

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

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

??? 21?? ?????????? 2018 (*)

«????????????? ?????????? – ????? ?????? ?????? ?????????????? ?????? – ??????
2006/112/?? – ????? 167, 168, 178 ??? 273 – ?????? ??? ?????????? ?????????? – ??????
????????? – ?????????? ?????????????? – ????? ?????????? ??? ??????????
????????? – ????? ??? ?????????? ?????????? ??? ??? ??????????»

???? ??????? C?664/16,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ??
?????? ?? Curtea de Apel Alba Iulia (?????? Alba Iulia, ???????) ?? ??????? ??? 10??
????????? 2016, ? ?????? ??????? ??? ?????????? ??? 21 ?????????? 2016, ??? ??????
??? ????

Lucre?iu Hadrian V?dan

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**Agen?ia Na?ional? de Administrare Fiscal? – Direc?ia General? de Solu?ionare a
Contesta?ilor,**

**Direc?ia General? Regional? a Finan?elor Publice Bra?ov – Administra?ia Jude?ean? a
Finan?elor Publice Alba,**

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

????????? ??? ??? T. von Danwitz, ??????? ??? ?????? ???????, ?????????????? ???
????????? ???????, K. Jürimäe, ?. ???????, E. Juhász (???????) ??? C. Vajda, ????????,

?????? ??????????: E. Tanchev

?????????: I. Illéssy, ?????????? ????????,

?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???
31?? ?????????? 2018,

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

– ? L. H. V?dan, ?????????????? ??? ??? M. Bejenaru-Drago?, C. D. Cuble?an, C. A.
P?un, T. V. C?pu?an, D. Feldrihan ??? D. F. Pascu, ????????????,

– ? ?????????? ????????, ?????????????? ??? ??? C.-R. Can??r ??? ??? ??? O.-C.
Ichim, E. Gane ??? C. M. Florescu,

– ? ?????????? ????????, ?????????????? ??? ??? R. Lyal ??? G.-D. Balan, ????? ???
??? ??? L. Lozano Palacios,

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

?? 30?? ???? 2018,

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

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1 ? ?????? ?????????????? ?????????? ??? ?????? ??? ?????? ?? 2006/112/?? ???
??????????, ??? 28?? ?????????? 2006, ?????? ?? ?? ?????? ?????? ?????? ??????????????
????? (?? 2006, L 347, ? 1, ??? ????: ?????? ??), ??? ?????? ?? ?????? 167, 168, 178 ??
273 ??? ?? ??? ??????, ?????? ??? ??? ?????? ??? ?????????????? ??? ??????
????????????? ??? (??) ??? ??? ??????????????.

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ???????, ??????, ???
Lucre?iu Hadrian V?dan ???, ????????, ??? Agen?ia Na?ional? de Administrare Fiscal? –
Direc?ia General? de Solu?ionare a Contesta?ilor (?????? ?????????? ?????????? – ???
????????? ?????????? ?????????, ??????????) ??? ??? Direc?ia General? Regional? a Finan?elor
Publice Bra?ov – Administra?ia Jude?ean? a Finan?elor Publice Alba (?????? ??????????
????????? ?????????? ??? ?????????? ??? Bra?ov – ?????????? ?????????? ??????????
??? ??????? Alba, ???????), ?? ?????????? ??? ??????? ?? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ??? ?????????? ??? ??? ?????????? ???
?? ?????? ??? ??? ?????????? ??? ?????????????? ??? ??? ?????????????? ??? ?????? ???
?????????, ?????? ??? ??? ??? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?????? ?? ???
????? ??? ??? ??????????.

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

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

3 ??? ????? X ??? ?????? ??, ??? ?????????? «?????????», ?????????????? ??
????????? 1, ?? ?????? ?????????? «????? ??? ?????? ??? ?????????? ??? ??????????» ??
????????? ?? ?????? 167 ??? 172. ?? ?????? 167 ?????? ?? ??????:

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

4 ?? ?????? 168 ??? ?????? ??? ?????? ??? ?? ???:

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

) ?? ?????????? ? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ???
????????? ? ?????????? ?? ??? ?????????? ??? ?? ??? ?????????? ??? ?? ??? ??????????
? ?????????? ?? ??? ?????????? ??? ?????? ?????????? ??? ?? ???

[...]».

5 ?? ???????? 4 ??? ?????? ??? ?????? «????? ?????? ??? ?????????? ??
?????????» ??? ?????????? ??? ?? ?????? 178 ??? 183 ??? ?????? ????. ?? ?????? 178
????????? ?? ??????:

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

?) ??? ?? ?????????? ??? ?? 168, ??????? ??, ???????, ??? ?? ??? ??
????????? ?????? ??? ?? ??????? ????????, ?? ??????? ????????, ?? ??? ?? ??? ??
?????? ?? ?????? ?? ?? ????? 220 ??? 236 ??? ?? ????? 238, 239 ??? 240

[...]».

6 ?? ????? 179 ??? ?????? ?????? ??? ?? ???:

«? ?????? ?????? ??? ?? ?????? ?????? ??? ?? ????????, ?? ?? ??? ??
???? ?? ?????? ??? ????????, ?? ?? ????????, ?? ????????, ?? ??????? ????????,
?? ?? ?????? ????????, ?? ?? ????????, ?? ?? ?????? 178, ?? ??????? ????????,
???? ?? ????????, ?? ?? ????????:

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

7 ??? ????? XI ??? ?? ??? ?????, ??? ?????????? «????????? ??? ?? ?????????? ??
???? ?? ?????? ?????????? ??? ??????? ?? ?????????? ??? ??» ?????????????? ??
????????? 2, ?? ????? ?????????? «????????? ??????? ?????? ?????????? ?????????? ??????»
?? ?????????? ??? ?? ????? 213 ??? 216. ?? ????? 213, ?????????? 1, ?????? ??
?????????:

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

[...]»

8 ?? ??????? 3 ??? ????? XI, ?? ?????? ?????? ??? ??????????, ?????????? ??? ??
????? 217 ??? 240 ??? ?????? ????. ?? ?????? 220 ?????????? ?? ??????:

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

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

[...]».

9 ?? ????? 226 ??? ?????? ?????? ??? ?? ???:

«?? ??? ?????????? ??? ?????? ?????????? ??? ?????????????? ??? ?????? ?????? ????, ??? ??
????????? ?????????? ??? ?????? ?????????? ??? ?? ??? ?????? ??? ??, ??? ?????? ??
????????? ??? ?????????? ???' ?????? ??? ?????? ??? ?????? 220 ??? 221:

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

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

3) ? ??????? ??????????? ??????? ??? ?? ?????? 214, ?? ??? ?????? ???? ?
?????????? ??? ?? ?????? ??????????????? ??? ?? ??????? ??? ?? ?????? ???
?????????,

4) ? ??????? ??????????? ??????? ??? ?? ??????????? ? ?? ?????? ??? ?? ?????? 214,
?? ??? ?? ?????? ?????? ??????????? ??? ?? ?????? ??????????? ??? ?? ?????? ???
????????? ??? ?? ?????? ?????? ?????? ??? ?? ?????? 138,

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

6) ? ??????? ??? ?? ?????? ??? ?? ??????????? ??? ?? ?????? ? ? ?????? ??? ??
????????? ??? ?? ????????,

7) ? ??????????? ??? ?? ?????? ??????????????? ? ?????????????? ? ?????????? ???
? ?????? ?????????? ? ? ?????????? ??? ?? ?????? ?????????? ? ?????????? ???
????????? ??? ?? 220, ?????? 4 ??? 5, ?????? ? ?? ??? ?????????? ???
????????? ??? ?? ?????????? ??? ?? ?????? ?????????? ??? ?? ??????????,

8) ? ??? ??????? ??? ?? ?????? ??? ?? ?????? ??????????? ? ? ??????????, ? ??? ??????? ???
?? ?????? ??? ?? ??????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ???????????????
????? ??? ?? ????????,

9) ? ??????????? ??? ?? ????????????,

10) ?? ??? ?????? ??? ?? ??????????? ???, ?????? ??? ??????????? ??? ?? ?????? ??? ??
? ?????? ?????? ??? ?? ?????????? ??? ?? ????????,
[...]».

10 ?? ??????? 4 ??? ?????? XI, ?? ??? ?????? ??????????? «????????? ???????????»,
????????? ?? ?????? 241 ??? 249 ??? ??????? ????. ?? ?????? 242 ?????? ?? ????????:
«????? ??????????? ??? ?? ?????? ?????? ?? ?????? ?????? ?????????? ?????????? ??? ??
????????? ?? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ????.»

11 ??? ?? ?????? 244 ??? ??????? ????:
«????? ??????????? ??? ?? ?????? ?????? ?? ?????????? ??? ?? ?????????? ??? ?? ??????????? ???
????????? ?? ?????????? ??? ?? ?????? ???, ??? ?? ?????????? ?? ?????? ??? ?? ?????? ??? ??
????????? ?, ??? ?????? ??? ?? ?????? ?????????? ???, ??? ?????? ??? ?? ?????? ??? ??
????????? ??? ?? ??????..»

12 ?? ?????? 250 ??? ?????? ?????? ??????????????? ??? ?????????? 5 ??? ?????? ????:
XI, ?? ?????? ?????? ??? ???????, ??? ?????????? ??? ?? ?????????? 1 ?? ??????:
«????? ??????????? ??? ?? ?????? ?????? ?? ?????????? ??? ?? ?????? ??? ?? ??????????? ??? ??
????????? ?? ?????????? ??? ?? ?????? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ??
????????? ??? ?? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ??
????????? ??? ?? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ??
?? ??? ?? ?????? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ?? ?????? ??? ??
?? ??? ?? ?????? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ??? ?? ??????..»

13 ??? ??????? 7 ??? ????? ?? ??? ?????? ???, ?? ????? 273 ?????? ?? ????:
«?? ?????? ???? ??????? ?? ??????????? ??? ?????? ??????????? ??? ?????? ?????? ?????? ???
?? ?????????? ??? ?????? ??????? ??? ??? ??? ?????? ??? ??????, ?? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??????????? ??? ?????? ?????? ?????? ??? ?????? ???
??? ?????????????????? ??? ?????????????? ??? ?????? ?????? ?????? ?????? ??? ???
????????? ??? ?? ?????????? ??? ?????? ??? ??????, ??? ?????????? ?????? ?????? ?????? ???
?? ?????????? ??? ?????????? ?? ?? ?????? ??????.

? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????????????? ??? ???
????????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? 3.»

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

14 ?? ????? 127 ??? Legea nr. 571/2003 privind Codul fiscal (????? 571/2003 ????
????????? ??? ?????????? ??????, *Monitorul Oficial al României*, ???? I, ????. 927, ???
23? ?????????? 2003, ??? ????: ?????????? ??????) ?????????? ?? ????????

«(1) ??? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ???, ??? ?????? ?????? ?????????? ???
?? ?????????? ???, ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ?????????? ???
????????? 2, ?????????? ??? ??? ?????????? ?????? ??? ?? ?????????? ??? ?????? ?????????? ???
????????? ???.

(2) ??? ?????? ??? ?????? ???, ?? ?????????? ?????????? ?????????? ??? ?????????? ???
????????? ???, ??? ?????? ??? ?????? ?????? ??? ?????????? ???, ??? ?????? ??? ?????????? ???
????? ??? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ???, ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ???, ?? ?????? ??? ?????? ??? ?????? ?????? ??? ??????.

[...]»

15 ?? ????? 145 ??? ?????? ??? ?????? ?? ????:

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

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

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

[...]».

16 ??? ?? ????? 146 ??? ?? ?????? ???:

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

a) ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ??? ?????? ???

[...]».

17 ?? ?????? 46 ??? ????? VI ??? Hot?rarea Guvernului nr. 44/2004 pentru aprobarea Normelor metodologice de aplicare a Legii 571/2003 privind Codul fiscal (????????????????????????????? 44/2004 ??? ??? ?????? ??? ?????????????? ?????????? ??? ?????? 571/2003 ??? ?????? ??? ?????????? ?????, *Monitorul Oficial al României*, ??? I, ????. 112, ??? 6?? ?????????? 2004), ??? ?????? ??? 1?? ?????????? 2007, ?????????? ?? ??????????:

«(1) ? ?????? ?????? ?? ?????? ?? ?????????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? 146, ?????????? 1, ??? ?????????? ?????? ???? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ?????? 155, ?????????? 5, ??? ?????????? ?????? ?????? ?????????? ?????? ?????? 78. ?? ?????? ?????? ??????, ?????? ? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? /????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? .

[...]»

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

18 ? L. V?dan, ????????, ???????, ??????? ?? ??? ?????? ?????????? ?????????????? ??????????, ??? ??? ?????????????? 16 ???????, ?????????????? ??? ?????????????? ?????????????? ??? 90 ?????????????? , ?? ??? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? 6 ?????? 2006 ??? ??? 8 ?????????? 2008, ????? ??? ??????????. ??? ?????? ??? ?????? ?????? ??? ?????? ???, ??? ??? ?????? ?????? ?????? , ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? 19 234 596 ?????? ??? (RON) (????? 4 104 163 ???).

19 ? L. V?dan ?????????? 29 ?????????? ??? ?????????? ??? ?????? 70 ?????? ?????????? 2007 ??? 2009. ?????? ?????? ??? ?????? ?????????? ?????????? ??? 2008 ??? 2009. ? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? 19 234 596 ?????? ??? (RON) (????? 4 104 163 ???).

20 ?????????? ??? ? ?????? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? , ??? ??? ??? ?????? 2006, ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? , ??? ?????? ?????? ?????? , ?? ?????? ?????? , ??? ??? ?????? , ??? ?????? ?????? , ??? ?????? ?????? , ??? ?????? ?????? , ??? ?????? ?????? , ??? ?????? ?????? 1?? ?????? 2006.

21 ?????????? ??? ? ?????? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? , ? Direc?ia General? a Finan?elor Publice Alba (????? ?????? ?????? ?????? ?????? ?????? ?????? , ? Alba, ??????) ?????? ??? ?????? ??? L. V?dan ??? ?' ????. 59/28.01.2011 ????? ?????? ?????? ?????? ???, ?????????? ??? ?????? ??? ?????? ??? ?' 59/28.01.2011 ????? ?????? ?????? ?????? ???, ?????? 3 071 069 RON (????? 655 286 ???) ?? ?????? ??? 2 476 864 RON (????? 528 498 ???) ??? ?????? ?????????? ??? 460 660 RON (98 292 ???). ?? ?????? ??? 6 008 593 RON (????? 1 282 077 ???).

22 ? L. V?dan ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? , ??? ?????? , ??? 19?? ?????? 2011, ??? ?????? ??? 5 735 741 RON (1 223 858

????), ?? ??? ?????? ??? 2 909 546 RON (620 821 ???) ??? ??? ???, ????? ???????????????????
????? 2 389 763 RON (509 913 ???) ??? ?????????? ?????????????? ??? 436 432 RON (93 123
????).

23 ? L. V?dan ?????? ???????? ??????? ??? Curtea de Apel Alba Iulia (????????? ??? Alba
Iulia, ?????????), ?? ?????? ??? ?????? ??? ?????????????????? ?????? ??????????????????
??? ??? ??? ?????????? ??? 19?? ?????????? 2011.

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

25 ?? ??? ??' ????. 42/2013 ?????? ???, ?? Curtea de Apel Alba Iulia (????????? ??? Alba
Iulia) ??????? ?? ?????? ??? ?????????? ??? ?????????????? ??? ?????? ????.

26 ?? ?????? ??? 3?? ?????????? 2014, ?? Înalta Curte de Casa?ie ?i Justi?ie (?????????
????????? ??????????, ?????????) ?????? ??? ?????? ??? Curtea de Apel Alba Iulia
(????????? ??? Alba Iulia) ??? ?????? ??? ?????? ??? ??? ???????, ?? ?? ?????? ???
????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??
????????? ?????????? ??? ???.

27 ??? ??????????, ?? Înalta Curte de Casa?ie ?i Justi?ie (????????? ??????????
?????????) ?????????? ??? ?? ??????, ??? ?????????? ??? ? L. V?dan ??? ??????????
????????? ??? ?? ?????????? ?????????? ??? ??? ?????? ???, ?????????? ???
????????? ?????????? ??? ?? ?????? ??? ?????????? ?? ?????????? ?????????? ?????????? ???
????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??
????????? ?? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?? ?? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ???
????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?? ?? ?????????? ???.

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

29 ?? Curtea de Apel Alba Iulia (???????) ??? Alba Iulia) ?????????? ???, ??????? ???
????????? ??? ?????????? ??????????, ? L. V?dan ?????????? ??? ??????? ??? ???'
????????? ?????????? ?? ??? 15 ?????????? 2008 ?????? ??? ??????? ??????????
????????? ??? Camera Notarilor Publici Bucure?ti (????? ??????????????)
?????????????, ???????), ??? ?????? ?? ???????? ??? ?????????? ?????? ?????? ??????????
?? ??? ?????? ??? ?????? ?????? ????? ?????????? ?????? ???, ?????? ?? ???
????? ?????? ???, ??????????????, ??? ??? 1? ?????????? 2008, ?????????? ???
??????, ??????? ?????? ?? ?????????? ?????? ?????????? ? L. V?dan ?????????? ???,
????? ??? ??? 2006 ??? 2008, ?????? ?????? ?????? ??? ??? ?????? ?????? ???
?? ?????????? ??? ??? ???, ???????, ??? ?????? ?????? ?????? ?????????? ??????
????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ???
????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????????????? ??? ??? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????????? ???.

30 ??? ?????? ??? ?????? ?????? ?? Curtea de Apel Alba Iulia (???????) ??? Alba Iulia)
????????? ??? ?? ??????? ?????? ??? ?????? ?????? ??? ??????? ?? ?????????? ??????????
??????, ?????????????? ?? ?????? ??? ?????? ?????????? ?????? ??? ?? ??????????
????????? ???, ??? ?????? ??? ?????? ??? ?? ?????????? ?????? ??? ??, ????
????? ?????? ????????, ??? ??? ?????? ?????????, ?????????? ?? ?????? ??????????
?? ???, ?????????? ??? ??? ?? ?????? ?????? ??? ?????? ?????? ??????????
????????, ??? ?????????? ???, ??? ?????? ?????? ?????????? ?????????? ?????????? ???,
?? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ???, ??? ??????, ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??????????.

31 ?????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? 9?? ?????? 2015, Salomie ???
Oltean (C?183/14, EU:C:2015:454), ?? ?????? ?????????? ??????????, ??????, ?? ?
????????? ??? ?????? ??? ?????????????? ??? ??? ?????????? ??? ?????? ??? ??????????
????????? ?? ?????????? ???, ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
?????, ???, ?????? ???, ? ?????? ?????????? ??? ?????? ?????? ?????? ??? ??, ??? ??
?????? ?????? ???, ??????????, ? ?????? ?????????? ??? ?????? ?????? ?????????? ?? ??????????
????????, ???, ???????, ?? ??? ??? ??? ?????????? ?????????? ??? ?????? ?? ??????
???? ?? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ??? ?? ??? ??
????????????? ??? ??????????.

32 ?? ?? ?? ??? ?????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?? ??? ??
????????? ??? ?????? ??? ?????????? ???, ??? ??? ?? ??? ?????? ?? ??? ??
????????? ???????, ?? ?????????? ?????? ??? ?????? ???, ?? Curtea de Apel Alba Iulia (???????) ??? Alba
Iulia) ?????????? ??????? ?? ?????? ??? ?????? ?? ?????????? ?????? ?????? ??????
????????? ???????, ?? ?????????? ?????? ??? ?????? ?????????? ?????????? ?????????? ??? ??
?? ?????????? ?? ?????? ???, ?????????? ??? ?????? ?????? ?????? ?????????? ?? ?????????? ??
???? ?? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ??
????????? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
??? ?????????? ??? ?????? ??? ?????? ???.

33 ?????? ??? ?????? ?? Curtea de Apel Alba Iulia (???????) ??? Alba Iulia)
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ??????????
????????? ?????????? ???:

«1) ??????, ??????, ? ?????? [??] ???, ??????, ?? ?????? ??? 167, 168, 178, 179 ??? 273,
????? ??? ?? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ??? ??
????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?? ?????? ?????? ??? ??????
????????? ??? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ???.

????, ????? ?????????????? ?????????? ??? ????? ???? ?????????? ??? ?????? ?????? ??????, ? ? ? ????
????????????? ??? ????? ???? ?????? ?? ?????? ?? ???????????, ?? ??? ?????????????? ??????????????
????????????, ?? ??? ????? ???? ??????????????, ?? ?????????????? ?????? ??? ?????????, ???
???????????? ?????? ??? ?????? ?????????;

2) ?? ?????????? ?????????????? ?????????????? ??? ?????? ???????, ??????? ? ?????? ?
2006/112 ?????? ??? ?? ?????? ??? ?????????????? ??? ?????? ?????????????? ?? ??????????????
??? ??? ?????? ??? ?????? ?????? ?????? ?????????????? (????? ??????????????
?????????????????????) ? ?????? ?????????????????? ??? ?????????? ?????????????????? ???
????? ??? ?????????? ??? ??????/????????? ??? ?????????? ??? ?????? ?????????????? ?????? ???
?? ?? ??????, ?????? ?? ?????????? ?????????? ??? ?????????? ?????? ??? ?????? ??? ??????????????
??? ?????????? ??? ?????????? ?????? ?????? ??? ?????????? ?????? (????? ??????)
??? ?? ?????????? ?????????? (????? ??? ?????? ?????????? ??? ??????) ?????????????? ???
????????? ?????????? ??? ?????;»

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

34 ?? ?????????????? ???, ??? ?????? ???????????, ?? ?????????? ?????? ?????? ??????? ??
????????? ?? ?????? ??? ??????, ??? ?????? ??? ?????????? ??? ?? ??? ?????? ???, ???
??? ??? ?????????? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
(????? ??? 11?? ????? 2017, Exmitiani, C?286/16, ?? ???????????, EU:C:2017:368, ???
12).

35 ?? ??????, ??? ?????? ??? ?????? ?????, ?? ?????????? ?????? ?????? ?????? ?? ??????????
??? ?????????? ??? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????????????
??? ??? ?????? ?? ?????? ?????????????? ??? 1?? ?????????? 2007, ?????? ??? ???
????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????.

36 ?? ?? ??? ?????? ??????????, ??? ?????????? ?? ?????????? ??? ???????, ?? ??????
????????? ???' ?????? ?? ?????????? ?? ???? ?????????? ?? ? ?????? ???, ??? ??? ?????????? ??
????? 167 ??? 168, ?? ????? 178, ??????? ??, ??? ?? ?????? 179 ??? ?? ?????? ???, ???
??? ?? ?????? ??? ?????????????? ??? ??? ??? ??? ??????????????, ?????? ?? ??????????
??? ??? ?????? ???, ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???,
????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ?? ?????????? ?????????????? ??????????
????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???.

37 ?? ??? ?????? ?????????? ??? ???????????, ?? ?????? ?????????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????????? ???, ??? ?????? ???' ?????? ?? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (????? ??? 9?? ???)
2015, Salomie ??? Oltean, C?183/14, EU:C:2015:454, ????? 56 ??? ????? ???????????
?????????).

38 ?? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?????? ??? ?????????????? ??? ??
????? ??? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? . ??? ?????? ???????, ?? ?????? ?????? ??? ?????? ??? ?????????????? ???
????????????? ??? ??? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????????? ?????? ??? ???
????????????? ??? ?????? ?????? ??? ?????????? ???, ??? ??? ?????????? ??? ?????? ??? ???
????????????? ??? ?????? ?????? ??? (????? ??? 9?? ??? 2015, Salomie ???
Oltean, C?183/14, EU:C:2015:454, ????? 57 ??? ????? ?????????? ??? ??????????).

39 ?????? ??? ??????? 167 ??? ??????? 2006/112, ?? ??????? ?????????? ?????????? ???
??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? . ?? ??????????
????????????? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? 168, ????????
??, ??? ?????????? ?????? ?????? . ??????????, ??? ?? ??? ? ?????????? ?????? ?? ?? ???
?????????, ??????, ??????, ? ?????? ?? ?????? ?????????? ?????? ??? ??? ??? ?????? ??? ??
????? ?????? ???, ??????, ?? ?????? ?? ?????? ?????????? ?????? ?????? ?????? ?????? ?? ??????
????????? ?? ?????????? ?????? ?? ?????????? ?????? ?????? ??? ?????? ??? ?? ?????? ???
????? ??? ?????????? ??????, ???, ?? ?????????? ?????? ??????, ?? ??? ?????? ?????? ?????? ??
?? ??? ?????? ??????????, ??????????, ??? ?????? ?????????? ?????? ??? (????????? ???
15?? ?????????? 2016, Senatex, C?518/14, EU:C:2016:691, ????? 28 ??? ???
????????? ?????? ??????)).

40 ??? ?????? ??? ??????? ?????????? ??? ?????????? ???????????, ??? ?? ??? 178,
????????? ??, ??? ??????? 2006/112 ??????? ??? ? ?????? ??? ?????????? ??????
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?? ??? 226
??? ?????? ?????? (????????? ??? 15?? ?????????? 2016, Senatex, C?518/14, EU:C:2016:691,
????? 29 ??? ??? ?????????? ??????)).

41 ?? ??????????, ???, ??? ?????? ??? ? ?????????? ??? ? ?????????? ?????? ???
????????? ?? ?????? ??? ? ?????? ??? ? ?????? ??? ? ?????? ??? ? ?????? ?????? ???
????????? ??????????, ??? ?????? ??? ? ?????? ??? ? ?????? ??? ? ?????? ?? ??????????
????? ??? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????????? . ????????, ?
????????? ?????? ??? ?????? ?? ?????? ?????? ??? ? ?????? ??? ? ?????? ?????? ?????? ??????
??? ??? ??? ??? ??? ??? ?????? ??? ?????? ?????? ??? ? ?????? ??? ? ?????? ?????? ???
????? 226, ?????? 6 ??? 7, ??? ?????? ???, ?????? ?????? ??? ?? ?? ?????? ?????? ??????
??? ?? ?????????? ??? ?????????? ?? ?????????? ?????? ?????????? ??? ?? ?????????? ??????
(????????? ??? 15?? ?????????? 2016, Barlis 06 – Investimentos Imobiliários e Turísticos,
C?516/14, EU:C:2016:690, ?????? 42 ??? 43).

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

43 ??????, ??????? ??? ?????????? ??? ?????? ??? ? ?????? ?????? ??? ?????? ???
?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?? ??? ?????? ??? ??????????
????? (????????? ??? 15?? ?????????? 2016, Barlis 06 – Investimentos Imobiliários e Turísticos,
C?516/14, EU:C:2016:690, ?????? 46 ??? ?????? ?????????? ??????????).

44 ?? ?? ??????, ? ?????????? ??? ?????? ??? ?????? ??? ? ?????????? ??????????
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????????? ??? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???,
????? ??? ?????? ???, ??? ??? ?????? ?????? ?????? ??? ??? ???.

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

46 ??? ?????????? ??? ???????, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???

? ?????????? ?????????? ??? ? L. V?dan, ?????????? ??? ?????????? ??? ?? ?????????? ?????
????????? ???, ??????? ??? ??????????, ?? ?????? ?????? ??? ?????????????? ???, ??? ????
????? ??? ?????????? ???????????, ??????? ??? ?????? ??? ?????????? ??? ???? ?????.
????????? ??? ????????????

47 ??? ???? ??? ?????? ??? ??????? ??? ?????????? ???????????????????, ??? ? ???? ????
??????????, ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????????????? ??? ???? ??
????????? ?? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ???? ??
????????????????? ? ??? ?????????? ?????????? ??? ?????????????? ??? ??? ???? ???? ????
????? ??? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????.
?????????, ?? ??? ???? ? ???? ???, ? ?????????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ? L. V?dan ???????
????????? ??? ??? ??? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ???? ????
????????? ??? ???????.

48 ??????? ??? ?????? ??? ???????, ??? ?????????? ?????????? ??????? ???? ???? ?
????????? ??? ???? ???, ??? ?????? ?? ?????? 167 ??? 168, ?? ?????? 178, ?????????? ??, ??
?? ????? 179 ??? ???? ??????, ?????? ??? ?? ?????? ??? ?????????????? ??? ??? ??? ??
?????????????, ?????? ??? ?????? ???, ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ????, ?????????? ??? ?????? ??? ???? ?????? ?????????? ?? ??????????, ??????????????
????????? ? ?????????? ??? ???????, ?? ??? ???? ???? ?????? ?? ??? ??? ??? ??? ??????, ???
????? ?? ??????? ? ???? ?????? ?????????? ??? ???, ?????????????? ??? ?? ??? ?????? ???
????????? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????? ??????????.

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

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

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

? ?????? 2006/12/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ???
????????? ??? ?????????????? ????, ??? ?????? ?? ?????? 167 ??? 168, ?? ?????? 178,
????????? ??, ??? ?? ?????? 179 ??? ?? ?????? ????, ?????? ??? ?? ?????? ???
????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???, ?????????? ??? ?????? ???
? ?????? ??????? ?? ???????, ?????????????? ?????? ?????? ? ?????????? ??? ??????
??????, ?? ??? ???? ??? ??????? ?? ??? ??? ??? ??????, ??? ?????? ?? ?????? ??? ??????
????????? ??????? ??? ???, ?????????????? ??? ?? ?????? ??? ?????? ?????? ??????????
????????? ??? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ??????????.

(?????????)

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