

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

??? 4?? ?????????? 2012 (*)

«????????? ?????? — ?????????? ??? ?????????? ?????? — ?????????? (???)
1408/71 — ??? 14, ?????????? 2, ??????? ?? — ?????? ??? ????? ?????????? ??????
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????? ?? S?d Apelacyjny — S?d Pracy i Ubezpiecze? Spo?ecznych w Warszawie (???????)
?? ?????? ??? 15?? ?????????? 2010, ? ?????? ?????? ??? ?????????? ??? 2 ??????
2011, ??? ?????? ??? ???

Format Urz?dzenia i Monta?e Przemys?owe sp. z o.o.

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Zak?ad Ubezpiecze? Spo?ecznych,

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

????????? ??? ??? J. N. Cunha Rodrigues, ?????? ????????, A. Rosas, A. Ó Caoimh
(???????), A. Arabadjiev ??? C. G. Fernlund, ????????,

????????? ??????????: J. Mazák

?????????: R. ?ere?, ?????????? ??????????,

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29?? ?????????? 2012,

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

- ? Format Urz?dzenia i Monta?e Przemys?owe sp. z o.o., ?????????????? ??? ??? W.
Bara?ski, adwokat,
- ? Zak?ad Ubezpiecze? Spo?ecznych, ?????????????? ??? ??? J. Czarnowski ??? M.
Drewnowski, radcowie prawni,
- ? W. Kita, ?????????? ??? ??? W. Bara?ski, adwokat,
- ? ?????? ??? ???????, ?????????? ??? ??? M. Szpunar, ????? ??? ??? ??? A.
Siwek-?lusarek ??? J. Fa?dyga,
- ? ?????? ??? ???????, ?????????? ??? ??? M. Jacobs ??? L. Van den Broeck,

– ? ?????????? ????????, ?????????????? ??? ??? T. Henze ??? J. Möller ??? ???.
??? ??? A. Wiedmann,

– ? ?????????? ????????, ?????????????? ??? ??? V. Kreuschitz ??? ??? M. Owsiany-
Hornung,

????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? 3?? ??? 2012,

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1 ? ?????? ?????????????? ?????? ??? ?????? ??? ?????? 14, ?????????? 2,
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????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??????????, ??? ?? ??????????
??? ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????, ???
????????? ??? ?????????? ??? ?????????? (??) 118/97 ??? ??????????, ??? 2??
????????? 1996 (?? 1997, L 28, ?. 1), ??? ?????????? ?? ?? ?????????? (??) 1992/2006
??? ?????????? ?????????? ??? ??? ??????????, ??? 18?? ?????????? 2006 (?? L 392, ?.
1, ??? ????: ?????????? 1408/71).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ??????, ??????, ???
????????? Format Urz?dzenia i Monta?e Przemys?owe sp. z o.o. (???: Format) ??? ???
????????????? ?? ??? W. Kita ???, ???????, ??? Zak?ad Ubezpiecze? Spo?ecznych
(????? ?????????? ??????????, ??? ????: ZUS), ?? ?????????? ??? ?????????? ???
????????????? ?????????? ??? ?????????? ??? W. Kita ????? ??? ?????????? ???.

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3 ??? ??? ??? ?????????? ??? ?????? ??? ?????????? 1408/71, ?? ?????? ??????????
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????????? ??????????, ??? ??? ?????? ?? ??? ?????? ?????????? ??? ?????????? ???
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4 ? ?????? ?????? ??? ?????? ??? ??????????, ??? ??? ?????? ?????????? ??? ???
????????? ???, ??? ?? ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? ???
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5 ??? ??? ??? ?????? ?????????? ??? ?????? ??? ?? ??? ?????? ?????????? ??? ??????????
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????????? ?????????? ??? ?????? ?????? ??? ??????, ??? ?????? ??? ??????????
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6 ?? ??? 1, ??????? ??, ??? ?????????? 1408/71 ??????? ???, ??? ??? ???????
??? ?????????? ???, ?? «??????» ?????? ? ?????? ???????.

7 ??? ??? ?? ??? ?????????? ??? ?????? ??? ?????????? «????????????? ???
????????? ???», ?? ????? 13, ?? ????? «?????? ??????», ?????????? ?? ???:

«1. ?? ??? ?????????? ??? ?????? 14? ??? 14??, ?? ?????? ??? ?? ?????? ?????? ? ????

? ?????????? ? ?????????? ?? ? ?????????? ??? ? ?????? ? ?????? ? ?????? ? ??????. ? ?????????? ????
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2. ?? ??? ?????????? ??? ?????? 14 ??? 17:

?) ?? ??????? ?? ???? ?????? ?????? ?????????????? ?? ???? ?????? ?????? ?????? ?????? ??????????
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??) ?? ?????? ?? ???? ? ?????? ? ?????????? ?????? ?????? ?? ???? ?????? ???????, ?????? ?
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????? ??? ?????? ??? ?????? ??????, ?????? ?? ???? ?????????? ?????? ??? ?????? ??? ?????? ???
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8 ??? ??? ??? ?????, ?? ?????? 14 ??? ?????????? 1408/71, ??? ?????????? «???????
????????? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ???
?????????», ?????? ?? ???:

«? ?????? ??? ?????? 13, ?????????? 2, ?????? ??, ??????, ?? ??? ?????? ???
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1 ?) ?? ??????? ?? ???? ?????? ?????????? ?????????? ?? ???? ?????? ??? ?????? ?????? ??????
?? ?????????? , ??? ?????? ?????? ?????? ?????? ?? ???? ?????? ??? ?????? ?????? ??????
????? ?????? ??? ?????? ?????? ?????? ?? ???? ?????? ???, ?????????? ?? ???? ??????
??? ?????????? ??? ?????? ?????? ?????? , ??? ??? ??? ??? ? ?????????? ?????? ???
????????? ?????? ??? ?????????? ?????? ?????? ??? ??? ??? ??? ? ?????????? ?????? ???
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[...]

2. ?? ??????? ?? ???? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ????:

?) ?? ??????? ?? ???? ?????? ?????? ??? ?????????? ?? ???? ?????? ??? ?????? , ?????? ?
????? , ??? ?????????? ? ??? ?????? ?????? , ??? ?????????? ?? ???? ??? ? ?????? ??????
????????? , ??? , ?????? ?????? ? ??? ?????? ?????? ?????? ? ?????? ? ?????? , ???
?? ??? ??? [??] ??? ?????? ?????? ?????? , ?????? ??? ?????? ??? ?????? ??? ?????? ???
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) ?? ???????, ??? ?? ?????????? ??? ?????? ??, ?????????? :

i) ??? ?????????? ?? ???? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? , ?? ??? ???? ????
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ii) ??? ?????????? ??? ??????? ?????? ??? ?????? ??? ??????, ? ?????????? ??
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????? ??? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???».

9 ? ?????????????? ??? ??? ?????? ??? ???? ? ?????? ?????????? ?????? ???
????????? 1408/71 ?????????? ??? ?????? ??? ????? 10?, ?????????? 2, 18, 38, 45, 64 ??? 72
??? ?????????? ???.

10 ?????? ??? ?????? 12?, ?????? 2 ??? 4, ??? ?????????? (???) 574/72 ???
?????????, ??? 21?? ?????? 1972, ??? ??? ?????? ?????????? ??? ?????????? 1408/71,
???? ?????????? ??? ?????????? ?? ??? ?????????? (?) 118/97 ??? ??????????, ???
2?? ?????????? 1996 (?? 1997, L 28, ?. 1), ??? ?????????? ?? ??? ?????????? (?)
311/2007 ??? ??????, ??? 19?? ?????? 2007 (?? L 82, ?. 6), ?? ?????? ??? ??????
????????, ??? ??? ?????? ??? ?????????? 1408/71, ?????????? ?? ?????????? ?? ?????????? ???
???? ?????????? ?????????? ?????????? ??? ?????? ??? ? ?????????? ?????? ??????,
???? ??? ?????? ??? ?????? 14, ?????????? 2, ??????? ?, ??? ?????????? 1408/71,
????????? ??? ??? ?????? ?????????? ??? ?? ??? ?????? ?????????? ??? ?????????? ???
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11 ?? ?????????? ???, ??? ?????? ?? ?????????? ?????????? ?? ??? ?????? 202
?? ?????????? ??? ?????????? ?? ?????????? ?????????? ?? ??? ?????? ?????????? ???
????????? ??? ?????????? ?? 17?? ?????? 2005, ??????? ?? ?? ?????????? ???
????????, ??? ?????????? ?? ?????????? ??? ?????????? (E??) 1408/71 ??? (E??) 574/72
??? ?????????? (E 001, E 101, E 102, E 103, E 104, E 106, E 107, E 108, E 109, E 112, E 115, E
116, E 117, E 118, E 120, E 121, E 123, E 124, E 125, E 126 ??? E 127) (?? L 77, ?. 1), ?????
????? ?????? ?? «????? E 101» ? «????????? E 101».

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

12 ??? ?????? ??? ?????? ??? ?????? ??? ??????????, ? ?????? Format, ? ???
????? ??? ?????? (?????), ?????????????? ?? ?????????? ???
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???? ?? ?????? ? ?? ?????? ????. ? Format ?????????? ?????????? ?????????? ???
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13 ??? ? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??????????, ???
????? ?????? ?? ?????? ????. ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ????. ???' ????, ?
????????? ??? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ???.

14 ??? ? ?????? ??? ?????????? ??? ?????????? ??? ??????????, ??? ? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ???, ? «?????????» ??? W. Kita, ??? ???? ?????? ???
????? 1, ??????? ??, ??? ?????????? 1408/71, ?????????? ?? ?????????? ???
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15 ? W. Kita ?????? ??? Format ?? ?????? ?????????? ??? ?????? ??? ??????
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16 ? ?????? ?????? ?????? ??? ?????? ??? ???? ???? ?????? ??? 17 ?????? 2006 ???

31 ?????????? 2007 ??? ?????????? ?????? ??? 22 ?????????? 2007. ? ??????? ?????? ??????,
?????????, ??? 30 ?????????? 2006. ?? ????? ?????? ??? ?????????? ?????????? «??
????????????? ??? ?? ?????????? ??? ?????????? ??? ????? ?????????? ?????? (?????????,
??????, ?????? ???????, ???????, ???????), ???????? ??? ?????????? ??? ??????????».
?? ?????? ??? ?????????? ???, ? W. Kita ?????????? ??? ??? ??????. ???' ??????????
?? ?????? 14, ?????????? 2, ???????? ??, ??? ?????????? 1408/71, ? ZUS ?????????? ???
W. Kita ?? ?????????? E 101 ?????? ?? ??? ?????????? ?????????? ??? ?? ?????????? ??
17 ?????? 2006 ??? 22 ?????????? 2007. ??? ?? ??? ??? ?????????? ??? 30 ??????????
2006, ?? ?????????? ??? ????? ?????????? ??? ????? ?? ?????? ??? 17 ?????? ??? 30
????????? 2006.

17 ?? ??????? ??????? ??????? ??????? ??? ?? ??????? ?????????? ??? 4 ??????????
2007 ??? 21 ?????????? 2008. ? ?????? ?????? ??? ?????????? ?????????? ?? ??????????????
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????????? ??? ??????. ???' ?????????? ??? ????? ??????????, ??? ?? ??? ????? ?????????? ???
????? ??????????, ? ZUS ??? ?????????? ?? ?????????????? E 101 ??? ?? ?????????? ??? 4
????????? 2007 ??? 21 ?????????? 2008. ? W. Kita ??? ?????????? ??? ?????????? ??? 22
????????? 2007 ??? 31 ?????????? 2007 ??? ? ?????? ??? ?????? 5 ?????? 2008. ?? ??
?????, o ZUS ?????????? ?? ?????????????? ? 101 ??? ?? ?????? ??? 4 ?????????? ???
22 ?????????? 2007.

18 ?? ??????? ??? 23?? ?????? 2008, ?????????? ??? Format ??? ??? W. Kita (??
????: ??????? ??????), ? ZUS ??????, ????? ?? ?????????? ?????????? ??? ?? ??????
14, ?????????? 1, ??????? ??, ??? 2, ??????? ??, ??? ?????????? 1408/71, ?? ??????????
?? ?????????? E 101 ?????? ?? ??? ?????????? ?????????? ??? ?? ?????????? ?? ??
????????????? ??? ? W. Kita ?????? ??? ?????????? ?????????? ?????????? ??????????,
???? ?? ?????? ?????? ??? 1?? ?????????? 2008 ??? 21 ?????????? 2008 ??? ?? 1??
????????? 2009 ??? 31 ?????????? 2009. ??? ?? ?????? ???, ? W. Kita ??? ??
«????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ? ?????????? ???
????? ???», ??? ?? ?????? ??? ?????? 14, ?????????? 2, ??????? ??, ??? ??????????
1408/71, ??? ?????????? ??? ?????????? ???' ?????? ??? ??????.

19 ??? 24 ?????? 2008, ??? ?? ?????? ??? ?????? ??? ?????????? ??????????, ??????? ??????
?????? ??????? ??? ?? ?????? ??? 30 ?????? 2008 ??? 31 ?????????? 2012
?? ? ?????? ?????? ??? ?????? ??? ? ?????? ?? ?????? ??? ?????? ?? ??
????????? ???????. ??????, ?? ?????? ??? ?????? ??? 24?? ?????? 2008,
????? ?? ?????? ??? ?????? ??? ?????? ?? ?????????? ?????????? ?????????? ??? Olkiluoto
?? ??????????. ? W. Kita, ??? ?????????? ??? ??????????, ??? ?????? ??? ?????????? ???
1?? ?????????? 2008 ??? ?? 30 ?????????? 2009. ? ?????? ?????? ?????? ??????
????????? ??? ?????? ??? 16 ?????? 2009.

20 ?? ??????? ??? 12?? ?????????? 2009, ?? S?d Okr?gowy — S?d Ubezpiecze?
Spo?ecznych w Warszawie (????????? ??? ?????????? ??? ?????????? ??? ??????????)
????????? ?????? ??? ?????? ??? ?????? ??? Format ??? ???
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????????? ??, ??? ?????????? 1408/71, ??? ? Format ??? ?????? ??? ??
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?? ?? ??
????????? ??? ? W. Kita ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ???, ???, ??? ?????? ??? ?????? ??? ?????? ??? ?? ?? ?? ??
????, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
(?? ?????? ???, ???????, ??? ??????), ???, ??? ?????? ???, ???, ???

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

21 ? Format ??? ? W. Kita ??????? ??????? ??? ?????????? ?????????????? ?????? ??? ??
????????? ??? 12? ??????????? 2009.

22 ? Format ?????????? ??? ?? ??????? ??? ?????? ??? ?????? ?????????????? ??
????????? ??? ?? ?????? ?? ?????? ??? ?????????? ?? ?????? 14, ?????????? 2, ?????????? ??,
????????? ii, ??? ?????????? 1408/71, ?? ?????? ??? ?????? ???' ?????? ??????????
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23 ? W. Kita ?????????? ??? ?????? ??? Format, ?????????????? ?? ??? ?????? ??? ??
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??? ?????????? 1408/71, ???, ??? ?????? ??? ?????????? ?????? ??? ?? Format,
????? «????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ? ?????????? ??????
?????», ?????? ?????? ?????????? ??? ?????? ?????????? ??? ??? ?????? ?????????????? ???
????? ??? ?????? ?????, ??? ??? ?? ?????????? ??? ??? ??? ?? ??? ??? ?? ??? ?? ??? ??
????? ??? (??? ?????? ??? ??? ??????????). ?????????, ??? ? W. Kita ?????? ?? ??????????
?? ?????????? ??? ??????, ??? ?? ??? ?????? ?????? ?? ?????? 14, ?????????? 2,
????????? ??, ?????????? i, ??? ?? ??? ?????? ??????????.

24 ?? ?????? ?????????? ??? ?????? ??? ??? ?????? ?????? ?????? ? ????? «?????? ???
????? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ??? ?????? ?????? ??? ??
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1408/71.

25 ??? ??? ??????? ????, ?? S?d Apelacyjny — S?d Pracy i Ubezpiecze? Spo?ecznych w
Warszawie ??????? ?? ?????????? ??? ??????? ??? ?????????? ??? ?? ??????? ???
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«1) ?? ??????? ??? ??? ?????? ?????????? ??? ?????? 14, ?????????? 2, ?? ??????????
[1408/71] ?????? ?? "?????? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ??????
??? ? ?????????? ?????? ??????", ??? ?? ?????? ?????????? ?????? ??? ?????????? ?? ??? ??
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?) ?????????? ??? ?????? ??? ?????? ??????, ??? ??? ?????? ??? ?????? ??? ??????????
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(?????????), ??? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???, ?? ??
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?) ?????????? ??? ?????? ??? ?????? ??????, ??? ??????????, ??? ?????? ??? ?????? ???
????????? ??????, ?? ?????? ?? ?????? ??? (???????) ?????? ?? ?????? ??????
????, ?????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??????, ? ?? ??????
???? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????????? ??,

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

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2) ?? ?????????? ??????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
[?????????] ?? ????????, ??????? ?? ???? 14, ?????????? 2, ?????????? ??, [?????????] ii, ???
????????? 1408/71 ?? ??????????, ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ????
????????? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ?? ?????????? ?????? ???, ?????????? ?????? ? ?????????? ?????? ?????? ?????? ???
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????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ?????? ??, ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? 14,
????????? 2, ?????????? ??, [?????????] i, ??? ?????????? 1408/71;»

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26 ??? ?? ?????? ?????????, ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ????
????????? ?????????? ??????????, ??????? ?? ?????????? ??? ?? ??? ?????? ?????? ?????? ???,
?????? ?? ?????? ???, ??????????, ??? ??????????. ? ??????? ??? ?????? ??? ?????? ??? ??????
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1408/71 ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????. ? a posteriori ??????
??? o ?????????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????
????????? «?????????» ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??????
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????????? . ? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????
????????? ?????? ??????.

27 ?? ?? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???' ??????, ??
?????????, ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????, ??? ?????????? ??? ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????
?????????.

?? ?? ??????

28 ?? ?? ??? ?????????? ???, ?? ?????? ?????? ?? ?????????? ??? ?????? ?? ??????
????????? ???, ???' ????, ?? ?????????? ?? ?? ??? 14, ?????????? 2, ??????????
??, ??? ?????? 1408/71 ??? ?? ?????? ???, ??? ?????????? ??? ?? ??? ?????? ??? ?????? ???
????????? ?? ?????? ???, ??? ?????? ?? ???, ??? ?????? ?????? ?????? ?????? ??????
????????? ?? ?????? ?? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ???, ?????? ????
????????????? ???, ??? ?? ?????? ?????? ?????? ?? ??? ?????? ?????? ?????? ???, ??? ??????
????? ?????? ??? ?????? ?? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ???, ??? ??????
?? ?????? ??? ?????? ??? «[????????] ??? ?????? ?????? ?????? ?????? ?????? ?????? ????
????? ??? ? ?????????? ?????? ?????? » ???, ???, ?? ?????? ?????? ?????? ?????? ????
????????? , ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ??????
????????? 2, ?????? ??, ??? ?????? i ? ii, ??? ?????? ???.

29 ??????, ??? ?? ?????????? ??? ?? ?????????? ??? ?????? ?? ??? ?????? ???
1408/71, ??? ?????? ?????????? ?? ?? ??? 14, ?????????? 2, ??????????, ???
????? ??????, ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????,
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????

???? ??????? ?????????? ?????????? ?????? ?????? ?????? ???????, ??? ? ? ?????????????? ?
????????? ?????????? ?????? ?????? ?????? ?????? ?? ? ???? ?????? ?????????? ?? ? ???? ??????
????????? (??. ???????, ?????? ?????, ?????????? ??? 23? ?????????? 1982, 276/81,
Kuijpers, ?????? 1982, ?. 3027, ????? 10, ??? 10? ?????????? 2000, C-202/97, FTS,
?????? 1997, ?. ?-883, ????? 20 ??? ??? ?????????????? ??????????, ??? ? ? ? 9??
????????? 2000, C-404/98, Plum, ?????? 2000, ?. I-9379, ????? 18).

30 ??? ?????, ?? ??? 13, ?????????? 2, ??????? ?, ?? ?????????? 1408/71 ???
?? ?????? ??? ???? ???? ???? ? ?????????? ??????????, ??? ?????? ??? ??????????
?????????, ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? (??.
????????? ??? 17? ????? 1984, 101/83, Brusse, ?????? 1984, ?. 2223, ????? 15).

31 ? ??? ?????? ??????????????, ?????????, «?? ??? ?????????? ??? ?????? 14 ??? 17»
?? ?????????? 1408/71. ???????, ?? ?????????? ?????????? ???????????, ? ??????????????
????????? ??? ?????? ?????? ??? ?????? 13, ?????????? 2, ??????? ?, ?? ??????????
????? ? ? ?????? ??? ?????? ?? ??? ???????, ???, ???????, ?? ???????????, ???
??? ??? ?????????? ??? ??? ??? ??? ?????? ??? ?????? ?????????? ??????????
?????????, ?????????? ?????????? ?????????? ?? ?????? ?? ?????????? ??? ??????????
????????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ? ?? ???
????????? (??., ???????, ?????????????? ?????? Brusse, ????? 16). ?????? ?????? ???
????? ?????? ?????? ?????????? ???????????, ?????? ???, ??? ??? 14 ??? ??????????
1408/71.

32 ??? ?????????? ??? ?? ??????????, ?? ?????? ?????????? ?????????? ?? ?????????? ???
?? ??? 14, ?????????? 1, ??????? ?, ?? ?????????? 1408/71 ??? ?????? ??? ??????????
????????? ??? ?????????? ??? ?????? ?????????? ??? W. Kita, ?????? ? Format,
?? ?????????? ???, ?? ?????? ?????? ?????????? ?????????? ?????????????? ??? ??????????,
????? ??? ?????? ??? ?????? ???????, ??? ?????????? ??? ?????? ??? ?????????? ??? (??.,
??????, ?????????? ??? 17? ?????????? 1970, 35/70, Manpower, ?????? ??? 1969-1971,
. 657, ????? 16, FTS, ??????????????, ?????? 23 ??? 45, ?? Plum, ??????????????,
????? 22). ?? ?? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ??????????.

33 ??????????, ??? ??' ?????? ?????????? ?? ?????? ?????????? ??? ???
????????? ??? ?? ??? 14, ?????????? 2, ??????? ?, ?? ?????????? 1408/71, ??
????????? ??? ?????? ?????????? ?????????? ?????????? ?????? ?????????? ? ??????????
?? ?????? ?????????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????????? ??? ??
?? ??? ??? 14, ?????????? 2, ?????? ?? «[????????] ??? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ? ?????????? ?????? ?????? ???» (??., ???' ???????, ???????
?? 16? ?????????? 1995, C-425/93, Calle Grenzshop Andresen, ?????? 1995, ?. I-269,
????? 15).

34 ??? ?????????????? ??? ??? ??? ?????? ?????????? ??? ?????????? ?? ??????????
????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???, ??? ???
????????? ??? ??? ??? ?????????? ??? ?????????? ??? ?????? 16, 17 ??? 19 ???
????????? ??????.

35 ??? ??? ??????? ???, ?? ?????? ?????????? ??? ?? ?????????????? ?? ???
????? ??? «[????????] ??? ?????? ?????????? ?????? ?????????? ??? ?????? ??? ?
????????? ??? ?????? ???» ??? ?????? 14, ?????????? 2, ??? ?????????? 1408/71
????????????? ???, ??? ??? ?????????? ??? ?????? ?????????? ?????????? ??????????????
?? ?????? ?????????? ???, ??? ???, ?????????? ?????? ??? ?????? ??? ??? ???
????????? ?????? ???, ?????? ??? ?????? ?????? ?????? ??? ?????????? ?????? ???,
????? ?? ?????????? ?? ??? ?????? ?????? ?? ?????????? ??? ?????? ???

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

36 ??? ?????? ???, ?? ?????? ?????????? ?????????? ??? ?? ??? 14, ?????????? 2,
??? ?????????? 1408/71 ??? ?????? ?????????? ?????????? ??? ?? ?????? ???
????????? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ?????????? ???
?????.

37 ??? ??? ?????? ???, ? ?????? ?????? ?????? ???, ??? ?? ?????? ???
14, ?????????? 1, ????????, ??? ?????????? ???, ? ?????? ??? ?????? ???
?? ?????????? ?? ?????? ????. ????????, ? ZUS ?????? ??? ??????????
??????????, ???' ??????, ??? ?? ?????????? ?????? ?????????? ??????????
????????? ??? ?????? 14, ?????????? 2, ??? ?? ??? ?????? ??????????
????????? ?? ?????? ??? ?????????? ??? ?? ????. ? ?????? ??????????
??, ??????? ?????????? ?????????? ??? ?? ?????? ??? ?????????? ???
????? 14, ?????????? 2, ????????, ??? ?? ?????????? 1408/71 ??? ??
????? ?????? ?? ?????????? ?? ?????? 13, ?????????? 2, ????????, ???, ???
??????, ??? ?????? ?????? ??? ?????? «[????????] ??? ?????? ?????? ??????
????????? ??? ?????? ??? ? ?????????? ?????? ?????» ??? ?????? ???
????????? ?????? ??? ?? ?????? ??????. ??? ?? Format, ?? ??? ??????????
????? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????????? ??????????
????? ?? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????????? ???
??????????, ????, ?? ?????????? ?????? ?????????? ?????????? ?????????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???.

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

39 ????????, ?? ??? ????????, ??? ?????????? ?? ?????????? 14, ?????????? 2, ???
????????? 1408/71 ??? ?? «????????» ?????? ?????????? ??? ? ?????????? ???.

40 ?? ?? ??????, ??? ?? ?????? ??? ?? ?????? ?????? ?????? ??? ?? ?????? ??????
????????????? ??? ?????? ??? ?????? ?????? ???, ?? ?????? ??? ?? ?????? ??
????????? ??? ?????? ?????? ??? ?? ??? ?????? 14, ?????????? 2.

41 ??? ??? ?????? ???, ?????????? ?? ?????? ??? ?????? ?????? ??????????
?????????, ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???
??????, ??????, ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??????????
????????? ??? ?????? —????? ??? ?????? Format ?????? ?? ??? ??????????
????????????? E 101— ???, ???????, ??? ?????? ?? ??? ?????? ?????????? ???
?? ?????????? ??? ?????? ?????????? ??? ?? ??? ?????? ???.

42 ???????, ?????? ?? ?????????? ??? ? ?????? ??? ?????? ?????????? ???
????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ???
?? ?????? ?????????? ??? ?????? ???, ?? ?? ??????, ?? ?????? ??? ?????? ???
????????????? ??? ?? ??? ?????? ?????? ?????? (??., ???????, ??????????????)
???????? FTS, ????? 51, ??? ?????? ??? 30?? ?????? 2000, C-178/97, Banks ?.??.,
2000, ?. I-2005, ??? 38).

43 ?????? ?? ?????????? ? 101 ???????, ??? ??????, ??? ? ??? ?????? ???
????????? ??? ?????? ???, ? ?????? ??? ?? ??? ?????? ?????????? ??????????
??????, ??? ?? ??? ?????? ?????? ??? ?????? ??? ?????????? ???.

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

44 ??? ?? ??????? ???, ?????? ?? ???????????, ?????? ????, ????? ?? ????? ??
???????, ???????, ???? ??? ??????? ?? ??????????? ???????, ??????????? ??
?????????? ?? ?? ??????????????? ??????????????? ??????????? ?? ?? ???????
??????????????, ?? ?????? ?? ??????????? ?? ??????????? ?? ?? ??????? ??
?????????? ?? ?????? ???, ??? ?? ???????, ???????, ??? ?? ??? ?? ?? ???????????
?? ?? ??????? ?? ?????? ?? ?? ?? ????? ??????????? ??????????????? ?? ?? ??
???????? ?? ?? ??????? ?? ?? ?? ??????? ?? ??????????????? E 101 ?, ???????????, ?? ??
????? ??????????? ??????????????? ?? ?? ?? ????? ?? ??????????? ?? ???????????.

45 ????? ???? ?????????? ??? ?????????????? ?????????????? ?????????????? ?? ?????????????? ?
?????????? ?????????? ?????????? ?????????? ?????????? ??? ?? ?????????? ??? ?????????????? ? 101,
? ?????? ??? ?? ??????? ??????? ?? ??????? ?????????? ??????, ?????? ??? ?? ??????????
??? ?????????? ???????, ??? ?????????? ??? ? ??????? ?? ??? ?????? ?????????????? ???
????????? ??? ?????? ?? ?????????? ?????????? ?????? ??? ?????????? ??? ??? ??????
??????????, ?? ??????????? ??? ??? ?????? ?????????? ?? ?????????? ??????? ?? ?,
??????????, ?? ?????????????? ??? ?? ?????? ??? ?????????? ?????????? ??? ??????
?????????????, ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????
??? ?? ??? ??????????.

46 ??? ??? ????? ?????? ??????????, ????, ??? ?????????????? ??????????, ?????????? ???
?????????? ?????????? ????, ?????????? ?????? ?????????? ???, ??? ?????????????? ???, ??? ??????
????????? ???, ? ?????????? ???, ?????? 42 ??? ?????????? ?????????? ?????????? ??????
????????? ??? ?????????? 1408/71 ??????? ??? ? ??????? ???????, ??????, ?????????? ???
????????? ??? ?????????? ???????, ??????? ?? ?????????? ?? ?????????? ??? ?????????? ???, ???
????????? ?????????? ??? ?????????? ??? ?? ???????, ???????????, ?? ?????????? ???
????????????? ? 101.

47 ??????????????, ??? ?? ?????????? ?????????? ??? ? ?????? ??? ??? ?????? ??? ?????? ?? ?????????? ??
????????????? E 101 ??????? ?? ?????????????? ?? ?????? ??? ?????????? ?????????? ?????????? ???,
?????????????, ?? ?? ?????????? ??? ?????????? ??? ? ?????? ??? ?????????? ?????????? ??? ??? ?? ???
???? ??? ?????? ? ???????? ?????? ?????? ?????????? ?????????? ?????????? ??? ??? ?? ???
????????? ??? ?????????? ?????????? ??? ?????? ?????? ??? ?? ??? ??????????????
???/? ??????? ?? ??? ?????? ??? ?????? ??? ?????? ?? ?? ?? ?? 1408/71 (??., ???'
???????, ??? ?????? ??? ?????? 14, ?????????? 1, ??? ?????????? 1408/71,
????????????? ?????????? FTS, ??? 56, ??? Banks ???., ??? 43).

???????, ? W. Kita ??????? ?????? ????? ??????? ???, ??? ???????, ? ?????? ??????
????? ?????? ?? ??????? ??? ???.

49 ??? ??? ??????????? ?????, ?????????????? ?????? ??? ?????????????? ??? ?????? ?????? 39
??? 40 ??? ??????? ??????????, ??? ?????? ?????? ?? ?????? ?????? ??? ?????? ?????
????????????? ??? ??? ??? W. Kita ?????? ?? ?????????? ??? ?????????????? ??? ?? ???
14, ?????????? 2, ??? ?????????? 1408/71 ?????? ??? «[?????] ??? ?????? ??????
????? ?????????????? ??? ?????? ??? ? ?????????? ?????? ?????? ?????».

50 ???????, ??? ??????? ???????????, ??? ?????? ??? ?????? 13, ?????????? 2,
?????? ??, ??? ?????????? 1408/71 ?????? ?? ?????? ?????????? ???, ???????????, ???
???? ?????????? ??????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????
???? ?????????? ??? ?? ?????? ???, ?????????? ???.

51 ??? ?????? ?????????? ?????????? ?? ?????? ?? ?????????? ??? ?????????? ???
??? ??? ?????? 49 ??? 50 ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????.

52 ?????? ??? ???????????, ??? ?????????? ?????????? ??? ?????? ?? ?????? ? ??????
??? ?? ??? 14, ?????????? 2, ??????? ??, ??? ?????????? 1408/71 ??? ??? ?????? ???,
??? ?????????? ??? ?? ??????? ??? ?????? ??? ?????? ??? ??????, ??? ?????? ?? ???,
??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ???, ???????, ??? ?????????????? ???, ??? ?? ?????????? ???
????????? ?? ??? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ?? ???
??? ?????? ?? ?????????? ???, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ?? ?????????? ???, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? «[?????] ???
????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ? ?????????? ?????? ???
?????».

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

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

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

? ? ??? 14, ?????????? 2, ??????? ??, ??? ?????????? (??) 1408/71 ???
??????????, ??? 14?? ?????? 1971, ??? ?????????? ??? ?????????? ??????????
????????? ??? ?????? ?????????? ???, ??? ?? ?????????? ??? ??? ??? ??? ??????????
???? ??? ?????????? ??? ?????? ??? ?????????? ???, ??? ?????????? ??? ???
????????? ??? ??? ?????????? (??) 118/97 ??? ?????????? ??? 2?? ??????????
1996, ??? ?????????? ??? ??? ?????????? (??) 1992/2006 ??? ??????????
????????? ??? ??? ?????????? ???, ??? 18?? ?????????? 2006, ??? ??? ??? ?????? ???,
??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ??
????, ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??
?? ?????? ?????????? ??? ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ???, ??? ??
????????? ??? ?????? ?????? ?? ??? ?????????? ???, ??? ?????? ??? ?????? ??? ??
??? ?? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? «[?????] ??? ?????? ?????? ?????? ?????????? ?????? ???
??? ?????? ??? ? ?????????? ??? ?????? ????».

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

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