????? ?????????? ??? ????????????, ???
????????? ??? ?????????? ?????????? ??? ?????? 184, ?????????? 1, ???
????????? ?????????? ?? Bankia ?.?. ??? ? Aluminios Cortizo ??? ?????????? ??? ???
????? ?? ?????? ???.

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

1) ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
17?? ?????????? 2015, ?????? ?.?. ??? ?????? (T?515/13 ??? T?719/13,
EU:T:2015:1004).

2) ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ??? ??????????
?????.

3) ?????????? ??? ?????? ??? ?????????? ???.

4) ?? Bankia SA, Asociación Española de Banca, Unicaja Banco SA, Liberbank SA, Banco de Sabadell SA, Banco Gallego SA, Catalunya Banc SA, Caixabank SA, Banco de Santander SA, Santander Investment SA, Naviera Séneca AIE, Industria de Diseño Textil SA, Naviera Nebulosa de Omega AIE, Banco Mare Nostrum SA, Abanca Corporación Bancaria SA, Ibercaja Banco SA, Banco Grupo Cajatres SAU, Naviera Bósforo AIE, Joyería Tous SA, Corporación Alimentaria Guissona SA, Naviera Muriola AIE, Poal Investments XXI SL, Poal Investments XXII SL, Naviera Cabo Vilaboa C?1658 AIE, Naviera Cabo Domaio, C?1659 AIE, Caamaño Sistemas Metálicos SL, Blumaq SA, Grupo Ibérica de Congelados SA, RNB SL, Inversiones Antaviana SL, Banco de Caja España de Inversiones, Salamanca y Soria SAU, Banco de Albacete SA, Bodegas Muga SL ???
Aluminios Cortizo SAU ??????????????????????????.

(?????????)

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