

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

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

??? 7?? ??????? 2022 (*)

«????????????? ?????????? – ?????????? – ????? 63 ??? 65 ??? – ?????????? ?????????? ???
????????? – ?????????? – ????? ?????????? ?????? ?????? – ?????????? ???
????????? ?????? ?????? – ?????????? ?????? – ?????????? ?????? ?? ??
????????? ?????? ??? ??????»

???? ?????? C?342/20,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ???
????? ?? Helsingin hallinto-oikeus (????????? ?????????? ???????, ?????????) ??
????? ??? 9?? ?????? 2020, ? ?????? ?????? ??? ?????????? ??? 23 ?????? 2020,
??? ?????? ??? ???

A SCPI

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

Veronsaajien oikeudenvalvontayksikö,

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

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

?????? ??????????: H. Saugmandsgaard Øe

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

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

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

– ? ?????????? ???????, ?????? ?????????????? ??? ??? H. Leppo ??? A. Laine
????? ??? ??? S. Hartikainen, ??? ?????? ??? ??? H. Leppo ??? A. Laine,

– ? ?????????? ???????, ?????? ?????????????? ??? ??? W. Roels ??? I. Koskinen,
??? ?????? ??? ??? W. Roels,

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

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

??????

????.

2 ? ?????? ???? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? A SCPI, ??????? ?????????? ????????, ??????? ?? ?? ?????????? ?????????? ?????????? ??? Verohallinto (????????? ??????, ??????????), ??? 13? ?????? 2019, ??????? ?? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? A ?????????? ??? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? 2019 ??? 2020 (?? ????: ?????? ??? 13? ?????? 2019).

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

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

3 ?? ????? 1, ?????????? 1 ??? 3, ??? ?????? 2009/65/?? ??? ?????????? ?????????? ??? ?? ?????????? ??? 13? ?????? 2009, ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? (?????) (?? 2009, L 302, ?. 32), ?????????? ?? ???:

«1. ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? (????? “?????”).

2. ??? ??? ?????? ??? ?????? ??? ?????? ??? ??? ??? ?????? ??? ?????? ??? ?????? 3, ?? ?????? ????:

?) ? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????????? ?? ?????? ??? ?????? /??/ ?? ??? ?????? ?????????????? ?????? ??? ?????????? ??? ?????? 50 ?????????? 1, ?? ?????? ??? ?????????? ??? ?????? ??? [?? ??????] ? ?????????? ?????????? ??? ?????? ???

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

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

3. ?? ?????????? ??? ?????????? ??? ?????????? 2 ??????, ?????? ?? ?? ??????, ?? ?????? ?????? ?????? (????? ?????? ?????? ?????????? ??? ?????? ??????) ? trust (unit trust) ? ?????????? ??? (????? ?????? ??????).

[...]»

4 ?? ?????? 2, ?????????? 1 ??? 2, ??? ?????? 2011/61/?? ??? ?????????? ?????????? ??? ?? ?????????? ??? 8? ?????? 2011, ?????? ?? ?? ?????? ?????????? ??? ?????? 2003/41/?? ??? 2009/65/?? ??? ??? ?????? (??) ???? 1060/2009 ??? (??) ???? 1095/2010 (?? 2011, L 174, ?. 1), ?????? ?? ???:

«1. ?? ??? ?????????? ?? ?????????? 3 ??? ?????????? ?????? ??? ??? ?????? 3 ???
????????? ???????, ? ??????? ?????? ?????? ??????????????:

?) ?? ???? ??? ?, ?? ?????? ?????????????? ??? ? ?????????????? [?????????????
????????????? ?????????? (??)], ??????? ??? ? ???? ??? ?????? ??? ??? ? ???? ???
??,

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

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

2. ??? ??? ?????? 1, ?????? ??? ?????? ?? ????:

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

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

?) ? ?????? ??? ??? ????.»

5 ??? ?? ?????? 4, ?????????? 1, ?????????? ?, ??? ?????? ??????:

«[...] ??????? ?? ?????????? ??????:

?) ?? “??” ?????? ?????????????? ?????????? ?????????????? ??????????????,
????????????????????? ??? ?????????? ?????????????? ???, ? ??????:

i) ?????????????? ?????????? ??? ?????? ?????????? ?? ?????? ??? ?????????? ??? ?????????? ???
????????????? ?????????? ??? ?????? ??? ?????? ??? ? ??? ?????? ???, ???

ii) ??? ?????????? ??? ?????? ?????? ?? ?? ?????? 5 ??? ?????? 2009/65/??».

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

6 ??? ?? ?????? 3, ?????? 4, ??? tuloverolaki (1535/1992) [????? ??? ?????? ?????? ??????????????
(1535/1992)], ??? 30?? ?????????? 1992, ??? ?????????????? ?? ??? ??? 528/2019, ???
12?? ?????????? 2019 (??? ????: ??? ???? ?????? ?????? ??????????), ?? «?????????» ???????,
?????? ??????, ? ?????? ??????, ? ?????????? ??????, ? ?????????? ?????? ??? ?? ?????? ??????????
?????????.

7 ?????? ?? ?? ?????? 9, ?????? ??????, ?????? 2, ??? ?????? ??? ?????? ??????????????,
?? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ???
???? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??????.

8 ?? ?????? 10 ??? ?????? ?????? ?????? ?? ????:

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

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

[...]

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

[...]

10) ?? ?????? ?? ?? ??????????? ?????????????? ??? ?????????? ?????????? ? ??????? ?
????????? ??????????? ?????????? ?????????? ??????????, ? ?????? ?????????? ?????????? ?
??????????????, ?? ??????? ?????????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ?? ????????
????????? ??? 50 % ??? ?? ? ??????????? ??????????? ??? ?????????? ?????????? ??? ????????.»

9 ?? ????? 20a ??? ?? ??? ?????, ?? ????? ?????? ?? ??? 1? ?????????? 2020,
????????? ??? ?????, ?? ???????, ?? ??????? ??? ?? ?????? ?????? ?? ???:

«????????????? ??? ?? ??? ?????????????? ?? ?????????????? ?????????????? ??? ?? ??? ?????? ???
????? 2, ??? ?????, ?????? 2, ??? ?????????? 1 ??? sijoitusrahastolaki (213/2019) [?????
????? ?????????? ?????????? (213/2019)] ?????? ??? ?? ?????????????? ?? ?????? ??????????
????????????? ?????????? ?????????? ?????? ??? ?????? ?????????????? ?? ???????, ??? ??????
?? ?????? ?????????? ?????????? 30 ??????????.

?? ?????????? ??? ?? ??? ?????????? ?? ??? ?????????? ??? ?????????????? ??????????????
?? ??? ??? ?????????????? ??? ?? ??? ?????? ?????????????? ??????????, ??? ??? ??? ?????? ???
????? 1, ??????? ??????, ??? ?????????? 2 ??? vaihtoehtorahastojen hoitajista annettu laki
162/2014 [????? ??? ?? ?????????????? ?????????? ?????????? ?????????? (162/2014)],
??? ??? ?????????? ?? ??? ?????? ?????????? ?????? ?????????? ?????????? ??? ??????
????????????? ?? ???????, ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? 30
????????? ?????? ??? ??????? ???.

[...]

????????? ??? ?? ??? ?????????? ??? ?? ??? ?????? ?????????? ?????????????? ???????????, ??? ??
????? ??? ?????? 1, ??????? ??????, ??? ?????????? 2 ??? ?????? ??? ?????? ??? ??????????????
????????? ?????????? ?????????? ?, ??? ?????????????? ?? ??? ?????? ?????????? ??? ??????
????????? ?????????? ??? ?? ??? ?????? ?????????? ?? ??? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?? ??? ?????? ?????? ?????? ??????
????? 4 ??? ?????????? 16a ??? ?? ??? ?????? ?????? ??????, ?????? ?? ?????????? ?????????? ??????
????????? ??? ?????????? ?? ??? ?????? ?????? ?????? ?? ??? ?????? ?????? ?????? ?????? ??????
????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

[...]

????? ??? ?????????????? ?????????? ? ??? ?????? ?????????? ?????????? ?????????? ?????????? ???
??? ? ?????????? ?????????? ??????????, ??? ?????????? ?????? ?????? ?????????? ??? ??????
????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??????»

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

10 ? A ?????? ??? ??????? ?????? ?????? ?????? ?????? ?????????? ?????????? ?????????? ?????????? ??????????
?????????, ? ?????? ??????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ?? ?????????????? ?? ?????????? ?????? ?????????? ?????????? ?????? ??? ?????? ???
????? ??? ?????? 4, ?????????? 1, ??????? ??, ??? ?????? 2011/61, ? A ?????????? ???

?????? ??? Autorité des marchés financiers (???????????????????? ?????????? ?????, ??????).

11 ? A Asset Management SAS, ?????????????? ?????????????? ?????????? ?????????? ??????????,
????????????????? ??? A ??? ?????????? ??? ?????? ??? ?????????? ??? ??? ?????? ?? ??? ????
????????? ??? ??? ?????????????? ??? ?????? ??? ?????? ??? ??? ?????????? ?????
????????????? ??? ??????????.

12 ?? ?????????? ??? ????? ?????????? ??? ?????? ??? A ?????????? ?? ?????? ??? ???
????????? ??? ??? ?????????????? ??? ?????? ?????????? ??? ?????????? ??? ??? ?????? ??????
????????? ??? ??? ?????????????? ? A. ? ?????????? ??? ?????? ?????????????? ??? ??? ?? ??????
????????? ??? ?????????? ???.

13 ??? ??????, ? A ????? ?????????? ?????????? ?????????? ? ?????? ??? ?????????? ???
???? ???????????. ?? ?????????? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ??????????
????? ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ? ?????? ???
??? ??? ?????? ??? ?????? ??? ?????????? ??? ??????.

14 ? A ??? ?????? ??? ?????????, ??? ?????? ??? 2019, ??????? ??? ??? ????
????????? ??? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ???
????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??????????
????????????? ??? ?? ??? ?????? ?????? ?????, ?? ?????? ? A ??????? ?? ?????????? ??? ??????
????????????? ???.. ? A ??????? ?????? ?? ?????????????? ??? ?????? ?????????? ???
????????? ??? ??? ?????? ? ?? ?????????? ?????????? ??? ?????? ??? ??????????.

15 ??????????? ?? ??????????? ?? ?? ?????????? ??? ?? ?????????? ??? ?? ?????? ??? ??? ??????????
????? ?????????????? ??? ??????????, ? A ??????? ??? ?????????? ??? ??? ?????? ??? ???
????? ?????????????? ?????????????? ??? ?????????? ??? ?? ?????????? ??? 2019 ??? 2020.

16 ?? ?????? ??? 13? ?????? 2019, ? ?????????? ??? ?????? ???, ??? ?????? ??
????????? ??? 2019, ?????? ??? ?????????? ?????? ??? ?????? ??? ?? ??? ??
????????? ???, ? A ???????, ??? ?? ?????? ?????? ?????????????? ???, ?? ?????????? ???
????????? ?? ?????????? ?????????? ?? ?????? ??? ?????????? ?????????????? ??? ?????? ???
????? ??? ?????? 3, ?????? 4, ??? ?????? ??? ?????? ???????????. ??? ??????????, ? ??
????? ??? ?????? ??? ?? ?????????? ?? ?????? ?????? ?????? ??? ?? ??? ?????????? ??? ??
????????????? ??? ??? ?????????? ? ??? ?????? ?????? ?????????? ??? ?? ??? ?????? ???
?????, ?????? ??? ?? ?????????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??????????
????????? ?????????????? ??? ?? ??? ?????? ??????, ?????????????? ??? ?? ??? ???
?????????.

17 ???????, ??? ?????? ?? ?????????? ??? 2020, ? ?????????? ??? ?????? ???,
??? ?????????????? ??? ?????? ??? 1?? ?????????? 2020 ??? ???? ??? ?????? ???
??????????, ??? ? A, ?? ?????? ?????????? ?????????, ??? ?????? ??? ?????????? ???
????????? ?????????? ??? ?? ?????? ?????? ?????? ??? ??? ?????? ??? ?????? 20a ??? ??
????? ???, ??? ?? ?????? ?????? ?????????? ???.

18 ?? ?? ??????, ? ?? ??? ?????? ?????????? ??? ?????? ???, ??? ?? ?????????? ??? 2020,
?? ?????????? ?? ??? ?????? ?????????? ? A ??? ?????????? ??? ?? ?????? ?????????? ??? ??
????????? ?? ??? ?????? ?????????? ?????? ??? ?? ??? ?????? ?????? ???, ??? ?? ??? ??
????????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ?????????? ???
??? ?? ??? ?????? ???, ?????????????? ??? ?????? ?????? ??? ?????? ??? 10, ??? 1,
6 ??? 10, ??? ??? ?????? 20a, ??? ?????? ???, ??? ?????? ??? ?????? ?????? ??????????.

19 H A ?????? ?????? ??? ?????? ?????? ??? Helsingin hallinto-oikeus

(????????????? ?????????????? ????????, ??????????), ?????????? ??? ???? ?????????? ??? 13??
????????? 2019, ??????? ? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??????? ??? ?????????? ??? ?????????? ??? ?????????? 2020. ??? ??????? ??? ?? ???
??????????, ? A ?????????? ??? ?? ?????? 20a ??? ?????? ??? ?????? ?????? ?????????? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ???, ?????????? ??? ??????????
?????? ???, ? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?????? ?????????? ??? ??????????
?? ?????????? ??? ?????????? ??? ?? ?????? ?????????? ??? ?????? ?????? ??? ??????????
?????????? ?????????? ??? ?????????? ??? ?? ?????? ?????????? ??? ?????? ?????????? ???.

21 ?? ??????? ??????????? ??????????? ??? ?? ???? ?????? ?? 13?? ??????? 2019
?????????? ??, ??? ???? ?? ?????? ?? ???, ??? 1?? ??????????? 2020, ??? ?????? 20a ???
????? ??? ????? ??????????????, ? A ??? ?????? ????? ?? ??????????? ??? ??????????????
?????????? ?????????? ?????????????? ??? ??? ????? ???????????, ??? ??????????????
????? ??? ??? ?????????????? ??? ?????????? ??????????? ??? ??? ??????.

22 ?? ??????? ??????????? ??????? ?? ???? ?? ?????????????????????? ?????????? ?? ?
????????? ?? ???? 20a ??? ?????? ?? ???? ????? ?????????????? ?????????? ?? ???? ?????? ??
????????? ?????????? ????, ?????? ??????, ?? ?????????????? ?? ?????????? ?? ???? ?????????? ??
????????? ?????????? ?????????? ?????????? ?? ?????? ?? ???? ?????????? ?? ???? ??????????
?????????? ?????????? ???????????, ??? ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ??
????????? ?????????? ??????????, ?? ?????? ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ?
??????????????, ?? ?????? ? ?? ?????? ?????? ?? ???? ?? ???? ?????????? ?? ???? ?????????? ??

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

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

25 ?? ?????? ?????????? ??????, ???????, ??? ?????? ?? ?????????? ??? ??? ?????? ????
A, ??? ?? ?????????? ??? 2020, ?????? ?? ?????????? ??? ?????? ??? ??????????????
????????????? ?????????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????????????? ???
????????????? ??? ?????????? ?? ?? ??????? ?? ?????????? ??? ?????? ?????????????? ??? ?????? ???
??? ?? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????????? ??? ??? ?????????? ???
?????? ?????????????? ??? ??? ?? ?????? ??? ?????? ???.

26 ????????, ?? ?????? ?????????? ?????????? ?? ?????????? ??? ??? 49, 63 ???
65 ??? ?? ??? 20a ??? ??? ?????? ??? ?????? ???????????, ??????? ??? ?????? ??? ?????? ???
????????? ?????????? ?????????? ??? ???????, ?? ?????? ?????????? ?? ???????,
????????? ??? ?????? ??? ?????????? ?????? ?????????? ?????????? ??? ?????????? ???
??? ??? ??? ?????????? ???, ???, ??? ?????????? ?? ?????????? ?????????? ??? ?????? ???
????????? ??? ?????? ???????, ??? ? A, ??? ?????? ???, ??? ??? ?????? ??? ?????? ???
?????? 20a ??? ?????? ??? ?????? ???????????, ?? ?????????????? ??? ??? ?????? ?????????? ???
????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????????? ???.

27 ??? ??? ??????? ???, ?? Helsingin hallinto-oikeus (????????? ??? ??????????)
????????) ?????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ???
????????? ?? ?????????? ?????????? ???:

«????? ?? ??? 49, 63 ??? 65 ??? ??? ?????? ??? ?????????? ?? ?????????? ??? ??????????
?????? ?? ??? ?????? ??? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ???
????????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????
????????? ??? ?????????? ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ??
??????, ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ??????
??????, ??? ?????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???;»

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

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

28 ???????????, ???' ????, ??? ? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ???
????????????? ??? ?????? ???, ? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? 2011/61, ? ?????? ??? ?????? ??? ?????? ???, ???
?? ?????? ?????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ???
?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????, ??? ?? ?????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

29 ??? ??? ?????? ??? 13?? ?????? 2019, ?? ?? ??? ?????? ?????????? ??? ??????
????????? ??? ??? ?????? ??? ?? ?????????? ??? 2019, ?????????? ?????????? ???
????????? ??? 2020 ??? ?????? ??? ?????? ??? ?????? 20a ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ? ?????????? ???
?????? ?????? ??? ?????? ??? ?????????? ???.

30 ?? ???????, ?????? ?? ?????????? ???, ?????? ?? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ???????, ??????, ? ?????? ??? «????????? ??????????», ??? ?? ???
???? ?????????? ??? (213/2019), ?????????? ?????????? ??? ?????? ???.

? ?????? ??? ??????? 2009/65 ? ?????? ??? ?????????? ??????. ? ?????? ??? «???????

? ?????????? ?????? » ??? ?? ???? ??? ???? ?????????? ?????? ?????????? ??????????????

? ?????????? (162/2014) ?????????? ?? ??? ??? ???? ?????? ?????? ??? ??????????

? ?????????? ?????? ??? ?????????? ?????? ?????? 2011/61 ??? ??????????

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

? ?????????? ?????????? ?????? ?????? 2011/61, ?????? ??

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

? ? ??????, ??? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? 20a ???

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

31 ???? , ?????? ?? ???? 20a, ?????? ??????, ??? ?????? ??? ?????? ?????? ????????????,
????????? ?????? ??? ?????? ?????? ?????? ?????????? ?? ?????? ?????????? ??????????, ??? ??

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

(162/2014), ? ?? ?????? ?????? ?????? ?????????? ??????????, ?????????? ?? ????????, ??????????

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

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

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

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

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

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

33 ???? , ?????? ?? ?????? ?????? ???, ?? ?? ?????? ???, ?? ?????? ??????????
????? , ???' ?????? , ?? ?????????? ??? ?? ??? 49, 63 ?? 65 ??? ?????? ??? ?????? ???
????????? ??? ?? ?????? ?????????? ???? , ?????????? ??? ?? ?????????? ??? ?????? ???
??? ??? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????????? ???
? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????????? ?? ?????????? ???, ?????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ??????
????????? ?????? ?????????? ?????? ?????????? ?? ?????????? ?????, ?????????? ?? ???
????????? , ? ?????? ?????? , ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????????????? ,
????????? ?????? ?????????? ?????? , ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ???.

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

34 ???? ?? ?????????? ?? ???? ?????????? ?????? ?????????? ?? ??? ?????? ?????????? ??
????????? ?? ?????? ?? ??? ?????? ?????????? ?????????? ?? ??? ?????? ?????? ?????????? ??
????????? ?? ??? ?????? ?????? ?????????? ?? ??? ?????? ?????? , ?????? ?? ?????????? ???
????????? ?? ??? ?????? ?????? ?? ??? ?????? ?????? ?????? ?????? (????????? ?? 6?? ?????? 2018,
SEGRO ?? Horváth, C?52/16 ?? C?113/16, EU:C:2018:157, ??? 52 ??? ???
????????? ?????? ??????????).

35 ???? , ??? ?????? ?????????? ?????????? ???, ?????????? ?? ??? ?????? ?? ??????
????????? ?????? ??? ?? ???? ?????? ??? ?????? ?????? ?????????? ?????????? ?? ??? ??????????
????????? ???, ?????? ?? ?????????? ?????? ?? ?????????? ??? ?????? ?????? ??????????
(????????? ?? 16?? ?????????? 2021, UBS Real Estate, C?478/19 ?? C?479/19,
EU:C:2021:1015, ??? 28 ??? ?????? ?????????? ??????????).

36 ???? ?? ?????????? ?? ???? ?????????? ?????? ?????? ??? ?????? ?? ?????????? ??
????????? ?? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? 49 ??? ? ???

?????? 63 ????, ?? ?????????? ?????????? ?????? ?? ?????????? ?????????? ???
????????????? ?????????? ?????????? ?? ?????? ?? ? ?????????? ??? ?????? ??? ?
?????? ??? ?????? ?????? ?????? ??? ???? ?????? ??? ??? ???? ?????? ??????
(?????? ??? 11?? ?????? 2020, KOB, C?206/19, EU:C:2020:463, ??? 25 ??? ???
????????????? ??????????).

37 ??????????, ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?????????????? ??? ?? ?
????????? ?????????? ??????????, ?? ?????????? ?????????? ?? ?????? ???, ???' ????, ???
?? ?????? ??? ?????? ??? ??? ?????? ?????????? ?? ?????????? ???, ??? ???
????????? ??? ?????????? ??? ?????? ?????, ? ??? ??? ?????? ?????? ?????? ??????
????????? ?? ??? ??? ?????? ??? ?????? ?????? ?? ?????? ?? ??? (??., ???' ??????????,
?????? ??? 30?? ?????? 2020, Société Générale, C?565/18, EU:C:2020:318, ??? 19 ??
???? ?????????? ??????????).

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

39 ??? ??????, ??? ?????? ??? ?????????? ?? ???????, ??? ?????? ??????????, ??
????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ?????????? ?????????? ??????????????
????? ?????????? ??? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????? ??? 49
????, ??? ?????????? ???????????, ??? ??? ??? ????? 63 ???, ??? ??????????
????????? ??? ?????? (?????? ??? 16?? ?????? 2021, UBS Real Estate, C?478/19
?? C?479/19, EU:C:2021:1015, ??? 29).

40 ????????, ??????, ?? ?????? ?????? ?????????? ?????????????? ??? ??????????????
????????? ?? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?? ?
????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ??? ?????????? ??? ??????
????????? ??? ?????????? ??? ?????? | ??? ?????? 88/361/???, ??? ??????????, ???
24?? ?????? 1988, ??? ?? ??? ?? ?????? ??? ?????? ??? ?????? 67 ??? ?????? (?? 1988, L 178, ?.
5), ? ?????? ?????????? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? (?????? ??? 6?? ?????? 2018, SEGRO ??? Horváth, C?52/16 ??
C?113/16, EU:C:2018:157, ??? 56 ??? ??? ?????????? ??????????).

41 ????????, ? ?????? ??? ?????????? ???????, ?????????????? ??? ??????????????
????????? ?????????? ??? ?????? ?????? ?????? ???, ?? ?????? ?????? ?? ??????
????????? ??? ?????????? ?????????? ?????????? (?????? ???
16?? ?????? 2021, UBS Real Estate, C?478/19 ?? C?479/19, EU:C:2021:1015, ??? 30
?? ?????? ?????????? ??????????).

42 ??????, ??? ?? ?????? ?? ?????? ?????????? ?? ?????????? ??? ?????? ??? ??????????
??????????, ???' ??? ?????? ?????????? ?? ?????????????? ? ?????? ?????????? ???
?? ?????? ?????? ???, ?? ?????? ?????? ?????????? ??? ?????? ?????? ??????????
????????? ?????? ?, ??? ?????? ?????????? ??? ?????? ?????? (?????? ??? 14??
????????? 2006, Centro di Musicologia Walter Stauffer, C?386/04, EU:C:2006:568, ??? 19).

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

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

?????????? ?? ??? ???? ??????????? ?? ?? ??? ????? ?????? ??????? ?? ??????? ?? ??????? ?? ??
???? ?? ??? ??? 63 ???, ??? ?? ??? ??? 49 ??? (????. ??????? ?? 20?? ???????????
2018, EV, C?685/16, EU:C:2018:743, ??? 33 ??? ??? ?????????????? ??????????).

45 ??? ?????? ?????? ??? ?????? ?????????? ??????? ? ?????? ?????????????? ??? ??
????????? ?????????? ?????????? ??? ?????????? ?? ?????????? ?????????? ?????????????? ???
????????? ??? ?? ?????? ?????????? ??? ?????? 49 ??? ??? ?????????? ??? ?????????????? ???
?????????, ??? ?????? ?????????? ??? ?????????? ?????????? ??? ?????????? ?????????????? ??
????? ?????????? ?? ?????????? ?????? ??? ?????????? ??? ??? ?????? ??? ?????????? ???, ???
????????? ?? ?????????? ?????? ??? ?????????? ??? ??? ?????? ??? ?????????? ???, ???
????????? ?????????????? ??? ?? ?????? ??? ?????????? ?????????? ?????????? ???
(?????? ?? 13?? ??????? 2014, Bouanich, C?375/12, EU:C:2014:138, ??? 28 ??? ???
????????????? ??????????).

46 ???, ???, ??????????? ?? ??? ?????? 38 ??? ??????? ??????????, ? ??????? ??? ??
???? ?????????? ??? ?? ??????????? ?? ?????????? ?????????? ?????????????? ??? ?????????????? ???
????????? ??? ?? ?????????? ?? ?????? ??? ?????????? ?????????? ?????????????? ???
????????? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ???, ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?? ?????????? ???, ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ???
????????? ?????? ??? ?? ?????? ??? ?????? 49 ??? (????. ??????? ?? 16?? ??????????
2021, UBS Real Estate, C?478/19 ??? C?479/19, EU:C:2021:1015, ??? 33 ??? ???
????????????? ??????????).

48 ??????????? ?? ??? ???????????, ?? ??????? ??? ?????? ??? ?????? ??? ?????? ???
?????? ?? ?????????? ??????????? ??? ?? ?????? ??? ?????? 63 ??? 65 ???.

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

49 ??? ?????? ???????, ??? ?????? ??? ?????????????? ??? ?? ??? 63, ?????????? 1,
????, ?? ?????????? ??? ?????? ???????, ?????????????? ??? ?????? ??? ?????? ??
????????? ??? ?????? ???????, ?????????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??
????? ?? ?????????? ??? ?????? ??????? ??? ?? ??? ?????? ?????? ??? ?????? ??? ??
????????????? ?????????? ?? ??? ?????? (????????? ?? 30?? ?????????? 2020, Société
Générale, C?565/18, EU:C:2020:318, ??? 22 ?? ??? ?????????????? ??????????, ??? ??
16?? ?????????? 2021, UBS Real Estate, C?478/19 ??? C?479/19, EU:C:2021:1015, ??? 36
?? ??? ?????????????? ??????????).

50 ????????, ?? ?????? ??? ?????? ?????? ?????? ?????????????? ??? ?????????? ???
????????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??
????????? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
?? ?????? ?? ?????? ?????????? ??? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ?????? ???, ?? ?? ??????, ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ???, ???' ?????? ?????????? ??? ?? ??? 63 ??? (????. ???????

??? 13?? ?????????? 2019, College Pension Plan of British Columbia, C?641/17, EU:C:2019:960,
????? 49 ??? ??? ????? ?????????????? ??????????).

51 ?????? ?????????? ?????? ?????????? ?????? ? ?????? ???? ?????????? ??? ?????????? ???
????????? ?????? ?????? ?????????? ?????? ?????????? ??????????, ??? ?? ?????????? ???
????????? ?????? ?????????? ?????? ?????????? ?????????? ?????????? ?? ?????????? ???
??? ?????????? ??? (????. ?????? ??? 13?? ?????????? 2019, College Pension
Plan of British Columbia, C?641/17, EU:C:2019:960, ??? 50).

52 ?? ??????????, ? ?????? ?????? ?????? ?????? ?????? ?????????? ?????????? ?????????? ???
????? ?? ???? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ??????????, ??? ?????? ???
?? ?????? ?????? ??? ?????????? ??????. ???????, ????? ?? ?????????? ??????????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????????? ??? ??? ??? ??? ???
??? ?????????? ??? ?????? ?????????? ???.

53 ??? ?? ?????? ??? ?????? 20a, ??????? ??????, ??? ?????? ??? ?????? ?????? ??????????,,
? ?????????? ??? ?????????? ?????? ??? ?????????? ?????? ?????????? ?????????? ??? ??????
????????????? ??? ?????????????? ?????? ?????????? ?????????? ??????????, ??? ??????????????
?? ?????? ?????????? ??? ?????????? ?????? ?????????? ?????????, ?? ?????????? ?????????? ??? ??
????? ?????????? ?????????? ?????? ?? ?????????? ?????? ?? ?? ?????????? ?????????? ??? ??
????? ??? ?????????? ?????, ??? ?????? ?????? ??? ?????????? ??? ?????????? ?? ?? ?????? ??????
????????? ?????????????? ??? ?????? ?????????? ?????? ?????????? ?????????? ??? ??????
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ??????.

54 ???????, ?????????????? ??? ?????? ?????? ?????????? ???? ?????? ?????????????? ??????????
????? ??? ?????? ?????????????? ??? ?????? ?????? ??? ??? ?????? ?????????????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? . ???????, ??? ?? ?????????? ??? ?????????? ?????? ?????????? ?????????? ??? ?????? ??? ??
????????????? ??? ?????????? ?? ?????????? ?????? ?????????? ?????????? ?? ?????????? ??? ??
????????? , ?????????? ?????????? ?? ?????????? ?????? ?????????? (???. ?????????? ??? 30??
????????? 2020, KölnAktienfonds Deka, C?156/17, EU:C:2020:51, ??? 55 ??? ???
????????? ??? ?????? ??? 16?? ?????????? 2021, UBS Real Estate, C?478/19 ???
C?479/19, EU:C:2021:1015, ??? 39).

55 ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ???? ?????? ??????????
????????? ??? ?????? ?????????????? ??? ?????? ?????? ?????? ?????? ?????????????? ???
????????? ?????????????? ??? ?????? ?????????? ?????? ?????????? ??? ?????? ?????????? ???
?? ?????? ??? ?????? ?????????, ??? ?????? ?????? ??????, ??? ?????? ?????? ??? ?????? ??
????????????? ??? ?????????????? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????? ??? ??????
??? ?? ?????????????? ??? ?????? ?????????? ?????? ?????? ?????? ??? ?????? ??????????
????????????? ?? ??? ??? ?????? ?????? (????????? ??? 30?? ?????????? 2020, Köln-
Aktienfonds Deka, C?156/17, EU:C:2020:51, ??? 56 ??? ??? ?????????? ??? ??????????
??? ??? 16?? ?????????? 2021, UBS Real Estate, C?478/19 ??? C?479/19, EU:C:2021:1015,
????? 40).

56 ??? ?????????? ??? ?????? 53 ??? ?????? ?????????? ??? ?????????? ?? ??????????
????????? ??? ?? ?????? ?????????? ?????????? ??? ?????? ?? ?????????? ??? ??????????
????? ??? ?????????? ???.

57 ???????, ??????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????????? ?? ??? ???? ??
?????? ??, ?? ?????? ?? ?????? ?????? ??????? ?? ?????????? ?? ?????? ?? ?????? ??
?????? ?? ??????? ?????????? ?????????? ?? ?????? ??.

58 ???????, ?? ?????? ?? ?????? ?????? ??????? ?? ??????????, ?????????? ?? ??????????
????? ?????????? ?????????? ??????????, ?????? ?????????? ?????????? ?????????? ??????
????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? (????. ?????? ?? 30??
????????? 2020, Köln-Aktienfonds Deka, C?156/17, EU:C:2020:51, ??? 43 ??? ??
????????? ?????? ??????).

59 ???????, ? ??????? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????? ??
????? ?? ?????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ??
?? ??? ?????????? ?????????? ?? ?????? ?????? ?????, ??? ?? ?????????? ?? ??????
????????? ??? ? ?????????? ?????? ?? ?????? ?????? ?????????? ?????? ??????????
???? ?????? ?????????? ??????????, ?????????? ?? ?? ?????????? ?????? ??????????????
?? ??? ??? ?????????? ?? ?????? ?????? ?????? ?????? ?? ?????????? ?? ?????????? ?? ??
?????????, ?????????? ?????? ?????????? ?????????? ?? ?????????? ?? ?? ?? ??
????????? (????????? ?? 7?? ?????????? 2013, K, C?322/11, EU:C:2013:716, ??? 80
?? ??? ?????????????? ??????????, ??? ?? 30?? ?????????? 2020, Köln-Aktienfonds Deka,
C?156/17, EU:C:2020:51, ??? 72).

60 ???????, ??? ???????, ???' ??????, ? ?????? ?????????? ?? ??????? 53 ???
54 ??? ??????? ??, ?????? ?????? ?????? ?????? ?????????? ?????????? ?????????? ???
????????? ?????????? ?????????? ??????????, ?? ?????????? ??? ?? ??????????
????????? ?? ?????????? ?????? ??? ?????? ?? ?????? ?????? ?????????? ??? ?? ??????????
????????? ??? ?????????? (????. ?????? ?? 30?? ?????????? 2020, Köln-Aktienfonds
Deka, C?156/17, EU:C:2020:51, ??? 46).

61 ?????, ?????????? ?????? ?? ?????? ?? ?????????? ?????????? ?? ?????????? ??
????? 57 ??? ??????? ????????, ? ?????? ?????? ?????????? ?? ?????????? ?? ??????????
????????????? ?? ??????? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ??????????, ? ?????? ??
????????? ?????? ?? ?? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?? ?????????? ??
????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ?????????? ?? ?????????? ??
?? ??? ?????????, ??????? ?????? ?????? ?????? ?????? ?????????? ?? ?????? ?????? ?????? ??
????? ??? ?????? ??????, ??? ?? ?????? ??? ?????? ??? ? ?????? ?????? ?????? ?? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ?? ?????? ?????????? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

62 ? ??????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ??
????????? ?????????? ?????????? ?????? ?? ?????? ?? ?????? ?? ?????????? ??????????
????????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
?? ??? ?? ?????????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? 20a ?? ?????? ?? ?????? ??
?????????.

63 ???????, ?? ?????????? ?????? ?? ?????? ?? ?????????? ?????????? ?????????? ??
?????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
?? ?? ?????????? ?????????? ?????? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????????? ?? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??

64 ????? ????????, ??????? ? ??????? ?? ?? ?????????? ?????? ?????????? ??? ???????
????????? ??? ????? ?????? ?? ??????? ?????? ?? ?????? ?????????? ?????????? ??????????
????????? ,?????? ?????????? ??? ? ?? ????? ?????????? ?????? ?????? ?? ?????????? ???
????????? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ?? ??????? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ?? ??
????????? ??? ?????? ?????? ?????? ?????? ?????? ??????????????.

65 ????????, ??? ?????? ?????????? ?????? ?????? ?? ?????????? ?????? ??????????????
????????? ?????? ?????????? ?????? ??? ?????? ?????????? ?????? ?????????? ?? ?????????? ???
????????? ??? ???????, ?? ?? ???????, ?????????? ??? ?????????? ?????? ?????????? ???
????????? ? ?????? ?????????????, ???' ?????, ??? ?? ????? 63 ????.

66 ??????, ??????? ?? ?????? 65, ?????????? 1, ??????? ??, ???, ?? ????? 63 ????
??? ?????? ?? ??????? ?? ?????? ????? ?? ?????????? ??? ?????? ?????????? ?????????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????????? ?????? ?????? ?????????? ??? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??? ??? ???
????????? ??? ?????? ??????.

67 ??? ?????? ?????????? ?????????? ??? ?? ????? 65, ?????????? 1, ??????? ??, ???,
????????? ??????? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ?????????? ???
????????? , ?????? ?? ?????????? ????. ???????, ? ?? ??? ?????? ?????? ??? ?????? ??
????????? ??? ?? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ?????????? ????
??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? [????????? ??? 26??
????????? 2019, X (????????????????? ?? ?????? ?????? ?????? ?????? ??????), C?135/17,
EU:C:2019:136, ??? 60 ??? ??? ?????????? ??????].

68 ???????, ? ?????????? ?????????? ??? ?????? ?????? ?????????? ?? ?????? 65, ??????????
1, ??????? ??, ??? ?????? ?? ???????, ??? ?????? ?????? 3 ??? ?????? ????, ???
???? ?????????? ?????????? ??? ?????? ?????????? ?????? ?????????? . ?? ?????????? ???
??????, ?? ?? ???????, ??? ?????? ?????????? ?????????? ?????? ?? ?????????? ???
???? ?????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ?????????? ?????????? ???
?, ?????????? , ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????? ???
????????? [????????? ??? 26?? ?????????? 2019, X (????????????????? ?? ?????? ?????? ????
????????? ??????), C?135/17, EU:C:2019:136, ??? 61 ??? ??? ?????????? ???
?????????].

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

69 ??? ?? ?????????? ??? ?????????? ?????? ?????????? ??? ? ?????????? ?????????? ? ??
???? ?????????? ?????? ?????????? ?? ??? ?????????? ?????????? ??? ?????? ?????? ??????
?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??? ?????? ??????
????????? , ??? ?? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ???
(????????? ??? 16?? ?????????? 2021, UBS Real Estate, C?478/19 ??? C?479/19,
EU:C:2021:1015, ??? 47 ??? ??? ?????????? ?????? ??????????).

70 ???????, ??? ? ??????? ?????????? ??????????? ??? ?????????????? ??? ?? ???????????
?????????? ?????? ?? ?????????????? ????? ?????????????? ?? ??????????? ?? ? ??????????????
????????????? ?? ?????????? ??? ?? ??? ?????????????? ?????????? ?????????? ???
????????????? ?????? ??? ?????????? (??????? ?? 16?? ?????????? 2021, UBS Real
Estate, C478/19 ?? C479/19, EU:C:2021:1015, ??? 48 ??? ??? ??????????????
?????????).

71 ?? ??????????, ? ?????????? ?????????? ???????????, ??????, ??? ? ?????????? ???
?????????? ?? ?????? 20a ??? ?????? ??? ?????? ?????????????? ?????????? ??? ?????????? ???
????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ??? ?????????? ???
????????? ?? ?????????????? ?????????????? ?? ?????????? ??? ?????????? ??? ?????????????????? ???
????????? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ???, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ???, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ???, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ???, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???.

72 ???????, ? ?????????? ?????????? ?????????? ??? ?????????? ??? ????? ?????????? ???
?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ?? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ???
??????????, ??? ?????? ?????????? ? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? (213/2019) ??? ?
????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? (162/2014).

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

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

75 ?? ??????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ? ???????, ?? ?????? ?????????? ?
????????? ???????, ???, ??? ? ?????? ?????????, ?? ?????????? ??? ?????????? ??? ??????????
????????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????? ??? ??????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????????? ???.

76 ??? ???????, ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
?? ?????????? ?????????? ??? ?????????? ? ??? ?????????? ??? ????? ?????????? ??? ?? ?????????? ???
????????? ?????? ??? ?????? ?? ?????????? ???, ?????? ??? ?????????? ?? ?????????? ??? ??????
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???, ?????????? ??? ???
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???

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

77 ????????, ?????? ?? ?????? ?????? ???, ??? ?????? ??? ?????????? ?????????? ????
????????? ?? ?????? ??? ?????????? ??? ?????????? ?????? ??? ?????????? ???
????????? ?????????? ??? ?????? ??? ?????? ?????????? , ?????????? ?????????? ??????????
????????? ? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ? ?????? ?????? ?????????? ?????????? ??????????
????????? ?? ?????????? ?????? ?? ?????? ?????????? ?????????? ?????????? ? ?????? ???
????????? ???.

78 ??? ??? ??????? ??????, ?????? ?? ?????????? ?? ? ?????????? ??? ?????????? ?
?????? ??? ?????? ??? ?????????? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ???
?????? ??? ??????????.

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

79 ?????????? ???, ??? ?????? ?????????? ??? ?????????? , ? ?????????? ???
????????? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????? ?????????? ???
????????? ?????? ?????? ?????????? , ?????? ?????????? ?? ?????????? ???
????????? ??? ?????????? ?????? ??? ??? ?????????? ?? ?????????? ??? ??? ??? ??????????
?? ?????? ??? (?????? ?? 16?? ??????? 2021, UBS Real Estate, C?478/19 ??
C?479/19, EU:C:2021:1015, ??? 60 ??? ??? ?????????? ??????????).

80 ?? ????????, ??? ?? ??????? ?? ?????? ?? ?????? ?? ?????????? ?????????? ?? ???
????????????? ??? ?????? ?? ?????? 20a ??? ?????? ??? ?????? ?????? ??????????
????????? ??? ? ?? ?????? ?????????? ?????? ?????????? ?? ?????????? ? ??????????????
?? ?????????? , ?? ?????? ? ?????? ?????? ?????? , ?? ?????????? ? ?????????? ? ?????????? ??????
????? ??? ? ?????????? ? ?????? ?????????? ?????? ?????? ??? ?????????? ??? ??? ???
????????? ?????????? ??????????.

81 ? ?????????? ?????????? ?????????? ??? ? ?????????? ??? ?????????? ???
????????? ?? 20a ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??????????
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ?????? ??????
????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ???
????? ??? ?????????? ??????.

82 ? ?????????? ?????????? ?????????? ??? ? ?????? ??? ?????????? ???, ???
????????? ??? ?? ?????????? ?????? ?????????? ?????????? , ??? ??? ?????? ?????? ???
????????? ??? ?????? ?????????? ?????? ?????????? , ?????????? ?????????? ?????????? ???
????????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??? ?????????? ???
?????.

83 ??? ??? ?? ?????? ??? ?????????? ?????????? , ? ?? ??? ?????? ??????
????????? ??? ? ?????? ??? ?????? ?????????? ? ?????????? ?????? ?????? ???
????? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ???
????????? ?????? ?????????? ?????? ??? ?????? ?????? ?????????? ?????? ??? ??????
????? ??? , ? ??? ?????? ?????? ?????? ??? ?????? ??? ??? ?????? ?????? ???
????????? ??? ?????? ??????????.

84 ?????? , ?????????? , ??? ?????? , ???, ?????? ??? ?????? ??? ?????? ???

???????, ??? ?????? ?????? ?? ?????????? ?? ?? ?????? ?? ??????, ?? ??????? ?? ?? ??????? ?
??? ?????? ??? ?????? ?? ?????????????? ?? ?????? ??????????, ??? ?? ?????????? ?
?????????? ?????? ?? ?????? ?? ?????????????? ?? ?? ?????????? ?? ?????????? ?? ?? ??????????
???? ?? ?????? ?? ?????? ?? ??????, ?? ?? ?????? ?????????? ?? ?????????? ?? ?????????? ??
???? (?????? ?? 15?? ??????? 2021, Finanzamt für Körperschaften Berlin, C?868/19, ??
?????????????, EU:C:2021:285, ?? 50 ?? ?? ?????????????? ??????????).

85 ??????????, ??? ?????????? ? ??????? ?????????????? ?? ?????? 97 ?? 99 ??
????????? ???, ? ?????? ?? ?????????? ??????? ?? ?????? ?? ?????????????? ??????????
?? ?????????? ??????????. ???????, ?? ?????????? ?? ??????, ?? ?????? ??? ?? ??
????????? ?? ?????????? ?????????? ??????????, ?????? ?????? ?????????????? ??
?????????.

86 ??? ????????, ??? ?????? ?? ?????? ?? ?????????????? ?? ?????????? ??????????????
?????? ?? ?????????? ?? ?????? ?? ?????????? ?????????????? ??????????, ? ?????? ?????? ??
????????? ?? ?????????? ?? ?????? ?? ?????????? ?????????????? ?? ??????????????
?????????? ?????????? ?? ?????? ?????????? ?????? ?????????????????? ?? ?? ?????????? ??,
?? ?? ?????? ?? ??????, ?? ?????????? ?? ?????? ?????????? ?????????????? ?????????????? ??
????? ?? ?? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ?????????????? ??????????????
?? ?????? ?????? ?????????? ?????.

87 ??????, ?? ?????? ?????????? ?? ?????????????? ?????????? ?? ? ?????????? ??????????
????????????? ?? ?????????????? ?? ?????????? ?????????? ?? ?????? ?? ?????????????? ??
????? ?????????? ??????????????, ?? ?????? ?? ?????????? ?? ?????????? ?? ??????????
????????????? (?????? ?? 9?? ??????? 2014, van Caster, C?326/12, EU:C:2014:2269,
????? 31 ?? ?????? ?????????????? ??????????).

88 ??? ??????, ? ?????? ?????????????? ?? ?????????????????? ?? ??????????????
??????, ?? ?????? ?????????????? ?? ?????????? ??????????, ??????? ?????? ?????????????? ??
????????? ?????????? ?? ?????? ?? ?????????????? ?????????? ?? ?????????? ?????????????? ??
????????? (????. ?????????? ?? 9?? ??????? 2014, van Caster, C?326/12, EU:C:2014:2269,
????? 46, ?? 22?? ??????? 2018, Huijbrechts, C?679/17, EU:C:2018:940, ??? 36).
?????, ? ?????? ?????????? ?? ?????????????? ?????????????? ?????????? ?? ?????? ??????
????? ?????? ?????? ?? ?????????????? ?? ?????????????? ?? ?????????? ??????????????
(?????? ?? 22?? ??????? 2018, Sofina .??., C?575/17, EU:C:2018:943, ??? 67).

89 ??????, ?????????? ?? ?????????????? ?? ?????????????????? ?? ??????????????
??????, ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????????? ?? ?????? ?????????????? ??
????????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?????????????? ??
?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??
????????? ?? ?, ?? ??????, ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ??????????
????????? (??., ??' ???????, ?????? ?? 27?? ??????? 2009, Persche, C?318/07,
EU:C:2009:33, ??? 54), ?????? ?? ?? ?????????? ?? ?????????????? ?? ?????????????? ??
?????.

90 ??? ?????? ?? ?????????? ?? ?????? ?? ?????????????? ?? ?????? ?????????????? ??
?? ?????? ?????? ?? ?????????????? ?? ?????? ?????? ?????????????? ?? ?????? ??????????
?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????????? ?? ?????? ??
????????? ?? ?????? ?? ?????? ?? ?????????????? ?? ?????? ?? ?????????? ?? ?????? ??
????????? ?? ?????? ?? ?????? ?? ?????????????? ?? ?????? ?? ?????????? ?? ?????? ??
????????? ?? ?????? ?? ?????? (????. ?????? ?? 9?? ??????? 2014, van Caster, C?326/12,
EU:C:2014:2269, ??? 56 ?? ?????? ?????????????? ??????????).

91 ????? ????????, ?? ?????????? ??? ? ?????? ??? ? ?????? ??????????? ??? ?????
??? ?????????? ?????????? ?????? ?? ?????????? ?????? ?????? ?? ??????????
??? ?????????? ?????? (?????? ??? 16?? ?????????? 2021, UBS Real Estate,
C?478/19 ??? C?479/19, EU:C:2021:1015, ??? 65 ??? ??? ??? ??????????????
?????????).

92 ??????, ?????????? ?? ?????????? ?????????? ?????????? ?????? ?? ???
????????????? ???, ??????, ??? ?????? ??????????, ?? ?????????? ? ?????? ??????
????????? ??? ?????? ?????????? ?????????? ?????????? ??? ??? ?????????? ?????? ???
??? ?????????? ?????? ?????????? ??????????, ? ?? ?????????? ??? ?????????? ?????? ?????? ??
????????? ??? ??? ?????? ??? ?????????? ?????????? (?????? ??? 16?? ?????????? 2021,
UBS Real Estate, C?478/19 ??? C?479/19, EU:C:2021:1015, ??? 66 ??? ??? ???
????????? ?????? ??????????).

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

94 ?????????? ??? ?????? ??? ?????? ??? ??????????????, ??? ?????????? ???
??o????? ? ?????? ??? ?? ?????? 63 ??? 65 ??? ?????? ??? ?????? ??? ?????????? ???
????? ?????????? ? ?????, ?????????????? ?? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????????? ?????? ?????????? ? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??????????
?? ?????????? ???, ?????????? ??? ?? ?????????? ??? ?????????? ?????? ??????????
????????? ?????????? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ???
????????? , ? ?????? ??????, ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ???,
????????? ?????????? ?????????? ???, ??? ?????????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ?????? ???.

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

95 ?????????? ??? ? ?????? ?????????? ??? ? ?????? ??? ? ?????? ?????????? ??? ?????? ???
??? ?????????? ?????????? ??? ? ?????? ??? ? ?????? ??? ? ?????? ?????????? ???, ?' ???
????????? ?? ?????????? ??? ? ?????? ??? ? ?????? ??? ? ?????? ??????????
????? ?????????? ?????????? ??? ? ?????? ??? ? ?????? ??? ? ?????? ?????????? ???
????? ?????? ??????, ?? ?????????? (?????? ???) ??????????:

?? ????? 63 ??? 65 ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ?? ?????? ?????????? ???
?????, ?????????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ?????????? ? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????
????? ?????????? ?????????? ?????????? ?????????? ?? ?????????? ??? ?????? ???
????? ?????? ? ?? ??? ?????? ??????, ? ?????? ??????, ??? ?????? ?????? ??? ??????
????? ??????????????, ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????? ?????????? ??? ?????? ??? ?????? ???.

(?????????)

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