

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

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

??? 17?? ?????????? 2020 (*)

«????????????? ?????????? – ????? ?????????????? ????? (???) – ?????? 2006/112/?? –
????????? – ????? 135, ?????????? 1, ??????? ?? ?? – ?????? ??? “?????????
?????????” ??? ??? “????? ??????????” – ?????????? ?????? – ????? ?????? – ??????
????????? ?????? ?????? – ?????????? ?????????? ??? ?????? ?? ??????
????????? ?????????????? ?????????? (factoring) ??? ?????? ??? ??????
????????? ?????? ?????? ?????? ??? ?????????? ??? ??????»

???? ?????? C?801/19,

?? ?????????? ?????? ?????????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Upravni sud u Zagrebu (????????? ?????????? ???????, ???????) ?? ??????
??? 15 ?????????? 2019, ? ?????? ??????? ??? ?????????? ??? 31 ?????????? 2019, ???
?????? ??? ????

FRANCK d.d., Zagreb

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**Ministarstvo financija Republike Hrvatske Samostalni sektor za drugostupanjski upravni
postupak,**

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

????????? ??? ??? N. Wahl, ?????? ???????, A. Kumin ??? F. Biltgen (?????????),
???????,

?????? ??????????: J. Richard de la Tour

?????????: M. Longar, ?????????? ????????,

?????? ??? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???
17?? ?????????? 2020,

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

- ? FRANCK d.d., Zagreb, ?????????????? ??? ??? V. A. Batarelo, I. Dvojkovi?, L. W. Vuchetich, T. Sadri?, M. K. Boha?ek, I. B. Pav?i?, F. Kralji?kovi? ??? ??? M. Opa?ak, odvjetnici,
- ?? Ministarstvo financija Republike Hrvatske, Samostalni sektor za drugostupanjski upravni postupak, ?????????? ??? ??? N. Biloglav ??? ??? D. Štimac ??? K. Tudek,
- ? ??????? ????????, ?????????? ??? ??? G. Vidovi? Mesarek ??? M. Greguri?
??? ??? B. Domitrovi?,

– ?????????? ???????, ?????????????? ??? ??? M. Mataija ??? ??? A. Armenia ??? N. Gossement,

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

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

?????????

1 ? ?????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 135, ??????????
1, ??????? ?? ??? ??, ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006,
?????? ?? ?? ????? ?????? ?????? ?????? ?????????????? ?????? (?? 2006, L 347, ?. 1, ??? ?????:
?????? ??).

2 ? ?????? ??? ??????????? ??? ?????? ??????? ??????? ??? FRANCK d.d., Zagreb (??? ????: Franck) ??? ??? Ministarstvo financija Republike Hrvatske, Samostalni sektor za drugostupanjski upravni postupak (?????????? ??? ??????????? ??? ??????????? ??? ???????, ???????, ??????? ??????????? ??? ???????, ??? ????: ?????????? ???????????), ??????? ?? ??? ??????????? ??? ????? ??????????? ??? ????? (???) ??? ?????????? ??? ??? ??? ??????? ??? ??????????? ??? Franck ?? ?????????? ??? ?? ??????? ??? Konzum d.d. ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????????????? ?????????????? (???) ????: ??????? ? ?????? factoring) ??? ??????? ??? ??????? ??? ??????? ??? ?????? ??? Konzum d.d. ??? ??? ?????? ??? ??????? ??? ?????? Franck.

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

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

3 ?? ?????? 2, ??????????? 1, ??? ??????? ??? ??????????? ?? ???;

«????? ??? ??????????? ?? ?????????? ???????;

[...]

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

[...]]».

4 ?? ?????? 9. ??????????? 1. ??? ?? ??? ??????? ??????? ?? ????:

«?????? ?? “????????????? ??? ?????” ?????????????? ????, ??? ?????? ?????? ?????????????? ??? ??
????????????? ????, ?????????? ??????????????, ?????????? ??? ??? ?????? ?????????? ????
??? ?? ?????????????? ??? ?????????????? ????.

?? "???????????? ??????????????" ?????????? ??? ?????????????????? ??? ??????????, ???
???????? ? ??? ?????????? ??????????, ?????????????????? ??? ??? ??????????????
?????????, ??? ?????????? ?????????????????? ??? ??? ??? ?????????????????? ??? ??????????
?????????????. ?? ?????????? ?????????????? ??????????, ??????, ? ??????????
????????? ? ?????? ??????, ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????..»

5 ?? ????? 135, ?????????? 1, ??? ?? ??? ????? ?????? ??? ?? ???:

«?? ??? ?????? ????? ?????????????? ??? ?????????? ???????:

[...]

?) ?? ?????????? ??? ?? ?????????????????? ?????????? ??? ?? ?????????? ??????????
??? ?????????? ??? ?????? ??? ?? ??????,

[...]

?) ?? ???????, ?????????????????? ??? ?????????????????? ?? ?????? ??????
??????????, ?????????????? ?????????????? , ???????, ?????????? ?????????? , ??????????
????????? ??? ?????? ?????????? ?? ?????? ?????? ?????????? ???????????,

[...]».

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

6 ?? ????? 40, ?????????? 1, ??? Zakon o porezu na dodanu vrijednost (????? ??? ??
??), ??? 17?? ?????? 2013 (*Narodne novine*, br. 73/13, 99/13, 148/13, 153/13, 143/14 ??
115/16, ??? ????: ?????? ??? ??? ???), ?????????? ?? ????:

«????????????? ??? ?? ????:

[...]

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

[...]

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

[...]».

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

7 ????? ??? ?????? ??? 1 ?????????? 2013 ??? 30 ?????? 2017, ? Franck, ??????????
????????? ??? ?????? ? ?????????????? ?????????? ??? ?????????? ?????????? ??? ???,
????????? ?????????? ??? ??? Konzum, ?????? ?????????? ?????????? , ??? ??????????????
????????? ??? ??? ??????????.

8 ??????, ???' ?????????? ?????????? ?????????? «?????? ?????????? ?????????????? ??????????»,

? Konzum, ?????????????????? ?? ??????????, ??????? ?????????? ??? ?????????? ??? Franck,
???? ?????????????????? ?? ?????????????? ??? ?????????? ??? ?????????? ?? ?????????? ??
????????? ??? Konzum ?? ?????????????? ??? ?????????? ??? ?????????? ???.

9 ???????, ?????? ?????????? ?????????? «?????? ?????????? ?????????? ???
?????????», ??? ?????? ?????? ?????????? ? Franck, ? Konzum ??? ??? ?????? factoring, ?
Franck ?????????? ?? ?????????? ??? ?????????? ??? ?????? factoring, ? ????, ?? ????
??? ?????????????? ?? «????????? factoring», ?????????? ?? 95 % ??? 100 % ??? ??? ???
????????? ??? ?????????? ??? Franck, ? ?????? ?????????? ?? ??? ??? ??? ?????????????? ???
Konzum ??? ?????? ??? ?????????? ??? ??? ??? ??? ?????????? ??? ??????????.

10 ?????, ?? ?????? ?????????? «?????? ?????????? ?????????? ???», ? Konzum
????????? ??? ?????????? ?? ?????????? ??? Franck ??? ?????? ??? ?? ?????? ??? ???
??? ?????? ? ?????? factoring ?????? ??? ?? ??? ?????????? ?????? ?????????? ??? 1 %
??? ?????????????? ??? ?????????? ??? ?????????? ???.

11 ??? ??????? ???????, ? ??????? ?????????? ??? ?????????? ??? ? ?? ??? ???????
???? ?????????? ????. ?????????? ??? ? ?????? ??? ?????? ??? ?????????? ??? ??? ??? ??,
? ?????????? ??? ??????????, ??? ?????? ??? ?????? ??? ?????? ??? 2013 ??? 2017,
??? ??? ??? ?????? ??? 15 060 808,80 ?????????? ??? (HRK) (?????? 2
????????? ????) ??? ?????? ?????? ?????? ??????????. ?? ?????? ??? 28?? ?????? 2018,
?? ?????? ?????????? ?????? ??? ?????? ??? Franck ??? ??? ?? ??? ?????? ???
????????? ???.

12 ????????? ?????????? ??? ?? ??? ??????????, ?? Upravni sud u Zagrebu
(????????? ?????????? ???, ??????) ?????????? ???, ??? ?? ??????????????
??? ??? Franck, ? ???' ?????? ?????? ??? Konzum ?????? ?????????? ???,
??? ?????????? ??? ??? ??? ?????? ??? ?????? 40, ?????????? 1, ??????? ??, ???
????? ??? ??? ?. ??????, ??? ?????? ??? ?? ?????????? ??? ?????????? ??? ???
Konzum ??? ?????????? ?????????????? ???, ??? ??? ??? ??? ??? ???
????????? 1, ??????? ?, ? ?????????? ??? Franck ?????????? ?????????? ???
????? ??? ?????? ???.

13 ????? ?? ?? ??? ??????????, ?? ?????????? ?????????? ??? ?????? ?????????? ???
????? ??? ??? ?????? ??? Franck ?????????? ?????????? ??? ?????? ??????????
????????? ??? ??? Franck ??? ?????? ?????? ??? ?????? ??? ??????
factoring ??? ??? Konzum, ? ?? ?????? ??? ?????? ??? ?????????? ??? ??? ??? ??,
????? 40, ?????????? 1, ??????? ?, ??? ?????? ??? ??? ?. ?? ?????????? ??????????
????? ??? ?????? ??? ?????? ?????? ?????? ?????? Franck ??? Konzum ??? ??
?? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? «factoring» ?????? ??? ??
??????, ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ?????? ??????????
????? ??? ?????? ?????? ??? ?????? ??? Franck.

14 ??? ??? ??????? ???, ?? Upravni sud u Zagrebu (????????? ??????????
???????) ?????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ???
????????? ?? ?????????? ?????????? ???:

«1) ??????? ? ?? ?????? ??? ??????????????????, ? ?????? ??? ?????????? ??????????????????
??????, ?????? ?????????? ?????????????? ??? ?????????? ?????????????? ?????? ??????
?????? 1 % ?? ???????? ?? “????????? ??? [...] ?????????????? ?????????? ??? [...]
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????” ??? ??? ?????? ???
????? 135, ?????????? 1, ??????? ??, ??? ?????? ???, ??? ?? ?????? ???;
????????? ??? ?????????????? ?????? ??? ?????????? ??? ?????????? ??? ??????????;

2) ??????? ?? ??????? ??, ???????, ?????? ?????? ?? ??? ?????? ? ???????
?????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ???????
?? ??????? ?? ??? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??? ??????? ?? ??? ?? ??? ???????, ???
????? ?? “????? ??????” ??? ?? ??? 135, ??????? 1, ??????? ??, ???
?????? ??;

3) ?????????? ? ?????????????? ??? ?? ??????????????, ?????? ?????? 1 % ?????????? ??
?????? ?? ?????????? ??? ???????, ?????? ?????????????? ?? ?????????? ??
????????? ?? ?????? factoring ?? ?????????? ??? ?????????? ?? ?????? ?? ?????? factoring
????? ??? ?????? ??? ?????????? ??? ??????????, ?? ?????????? ?????? ??? ??????
factoring ?? ?????????? ??? ? ?????? ??? ?????????? ??? ?????????? ?? ?????????? ?? ?????? ??
??? ??? ??? ?????????? ?? ??? ??????:

?) ?????????? ??????????????? ??? ??? ??? ??? ??? ?????? ??? ?????? 135, ?????????? 1,
????????? ??, ??? ?????? ??? ?

?) ??????? ?????????????? ??? ??? ??? ??? ??? ?????? ??? ?????? 135, ?????????? 1,
????????? ??, ??? ?????? ???»

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

15 ? ??????? ???. ?????? ?????? ?????? ??? ?????? ???? 1 ??????????? 2013 ??? 30
?????? 2017, ??? ? ?????????? ??? ?????? ?????????? ????? ?????? ?????? ??? 1?
?????? 2013.

16 ????? ???? ????? ??????????, ?? ??????????? ?????? ?????? ??????? ?? ??????? ?? ??????? ???
?????? ?? ???? ?????? ?????? ??? ?????? ??? ??????? ?? ???? ?? ???? ?????? ?????? ??? ??
?????????? ?????????????? ?? ??????? ?????? ?????? ?????? ?????? ?????? ?????? (????????? ?? 3?? ???????
2019, UniCredit Leasing, C?242/18, EU:C:2019:558, ??? 30 ?? ???? ??????????????
?????????).

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

18 ?? ?? ??????????? ????????, ?? ?????? ?????? ?? ??????????????, ?? ??????
?????????? ???, ???' ??????, ?? ?????????????? ?? ?? ?????? 135, ?????????? 1, ???????
?? ??? ??, ??? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?? ?????? ?? ? ?????????? ?? ?? ??
?? ?? ?????? ?????????? ?? ?????????? ?????? ?? ?????????? ?? ?? ?????????? ?????????? ?? ?? ?? ??
?????? ?? ?????? ??????? ?????? ?????? ??????????, ???????????, ???? ?????????? ?? ?????? ?
????? ?????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?? ?????? ?? ?????? ??
????????? ?? ??, ?????? ??????, ?????? ??????, ?????????? ?????? ?? ?????? ?? ?????? ??

?????? factoring ?????? ??? ?????????????? ?? ?????? ??? ?????????????? ??? ??????????
????????? ??? ?? ?????? ?????????? ??? ??, ??? ? ?????? ?????????? ??? ?????? ???
????????? ??? ?? ?? ??? ?????? ?????????? ??? ?????????? ?? ?????????? ??? ?????? factoring ???
?? ??? ???.

19 ??? ?????, ????, ??? ?????????? ??? ??????? ???, ??? ?? ??? 2, ?????????? 1, ???
?? ??? ?????? ?????????? ??? ?? ?????? ??????????, ?????? ???, ?? ?????????? ???
??? ?? ?????? ?????????? ??? ?? ?????????????? ?? ?????? ?????? ??? ?????? ???
?????? ??? ?????????? ??? ?? ?????? ??? ?????? ?? ??? ?????? ??? ????. ??????? ???
?????? 9, ?????????? 1, ????? ???, ??? ?? ??? ??????, ?????? ?? ?????????? ???
???? ?????????? ???, ??? ????? ?????????? ??? ?? ?????????? ???, ?????????? ???
?????????????. ??????? ?? ??? ?????? ??? ?????? 9, ?????????? 1, ?????? ???, ???
?????? ???, ? ?????? ??? «????????? ??????????» ?????????? ???.
????????????? ??????????, ??????? ? ?????????? ??????????.

20 ??????, ??? ?? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ??????????
??? ??? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? «????????? ???» ??? ??? ?????? ?????????? ?????????? ???
????? ??????????, ??? ?? ?????????? ??? ? ?????????? ??? ?????? «?????????»
???? ?? ?????? ??? 9, ?????????? 1, ?????? ???, ??? ?????? ??? (???.
?????? ??? 17?? ?????? 2019, Paulo Nascimento Consulting, C?692/17, EU:C:2019:867,
????? 24 ??? ??? ?????????? ??????????).

21 ?? ??????????, ? ?????? ??? ?????? ???, ? ?????? ?????????? ??? ??????
????????? ???, ??? ?????? ???, ??? «????????? ??????????» ??? ??? ???
??? ?????? 9, ?????????? 1, ??? ?????? ???.. ?? ?????? ??? ? ?????? ???
????????? ??? ?????? ?????????? ??? Franck, ? ?????? ?????????? ??? ??????????
?????? ??? ???, ??? ?????????? ?? ?????????? ? ?????? ???, ?????????? ??? ??
???? ??, ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???.

22 ??????, ?????????????? ??? ? ?????? ??? ?????? ???, ??? ??????????????
???? ?????? 6 ??? 9 ??? ??????, ?????????? ??? ?????? ??? ?????? ?????????? ???
????? ?????????? ??? ?????? ??????, ??? ? Franck, ? Konzum ??? ??? ?????? factoring,
?? ?????? ??? ?????? ?????????? ??? ?????? ??????.

23 ??????, ??? ?? ?????????? ??? ?????????? ??? ?????????? ???, ??? ?? ??? ???
????????? ??? ?????? ?????????? ??? ??????????, ?????? ?? ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ???, ?????????? ??? ? ?????? ??? ?????? ???
(?????? ??? 4?? ?????? 2019, KPC Herning, C?71/18, EU:C:2019:660, ??? 35 ???
???? ?????????? ?????? ???).

24 ??????????, ??? ?? ?????????? ??????, ?????????? ?????????? ?????????? ???,
????? ?? ?????????? ?? ?????????? ?????? ???, ?? ?? ???, ?? ??????????
????????? ?????? ?????????? ?????????? ? ?????????? ?????????, ?????? ?? ?????????? ??
????? ???, ??? ?? ?????? ?????????? (?????? ??? 4?? ?????? 2019, KPC
Herning, C?71/18, EU:C:2019:660, ??? 37 ??? ?????? ?????????? ???).

25 ??? ?????? ?????? ?? ?????????? ?? ?????? ??? ?????? ??? ? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ? ?????? ?????????? ?????? ??? ?????? ???
????????? ??? ?????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ???, ??? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?
????? ??? ??? ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ? ??? ??? ????

?? ?????? ??????? ?????????? ?? ? ?????????????? ?????????????? ??????????, ?? ??????, ??
?????????? ??????, ?????????? ?? ???? ?????? ?????? ??????. ??????????, ?? ??????
?????? ?? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?? ?????????? ??????????
?? ??? ??????, ??? ?? ??? ?????????????? ?? ??? ?????????????? ?? ??? ?????????????? ?? ??? ??????????
????????? ? ?????? ?????? (???????? ?? 4?? ?????????? 2019, KPC Herning, C?71/18,
EU:C:2019:660, ??? 38 ??? ?????????????? ??????????).

26 ???? ??????? ???, ???????????????, ??????, ???, ??????????? ?? ?????? ?? ?????? ?
????? ??????????? ???, ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???, ??
????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?
????? ??? ?????? ??? ?????? ?????? (????. ?????? ??? 8?? ??????????)
2016, Stock '94, C?208/15, EU:C:2016:936, ??? 29 ??? ????? ??????????? ??????????).

27 ????????, ?????????????? ???, ??? ?????? ??? ?????????????? ?? ?? ????? 267 ???
??????????, ?????????? ??? ?????? ?????????? ?? ??????? ?? ? ?????????? ??? ????? ??
?????? ?????? ??????? ??? ?????? ?????????????? ?????????? ??? ?? ??????????
?????? ?? ??? ??? ?????? ?????? ?????????? ??? ?????????? ??????????????.
?????????, ?????????? ??? ?????? ?????????? ?? ??????? ??? ?? ????? ?????????? ??? ??
?????????? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?? ?????? ??? ?????????? ??
?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????????
(?????? ?? 8?? ?????????? 2016, Stock '94, C?208/15, EU:C:2016:936, ????? 30 ??? ???
????????????? ??????????).

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

29 ???????, ??? ??? ?????????? ?????????????? ??? ?? ?????? ??????????, ?? ????
?????? ??? Franck ??? ?? ??????? ? ??????? ??? Konzum ??? ?????????? ??? ??
????? ? Franck ??? ?????? ??? ??????? factoring. ?? ?????? ??????? ??? ?????? ??? ??
Franck ?? ??????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????????????? ???
?????? ?? ?????????? ?? ?????????? ??? ???????, ?? ?????? ?????? ?????? ??????????
??? ??????? ??? ?????? ???????.

30 ???????, ??? ?????? ?? ??????? ?? ??? ?????? ??????? ?????????? ?? ??? ???? ? ??????????????
??? ??? ?????????????? ??? ?????? 135, ?????????? 1, ??? ?????? ??? ??????????,
????????????? ???, ??? ?????????? ??? ?????? ??????????, ?? ?????????? ?????? ??????????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????
[????????? ??? 2?? ?????? 2020, Blackrock Investment Management (UK), C?231/19,
EU:C:2020:513, ??? 21 ??? ??? ?????????????? ??????????].

31 ?????????, ?? ??? ???? ?????????????????? ????? ?????????????? ??? ?????????????? ??? ??????????
135, ?????????? 1, ??? ?????? ??? ?????? ?? ?????????????? ?????, ?????????? ??? ??
????????? ??? ?????? ?????????? ?????????????? ??? ?? ?????? ??? ? ??? ?????????? ???
????? ??? ?????? ?????????? ??? ?????????????? ??? ?? ?????????? ?????? ??? ?????????? ???
????? [??????? ??? 2?? ?????? 2020, Blackrock Investment Management (UK), C?231/19,
EU:C:2020:513, ??? 22 ??? ??? ?????????????? ??????????].

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

??? ??????? ??? ?????? ?????????? ??? ??????? ??? ?? ??? ?????? ??? ?????????????????? ???
??? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? ?????? ?? ??? ?????????????? ??? ?? ???
??? ?? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? ?????????????? [????????? ??? 2?? ????]
2020, Veronsaajien oikeudenvalvontayksikkö (????????? ??? ?????? ??? ??????), C?215/19,
EU:C:2020:518, ??? 39 ??? ??? ?????????????? ??? ??????????].

33 ??? ?? ?????? ??? ?????? ?????? ?????? ?? ?????????? ?? ??? ?????? ??? ?????? ??? ??
??? ?????????? ??? ?????? 28 ??? ?????? ?????? ?????? ??? ?????? ??? ?????????????? ???
?????? ??? ?? ??? 135, ?????????? 1, ?????? ??, ??? ?????? ???.

34 ??? ?????? ?? ??? 135, ?????????? 1, ?????? ??, ??? ?????? ???,
?????????????, ??????, ??? ?? ?????????????? ?????? ??? ?????????? ?????? ?????? ??????
????????? ?? ?????? ?? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?? ??
????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????????
??? ?????? ??? ?????? (????? ??? 15?? ??? 2019, Vega International Car Transport
and Logistic, C?235/18, EU:C:2019:412, ??? 43 ??? ?????????????? ??????????).

35 ??????????, ? ????? «????????? ??? [...] ?????????????? ??????», ???
????????????? ??? ?? ??? ?????? ??????, ?????? ?? ?????????? ?????? ??? ?????? ???
????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????????
????????????? ??? ?? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ??????
?? ??? ?????? ??????, ?????? ???, ??? ?? ?????????? ?????? ?????? ?????????? ??? ??? ???
????????? (????. ?????? ??? 15?? ??? 2019, Vega International Car Transport and
Logistic, C?235/18, EU:C:2019:412, ??? 44 ??? 45 ??? ?????????????? ??????????).

36 ??????, ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ? ?????????? ??????????,
???? ?? ?????? ??? 135, ?????????? 1, ?????? ??, ??? ?????? ???, ??????????
???? ?? ?????? ?????? ?????? ?????? (????. ?????? ??? 17?? ??? 2019,
Paulo Nascimento Consulting, C?692/17, EU:C:2019:867, ??? 38).

37 ?????? ? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ???, ??? ?????? ???
????????? ??? ?????? ?????? ???????????. ??????????, ?? ?????????? ??? ?????? ??? ??????
?? ?????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ?????????? ?? ?? ?? ??????
????????? ???, ??? ??????, ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ?????? ?????? (????. ?????? ??? 15?? ???
2019, Vega International Car Transport and Logistic, C?235/18, EU:C:2019:412, ??? 47 ???
48).

38 ??? ?????? ?? ?????? ??? ?????? ???, ??? ?? ?????????? ??? ?????????? ??? ??
????? ??? ? Franck ??? ?????? ?????????? ??? ?????????????? ??? ?????????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Franck ?? ?????? ??
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? 135, ?????????? 1, ??????
??, ??? ?????? ??? . ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?
????? ??? ?????? ?????? ??? ? Franck ??? ??? Konzum ?????????? ??? ?????????? ??? ??
????? ??? Konzum ??? ?????? ?????????? ???.

39 ??????, ??? ?????? ?????? ?? ?????? ??? ?? ?????????? ??? ?????????? ??? ??
????????? ??? Franck ??? ??? ?????? factoring. ??????????, ??? ?????????? ???
????????? ??? ?????? ?????? ??? 135, ?????????? 1, ?????? ??, ???

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

40 ??? ?????? ??? ?????? 135, ??????????? 1, ?????????? ??, ??? ??????? ???,
????????????? ???, ??? ?? ??????? ???, ?? ?????? ??? ?????????????? ??? ??????? ???
???????, ??? ?? ??????, «??????????, ?????????????? ??????????????, ????????, ??????????
???????, ??????????, ?????????? ??? ????? ??????????».

41 ??? ?????? ??? ?????? ?? ???????????, ?? ?? ??? ???????, ?????????????????? ???
?? ??????? ?? «????? ??????????», ?????????? ??? ?????? ??? ?????????????? ???
?? ??????? ??? ?? ?????????? ??? ?????? ? ?????????? ?????????? ??? ?????????? ???
????????? ??? (????. ?????????? ??? 12?? ??????? 2014, Granton Advertising, C?461/12,
EU:C:2014:1745, ??????? 36 ??? 38, ??? ?? 22?? ??????? 2015, Hedqvist, C?264/14,
EU:C:2015:718, ????? 40).

42 ??? ?????? ??? ??????? ??? ?????? ???, ?????? ?? ??????? ??? ?? ?????????? ???
?? Konzum ?????????? ??? ??????? ??? «?????????», ??? ?? ?????? ??? ?????? 135,
????????? 1, ??????? ??, ??? ??????? ???, ??? ?????? ???, ??? ?????????? ??? ??
????????? ??? ??????????, ?????????????? ?????????? ??? Konzum, ?? ??????????, ??
????????? ?? ?????????????? ??? ????? ?????? ??? ?? ??? ?????.

43 ?? ?????????? ??? ????? ?? ?????????? ??? ?? ??????? ???, ??? ?? ?????????? ???,
???? ?????????? ??? ?? ??? ????? ?????????? ??? ??????? ? Konzum ?????????????? ??
????????? ??? Franck ?? ??????????.

44 ??????????, ??????????? ???, ?? ??????? ?? ?????? ??? ?????????????? ???
????????????? ???, ? ??????????? ??? ?????????? ??? ?????????? ??? ?????????????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? (????.
????????? ??? 22?? ??????? 2018, MEO – Serviços de Comunicações e Multimédia, C?295/17,
EU:C:2018:942, ????? 43 ??? ????? ?????????? ??????????).

45 ?????????? ??? ??????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? Franck ?? ?????? ??
????????? ?? ?????? ??? ?????? ?????? ??????????, ? ?????? ?????????????? ?????? ??? ??????
135, ?????????? 1, ??????? ??, ??? ??????? ???, ? ?????? ??? ?????? ??? ?????? ?? ??????????
????????? ??????, ?????????? ?????????, ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????????? ??? ?????? ?????????? ??? ?????? ?????? ??????. ???????, ?????? ??
????????????? ? ?????????????? ???????, ??? ?? ?????? ??? ?????? ??? ?????? ???, ??? ??
????????????? ?????? ?????? ?????? ? ??? ?????? ?????? ?????? ?????? (????. ?????????? ??
22?? ??????? 2015, Hedqvist, C?264/14, EU:C:2015:718, ????? 39, ??? ?? 26?? ???
2016, Bookit, C?607/14, EU:C:2016:355, ????? 40).

46 ?? ??????????, ??? ?? ?????? ??? ?????? ????? ?????????? ?????????? ??? ? ?????? ??
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?? ??? ?????? ??? ?????????? ???
?????????, ?????????? ??? ?? ?????? ?????? ?????? ??? ?????? ?????????? ??? ??????????
? Franck ??????? ??? ?????? ??? ?????? ??? ?????? ??? Konzum. ??? ?????? ??? ? Franck
???? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

47 ??? ???????, ??? ?? ??????? ??? ?????? ?????????? ??? ?????, ??? ?? ??? ?????? ???
??? ?????? ??? ?? ?????? ?????? ??? ?????? 28 ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ???, ? ?????? ?????????? ??? ??? ??? ?????? ??? ??

135, ?????????? 1, ??????? ?, ??? ?????? ???.

48 ????????, ??? ?????? ?????????????? ???, ? ??????? ?????????? ?????????? ?????????????? ???
? ?????????????? ??? ??? Franck ??????? ?????? ?????????? ?????????? ?????????? ???, ??????, ??????
?? ?? ??? 135, ?????????? 1, ??????? ?, ??? ?????? ???, ?????????? ???, ?????????? ??? ??? ???
????????? ??? ?????????? ? ?????? ???, ? Franck ??????? ?? ?????? ?????? ???
??? ??????? factoring ??? ??? Konzum, ?????? ?????????? ??? ?????? ??? Konzum ???
?????? ?? ?????? ?????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????????????? ???????, ?? ?????????? ??? ???????, ??? ?????? ??? ?? ?????????? ???
??? ???????.

49 ? ?????????????????? ??? ??? ?????? ?? ?????? ???.

50 ????????, ??????? ? ??? ??? ?????? ??????????????, ?????? ???????,
????????? ?????????? ?????????? ?????????????? ??? ?????? ?? ?????????????? ??? ?? ??????
??? ?????????? ??????, ??????, ?????? ??????????, ? ?????? ?????????? ??? ??? ???
????????? ??? ??? ?? ??? ?????? ?????????? (???. ?????? ??? 26?? ?????? 2003, MKG-
Kraftfahrzeuge-Factoring, C?305/01, EU:C:2003:377, ??? 80), ??????????, ??? ??? ??????????
????????? ??? ?? ?????? ?????? ?????????? ??? ?????? ???, ?? ??????????, ? Franck ???
?????? ?? ?????? ?????, ??? ?????????? ?????? ?? ?????? ??? ??? ?????? ??? ?????? factoring.
?????????, ??? ??? ?????? ??? ?????????? ?????? ?????????? ??? ? ?????? ??? ?????? ??? ??????
????????? ??? ??? Konzum ?? ?????????? ??? ?? ?????? ?????????? ??? ??????. ???????,
? Franck ?????????? ??? ?? ??? ?????? factoring ?????? ??? ?????, ??? ?? ?????? ???
????????? ??? ??? Konzum.

51 ??????, ??? ??? ?????? ???????, ??? ??? ?????? ?????? ??? ?????????? ??? ??? ??? ???, ??
??????, ?? ??? ?????? ?????????? ??? ???????, ??? ? ?????? ??? ?????? ??? ??? ??? ???
????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ? ???
????????? ??? ?????? ??????? ?? ?????????? ??? ?????? ??? ?????? Konzum ??? ??? ?????? ???
????? ???.

52 ????????, ??? ?????? ??????????, ? ??? ??? ?????????? ?????????????? ??????????????
?????????, ??? ??? ??? ?????? ??? ?????? ???, ??? ?????????? ?????????????? ?????????? ???
????????? ??? ??? ?????????? ?????????? (?????? ??? 10?? ?????? 2011, The Rank
Group, C?259/10 ??? C?260/10, EU:C:2011:719, ??? 45 ??? ??? ??????????????)
?????????, ? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ???
????? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ???
135, ?????????? 1, ??????? ?, ??? ??????? ???.

53 ??? ??? ?????? ??? ??????? ?????? ???, ??? ?????????? ?????????????? ??????????????
????? ?? ??? ? ?????? ??? ?????? ??? ?? ??? 135, ?????????? 1, ??????? ?? ??? ??, ???
????? ??? ?????? ?? ?????????? ??? ??? ?????? ??? ? ?????? ??? ??? ??, ??? ???
????????? ?? ?????????? ???, ?????????? ???, ??? ?? ?????? ??? ?????????? ??? ??? ??? ???
????? ?? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?? ?????? ??? ?????? ??? ??????
????? ?? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? factoring ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ??? ?????? ??? ???
????????? ??? ???, ??? ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? factoring ??? ?? ??? ??? ???.

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

54 ??????? ??? ? ?????? ?????? ??? ?? ??? ??? ?????? ??? ?????? ??? ?????? ???

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

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

?? ????? 135, ?????????? 1, ?????????? ?? ??? ?, ??? ?????? 2006/112/?? ???
??????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ?????? ?????????? ???
????????????? ????, ?????? ?? ?????????? ??? ??? ?????? ??? ? ?????????? ???
??? ??? ?????????????? ????, ??? ?????? ?????????? ?? ?????? ?????????? ???
??????????, ??? ?? ?????????? ?????????? ??? ??? ??? ?????? ?? ?????? ?????????? ???
????? ??????????, ??? ?????????? ?? ?????? ? ?????? ?????????? ??? ?? ?????? ???
????????? ??? ?????? ?????? ?? ?????? ?????????? ??? ????, ?????? ??????????,
????????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? factoring ?????? ???
????????? ?? ?????? ?????? ?????????? ??? ?????????? ?????????? ??? ??
????????? ?????????? ??? ????, ??? ? ?????? ?????????? ??? ?????????? ??? ??
?? ?? ??? ?????? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ?????? factoring ??? ??
???? ??.

Signatures

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