

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

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

??? 17?? ??????? 2022 (*)

«????????????? ?????????? – ??? 63 ??? – ?????????? ?????????? ??? ?????????? –
????????? ??? ?????????? ??? ?????????? ????? ?????????? ?????????? ?????????? ??????????
(O?E) – ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? – ??????????
????????? – ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? – ?????????? ??? ?????????? ??? – ?????????? –
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??? ??? ???
??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? – ??? ???»

???? ??????? C?545/19,

?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? 267 ????, ???
?????? ?? Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa – CAAD)
[????????? ?????????? ?????????? ?????? (????? ?????????? ??????????
????????? – CAAD), ??????????] ?? ?????? ??? 9?? ?????? 2019, ? ?????? ?????????? ???
????????? ??? 17 ?????? 2019, ??? ?????? ??? ???

AllianzGI?Fonds AEVN

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Autoridade Tributária e Aduaneira,

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

????????? ??? ??? A. Arabadjiev, ??????? ??? ?????? ???????, ?????????????? ???
????????? ???????, I. Ziemele, T. von Danwitz, P. G. Xuereb (?????????) ??? A. Kumin,
???????,

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

?????????: A. Calot Escobar

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

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

– ? AllianzGI?Fonds AEVN, ?????????? ??? ??? J. Lobato Heitor ??? R. Pereira de
Abreu, advogadas, ??? ??? F. Cabral Matos, advogado,

– ? ?????????? ???????, ?????????? ??? ??? L. Inez Fernandes ??? A. de
Almeida Morgado ??? ??? A. Homem ??? P. Barros da Costa,

– ? ?????????? ???????, ?????????? ??? ??? W. Roels ??? G. Braga da Cruz,

???? ?????? ?? ?????? ???????????, ??? ?????? ??? ?????????? ??? ????? ?? ???????????
??? 6?? ??? 2021,

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

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1 ? ?????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? 56 ??? 63 ???.

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ??? AllianzGI?Fonds
AEVN ??? ??? Autoridade Tributária e Aduaneira (????????????? ??? ?????????????? ???,
?????????) ??????? ?? ??? ?????? ??????? ?? ??? ?????? ??? ?????????? ?????? ???
????????????? ??? ?????? ?????????? ??????? ?? ??? ?????? 2015 ??? 2016 ??? ???.

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

3 ?? ??? 22 ??? Estatuto dos Benefícios Fiscais (????????????? ?????????? ???
????????? ?????? ??????????????), ??? ?????? ??? ?????? ??? ?????????? ??????????????
??? ?????? ??? ?????? ??? (?? ????: EBF), ??? ??? ?? ???:

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

[...]

3 – ??? ??? ?????????? ??? ?????????? ???, ??? ?????????? ??? ??
????????? ??? 5, 8 ??? 10 ??? [Código do Imposto sobre o Rendimento das Pessoas
Singulares (????? ??? ?????? ?????????? ???)] ?????????? –????? ??? ??
????????? ??? ?????????? ?? ?????? ???, ?????? ?????? ??? ?? ?????? ???
????????? ?????????? ?????????, ? ?????? ?????????? ?? ?????? ??? ?????? ???
?? ?????? ??? ?????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? –, ?? ??????
?? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? 23 A ??? [Código do Imposto
sobre o Rendimento das Pessoas Coletivas (????? ??? ?????? ?????????? ???)]
???? ?? ?????????? –????????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? 1 ???????.

[...]

6 – ?? ?????????? ??? ?????????? 1 ?????????? ??? ?????? ??? derrama municipal
(????????? ??? ??? ???) ??? ??? derrama estadual (????????? ??? ??? ???).

7 – ??? ?????????? ???, ?????????? ?? ?????? ??? ?????????? ?? ?????? ???
????????? ?? ?????????? ??? 1 ?????????, ?????????????? ???
????????? ?????? ?????????? ???, ?????? ???, mutatis mutandis, ?? ??? 73, 74, 76
?? 78 ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? 73, ?????? 3, ???
????? ?????? ?????? ?????? ??? ?????? ???.

8 – ?? ?????????? ??? ?????? 88 ??? ?????? ?????? ?????????? ??? ?????? ???
????????? ?????????? ???, mutatis mutandis, ??? ?????? ??? ?????? ???.

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[...]

10 – ??? ??? ????? ?????????? ??? ??? ????? ?????????? ?????? ??? ?????? ??? ???? ??
????? ?? ?? ??? ?????????? ??? ?????? ?? ??? ?????? ??? ?????? 1 ?????????? ??? ???? ??.

[...]

14 – ?? ?????????? ??? ?????????? 7 ?????????? ??? ?????? ??? ?? ??? ???? ??????????
????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ? ?????????? ???
????????? ??? ?????????? ?????? ?? ??? ?????? ?????? ??? ?????????? ??? ??????, ? ???
???? ?????????? ?????????? ???, ??? ??? ??? ???, ??? ?????????? ??? ????? ??????????,
????????? ?????????? ?????????? ?????????? ?? ?????????? ?????????? ?????????? ???
????????? ??? ??? ?????????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????????? ???.

15 – ?? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ?? ??? ??? ???? ?????????? 1
????????? ? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ??? ?????????? ??? ???
????????? ??? ?????? ??? ?????????? ? ?????????? ?????????? ??? ?????? ?? ?????????? ???
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4 ?? ??? 22 ? ??? EBF ?????????? ?? ???:

«1 – ?? ??? ?????????? ??? ?????????? ??? ?????????? 3, ?? ?????????? ??? ?????? ?
????????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????? ?????????? ??? ?????? ?????????? ?????? ?????? ?????????? ? ??? ?????? ???
????????? ?????? ?????????? ?????? ?????? ?????????? ?????? ?????????? ?????????? :

a) ??? ?????????? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ???
????????? ? ??? ?????????? ?????????? ??? ?????????? ?? ?????????? ?? ?????????? ??? ?????? ???
????????? ?????? ??? ?? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???:

i) ?? ??? ?????????? ??? ?????????? ??? ?????? 71, ?????????? 1, ??? ?????? ???
????????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ???
????????? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???
?? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ? ?????????? ?????????? ????

ii) ?? ??? ?????????? ??? ?????????? ??? ?????? 94, ?????????? 4, ??? ?????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ???
????????? ??? ? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?
????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ???
????? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ???.

[...]

c) ??? ?????????? ?????????? ??? ?????? ?? ?????? ??? ?????????? ?????????? ??? ?????? ???
??? ?????? ??? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????? ?????? ??? ?????? 10 %, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?, ??????, ?? ?????? 10 %,
????? ?????? ??????????

d) ????? ?????????? ??????????? ?? ?????? ?? ?????????? ?????????? ?????????? ?????? ?
??? ?????????? ??????? ?? ??????? ?????????? ?? ?????? ?????????? ?????????? ??? ?????????? ???
????????????? ??????, ?????????????????????? ??? ?????????? ?????????? ??? ?????????? ??? ??????
????????? ? ??? ?????????? ?????? ???????, ??? ?????? ?? ?????????? ??? ?????????? ??? ??????
????????? ?????????? ??? ??? ?????????? ?????? ?????? ?????? ?????????? ?????????? ??? ??????
????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ?????? ?????????? ??? ??????
??? ??? ?????????? ?????? ?????? ??? ??? ??? ?????? ?????????? ?????? ?????????? ?????? ??????

e) ??? ?????? ?????????? ??????????, ??????? ?? ??? ?????????? ??? ?????? ?????? ?????? ??????????
?????? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ?????? ??????.

2 – ?? ?????????? ??? ??????? a, ??????? i, ??? ??? ?????? b ??? ?????????? ???
????????? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????
??? ??????????, ??? ?????????? ??? ?????? ?????? ?? ?????? ?? ?????????? ??? ?????????? ??? ??????
????????? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????????? ??????, ??? ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?? ??? ?????????? ??? ?????? 78 ??? ?????? ?????? ?????????? ?????? ?????? ??????.

3 – ?? ?????????? ??? ?????????? 1, ??????? c ??? d, ??? ?????????? ??? ??
????????? ?????????? ??? ?????? ?? ??? ?????? ??? ?????????? 1, ??????? a, b ? e,
?????:

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

b) ?? ?????????? ?????? ?????? ?????????? ?????????? ?? ?????? ?????? ??????, ??
????????? ??? ??? 25 % ?? ?????????? ? ?????? ?????? ??? ?????????? ??? ??????.

[...]

13 – ??? ??? ??????? ?? ?????????? ???, ?? ?????????? ??? ?????? ?? ??????
????????? ?? ??????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?????????? ?? ???????,
????????????????? ?? ?????? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ?????? ??????,
????????? ? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

5 ?? ??? 3, ?????????? 1, ?? ?????? ?????? ?????? ?????????? ?????? ?????? ?????? ???
????? ??? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ???
?? ???:

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

[...]

d) ?? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ?????? ??? ???
????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????????? ??????
??? ?? ?????????? ?????? ?????? ?? ??? ?? ?????? c ??? ?????????? 1 ???
????????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????.

6 ?????? ??? ?? ?????? 4 ??? ?????? :

«2 – ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???

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

3 – ??? ??? ?????? ??????? ??? ?????????????? ???????????, ?? ??????????? ??? ??????????????
?????? ??????????? ??? ??????? ??? ??????? ?? ?????????????? ?? ?????? ???????????
?????? ??? ?? ??? ?????, ????? ??? ?? ?????????? ???, ?????? ??? ??????? ??? ??????? ???
?????? ???, ?????????? ??????:

[...]

c) ?? ??????????? ??????? ?????????? ??? ? ?????????? ??? ?????? ??? ???????,
??? ??????????? ? ??? ?????????? ??? ??? ??? ?????????? ???, ? ??? ? ???????
???? ?????? ?????? ?????????? ??????? ??? ??????? ???:

[...]

3) ???? ??????????? ??? ????????

[...]».

7 ?? ????? 87, ?????????? 4, ??? ?? ??? ????? ?????? ??? ????:

«?? ?????????? ?????????? ??? ????? ?????????? ? ?????????? ??? ?????? ??? ?????????????? ???
????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??
????????? ??? ????? ?????????? ?? ?????????? 25 % [...]».

8 ??? ?? ??? 88, ?????????? 11, ??? ????? ??????:

«?? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????,
????????????? ???, ??? ?????? ???, ??? ?????????? ???, ??? ?????????? ??? ?????? ??? ??????????, ??? ?? ???????
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 23 %.»

9 ?? ????? 94 ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????:

«1 – ? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ???
????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

[...]

c) ?? ?????????? ??? ??????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??
????????? ??? ???????, ??? ?? ??????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????
????????? ??? ???????, ??? ? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

[...]

3 – ?? ?????????????? ??? ???? ????? ?????????? ?????????????? ??? ???? , ??? ???? ?? ????
????????? ?????????????? ?????????????? ??? ???? ????? ????? ?????? ?????????? ??????????:

[...]

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

[...]

5 – ?? ?????????????? ???, ??????? ?? ??? ?????????? 3, ?????? ?????????? ??????????
????????????? ??? ?????? ?????????? ??? ?????????? ?????????? ??? ?????????? ?? ???
????? ?????? ?? ?????????????? ??? ?????? 87 ??????????.

6 – ? ?????????? ?????????????? ??? ?????? ?????????? ?????????? ?????????? ??? ??????
????????? ??? ?????????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ????
????????? ?????? ??? ?????? ?, ?? ?????????? ?????????? ?????????? ??? ?????????? ??????????
??? ?????? ??? ?????? . ?? ?????????? ?????? ??? ?????? ?? ?????????? ??? ??????
????? ??? 20? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??????????
????????? , ?????? ?? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??????
????????? ? ??? ?????????????? ??? ??????..»

10 ?? ?????? 29 ??? ?????? ?????? ??? ?????????????? ??? [Código do Imposto do
Selo (????? ?????? ??????????)], ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????????? ??? ?????? ??? ?????? ???, ??? ?????? ?? ???:

«29 – ?????? ?????????? ??? ?????? ?????????? ?????????? ?????????? ?? ?????? ??????????
??? ?????? ?????????? ??? ?????? 22 ??? EBF:

29.1 – ?????????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ?? ??? ??? ??
????????????? ??? ?????????? : 0,0025 % ??? ??? ?????? ?????????? ?????? ??? ??????????

29.2 – ?????? ?????????? ?????????? ?????????? : 0,0125 % ??? ??? ?????? ??????????
????? ??? ??????..»

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

11 ? AllianzGI?Fonds AEVN ??? ?????? ?????????? ?????????? ?????????? (???) ???????
????? , ? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???
??? ???????. ?????????? ??? ?????? ?????? ?????????? ??? ?????? ? ??? ?????? ? ??? ?????? ???
????? ??? ?????? , ?????????? ??? ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ??????.

12 ? AllianzGI?Fonds AEVN, ? ?????? ??? ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ??? ?????? ?????? ??? ?? ??? ?????? ?????? ?????? ?????? ??? ??????????
??????????. ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

13 ??? ? 2015 ??? 2016, ? AllianzGI?Fonds AEVN ?????? ?????????? ?? ??????????
????????? ?????????? ??? ?????? ???????????. ?? ?????????? ??? ?????????? ??? ??? ??? ??????

????? ?? ??? ?????? ??? ???????????, ??????? ?? ?? ?????? 87, ??????????? 4, ?????????? c, ???
????? ??? ?????? ??????????? ??????? ???????, ?? ??? ?????? ??? ?????????? ?????????????? ???
????? ?? ??????????? 25 %, ??? ??? ?????????? ?????? 39 371,29 ???.

14 ??? ?????? ?? ??? 2015, ??? AllianzGI Fonds AEVN ??????????? ??? 5 065,98 ???,
?????? ?? ?? ??????????? ?????? ??? ??????????? ?????? ??????????? ??? ?? ??????????????
?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???????????, ? ???
????????? ??? ?????? ?????????? 15 % ??? ?? ?????????? ??? ??????????.

15 ??? 29 ?????????? 2017, ? AllianzGI Fonds AEVN ??????? ??????? ??? ???????????
??? ??????????? ?????? ?????? ?????????? ??? ?????? ??? ??????? ?? ??? ?????? ? ??????????
?????????? ??? ??? ??????????? ?????? ?????????? ??? ?? 2015 ??? 2016 ????.
????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????????? ???
????????? ????. ? ?? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ??? 13??
????????? 2018.

16 ??? 12 ?????????? 2019, AllianzGI Fonds AEVN ?????? ??????? ??????? ???
????????? ???????????, ??? Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa –
CAAD) [?????????? ??????????? ??????????? ?????????? (?????? ??????????? ???
?????????? ?????? – CAAD), ??????????], ?? ?????? ??? ?????? ??? ???????
?????????? ??? ??? ??? ?? ?????????? ??? 34 305,31 ???.

17 ?????? ??? ?????????? ???????????, ? AllianzGI Fonds AEVN ??????????? ???, ???
?? ??? 2015 ??? 2016, ?? ??? ?? ?????? ??? ?????? ?????????? ??? ??????????? ??? ?? ???
?????????? ?????? ?????????? ?? ?????????? ?? ?????????? ?????????? ??????????? ??? ?? ???
????? ??????? ??? ???????????, ??? ?????? ???, ?? ??? ?? ?????????? ??????????? ??? ?? ???
????????? ??????????? ??? ???????????, ?? ?????????? ?????? ???????????????, ???????
?? ?????? 22, ?????????? 3, ??? EBF, ??? ??? ??? ?????????? ?????????? ?????????? . ?
AllianzGI Fonds AEVN ?????? ???, ?? ?? ?????????? ?? ?????????? 25 % ??? ??????????
?? ??? ??????????? ??? ?????????? ??????????????? ??? ???????????, ??????????
????????? ?????????? ??????????????? ??? ?? ?????? 18 ???, ?????? ??? ?????????? ???
????????? ?????????? ??? ?????????? ??????????? ??? ?? ?????? 63 ???.

18 ? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???????????
????????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ?????????? ??? ?? ?????????? ???????
?? ??? ?????? ?????????? ??? ?? ?????????? ??? ?????????? ?????? ??? ?? ?????? ??? ??
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ??
????, ??????????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ?????????? ??
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????? ???????, ???
????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? 88,
????????? 11, ??? ?????? ??? ?????? ?????????? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ???
????????? ??? ? ?????????? ??? ?????? ?????????? ?????? ?????????? ??? ?????? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ? ?????????? ?????????? ??? ?????? ??? ?????????? ???
????????? ?? ??? ?? ?????? ??? ?????? ?????????? ??? ?????????? ?????????? ??? ?? ???
????????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ?????????? ??? ?????? ??? ??
????????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ?????????? ??? ?????? ??? ? AllianzGI
Fonds AEVN. ? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ???
?? ??? ??? ?????? ??? ?????? ??? ?????? ? AllianzGI Fonds AEVN ??? ?? ?????????? ??
????????? ??? ??? ?????????? ??? ??????????.

19 ?? ?????? ?????????? ?????????? ??, ?????????? ??? ?? ??? ?? ???????????
????????? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ?????????? ???

????????????? ?? ??? ???? ?????? ??? ?????? ??? ?? ??? ???? ?????? ?????? ??? ?? ??????? ?????? ?? ??????? ??????
????????? ??? ?????????????? ?????????? ?? ??? ?????????????? ??????????, ??????????????
????????? ?? 25 % ?? ?????????? ??? ?????????????? ??? ?? ??? ?????????? ?????? ?? ??? ??
????????? ?? ??? ?????? ?????? ??? ?????? ??? ?? ??????, ?? ?? ??????, ??? ??????
????????? ??? ?????????????? ?????? ?? ??? ?????? ??????????, ?? ?????????????? ??????????
????????? ?????????? ??? ?? ?????? 56 ??? ?????? ?????????? ?????? ?????? ?????????? ?????? ??
????? 63 ??? ?????? ?????? ?????????? ?????????? ??? ??????????.

20 ??? ??? ?????????? ????, ?? Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa – CAAD) [????????? ??? ?????????? ?????????? ?????? (????? ??????????) ?????????? ??????????] ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??
????????? ??? ?????????? ?? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ??????????:

«1) ??? ?????????? ??? ?? ?????? 63 ???, ??????? ?? ??? ?????? ?????????? ?????????? ??????????,
? ??? ?? ?????? 56 ???, ??????? ?? ??? ?????? ?????? ?????? ??????????, ?????????? ??????????
????? ?? ?????? ??? ?????? ??? ?????? ??????, ?? ?????? ?????????? ??? ?? ?????? 22 ???
[EBF] ??? ?????????? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ???
????????? ??? ?????????? ?????????? ??? ?????? ?????? ??????, ?? ?? ?????????? ?????? ??? ?????????? [??]
????????????? ?? ??? ?????? ?????? ??? ?????? ??????, ?? ?? ?????????? ?????? ??? ?????????? ?? ???
????????????? ?????????? ?????????? [??] ??? ?? ?????????? ?????? ??? ?????? ??????????
????? ?? ?????? ?????????? ??? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?? ???
?????????;;

2. ??? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????????, ??????
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????????????? ???
????????? [??] ??? ?????????? ??? ?????? ?????? ?????? [??] ?? ?????????? ?? ??????
????????? ??? ?? ?????????? ????, ?? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ??? ?????? ?????????? ??? ?????? ?????? [??], ?????? ?? ?????????? ???
????????? ?? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?? ???
?????????;;

3. ??? ?????????? ?? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ? ??????????
?????????, ? ??? ?????? ?????????? ??? ?????? ??? ?????????? ?????????? i) ??? ??? [??] (??
????????), ??????, ?? ii) ??? ??? ?????????? ?????? ?????????? ??? [??], ???????, ???
????? ?? ?????????? ??? ?????? ?????? ?????????? ??? [??] ?????????? ??????????; ?,
????????????? ??? ?? ?????????? ?????? ?????? ?????????? ??? [??] ??? ?????????? ??? ??????????
? ?????????????? ???' ?????????? ??? ?????? ?????????? ??? ?? ?? ?????????? ??? ??????????
?? ??? ?????? ??????????, ?????????? ?? ?????????? ??? ?????????? ?????????? ??????????
????????????? ??? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??????????
????????????? ??? ?? ??? ?????? ??????????, ?????? ?? ?????? ?????????? ?????? ??? ??????????
?? ?????? ?????????? ??? ?????? ??????????;;

4. ??? ?????????? ??? ?? ??? ?????? ??? ?????? ?????? ?????? ?? ?????????? ? ??? ??
?????????, ?????? ?????????? ?? (????????? ?? ??????????) [??] ??????????????, ??
????????? ??? ??????????, ??? ?? ??? ?????? ?????? (??, ??? ?????? ???, ?? ??????????????)
?? ?? ?????????? ??? ?????? [??] ??????????, ??? ?? ?????????? ?????????? ??????????
????????? ??? ?????????? [??] ??????????, ??? ?? ??? ?? ?????????? ??????????
????????? ??? ?????????? ???;

5. ??? ?????????? ??? ???? ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??????
????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? [??] ?????? ?????????? ?????????? ??? ?????????? ???, ??? ??????, ?????????? ???
????????? ? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ???
????? ?????? ???, ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???

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

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

21 ????? ??? ?????????? ??? ?????????? ??? ?????? ???????????, ? AllianzGI Fonds AEVN,
?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? 21 ?????? 2021, ??????
?? ?????????? ??? ?????????? ??? ?????????? ???????????, ???' ?????????? ??? ?????? 83 ???
????????? ?????????? ??? ??????????.

22 ????? ??????? ?? ???? ??????? ??, ? AllianzGI Fonds AEVN ???????????, ???' ??????,
??? ?? ??????? ?? ???? ?????? ???????, ??? ?????? ?? ??????? ?? ??????? ??
?????????? ?? ???????, ??? ?????? ?? ?????? ?????, ??? ?????? 14, ?????????? 3, ???
Código do Imposto sobre o Rendimento das Pessoas Coletivas (?????? ?? ??? ??????????
?????? ?? ??????), ??????????? ?? ??? ???????, ??? ??? ?????? ??? ??????? ???????
?????? ?? ??????. ? AllianzGI Fonds AEVN ??????????, ??????????, ??? ?????? 10, 20
?? 92 ?? ?? ??? ?????? ???????, ???????, ?????????? ?? ??? ??????? ?? ???????
????????? ?? ??? ?????? ?? ?????????????? ?????? ?????? ?????? ?? ??? ?????????????? ??
????????? ?? ??? ?????????? ?? ??? ?????????? ?????? ?????? ?????? ?? ??? ?????? ??
????? ?????? ?? ?????? ?????????? ?????? ?? ??? ?????? ??? ?????????? ??
????????? ?? ??? ?????? ??????????.

23 ???????, ????????????, ??????, ??? ? ?????????? ??? ?????????????? ??? ?????????????? ??? ??????????????
?????? ??? ? ?????????? ?????????????? ??? ?????????????? ??? ?????????????? ?? ?????????? ??? ?????????????? ???
????? ?? ?????? 23 ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ?????????????? ???
????????? ??? ?????????? ??? ?????????? ?????????? (????????? ??? 3?? ??????? 2020, Tesco-
Global Áruházak, C?323/18, EU:C:2020:140, ??? 22 ??? ??? ?????????????? ??????????).

24 ????????, ??????? ?? ?????? 252, ??????? ??????, ???, ? ??????? ??????????????
?????????? ???????, ?? ????? ??????????? ?? ???????????, ??????????????? ??????????
??? ??? ??????? ?? ??????, ??????? ?? ??? ??????????? ??? ??????????? ??? ??????????
??????, ??????? ?? ??????????? ??? . ?? ??????????? ??? ??????????? ??? ??? ???
????????? ??? ?? ??? ????? ??????????? ????? ??? ?????? ? ??????? ???????????
????????? ??? ?? ??? ????? ??????????. ??? ??????????, ? ??????? ???????????
????????????? ?? ??? ??????????? ??? ??????????? ???????????, ????? ??? ?? ??????? ??
????????? ??? ?????????? ? ??????? ??????????? ?? ??? ??????????? ??? ???, ??? ??????? ??
????????? ??? ?????????? ??? ?? ??? ??????????? ??? ??????????? ??? ??? ??????????
?????????? (??????? ?? 3?? ?????? 2020, Tesco-Global Áruházak, C?323/18,
EU:C:2020:140, ????? 23 ??? ????? ?????????????? ??????????).

25 ???????, ?? ??????????? ??????? ??? ????? ??????, ??? ?????? ??????? ?? ????
??????????, ?? ?????????? ??? ?????????? ??? ?????????? ????? ???????????, ??????? ?? ?? ????
83 ??? ?????????? ???????????, ????? ?? ?????? ??? ?????? ??? ??? ????? ?????????? ??????? ?
????? ??? ? ??????? ?????? ?? ??????? ?????? ?????? ?????????????? ??? ??? ??? ?????? ???
????????? ??????? ??? ?????? ??? ?????????????? (?????? ?? 3?? ??????? 2020, Tesco-
Global Áruházak, C?323/18, EU:C:2020:140, ??? 24 ??? ??? ??????????? ??????????).

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

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

27 ????? ?? ??????, ?????????????? ?????? ??? ??????????? ??? ?????????????? ??? ?????? 24
???? ??????? ????????, ?? ?????????? ??? AllianzGI Fonds AEVN ??? ?? ???????
???? ?????? ?????? ? ?????? ??????????? ?? ??? ?????? ??????? ?? ??? ??????? ?? ??? ???????
????? ??????? ?? ?? ??????????? ?? ?????? ??????? ?? ??? ??????? ?? ??????????? ?? ??? ???????
????? ??????? ??, ????? ?? ?????? ?? ??????? ?? ??? ?????? ??? ??????????? ?? ??? ???????????
????? ??? ?????? ??????????, ??? ?????? ?? ?????????? ??? ?????????????? ??? ??????????? ??
????????? ??????????.

28 ????? ???? ?????????? ??????, ?? ????????????, ????? ?????? ?? ?????? ?????????? ????????????, ??????
 ??? ????? ?????????? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????.

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

29 ?? ?? ?????? ?????????????? ??????????, ?? ?????? ?????? ?? ?????????????? ??? ??????, ??
?????? ?????????? ?????, ???' ??????, ?? ?????????????? ?? ?? ?????? 56 ??? 63 ??? ??????
??? ?????? ??? ?????????????? ?? ?????????? ??????? ?????? ?????? ??? ?????? ??
????????? ??? ?????????? ?? ?????????? ?????? ?????? ???, ??? ?? ?????????? ???
????????? ??? ?????????? ?? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?????????? ???
????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? . ??
?????? ?????????? ??????????, ??????, ?? ? ?????????? ?????? ?????? ?????????? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ??? ?????????? ???
?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ??, ???????, ?? ? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??????
?? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????

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

30 ?????????? ??? ?? ?????????? ?????????????? ??? ?? ?????? ?????? ??? ?????? 56 ???? ???
??? ?? ?????? 63 ????, ????, ?? ??????????, ??????????????, ??????????????, ?? ???, ??????????, ??
????? ????, ?????? ??????? ?????????? ??? ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ?????? ?????? ???/? ??? ?????????? ?????????? ??? ??????

31 ???????, ??? ????? ?????????? ?????????? ???, ?????????? ?? ??????? ?? ??? ?????? ?????????? ?????????? ?????? ??? ???? ???? ?????? ???, ?????? ?? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????? (????. ?????????? ??? 21?? ??????? 2018, Fidelity Funds ?.??., C?480/16, EU :C:2018:480, ????? 33 ??? ??? ??????????????, ??? ??? 3?? ?????? 2020, Tesco-Global Áruházak, C?323/18, EU :C:2020:140, ????? 51 ??? ??? ?????????????? ??????????).

32 ? ??????? ?? ?????? ?????? ?????? ?????? ?????????? ?????????? ?????? ?? ?? ?????? ?????? ??????
????????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ?????? ??? ?????? ?????????? ???
??? ?????? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ?????? ??? ?? ?? 2015 ???

33 ?? ?? ???????, ?????????? ??? ? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ???????
?????????? ?? ???? ?? ??????????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ???????
?????????? ?? ???? ?? ?, ?????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ???????
????? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? ???????
?????? ?? 21?? ??????? 2018, Fidelity Funds ?.??., C?480/16, EU :C:2018:480, ??????? 35
???, 36).

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

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

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

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

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

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

? ? ?????????? ? ??????? ?? ??????? ??? ??, ?? ?? ??????, ??????? ?????????? ???
????????? ?????????? ?? ??????? ?????????? ?????' ?????? ?? ?? ????? 63 ???
(??., ???' ????????, ??????? ?? 21?? ?????? 2018, Fidelity Funds ???., C?480/16, EU
:C:2018:480, ?????? 44 ?? 45 ??? ????? ?????????? ??????????).

40 ? ?????? ????????, ??????? ?? ?????? 65, ?????????? 1, ??????? ??, ???, ?? ????
63 ??? ?? ?????? ?? ??????? ?? ?????? ?????? ?? ?????? ?????????? ?? ?????? ??????????
??? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ?????? ?????????? ??????????
????? ?? ?????? ?????? ?????? ?????? ?????????? ?????? ?????? ??? ?????????? ??? ? ?? ?????? ???
????? ?????????? ?? ?????????? ???.

41 H ??????? ????, ?? ?????? ?? ?????? ?????????? ?????????? ??? ?? ?????????? ??? ??
????????? ?????????? ?? ??????????, ?????? ?? ?????????? ??????. ???????, ?? ?? ???
?????? ?? ?????? ?? ?????????? ?? ?????? ?????? ??? ?????? ?????????? ?????????? ???
????????? ?????? ?? ?????????? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ? ?? ??????
????? ?? ?????? ?????? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????????? ?? ??
????? ????. ???????, ? ?????????? ?? ?????? 65, ?????????? 1, ??????? ??, ???
????????? ?? ?????? ?? ?????? 65, ?????????? 3, ???, ?? ?????? ?????????? ??? ?? ??????
????????? ?? ?????? ?????? ?????????? ? ?????????? 1 ?? ?????? ?????? «??? ?????? ??
????????? ?? ?????? ?????? ?????????? ?????? ?????????????? ?????? ?????????? ???
????????? ?? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ?????????? ??? ?????? 63 [????]»
[????? ?? 29?? ?????? 2021, Veronsaajien oikeudenvontayksikkö (????? ?? ??? ?????),
C?480/19, EU:C:2021:334, ??? 29, ??? ??? ?????????? ??????????].

42 ?? ?????????? ??? ?????? ?????? ???, ?? ?? ??????, ?????????? ? ??????????????
????? ?? ?????????? ?????????? ?????????? ??? ?????????? ?????? ?? ?????? 65,
????????? 1, ??????? ??, ??? ?? ?????? ?????????? ??? ?? ?????? 65, ?????????? 3,
???? ?????? ?????? ??????. ?????????? ?? ?????? ??? ?????? ?????????? ?????????? ??
????????? ?????? ?? ??? ?????????? ?? ?????? ??? ?????? ?????????? ?????????? ??
?????????, ?????? ? ?????????? ?????? ?????????? ?????????? ?? ?????? ?????????? ??
????? ?? ?????? ?????????? ?????????? ?? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ??
????? ?????? ?????? [????? ?? 29?? ?????? 2021, Veronsaajien
oikeudenvontayksikkö (????? ?? ??? ?????), C?480/19, EU:C:2021:334, ??? 30 ?? ??
????????? ?????? ??????????].

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

43 ?? ?? ?????? ?????? ?? ?????????? ?????? ?????????? ?????????? ?? ??????
????????? ??????????, ??????, ?? ? ?????????? ?? ?????????? ?????? ?? ?????? ?? ??????
???? ?????? ?? ?????? ??, ??????, ?? ?????? ?????????? ?????? ?? ?????? ?? ??????
??, ?? ?????????? ?????? ?????????? ??????, ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?? ?????????? ?????? ???.

44 ? ?????????? ?????? ?????????? ?????????? ???' ??????, ?? ? ?????????? ?? ??????????
???? ?????? ?? ?????????? ?????? ?????? ?????? ??? ?????? ?????????? ?????????? ??????????
?? ??? ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?? ?????? ??????
????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????????? ?????? ??? ?????? ?????????? ?? ?????? ?????? ?????? ?????? ??? ????
?????????, ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ?????? ??? ??? ??????
????? ??? ?????????? ??? ?????? 88, ?????????? 11, ?? ?????? ?????? ?????? ??????????
????? ?????? ???, ??? ?????????? ?? ?????? ?????? ???.

45 ? ??????????? ?????????? ?????????? ?????? ??? ?? ?????? 22 ? ??? EBF
????????? ??? ? ?????????? ??? ?????????? ?????? ?????????? ?????? ??? ??
????????? ?????? ?????????? ?????? ?????????? ?????? ?? ?????? ?????????? ?? ??????
????????? ?????? ?????????? ?????? ?????? ?????????? ?????? ?? ?????????? 28 % (????? ??
????????? ?????? ?????????? ?????? ?????? ?????????? ?????? ??????) ? ?? ?????????? 25 %
(????? ?? ?????????? ?????????? ?????? ?????? ?????????? ?????? ?????? ??????), ??? ??
????????? ??? ?????????? ?? ?????????? ??? ?? ?????? ?????????? ??? ?? ?????????? ??
??? ?????? ?????? ?????????? ?? ?????? ?????????? ???, ???' ??????, ??? ?? ??? ??
????????? ?????? ?????? ??? ?? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? (?????
????????? ?????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????????? ???
?????????).

46 ??? ?? ??? ?? ????????, ?????????? ?????? ?????? ?????????? ?????? ?????? ???
????????? ??? ?????????? ??? ?? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ???
????????? ????. ?? ?? ??????, ?? ?????????? ?????? ?????????? ??? ?? ???, ?? ??
????? «?????», ?????????? ?????????? ??? ?????????? ?????????? ??? ?? ??????????,
??????, ??? ?????????? ??? ?????? ???, ??? ?? ?????? ?????????? ??? ?? ??? ??
??? ?????????? ?? ?????? 88, ?????????? 11, ??? ?????? ?????? ?????????? ??????
????????, ????? ???, ???????, ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??????????, ??? ?????? ?? ?????? ?????????? ??? ?????????? ??? ?????? ????. ??
????????? ?????? ?????? ?????????? ???, ??? ?????? ??? ?????? ?????? ?????????? ???, ???,
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???, ???,
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???.

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

48 ???, ? ?????????? ?????? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????????? ??? ?????? ?????? ?????????? ???, ? ??? ?????? ?????????? ??? ??
????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ??
????????? ???, ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ???, ??????????
?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?? ??????????
?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??
25 %.

49 ??? ?????? ?????????? ?????????? ???, ?????? ?????? ?????? ?????? ?????????? ???,
????????? ? ??? ?????? ?????????? ???, ??? ?? ?????????? ??? ?????? ??? ?????????? ???
????????? ??????, ??? ?? ?????? ?????????? ?????? ?????? ?????? ?????????? ???, ??? ??
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ??? ??
????????? ?????? ?????? (????? ??? 2?? ?????? 2018, Sofina ???., C?575/17,
EU:C:2018:943, ??? 47 ??? ??? ?????????? ???).

50 ??? ?????? ?? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ??
44 ??? ?????? ?????????? ???, ?????????? ???, ??? ?? ?????????? ??? ?? ??? ??
????????? ? ?????? ??? 2?? ?????? 2008, Truck Center (C?282/07, EU:C:2008:762), ??

?????????? ??????? ?? ?????????? ??????????, ????? ?????????? ??????????? ???
???????, ?????????? ?????? ?????????? ??????????, ???????? ??? ?? ???? ?????????? ???
????? ??????? ?????? ?????????? ?????? ?????? ??? ???? ?????????? ??? ??????????????
????? ?????????? ??? ??? ????? ?????????? ?????? ?????? (????. ?????? ??? 22?
????????? 2008, Truck Center, C?282/07, EU:C:2008:762, ??? 41).

51 ??????, ??? ?????? ??? ??? ?????? ?????????? ??? 2?? ?????? 2016,
Pensioenfonds Metaal en Techniek (C?252/14, EU:C:2016:402), ?? ?????????? ?????? ??? ?
????????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?
????????? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ?
????????? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?
????????? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?
????????? ??? ??? ????? ?????????? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????? ???
?? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ???.

52 ???????, ??? ?? ?????????? ?????????? ??? ?? ?????? ??? ?? ?????? ???????????, ?
?????? ?? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?
????????? ??? ?????? ?????? ?????? ?????? ???, ??? ?????? ??? ?????? ?????????? ???
????????? ?? ?????????? ?????? ?????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ?????? (??., ???' ????????, ??????? ?? 8?? ????????
2012, ??????? ??? ??????????, C?342/10, EU :C:2012:688, ??? 44 ??? ???
????????? ??? ????????).

53 ??????, ????????????, ??????, ??? ?????? ?? ?????? ??????????, ??? ??? ?? ???
?????? ?????????? ??? ?????????? ?? ?????? ?????? ??? ??? ?? ??? ?????? ???
????????? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ???,
???? ?? ?? ???? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?? ??, ???
?? ?????? ?????????? ?????? ??? ?? ??? ?????????? ?, ?????? ??? ?????? ???
????????? ?? ??? ?????? ?????????? ?????? ???.

54 ??????, ??? ?????? ? ?????? ?????????? ??? ?????? 47 ??? ??????? ???, ?
????????? ?????? ?????????? ?????????? ??????????, ??? ?????????? ??? ?????????? ???
????? ???, ??? ?????? ?????????? ?????? ??? ?????? ?????? ?????????? ?????????? ???
?????????, ??? ??? ??? ?????? ??? ?? ??? ?????? ?????? ?????????? ?????????? ???
?? ?????. ? ?????? ??? ?????, ??? ??????????, ??? ?? ?????????? ??? ?????? ??? ????????
????????? ??? ?????? ??? ??? ?????? ?????????? ? ?????? ??? 2?? ?????? 2016,
Pensioenfonds Metaal en Techniek (C?252/14, EU:C:2016:402).

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

56 ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????? 88, ??????????
11, ??? ?????? ?????? ?????? ?????????? ?????? ??????, ??? ?? ?????? ??? ?????? ???
????????? ???, ?? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??????????, ??????????
??, ?????? ??? ?????? ??? ?????? ???, ? ?????? ?????? ?????? ?? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

57 ????? ??????????, ?? ??????? ??? ?? ?????????????? ????? ?????????? ??? ?? ?????????????? ???
????? ?????????????? ??? ?? ????? ?????? ??? ?? ?????????? ?? ?????? 88, ?????????? 11, ???
????? ?????? ?????????????? ??????? ?????????? ??? ?? ????? ?????????? ?? ??????????????
????????????? ?????????? ?? ?????? ?? ????? ?????????????? ????? ?????????? ??? ?? ?????? ??
????????? ??? ?????????? ?????????????? ??????????????.

58 ?? ????????, ???? ????? ?? ??????????? ?? ???? ?????????????? ?? ???? ?????????????? ?? ????
????????? ?? ???? 48 ??? ??????? ?? ????????, ?????????????? ??, ???, ??? ?????????????? ?
????????? ?????????? ?? ???? ??????? ?? ?????????? ?? ???? ???????????, ??? ?????? ?? ???? ??????????
?????? ??????????, ???? ?????? ?? ?????? 56 ????, ?? ?????????????? ?? ???? ?? ????
????????? ?? ???? ??????? ?? ???? ?? ???? ?????? ?????????? ?? ???? ?? ???? ?????? ?? ???? ??????????????
???? ?? ?????? ??????? ?? ?????????????? ?? ???? ?? ???? ?? ???? ?? ???? ??????? ??, ?????????? ?? ?
????????? ?? ???? ?? ???? ?????? ?? ?????????????? ?? ???? ?? ???? ?????? ?? ???? ?????????? ?? ???? ?
????????? ?? ???? ?? ???? ?????? ?? ?????????????? ?? ???? ?? ???? ?????? ?? ???? ?????????? ?? ???? ?.

59 ???????????, ??? ????? ???? ? ?????????????????????? ??? ?????????????? ??????????????
????? ??? ?????????????? ?????? ?? ?????????????? ?????? ? ?????????? ??? ??????????????, ??? ??
????????? ??? ?????????????? ?????????? ??? ? ?????????? ?????????????? ? ?? ???
????????????? ?????????????? ?? ??? ?????????? ?????????? ??? ?????????? ?????????? ?????????
????? ?? ?????????? ?????????????? ?????? ??? ?????? ??? ?????????? ?? ?????????? ?? ?????????
????????? ??? ?????? ?????????? (????., ?????? ?????, ??????? ??? 30?? ?????????? 2020,
Société Générale, C?565/18, EU :C:2020:318, ??? 26 ??? ??? ?????????????? ??????????),
????? ??? ??? ?????????????? ??? ??? ?????????????? ??? ?????????? ?????? (????., ??????
?????, ??????? ??? 2?? ??????? 2016, Pensioenfonds Metaal en Techniek, C?252/14, EU
:C:2016:402, ??? 48 ??? ??? ?????????????? ??????????).

60 ???????, ????? ?? ??????? ?????????? ?????????????? ??? ?????????????? ??? ??? ?????????????? ??? ???? ??????????
????????? ?????? ?? ?????????????? ?????? ?????????????? ?? ?????????????? ?? ? ?????????? ?? ? ??????????????
????????????? ?? ?????????? ??? ??? ?? ??? ?????? ?????????? ?????????? ?????????? ??? ?????? ???
????????????? ?????????? ??? ?????????? (????. ??????? ??? 2?? ??????? 2016,
Pensioenfonds Metaal en Techniek, C252/14, EU :C:2016:402, ??? 49 ??? ???
????????????? ??????????).

61 ?? ????????????, ????, ????, ????, ?????, ?? ????????????, ?? ????????????, ????, ????,
????? ???, ????????????, ????????????, ?? ?????? ?????? ?? ?????? ????????, ???, ????????????, ???,
??? ???????, ???, ???, ???, ???, ???, ???, ???????, ???, ????????????, ???, ???, ???, ???,
??????, ???, ???, ???, ???, ???, ???, ???????, ???, ????????????, ???, ????????????, ???, ???, ???,
??? ???????, ???, ???, ???, ???, ???, ???, ???????, ???, ????????????, ???, ????????????, ???, ???, ???,
???????????, ???, ???, ???, ???, ???, ???, ???????, ???, «???????????, ???, ???, ???, ???, ???, ???, ???», ???, ???,
??????, ???, ???, ???, ???, ???, ???, ???????, ???, ????????????, ???, ????????????, ???, ???, ???, ???,
???????????, ???, ???, ???, ???, ???, ???, ???????, ???, ????????????, ???, ????????????, ???, ???, ???, ???,
???????????, ??, ???, ???, ???, ???, ???, ???????, ???, ????????????, ???, ???, ???, ???, ???, ???, ???, ???

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

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

63 ??????????? ??? ?????? ???????????, ?? ?????? ?????? ?? ??? ?????? ?????? ?? ???????????
?? ?????? ????, ??????????? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????? ????
?????????? ?????????? ??? ?? ?????? ??? ?????????? ?? ?????? ?????????? ?? ??? ??? ????
????????? ??? ???????, ?? ?????????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ????
????? ??? ?????? ?????????? (????. ??????? ??? 30?? ?????????? 2020, Köln-Aktienfonds
Deka, C?156/17, EU:C:2020:51, ????? 79).

64 ?? ?? ?????? ??????????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??????????? ??????????
?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????????????? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ???, ??????????????
????? ??? ?????????? ??? ?? ?????????? ?????? ??? ?????? ?????? ?????????? ???, ??????????????
??? ?? ?????????? ??? ?????? ???, ??? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ????
??? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ??????????
??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ????
????????? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ???' ?????? ?? ?????????? ??? ?????????? ???
????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? (????????? ???
21?? ?????? 2018, Fidelity Funds ?.??., C?480/16, EU:C:2018:480, ????? 53 ??? ???
????????? ?????? ??????????).

65 ?????????, ??? ?????????? ??? ?? ?????? 49 ??? ?????? ?????????? ??????????, ??? ?? ??????
??? ??? ?????? ????, ?????????? ? ??????????, ?????????? ??? ?????????? ??? ?????????????? ??? ??
???? ?????????? ??? ?????? ?????????, ??? ?????? ??? ?????? ?????????? ??? ?????? ??????????
????????, ??? ?? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??????, ?
????????? ??? ?? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ?????? ??????, ?
????? ?????? ?????? ??????.

66 ???????, ? ?????, ??? ???????, ??? ?????????, ??? ?? ?????? ?????? ??? ??????????
????????????? ??? ?????? ?????? ?????????? ?????????? ? ?????? ?????????? ??????????????,
????????????? ?????????? ?????? ?????? ?????? ??? ?????? ?????? ??????. ??? ?????????? ???,
????????????? ?? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ?????????? ??
????????????? ??? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ???' ????,
?? ????? 63 ???, ?? ?????? ??? ?????? ?????? ? ?????????? ?????????? ?????? ?????? ??? ??????
????, ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ??? ???
????????? ? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??????????
???? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ?????????? ???
????? (????????? ??? 21?? ?????? 2018, Fidelity Funds ?.??., C?480/16, EU:C:2018:480,
????? 55 ??? ????? ?????????? ??????????).

67 ?????????? ??? ? ?????????? ?????????? ?????????? ?????? ?? ?????? ?? ?????????? ???
????????????? ??? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ???, ?? ??? ????
????????????? ?? ?????????? ?????????? ?? ?????? ??? ??? ?????? ?????? ?????? ??????????
????? ???? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ????
????????????? ??? ?????????? ?????? (??., ???' ?????????, ?????? ??? 21?? ??????
2018, Fidelity Funds ?.??., C?480/16, EU :C:2018:480, ????? 56 ??? ??? ??????????????
?????????).

68 ?? ?? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????

????????????????????????? ??? ???????????, ?????????? ??? ???? ??????? ?????????? ?? ???????
??? ??? ??????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????
???????????, ????? ?? ?????????? ?? ??????? ??? ?????????????? ??? ?????? ??????????????
??? ???, ?????????????? ??? ?? ?????????? ??? ?????? ??? ?????? ???, ?????????? ?????? ???
????????? ?????? ?????????? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ???
????????? ?????? ??? ?????? ??? ?????????? ??? ?? ??? ?????, ?????????? ?? ?????????? ???
????? ?? ??????????, ???' ????, ?? ?????????? ?????????? ??? ??? ? ?????????? ?????????? ???
????? ??? ??? ?????????? ??? ?????????? ??? 21?? ?????? 2018, Fidelity Funds ?.??., C?480/16,
EU:C:2018:480, ??? 60).

69 ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ?????????????? ??? ?????? ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ?????? ??? ?????? ?? ??? ??????
????? ?????? ??? ?????? ?? ?????????? ??? ??????. ??? ??? ?????? ???, ? ?????? ????
????????? ??? ?????? ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ????
????????? (??., ???' ?????????, ?????? ??? 21?? ?????? 2018, Fidelity Funds ?.??.,
C?480/16, EU:C:2018:480, ??? 61).

70 ??????, ? ?????????? ?????????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????? ?????????????? ??
????? ?????? ?????? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???
????????? ???, ??? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?? ??? ??????
????????? ??? ??? ??? ?????????? ??? ?????? ?????? ?????? ??? ??? ?????? ?? ?????????? ???.
?????????, ? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ???
????????? ??? ?????? ?????? ?????????? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? 21?? ?????? 2018, Fidelity Funds ?.??., C?480/16, EU :C:2018:480,
????? 62).

71 ??? ?????, ??? ???????, ?? ??????? ?????????? ??? ?????? ?????????? ???????????, ??? ??? ???? ?????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? 60 ??? ?????? ?????????? ??????????,
????????? ??? ?? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????????? ?????? ???
????? ?????????? ??? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ??????.

72 ??????, ??? ??????? ??? ?? ?????????? ??? ?????? ?????????? ?, ?????????? ???
????????? ??? ?????? ???, ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ???
????? ??? ?????????? ??? ?????? ?????????? ???, ??????, ?? ?????? ???
????????? ?? ?????????? ?????? ?????? ?????? ???' ????, ?? ??????????
????????? ?????? ?????? ?????????? ?????????? (????. ?????? ??? 10?? ??????)
2014, Emerging Markets Series of DFA Investment Trust Company, C?190/12, EU:C:2014:249,
????? 58 ??? ?????? ?????????? ??????????).

73 ??? ???????, ?? ??????? ?????????? ??? ?????? ?????????? ? ?????? ??? ?????? ???
????? ?????? ????????, ?? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ???, ???
????????? ?? ?????????? ?????????? ?????? ??? ?????? ??? ?????????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??????????.

74 ?????????????? ?????? ??? ??????? ??? ?????????? ?????????????? ??????????, ?????????????? ???,
?? ??????????, ? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ???
????????? ??? ?????? ?????? ??? ?????? ?????????? ?????????? ??????????.

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

75 ??????? ?? ?????????? ???, ??? ????? ??????????? ??? ???????????, ??????????? ???
?????????? ?????????? ??? ?????????? ?????? ?? ????? ?????? ?????? ?? ??????????????
??? ?????????? ?????? ?????? ???????????, ????? ?????????? ?? ?????????? ???
????????? ??? ?????????????? ??? ?????? ??? ?????????? ?? ?????????? ??? ???? ??????
??? ?????? ??? [????????? ??? 29?? ?????????? 2021, Veronsaajien
oikeudenvaivontayksikkö (????? ??? ???), C?480/19, EU:C:2021:334, ????? 56 ??? ???
????????????? ??????????].

76 ?? ???????????, ??????????? ? ??????????? ???, ??????? ?? ??????? ??????????? ???
?????????? ?????? ??? ?????? ?????? ??????????????? ???????????, ??????????? ??? ???
????????????? ?????? ??? ??????????? ??????????? ??????????? ? ?? ??? ?????????? ???
????? ??? ???????????, ? ??????????? ??????????? ???????????, ??? ?? ??? ??????????
????????????? ??? ??? ?? ??? ??? ?????????? ??? ??????????? ??? ?????????? ???
??????????, ??? ? ??????????? ??? ??????????? ??????????? ??? ?????????? ???
?????????? ? ?????? ??? ?????? ????? ??????????? ??????????? ?????????????? ??? ???
????????????? ?????? ?????? ???????????, ???, ?????, ??? ??? ?????? ??????????? ???
????????? ??? ?????? ??????????? ???, ???????, ??? ??? ?????? ??????????? ???
????????? ??? ?????????? ??? ??????????? ?????????? ??? ??? ?????? ??? ???????????
????, ??? ??? ?????????????? ??????????? ??? ??? ?????????????? ?????????????? ???
?????????.

77 ??? ?????, ??????, ??? ?????? ??????????? ??? ??????? ??? ??????? ???????????
??????????, ? ??????????? ?????????? ???, ??? ?????????? ??? ?? ?????? 46 ???
????????? ??????????, ??? ?? ??????????? ?????????? ??????????????? ??? ??????????? ??????????
?? «??????» ??????. ???????, ? ?????? ??? ?????????? ????? ??????????? ???
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concreto ??? ?????????? ??????????? ??? ?????? ??? ?????? ??? ???????????
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78 ??????, ??????????? ???, ??????? ?? ??????????? ?????????? ??? ? ??????
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????? ??????? ??? ?????? ?? ??????????? ??? ??????????? ??????????? (???. ??????? ??
10?? ??? 2012, Santander Asset Management SGIIC ???., C?338/11 ??? C?347/11, EU
:C:2012:286, ??? 50 ??? ??? ??????????? ???????????, ??? ??? 13?? ??????? 2014,
Bouanich, C?375/12, EU :C:2014:138, ??? 69 ??? ??? ??????????? ???????????),
????????? ?????????? ???, ??? ?? ??? ????? ?????? ??? ?????? ?????????????? ??????
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????????????? ??? ??? ??????????? ??? ?? ??????????? ??????????? ???????????
(???. ??????? ?? 8?? ??????? 2012, ??????? ??? ???????????, C?342/10, EU
:C:2012:688, ??? 49 ??? ??? ??????????? ???????????, ??? ??? 13?? ??????? 2019,
College Pension Plan of British Columbia, C?641/17, EU :C:2019:960, ??? 87).

79 ??????, ?? ????????, ??? ????????, ??? ??????? ?? ?????? 71 ??? ??????? ??????????, ?
????????? ??? ??? ?????????? ?????? ??? ?????? ??? ??????????? ?????? ??? ???????????
????? ??????? ??? ??? ?????????? ??? ?????? ??? ??????????? ??? ?? ??????????? ??????
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?? ??? ?????????? ??? ?? ?????????? ??? ?????????????? ??? ?????????? ??? ??? ??? ???
????????????? ??? ??? (??., ???' ???????, ?????????? ??? 10?? ??? 2012, Santander

Asset Management SGIIC .??., C?338/11 ??? C?347/11, EU :C:2012:286, ????? 52, ??? ???
10?? ???????? 2014, Emerging Markets Series of DFA Investment Trust Company, C?190/12,
EU :C:2014:249, ????? 93).

80 ??? ??????????, ??? ?????????? ?????? ??????????, ??? ??? ?????? ??? ??????????
??? ?????????? ??? ?? 78 ??? ?????? ?????????, ?????? ??? ?????????? ??? ??
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81 ????????, ??? ?????? ?? ?????? ???????? ??? ?????? ?????????? ??? ??????? ??
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82 ??? ??????, ??? ??????, ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ???
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????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
???? (????. ??????? ??? 22?? ??????? 2018, Sofina .??., C?575/17, EU :C:2018:943,
????? 57 ??? ??? ?????????????? ??????????, ??? ??? 20?? ?????????? 2021, Lexel,
C?484/19, EU :C:2021:34, ????? 59).

83 ????????, ?? ?????????? ??? ?????? ?????? ???, ?????? ?????? ??? ?????? ???
????? ??? ?????????? ??? ?????? ???, ?? ?? ?????????? ??? ?????? ?????????? ??? ??????????
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????????? ??? ?? ?????? ?????? ?????? ?????????? ??? ?????? ?????????? (?????? ??? 21??
?????? 2018, Fidelity Funds .??., C?480/16, EU:C:2018:480, ????? 71 ??? ???
????????? ??? ???????)).

84 ????????, ??? ? ?????????????? ??? ?????? ??? ?????????? ??? ?????? ???
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85 ?????? ??? ??? ?????? ??? ??????, ??? ?????????? ?????????? ??? ??????????
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????? ???, ??? ?? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??
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86 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ????? ?????????? ??? ?????? ???
???? ?????????? ?????????????? ??? ?????? ?????? ??? ?????? ?????????? ??????????, ?' ????
????????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ?????? ??? ????? ??????????????
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?? ????? 63 ??? ???? ??? ?????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ?? ?????????? ??
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(???) ?????????? ?? ?????????????? ?? ?????? ???, ??? ?? ?????????? ?? ?? ??????
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* ?????? ?????????????: ? ?????????????.