

?????? C-392/09

Uszodaépít? kft

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APEH Központi Hivatal Hatósági F?osztály

(?????? ??? Baranya Megyei Bíróság ??? ??? ?????? ?????????????? ????)

«???? ?????? ??? – ?????? 2006/112/E? – ???????? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? – ??? ?????? ?????? – ?????????? ?????? ?? ? ?????????? ?????? – ?????????? ?????? – ?????? ??????»

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????????????? ?????????? – ?????????? ??? ?????????? – ????? ?????? ?????? ?????? – ?????
????????? ??? ?????????????? ????? – ?????? ??? ?????? ?????? – ??????????
????????????? ??? ?????????????? – ?????????????? ??? ?????????? ??? ?????? ?????? ??????????????
????? ?? ?????????? ?????? ? ?????? – ?????? ?????? ??????»

(?????? 2006/112 ??? ??????????, ??? 167, 168 ??? 178)

?? ??? 167, 168 ??? 178 ??? ?????? 2006/112, ??????? ?? ?? ??? ?????? ?????? ??????
????????????? ????, ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????? ??????????
????????? ?????????? ? ??? ?????? ????, ??? ?????? ?????????? ?????? ?????? ?????????????? ???
????????????? ??? ?????? ?????? ?????????? ?????????? ?????? ??? ?????? ?????????? ?????? ??????
????????? ??? ?????? ?????????? ?????????? ?????????? ?????? ??? ?????? ?????????? ?????? ????
????????? ??? ?????? ?????????? ?????????? ?????? ??? ?????? ?????????? ?????? ?????????? ????
????????????? ?????? ?????? ?????????? ?????? ??? ?????? ?????????? ?????? ?????? ??????????
??? ?? ?????????? ??? ?????? ?????? ??????.

?????????, ?? ?????? ??? ?????????????? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??????
????? ??? ?????? ?????????????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ???
????? ?? ?????????? ??? ?????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ????
????????? ?????? ??? ?????? 167 ??? 168 ??? ?????? 2006/112. ? ??? ?????? ??????????????
????????????? ????, ???????, ?? ?????? ?????????? ??? ?????? ??? ?????? ??????????????
????? ??? ??? ??????, ?????? ?????????? ?? ?????????? ?????????? ?????? ??? ?????? ??? ?? ??
????????? ??? ?????? ?????? ?????????? ?? ?????????? ?????? ?????? ?????????? ?????? ????
????????? ?????? ?????? ?????????? ?? ?????????? ?????? ?????? ?????? ?????????? ?????? ????
????????? ?????? ?????? ?????????? ?? ?????????? ?????? ?????? ?????? ?????????? ?????? ????
????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ????
????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?????? 167, 168 ??? 178,
????????? ???, ??? ?????? 2006/112 ?????????? ??? ?????????? ?????? ?????? ?? ?????????? ????
?? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???,
????????? ?? ?????? ?? ?????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ????
????????? ??????. ?????? ?????? ?????? ?? ?????? ?? ?????????? ???, ??????, ??
????????????? ?????? ?????????? ??? ?????? ?? ?????? 168, ?????? ??, ??? ?????? 2006/112
??? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???, ???????, ??? ??
????????? ?????? ??? ? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???

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

(???. ??????? 36, 39-40, 42-43, 46 ??? ??????.)

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

??? 30?? ?????????? 2010 (*)

«???? ?????? ?? – ?????? 2006/112/E? – ?????????? ?????????? ?? ?? ?????? ?? ?? ?????? ??
– ?? ?????? ?????? – ?????????? ?????? ?? ?? ?????????? ?????????? – ?????????? – ??????????
????????? – ?????? ??? ?????????? ??? ?????????»

???? ?????? C?392/09,

??. ?????????? ?????? ?????? ?????????? ?????????? ?????? 234 ??,
?? ?????? ?? Baranya Megyei Bíróság (???????) ?? ?????? ??? 2?? ??????? 2009, ?
????? ?????? ??? ?????????? ??? 5 ??????? 2009, ??? ?????? ??? ??????

Uszodaépít? kft

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APEH Központi Hivatal Hatósági F?osztály,

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

????????? ?? K. Lenaerts (???????), ?????? ???????, R. Silva de Lapuerta, E.
Juhász, J. Malenovský ?? D. Šváby, ???????,

????????? ??????????: N. Jääskinen

?????????: R. Grass

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

– ? ??????? ????????, ?????????????? ??? ??? J. Fazekas, M. Fehér ?? Z. Tóth,

– ? ????????, ?????????? ??? ??? B. D. Simon,

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

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

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1 ? ??????? ?????????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 17 ???
20 ??? ?????? ???????? 77/388/E?? ??? ??? ??????????, ??? 17?? ????? 1977, ??? ???
?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? -
????? ?????? ?????? ?????? ?????? ?????: ?????????? ?????? ?????? ??? (?? ????. ???.
09/001, ?. 49), ??? ?????????????? ??? ??? ?????? 2001/115/E? ??? ??????????, ??? 20??
????????? 2001 (?? 2002, L 15, ?. 24, ??? ????: ??? ?????), ????? ??? ??? ?????? ??????
??? ?????? ??? ??????.

2 ? ?? ??? ?????? ?????????? ??? ?????? ?????????? ??? Uszodaépít? kft ???
APEH Központi Hivatal Hatósági F?osztály (????????? ?????????? ?????? ?????? ??? ??
????????? ??? ??? ?????????????? ??????, ??? ????: APEH), ?? ?????????? ?????? ???
????????? ?? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????? ??? ?? ??? ??
????????? ??? ?????? ?????????????? ?????? (?? ????: ???) ??? ??? ??? ?????? ???
????????? ?? ??? ?????????????? ??????.

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

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

3 ? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ???
?????? ?????? ?????????????? ??? (?? L 347, ?. 1), ??????? ?? ?????? 411 ??? 413
?????, ?????????? ??? ??????????????, ?? ??? ?? 1?? ?????????? 2007, ?? ?????????? ???
????? ??? ??, ??? ?????? ??? ?????? ??????. ??? ?? ?????? ??? ??? ?????? ??????????
????? ??? ?????? 2006/112, ? ?????????? ??? ?????? ?????? ??? ??????,
????????? ?? ?????????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ??????, ???
?? ????????, ????????, ???' ????, ?????????????? ??? ??? ??????. ????????, ??
????????? ??? ?????? 2006/112 ?????? ?????????? ?????????????? ?? ??? ??????????
????????? ??? ?????? ??????.

4 ??? ?? ?????? 167 ??? ?????? 2006/112, ?? ?????? ?????????????? ?? ?????? 17,
????????? 1, ??? ?????? ??????, «[?] ?????? ?????? ?????????? ??? ??? ?? ?????? ???
??? ?????? ? ??? ?????? ?????? ?????? ?????? ??????».

5 ?? ?????? 168, ????????, ??? ?????? 2006/112, ?? ?????? ??? ?????????? ???'
?????? ?????????? ?? ??? ?? 17, ?????????? 2, ????????, ??, ??? ???
??????, ?? ?????????? ?? ?? ?????? 28??, ?????????? 1, ????, ?????? ?? ???:
«??? ?????? ??? ?? ?????? ??? ?? ?????????? ?????????????? ??? ??? ?????? ???
????????????? ???, ?? ?????????? ??? ?????? ??? ?? ?????? ??? ??????, ??? ??????
????? ??? ?????? ?????????? ??? ?????? ???, ?? ?????? ??? ??? ?????? ??? ??????
????????? ???:

?) ??? ?????????? ? ?????????? ??? ?? ?????? ??? ?????? ??? ?? ?????? ??? ?? ?????? ???
????????? ? ?????????? ?? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?? ??????????
? ?????????? ?? ??? ?????????? ??? ?????? ?????????? ??? ?? ???».

6 ?? ?????? 178 ??? ?????? 2006/112, ?? ?????? ?????????????? ???' ?????? ?? ??????
??? ?????? 18, ?????????? 1, ??? ?????? ??????, ?? ?????????? ?? ?? ?????? 28??, ?????? 2,
?????, ?????????? ??? ?????? ??????.

«???? ?? ??? ? ? ?????????? ??????? ?? ?????????? ???????, ? ?????????? ??? ???? ???

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

[...]

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

?? ?????????? ?????????? ?? ??? ?????? 187 ??? 190 ??? 192, ?? ?????? ?? ???? ?????????? ???

????????? ?? ??? ?????? ??????»

7 ?? ?????? 199, ?????????? 1, ?????????? ?, ??? ?????? 2006/112 ??????:

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

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

?) ?????? ?????????????? ?????????? [...].

8 ?????? ??? ?????? ?? ?????????? ?? ?????? 199, ?????????? 1, ?????????? ?, ???

????? 2006/112 ?????? ?????? ?? «????????? ?? ??????????» ??? ????????????

????????? ??? ?? ?????? 21, ?????????? 1, ??? ?????? ??????.

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

9 ?? ?????? 127, ?????????? 1, ?????????? a, ??? ????? CXXVII ??? 2007 ??? ???

(Általános forgalmi adóról szóló 2007. évi CXXVII törvény, ??? ?: ??? ?????? ??? ???), ?

????? ?????? ?? ?????? ??? 1?? ?????????? 2008, ?????? ?? «??? ??? ?????? ???

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

????????? ?????????????? ?????????????? [...] ?????????? ?????? ??' ?????? ??? ?? ???

????????? ??? ??????».

10 ?? ?????? 142, ?????????? 1, ?????????? b, ??? ?????? ?????? ??? ??? ??????????:

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

?????????:

[...]

b) ?? ?????????? ?????????????? ?????? [...].

11 ??? ?? ?????? 142, ?????????? 7, ??? ?????? ?????? ??? ???, «?? ?????????? ??????????

??? ?????????? 1, ? ?????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???

????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? [...]

????????? [...].».

12 ?? ?????? 169, ?????????? k, ??? ?????? ?????? ??? ??? ??????:

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

k) [...] ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ? ? ?????????? ??? ??????????

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

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

[...]

kb) ?????????? ??? ?????? ?????? ? ??????? ?? ?????? ? ? ?????????? ??? ??????????».

13 ?? ?????? 269, ?????????? 1, ??? ?????? ?????? ??? ?????? ??? ?????? ??????:

«?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? LXXIV ?? 1992 [??]
????: ?????????????? ??? ?????? ???] ??????????, ??? ?????? ??? ?????? ?????????????? ?
???? ?????? ?????????????? ?, ?? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ???
????????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????? ?????????? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??????????
?????????????, ? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ??????????
????????????? ?? ?????????, ??? ?????? ?????? ?????? ??? ?????????? ???, ?????????? ???, ?????????????? ???
??? ?????????? ??? [?????????????] ?????? ???, ?????? ?? ?????? ???, ?? ?????? ???
????? ??? [?????????????] ??? ?????? ???, ?????????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???
????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? –????? ?????? ??????
????? ??? ?????????? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? – ??????
????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?? ?????? ?????? ???
????? ??? 15 ?????????? 2008. ? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??
????? ?? ???????. ?? ?????? ?????? ?????? ?????? ???, ?????? ?????? ? ?????? ?????? ???
????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???.

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

14 ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? 9 ?????? 2006 ?? ??? NÁS MPS-4 Kft,
????? ??? ?????, ?????? ?????? ?????? ??? ?????? ?? ?????????? ?????? ?????? ???????. ?
????????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?? ?? ?????? ?????? ??????
?????????.

15 ?? ?????? ??? ?????? ??? ?????? ??? 2007, ?????????? ??? ?????? ??? ?? ?????????? ???
????? ??? ?????? ??? ?????? ?????? ?????? ???????. ??? ??? ?????????? ?????? ???
??? ?????? ?????? ?????? ?????? ?????? ???????. ??? ? ?????????? ?????? ??? ?????? ???
????? ??? ??? ?? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???.

16 ??? 14 ?????????? 2008, ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?
????????? ??? ?????? ???, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ???
????? ??? ?????? ??? ?????? ?? 269, ?????????? 1, ??? ?? ??? ?????? ???, ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
(???: ????: ??? 14?? ?????????? 2008).

17 ??? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 2007, ? ?? ??? ?????? ??? ?????? ???
??? ??? 23 ?????? 2008 ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 52 822 000
????????? ?????? (HUF) ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 2007. ?
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

? ? ??????? ?? ??????? ??? ?????? ??? ?????????? ??? ? ?????????? ?? ? ????????????,
?????? ?? ?? ??? ??????? ??? ??? ?????? ?? ??? ?????? ?? ??? ?????? ??? ??? ???.
??????????, ??? ?? ?????? ??? 14?? ?????????? 2008, ?? ?????????? ??? ??? ??? ????
??? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ??? ?? ?????????? ???
????????? ??? 2007. ??? ?? ?? ??? ???, ?? ?????????? ??? ?????????? ???
????????? ??? ??? 142, ?????????? 7, ???
169, ??????? k, ??? ??? ?????? ????. ??????, ?????????? ? ?????????????? ??? ???
????? ?? ??????? ?? ??????? ??? ??????? ??? ??? ???????, ??????? ?? ??? ??? ???????
??? ??? ??? ???, ????, ????, ?? ?????????? ??? ?????????? ??? ??? ??????? ??? ???
????????? ???, ???????, ? ?????????? ??? ?????????? ??? ??????? ??? ??? ??? ??? ??
????????? ??? 2007 ??? ?????????????? ???.

18 ?? ??? ??? 5 ?????????? 2008 ??????? ???, ?? APEH ?????????? ??? ??????? ??
23?? ??? 2008.

19 ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ??
????????? ?? ??? ?????? ??? ?????? ??? 5 ?????????? 2008 ?????????? ??? APEH. ??
?? ??? ?????????? ??? ?? 269, ?????????? 1, ??? ??? ?????? ??? ??,
????????? ??? ?????????? ?? ??????? ?????? ??? ?????? ??? ?????????? ??? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????, ?????????? ??? ?? 17
??? 20 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

20 ??' ??? ?????? ??? ???????, ? Baranya Megyei Bíróság ?????????? ?? ?????????? ??
????????? ??? ?? ??????? ??? ?????????? ?? ?????????? ?????????? ??????????:

«1) ?? ?????????? ?? ?? 17 ??? 20 ??? ?????? ?????? ?????? ??? ?????? ????,
?????? ?? ??? 1? ?????????? 2008, ??? ?????? ?? ?????? ??? ?????????? ???
??????, ??? ?????????, ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? 2007, ??? ??????????
????????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????
?????????;»

2) ?? ?????? ??? ?????? ?? ?? ?????? ??? ?????? ??? ?????????? ???, ??? ??
????????????? ??? ?????????? ???, ??? ?????, ??? ?????? ??? ?????? ??? ?? ??? ??
????????? ??? ?? 269, ?????????? 1, ??? ??? ?????? ??? ??
????, ??? ?? ??? ?????, ?? ?????????? ??? ?????? ??? ?????????? ?? ?????????????? ??
??? ?? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?? ??? ??????????
????????? ?? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????, ??? ?? ??? ?? ? ?????????? ??? ?? ?????? ??? ?????????? ??? ?? ??? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????, ??? ?? ??? ?????????? ???
?????????;»

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

?? ?? ???????

21 ?? ??????? ??????? ??????? ??? ? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ??????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
?????? ??? ?????? ??? ???????, ??? ?????, ??? ?????????? ??? ?????? ??? ??????????
??? ??? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ??????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????

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

22 ???????, ?????????????? ???, ??? ?????? ??????????, ??? ??????? ?? ???????????
????? ??? ?????????? ??? ?? ??????? ?????????? ??? ?????? ?????????? ?? ??? 267
????, ?????????? ?????????????? ??? ?? ?????? ?????? ??????????, ??? ?????????????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ?? ???????, ??
?????????, ?????????? ??? ?????? ?? ?????????? ?????????? ?????????? ??? ??????????, ???
????????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ??????
????????? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????
??? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????
?? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????, ??
????????? ???, ???' ????, ?? ?????? ?????? (??., ?????? ????, ?????????? ??? 13??
?????? 2001, C-379/98, PreussenElektra, ?????? 2001, ?. I-2099, ?????? 38, ??? 1??
????????? 2009, C?103/08, Gottwald, ?????? 2009, ?. I-9117, ?????? 16, ??? ??? 22??
????????? 2010, C?82/09, ?????? ?????? ???????, ? ?????? ??? ?????? ?????? ?????? ?????? ???
??????, ??? 14).

23 ??? ???????, ?? ??????? ?????????? ??? ?????????? ?????? ??? ?????????? ???
????????? ?? ?????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?? ?????????? ???
????????? ?, ??? ?????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?? ?????????? ???
????????? ?????? ??? ?????????? ?? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ??
????????? ? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? (??., ?????? ????, ??????
Gottwald, ???????????, ?????? 17 ??? ??? ?????????? ??????????).

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

25 ???????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ? ??????? ??? ?????? ???
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ?? ?????? ??? ??????.

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

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

27 ??? ??????, ??? ??????, ?? ?????????? ??? ?????? ?????????? ??? ?????????? ???
? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? 17 ??? 20 ???
????? ??????.

28 ???????, ?????? ??? ?????? 411 ??? 413 ??? ?????? 2006/112, ??? ???????
??? ?????????? ??? ?????? ??? ?????? ??? 1? ?????????? 2007.

29 ??? ?? ?????? ????, ?????????? ??? ?? ?????? ?????????? ?????????? ???

?????? ???? ?????? ?????? ?????? ?????????????????? ??? 1?? ?????????? 2007, ?????? ?
????????? ??? ?????????? ??? ?????? 2006/112 ?????? ?????????? ??? ?? ?????? ??? ??????
?????.

30 ?? ??????? ???, ??? ??????? ???????, ??? ?????? ??????????? ?????????? ??
?????????? ?????? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????? ??????
??? ?????????? ?? ?????????? ?? ??? ?????????? ??? ?????????? ??? ?????? ?????? ???
??? ?????? ?????? ??? ?? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????
????????? ??? ?? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? (??., ???????,
????????? ??? 27?? ?????????? 2009, C-115/08, ?EZ, ?????? 2009, ?. I-10265, ????? 81, ???
??? 12?? ?????????? 2010, C-341/08, Petersen, ? ?????? ??? ??? ?????? ?????????????? ???
??????, ??? 48).

31 ???????, ?????????????? ???, ??? ?????????? ??? ?? ??? ?????? ?????????????? ???
?????? 2006/112, ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ???
??? ?????????? ??? ?????????? ??? ?????? ?????? ???, ??? ?????? ??? ??????
??????, ?????????? ??? ?????? ?????????? ???' ?????? ?????????? ?????????? ??? ?? ???
?????????.

32 ??' ?????? ??? ???????, ??????? ?? ??????? ??? ?? ?????? ?????????? ???
????????? ??? 167 ??? 168 ??? ?????? 2006/112 ??? ?????????? ??? ??????????
??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????????. ???????,
????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????????? ???
????????? ???, ?????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? 178 ???
?????? 2006/112.

33 ???????, ??? ?????? ??? ?????? ??? ??????????, ?? ?????? ?????????? ???,
??????????, ?? ?? 167, 168 ??? 178 ??? ?????? 2006/112 ?????????? ??? ??????
?????? ??? ?????? ??? ??????, ?? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
?? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??
????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????????? ???.

34 ???????, ?????????????? ??? ?? ??????? ?????????? ??? ?????????????? ??
?? 168 ??? ?????? 2006/112 ?????????? ?????????? ??? ?????? ??? ?????????? ???
??? ??????, ??' ?????, ?? ??????????. ??????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????????????? ?? ?????????? ?????? ?????? (????????? ??? 15??
?????? 2010, C-368/09, Pannon Gép Centrum, ? ?????? ??? ??? ?????? ?????????? ???
??????, ????? 37 ??? ????? ?????????? ??????????).

35 ?????? ??? ?????????? ?????????? ??? ? ?????? ?????????? ??? ?????????? ???
?? ?????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????? ?? ?????? ?????? ??? ?????????? ??? ??????, ?????????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
?? ?????????? ???, ??? ??? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ???
??' ?????, ??? ??? (?. ?????????? ??? 22?? ?????????? 2001, C?408/98, Abbey National,
?????? 2001, ?. I?1361, ????? 24, ??? 21?? ?????? 2005, C?25/03, HE, ?????? 2005, ?.
I?3123, ????? 70, ?????? ??? ??? 6?? ?????? 2006, C?439/04 ??? C?440/04, Kittel ??? Recolta
Recycling, ?????? 2006, ?. I?6161, ??? 48).

36 ?? ??????? ??? ? ?????????????? ?????? ??? ?????????? ??? ?????? ???
????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????? ?? ?????????? ???
????? ??? ??? ??? ??? ??????, ??? ?????????? ?????? ??? ?? ?????? 167 ??? 168 ???

?????? 2006/12.

37 ??? ?????, ??? ?????, ??? ????? ?????? ??? ?????????? ??? ?????? ??? ???? ,
???? ?????????? ??? ????? 178 ??? ?????? 2006/112, ??? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? 199, ?????????? 1, ?????????? ?,
??? ?????? 2006/112, ?????????? ??? ?????? ?? ????? ??? ?????? ??? ?????????? ?? ?????????? ???
??? ?????? 178 ???????. ??? ??????, ?????????? ??? ?? ?????????? ?? ?????????? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??
???? ?????? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?????? ??? ?????? ??? ?????? 178, ?????????? 1, ?????????? ?,
??? ?????? ?????? (??., ???' ???? ??? ?????, ?????? ??? 1?? ?????? 2004, C-90/02,
Bockemühl, ?????? 2004, ?. I?3303, ??? 47).

38 ??? ?? ?????? ?????? ??? ?????? ??? ?? ?????????? ??? ?????????? ???' ?????? ??? ??????
??? ?? ?????? ?? ?????? ??? ?? ?????? ??? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???
?????? ?? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ?????? ?????? ?????? ??? ?????? ?????? (??., ???' ???? ???
?????, ?????????? ?????? Bockemühl, ??? 50).

39 ??????, ??? ?? ?????? ??? ???? ???? ???? ?????? ?????? ?????????? ?????? ??? ??
????????? ?????? ??? ?? ?????? ??? ?????? ?????, ?????? ?????? ??? ?? ?????????? ???
????????? ???, ??? ?? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ?????????? ???
????????? ?????? ?????? (?????? ??? 8?? ??? 2008, C?95/07 ??? C?96/07,
Ecotrade, ?????? 2008, ?. I?3457, ??? 63).

40 ??????, ??? ?? ?????? ??? ?????? ??? ???? ???? ?????? ?? ?????? ??? ?????? ??? ??
????????? ??? ?? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? 167, 168 ??? 178, ?????? ???,
??? ?????? 2006/112 ?????? ??? ?????? ???, ?????? ??? ?? ?????? ??? ?????? ??? ?? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????, ?????? ?????? ?????????? ???
????????? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ?????? (??., ???' ???? ??? ?????, ?????????? ?????? Bockemühl,
????? 51, ??? Ecotrade, ??? 64).

41 ??? ?????? ??? ?????? ??? ?????? ???, ? ?????????? ??? ?????? ?????? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?? ?????? ??? 2007 ??? ??? ?????? ???, ?? ?? ?????? ???
??, ??????, ? ?? ??? ?????? ?????? ??? ?????? ?????? ??? ?? ??? ?? ??? ??????
????????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? 142, ?????? 7, ??? 169,
????????? k, ??? ??? ?????? ???, ??? ?????? ??? ?? ?????? ??? ?????? ??? ?? ??? ?? 1?
????????? 2008, ??? ???, ??????, ??? ??? ?????? ??? ?????? ??? ?????? ???
2007 ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

42 ??? ?? ?????? ??? ??????, ??? ?? ?????????? ??? ?????? ??? ??
????? ?? ??? 168, ?????? ???, ??? ?????? 2006/112 ??? ??? ?????? ?????? ???
????? ??? ??? ??????, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

43 ????????, ??? ?????????????? ??? ??? ?? ?????? ?????? ??? ? ?????????? ???
????????? ?? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ?????? ??? ???, ? ????
????? ????????, ?????? ??? ?????????????? ?????? ??? ?? ?????????? ??? 2007 ??? ??
????? ??? 14?? ??????????? 2008 ??? ??? ?????????? ?????????????? ?????????????? ??
????????? ??? ? ?????????????? ??? ?????? ???, ?? ?????????? ??? ?????????? ??
????????? ??? ?????????????? ?? ?????????????? ???, ?????? ?? ?????????? ???.

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

45 ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? 39 ??? 40 ???
????????? ??????????, ?????? ?? ?????????? ??? ?????????? ??? ?????? 167, 168 ??? 178 ???
????????? 2006/112 ? ?????? ?????????? ??? ?? ??????.

46 ??' ??? ?????? ??? ????????, ?? ??? 167, 168 ??? 178 ??? ?????? 2006/112 ?????? ??
????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ??? ?????? ?????????????? ??? ?????? ??? ?? ?????????? ?????????? ???
?? ??? ?? ??? ?????? ??? ??? ?????? ?????????? ?????????? ??? ?????????? ?????????? ???
????????? ?????????? ??? ??? ?????? ??? ?????? ??? ?? ?????????? ?????????? ?????????? ???
?? ?????????? ??? ? ?????????????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?????????? ???
??? ?? ?????????? ??? ??? ?????? ??? ?????? ??? ??????.

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

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

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

48 ?????????? ??? ? ??????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ??????, ?' ???
????????? ?? ?????????? ??? ??? ?????????? ?????? . ?? ?????? ??? ?????? ?????????? ???
????? ?????????? ?????????? ??? ?????????? , ??? ??? ?? ??? ?????? ??? ?????? ???.
?????????.

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

?? ??? 167, 168 ??? 178 ??? ?????? 2006/112/?? ??? ?????????? , ??? 28??
????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????????????? ????, ??????
?? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ??????????
????????? ?????????? ? ?????? ??????, ??? ?????? ?????? ?????????? ?????????? ???
????????? , ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??
????????? ?????????? ?????? ??? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ??
????????? ?????? ??? ?? ?????????? ?????? , ??? ? ?????? ?????????? ??? ?????? ??? ??
??? ?????? ??? ?? ?????? ?????? ??? ?? ?????????? ?????? ?????????? ??? ?????? ??? ??
????????? ?????? ??? ?? ?????? ?????? ??? ?? ?????????? ?????? ?????????? ??? ?? ??
????????? ??? ?? ?????? ??? ??????.

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

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