

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

??? 9?? ??????? 2015 (*)

«????????????? ?????????? — ????? ?????????????? ?????? (???) — ?????? 2006/112/EK —
????? 273 ??? 287 — ?????????? ?????????????? ?????????? ??? ?????? ??? ??? ??????????????
????? ??? — ?????????? ?????????? ??? ?????????? ?????????? — ??? ???
????????? ??? — ??? ??? ?????????? ??? ?????????? ?????????? ??????????»

????? ??????? C?144/14,

??. ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Tribunalul Maramure? (????????) ?? ??????? ??? 17?? ?????????? 2013, ? ????
?????? ?? ?????????? ??? 26 ?????? 2014, ??? ?????? ??? ???

Cabinet Medical Veterinar Dr. Tomoiag? Andrei

?????

**Direc?ia General? Regional? a Finan?elor Publice Cluj Napoca prin Administra?ia
Jude?ean? a Finan?elor Publice Maramure?,**

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

????????? ??? ??? J.-C. Bonichot (????????), ??????? ????????, J. L. da Cruz Vila?ca ??? ?.
???????, ????????,

?????? ??????????: M. Watheler

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

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

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

– ?? Cabinet Medical Veterinar Dr. Tomoiag? Andrei, ?????????????? ??? ??? R. D. Apan,
avocat,

– ? ?????????? ??????????, ?????????????? ??? ??? R.-H. Radu ??? ??? ??? ??? D. M.
Bulancea ??? A. G. Vacaru,

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

– ? ?????????? ??????????, ?????????????? ??? ??? R. Lyal ??? ??? L. Nicolae,

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

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

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1 ? ??????? ?????????????? ?????????? ?????? ??? ??????? ??? ?????? ??? ??????????
????????? ??? ??? ?????????? ??? ?????????????? ??????????????, ?????? ??? ??? ??????
273 ??? 287, ?????? 18, ??? ?????? 2006/112/EK ??? ??????????, ??? 28?? ??????????
2006, ?????? ?? ?? ????? ?????? ?????? ?????????????? ?????? (EE L 347, ?. 1), ???
????????????? ??? ??? ?????? 2009/162/?? ??? ??????????, ??? 22?? ?????????? 2009 (EE
2010, L 10, ?. 14, ??? ????: ?????? 2006/112).

2 ? ??????? ??? ?????????? ??? ??????? ?????????? ??????? ??? Cabinet Medical
Veterinar Dr. Tomoiag? Andrei (????????????? Dr. Andrei Tomoiag?, ??? ????: ??????????????) ???
??? Direc?ia General? Regional? a Finan?elor Publice Cluj Napoca prin Administra?ia Jude?ean?
a Finan?elor Publice Maramure? (????????? ??????? ?????????????? ?????????? ?????????????? Cluj
Napoca, ?????????????? ??? ??? ?????????????? ?????????? ?????????? ??????????????
Maramure?, ??? ????: ?????????? ???), ?? ?????????? ??? ?????????? ??? ?????????? ??? ??????
????????????? ??? (???) ??? ?????????? ?? ?????????? ?????????? ?????????? ??????????????
?????? 1?? ?????????? 2007 ??? 31?? ?????????? 2010.

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

? ?????? 2006/112

3 ?? ?????? 2, ?????????? 1, ??????? ?, ??? ?????? 2006/112 ?????????? ?? ????:
«????? ??? ?????????? ?? ?????????? ??????:

[...]

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

4 ?? ?????? 132, ?????????? 1, ??? ?? ??? ?????? ?????? ?? ????:
«?? ?????? ??? ?????????? ??? ?????????? ???????:

[...]

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

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

[...]»

5 ?? ?????? 213, ?????????? 1, ??? ?? ??? ?????? ?????? ??? ?? ????:
«????? ?????????? ??? ?????? ?????? ??? ??????, ?? ?????? ??? ?? ??? ?????? ???
????????????? ??? ?? ?????????? ???.

[...]»

6 ?? ?????? 214, ?????????? 1, ??????? ?, ??? ?? ??? ?????? ??? ?? ????:
«?? ?????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ???

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

?) ??? ?????????? ??? [...] ? ??? ?????? ?????????? ??? ?????????? ?????? ???
????????? ??? ???? ???? ?????? ?????????? ??? ??? ?????? ??? ?????? ?????? ??????
?????????, [...]»

7 ?? ????? 250, ?????????? 1, ??? ?????? 2006/112 ?????????? ?? ????:

«???? ?????????? ??? ?????? ?????? ?? ?????????? ?????? ??? ??? ?? ?????????? ??? ??
????????? ??? ?????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???????????,
????????????????, ??? ??? ?????? ??? ?????? ?????????? ??? ??? ?????? ?????????????? ??? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ?????? ???
?? ??? ?? ??? ?????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ?????????????? ??? ????.»

8 ?? ????? 273, ?????? ??????, ??? ?? ??? ?????? ?????? ??? ?? ????:

«?? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ???
?? ?????????? ??? ?????? ?????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
??? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??? ???
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???, ???
?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ????.»

9 ?? ????? 287 ??? ?? ??? ?????? ?????? ??? ?? ????:

«?? ??? ?????? ??? ?????? ??? ?????????? ??? 1? ?????????? 1978 ?????? ?? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ????:

[...]

18) ? ??????: 35 000 [????].»

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

10 ?? ????? 141 ??? ?????? ????. 571/2003 ???? ??? ?????????? ?????? (Legea nr.
571/2003 privind Codul fiscal, *Monitorul Oficial al României*, ??? I, ????. 927 ??? 23??
????????? 2003, ??? ????: ?????????? ????, ??? ??? ?????? ??? ?????? ??? ??? ??????
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????:

«(1) ?????????? ??? ??? [??] ?? ?????? ?????? ?????? ?????? ?????????? ??????????:

a) ? ???????, ? ?????? ?????? ???????, ?????????????? ??? ?????????? ???
??????????, ??? ?? ??? ?????? ?????????? ?? ?????? ?????? [...]»

11 ?? ????? 141 ??? ?????????? ????, ??? ?????????? ??? ?????? ??? ??? ?????? ????.
343/2006 (*Monitorul Oficial al României*, ??? I, ????. 662 ??? 1? ?????? 2006), ???
?????? ?? ??? ??? 1? ?????? 2007, ????:

«(1) ?????????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??????????:

a) ? ?????????? ??? ?????? ?????? ?????? ??? ?? ?????? ?????????? ??? ?????? ??????????

[...]»

12 ???? ?? ?????? 152 ??? ??????????? ???????, ???? ?????????????? ??? ?? ???? ???
343/2006:

«(1) ? ?????????????? ? ?????? ????? ?????????????? ??? ?????????? ??? ?? ???? ???? ?
????????? ? ?????????????? ?????? ?????? ?????????? ?????? ?????????? ??? ?? ???? ???
35 000 ??? [...] ??? ?????? ?? ?????? ?????? ??? ???, ??? ?????? ??? ??? “??????
????????? ??????”, ??? ??? ?????? ??? ?????????? ??? ??? 126, ?????????? 1 [...]

[...]

(6) ? ?????????????? ? ?????? ?????? ?????? ??? ?????? ?????????? ?????????? ??? ??
????? ? ??? ?? ?????? 2 ?????? ?????? ?????? ?????? ?????? ???? ?? ???? ?? ????
????????? ??? ?? ?????? ?????? ?????? ?????????????? ?????? ?????? ??? ?????????? ??? ??
???, ?????? ?? ?? ?????? 153, ????? ?????????? ?????????? ??? ??? ?????????? ??? ??
????? ? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? [...] ??? ?????? ??????
????????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ???, ?????? ?? ?? ???
153. ?? ? ??? ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ???, ?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???, ???
??? ?????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?? ??
????? 153.

[...]»

13 ?? ?????? 153 ??? ?????????? ???????, ???? ?????????? ??? ?? ??? ?? ???? ????.
343/2006, ???? ?? ???:

«(1) ? ?????????? ??? ???? ? ?????? ?????? ?????? ?????????????? ??? ?????????? [...] ??? ?? ???? ?
????????? ?? ?????? ?????????? ?????????????? ??? ?????????????? ??? ?????????? ??????????
????????????? ???/? ?????????????? ??? ??? ?? ?????? ?????? ?????????? ?????????? ?????????? ??
????????? ??? ??? ?????? ?????????? ??? ??? ?????? ??? ?????? ??? ??? ?????? ??? ??? ??
?????????:

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

1. ?? ?????? ??? ?? ?????????????? ?????? ?????? ?????? ??? ? ?????? ??? ?? ????
????????? ??? ?????????? ??? ?????? 152, ?????????? 1, ???? ???? ?? ?????? ??? ??????????

2. ?? ?????? ??? ?? ?????????????? ?????? ?????? ?????? ??? ?????? ??? ?? ????
??? ?????????? ??? ?????? 152, ?????????? 1, ???? ???? ??? ?????? ??? ?????? ??? ?? ?????

[...]

(7) ?? ?????????? ??? ?????? ?? ?????? ?????? ?? ?????????? ??? ?????? ???
????????? ?? ??? ?????????? 1, 2, 4 ? 5 ??? ?????? ??? ?????????? ???, ?? ??????
????????? ??? ?????? ?????????? ?????? ??? ?????????? ???.

[...]»

14 ? ?????????? ?????? 44/2004 ??? 22? ?????????? 2004, ???? ?????????? ???

???????????? ?????????? ?????????? ??? ?????? ???? . 571/2003 ??? ?????? ?????????????? ?????? (Monitorul Oficial al României, ???? I, ????. 112 ??? 6?? ?????????? 2004), ??? ?????? ?????? 1?? ?????? 2007 ??? 31?? ?????????? 2009, ?????? ??? ?????????? ??? ?? ????:

«????????????? ?????????? ??????????:

[...]

24. ? ?????????? ??? ?????????? ??? ?????? 141, ?????????? 1, ?????????? ?, ??? ?????????? ??????:

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

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

[...]»

15 ? ?????????? ?????? ????. 1620/2009 ??? 29?? ?????????? 2009 (Monitorul Oficial al României, ???? I, ????. 927 ??? 31?? ?????????? 2009) ?????????? ??? ?????????? ???
????????? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ???
????????? ?????????? ????. 44/2004. ??? 1?? ?????????? 2010, ?? ?????????? ????:

«????????? ?????????? ??????????:

24. (1) ? ?????????? ??? ?????? ?????????? ?? ?????? 141, ?????????? 1, ?????????? ?, ??? ?????????? ??????:

[...]

c) ??? ?????? ??? ??? ?????????? ?????? ??? ?????????? [????????? ???
????????? (122/87, EU:C:1988:256) ??? ?????????? ??? ?????????? ??? ??????].

[...]»

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

16 ??? ??? 2011 ? ?????????? ??? ?????? ??? ?? ???????????, ???????
????????????? ???????, ?? ?????????? ??? ???, ?????? ?????????????? ??? ?????, ???
????????????? ?????????? ?????????? ?????? 1?? ?????????? 2007 ??? 31?? ??????????
2010.

17 ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Tribunalul Maramure? (????????? Maramure?) ??? ??? ??? ???, ?????? ??? 1? ?????????? 2010, ? ??????????
????????? ?????????? ??? ?????????? ?????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ???

?????? ????? ?????????????? ? ?????? ??? ????? ???? ???? ?????????????? ??????? ??????.
1620/2009, ??? ?????? ?? ??? 1? ?????????? 2010.

18 ? ?????????????? ??? ?????????????? ??? ? ?? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? 1??
????????????? 2007, ?????????? ?????? ?? ??? ?????? 343/2006 ?? ??? ??????
????????????? ?? ?????????????? ?????????????? ?????????? ??? ??? ?????? ?????? ???
????????? ??? ?????????????? ??? ??? ?. ?????????? ?????? ??? ?? ??? ?????????? ???
????????? ?????? 1620/2009 ??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ??????
?????????, ?????? ?????????? , ?????? ??? ??? ? ?? ??? ?????? ?????????? ?????? ??????
????????? ?? ?????????? ?????????? ?????? ?????? ?????? ??? ?????? ?????????? ?????? ?????.

19 ?? ?????? ?????????? ?????????? ?? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??
????????? ???, ??? ?????? ??? ?????????? ??? ?????? ?????, ?????? ??? ?????? 273
?? ?????? 2006/112 ?? ?????? ?? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ??????
????? ??? ?????????? ?? ?????? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ??????
??, ??' ?? ?????? ? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ?????????? ??? ?? ?????????? ??? ?????? ?????? ?? ??? ?????? ?????? ??? ?? ??? ??.

20 ?? ?? ?? ?????????? ?????????? ?????????? ?? ??? ?????? ??? ?????????? ?????? ??
????????? ?? ?????????? ?? ?????????? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????
?? ?????? ???, ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ??? ??? ?????????? ?????? ?????? ?? ?????? ??? ?????? ?????? 1??
????????? 2007 ?? 31?? ?????? 2010. ?? ?????? ?????? ?????? ?????? ?????? ??
????? ??? ?????????? ??? ??? ? ?? ?????????? ??? ?????? ?????? ??????, ??? ?? ?? ?? ??
????? ?????? , ??? ?????? ?????? ?????? ?????? (122/87, EU:C:1988:256).

21 ??' ?????? ??? ?????? , ?? Tribunalul Maramure? ?????????? ?? ?????????? ??
????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????:

«1) ?? ?????? ?? ?????? 273 ?? 287, ?????? 18, ??? ?????? 2006/112 ?? ?????????? ??
?? ?????? ?? ? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????? ???
?? ?????? ?? ? ?? ??? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? , ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ???;

2) ?? ?????????? ?????????? ??? ?????? ??? ?????? ?????? , ?????????? ?? ??? ??
????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ? ?????????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ???:

- ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???
????? ??? ? ?????? ? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????? ?????? ? ?????? ??? ?????? ?????? , ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????????? ??? ?????? , ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? 1620/2009 ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? 141, ??????????
1, ?????? ??, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ??? ??? ?????? ?????? ?????? (122/87, EU:C:1988:256), ??? ???

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

– ? ?????????????? ??? ?? ??? ????? ?????? ??? ?????????????? ??? ?? ??? ?????????????? ??? ??
?????????????, ??? ?? ??? ?????????? ??????, ??? ?????????????? ?????????????? ?????????????? ???
????????????? ??? ?? ??? ?????????????? ?????? ????. 1620/2009, ??? ?? ??? ??????????????
????????? ??? ?????? ? ?????????????? ??? ??

– ??? ?? ?????? ??? ?????????????? ?????????? ????. 1620/2009, ? ?????????????? ???
??? ?????? ??? ?????? ??? ?????????????? ??? —????? ??? ????? ?????????? ? ?????????????? ??? ??
??? ?????????? ??? ?????? ??? — ?????????????? ?????????????? ?????? ??? ??
????????????? ??? ?? ??? ?????????????? ??? ?????????? ??? ?? ??? ?????????????? ??? ??
??? ?????????? ?????????????? ??? ?????? ?????????? ??? ?? ??? ?????????? ??? ?? ??? ??????????????
????????????? ?????????? ??? ?? ??? ??????, ???

– ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ??? ?????? ??? ?? ??? ?????????????? ??????????
?????. 1620/2009, ? ?????? ?????? ??? ?????? ??? ?????? (122/87, EU:C:1988:256) ??? ?? ???' ??
????????? ??? ?? ?????? ?????????????? ??? ?????? ???;»

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

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

22 ?? ?? ?? ?????? ???????, ?? ?????? ?????????? ?????, ???' ??????, ?? ?????????????? ??
?? ?????? 273, ?????? ??????, ?? ?????? 2006/112 ?????????? ??? ?????? ??? ??????????
????????????? ?????????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ??? ?????????? ???
????? ?????? ??? ?????? ??? ?????? ?????????????? ?????????? ?????????????? ??? ?????? ???
????????? ??? ??, ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????????????? ??? ?? ??? ??
????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????????? ??? ?? ??? ??.

23 ??????????????, ??????, ???, ?????? ??? ?????? 287, ?????? 18, ??? ??????
2006/112, ??? ?????? ?????????? ?? ?????? ?????????? ??? ?????? ??? ??????
?????????, ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???' ?????? ???
???? ?? 35 000 ???.

24 ??????, ?? ?? 273, ?????? ??????, ?? ?????? 2006/112 ?????????????? ??? ??
????? ??? ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ??????
??? ?????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ??????
??? ?????????????? ??? ?????? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ??? ??
????????? ??? ?? ?????????????? ??? ?????? ??? ??????, ??? ?????????????? ?????? ?????? ??? ??,
?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????.

25 ?? ?????????? ?????????? ??? ?? ?????? ???, ?????? ??? ?? ??? ?? 2 ???
250, ?????????? 1, ??? ?????? 2006/112 ??? ?? 4, ?????????? 3, ???, ?????????? ???
????? ?????? ?????? ??? ?????? ?????????? ?? ?????? ??? ?? ?????????? ??? ?????????? ??? ??
??? ?????? ?????? ?? ?????????????? ??? ?????? ?????? ?????????? ??? ?? ??? ?????????? ???
????? ??? ?? ??? ?????????????? ?? ?????????? (??., ??' ?????? ??? ??????, ??????????
????????? ??? ?????? C?132/06, EU:C:2008:412, ?????? 37 ?? 46, ?????? ??? Åkerberg
Fransson, C?617/10, EU:C:2013:105, ?????? 25).

26 ?? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????????????? ?? ?????????? ???
????????? ??? ?????????????? ???, ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ???

???? ???? ??????????? ??? ?????????? ??? ?????????? ??? (??.. ?????????? ?????????? ???
???????, C?132/06, EU:C:2008:412, ??? 37? Profaktor Kulesza, Frankowski, Jó?wiak,
Or?owski, C?188/09, EU:C:2010:454, ??? 21, ??? Enel Maritsa Iztok 3, C?107/10,
EU:C:2011:298, ??? 52).

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

28 ??????, ??????? ?? ??? 214, ?????????? 1, ??? ?????? 2006/112 ?????????? ???
?? ?????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ???, ???????, ???????, ??????? 213, ?????????? 1, ??? ?? ??? ??
??????, ???????, ??? ?????????? ?? ?????????? ??? ?????? ??? ?????, ?? ???????, ??? ???????, ??? ??
????? ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????, ?? ?????????? ??? ??
????? ??? ?????? ??? ?? ?????? ??? ?????? 214, ?????????? 1, ??? ?? ??? ?? ?????? ???
????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? (??.. ??????? Ablessio,
C?527/11, EU:C:2013:168, ??? 22).

29 ???????, ?? ?????? ??? ?????????????? ?? ?????????????? ??? ?????? ??? ?????????? ???
??? ?????????????? ??? ????? ?????????????? ??? ?????, ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (??.. ????????
????????? ???, C?132/06, EU:C:2008:412, ??? 38, ??? Profaktor Kulesza,
Frankowski, Jó?wiak, Or?owski, C?188/09, EU:C:2010:454, ??? 22), ??? ?? ?????????? ???
????????????? ? ?????????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????????? ?????????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (???????
????????? ???, C?132/06, EU:C:2008:412, ??? 39).

30 ??? ?? ??????? ?????????? ??? ??? ?? ???? 2006/112 ?????????? ??? ??
???? ?? ?????????? ?? ?????? ??? ?? ?????? ??? ?????? ???, ?????????? ??????????????,
?????? ?? ?????? ??? ?????? ?????????? ??? ?????, ??? ?? ?????????? ?? ??????
????????? ??? ?????? ?????? ??? ?????? ??? ?? ?????? ??? ?????????? ???, ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ??
????, ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???' ?????? ??? ?? ??? ??
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?? 250, ?????????? 1,
??? ?????? 2006/112 ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???.

31 ??' ?????? ??? ???????, ??? ?????? ?????? ?????? ?? ?????? ? ?????????? ??? ?? ????
273, ?????? ???, ??? ?????? 2006/112 ?? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ?????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????????? ?????? ?????????? ??? ?????? ???
????? ??? ???, ??? ??? ?? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?? ??
??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?? ??? ??.

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

32 ?? ?? ??????? ???????, ?? ?????????? ?????, ??' ??????, ?? ?????????????? ?? ??
????? ??? ??????? ?????? ??? ??? ?????? ?????? ??? ?????????? ?????? ?????????? ???
????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ??????.

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

33 ?????? ?????? ??????????? ???. ??????????????, ?? ?????? ?????? ?????? ??? ?????? ??? ???? ??
????? ????. ????. ????. ?????? ???. ?????? ???. ????. ?????? ???. ????. ?????? ???. ????. ??????
????? ???. ????. ?????? ???. ????. ?????? ???. ?????? ???. ????. ?????? ???. ????. ?????? ???. ????.
????? ?????? ?????? (???. ??' ?????? ???. ??????, ?????? ?????, ?????? ??????)
Gemeente Leusden ??? Holin Groep, C?487/01 ??? C?7/02, EU:C:2004:263, ????? 57? «Goed
Wonen», C?376/02, EU:C:2005:251, ????? 32, ????? ??? ??????, C?181/04 ??? C?183/04,
EU:C:2006:563, ????? 31).

34 ?? ?,?? ??????, ???????, ??? ??? ???? ?????????? ????????, ??? ?? ???? ??????
?????????????? ?? ???????????, ??? ?? ???? ????? ?????????? ?????? ?? ? ??????????? ??
?????? ??????? ?? ????? ??????, ?? ???? ?????????? ?? ??????????? ?? ???? ????? ??????????? ?'
????, ??? ?? ?????????? ?? ????? ??? ?????????? ??????? ??????? ?? ?????????? ?? ??????????
?????????? ?? ????? ?????????? ?? ????? ??????? ?? ????? ??????? ?? ????? ?????????? ???????????,
???? ?? ??????? ?? ??????????????? ?? ?????????? ?? ?????????? ?? ????? ??????? ?? ????? ??
?????????? ?? ??? ??? ?????????? (?????? ?? ??????? ?? ??? ???????????, 325/85,
EU:C:1987:546, ??? 18).

35 ???????, ????? ?????? ??? ?????????? ??? ?? ??????? ??? ???????, ? ?????????? ???
?????? ?????? ?????? ?? ????? ?????????? ?? ??????? ????? ?? ??????? ?? ?????? ?? ????
????????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????????? ?? ?????????? ?? ???
????????? ??? ?? ?? ?????? ?????????? ?? ?????????????? ?? ??????? ??? ?????? ??? (??. ??????
?????? ??? ??????, 257/86, EU:C:1988:324, ??? 12).

36 ?? ???????????, ??? ??? ??????? ??? ?????????????? ??????????? ??? ??? ??? 1?
?????????? 2007, ?????????? ?????????? ??? ?????????? ????? ??????, ? ?????????? ??????????
????????? ??? ??????????? ?????????? ??? ??? ?????????? ??? ?????????? ?? ??????
????????????? ??? ??? ??? ?????????????? ???????? ??? ?????? ?? ?????????????? ?
????????? ??? ??????? ??????? ??? ??? ?????? ??? ??????.

37 ??' ?????? ??? ????????, ???????????? ??????? ??? ?? ?????????????? ??? ??????????
?????? ??? ???????? ??????? ??? ?????? (122/87, EU:C:1988:256) ??? ?????????? ???
????????? ??? ?????? ?????? ??? ?????????? ?????????????? ??????????????, ??????? ?? ??????
??? ?????? ???????? ??? ?? ?????????????? ??????? ?? ?????? ?????????? ????? ???
?????????? ?? ?,? ?????? ??? ?????????? ??? ??? ?????? ?? ??? ?????????? ??? ??? ?? ??????
???? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ???, ?????? ??? ??????
???? ?? ?????? ?? ?????? ??????????.

38 ?????????????? ?????? ????? ???? ? ?????????? ??? ????? ????? ?????? ??? ?????? ??????

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

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

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

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

39 ????????, ??? ??? ??? ?? ?????????? ???????? ?????????? ?????? ??? ? ??????????
????????? ??? ?????????? ??? ?????? ??? ?????? ??' ??????? ?? ??????????
????????? (??., ??' ?????? ??? ??????, ?????? Fatorie, C?424/12, EU:C:2014:50, ??? 46).

?????, ??????? ???. ???????, ??? ??????????? ?? ?????????? ??? ?? ?? ?? ?? ?????????????????
???? ??????????? (??., ??' ???. ?? ??, ?????? Fatorie, C?424/12, EU:C:2014:50,
????? 51).

42 ????????????, ??? ?????? ??????? ?? ?????????????? ???, ??? ?????????????? ???
????? ??? ?????????? ??? ?????? ?????, ? ???? ??? ?????????? ?????? ??? ?????????? ???
????????? ??? ?????? ?? ??????, ?????? ??? ?????????? ??????????, ?? ?????????? ??? ??????
??? ??? ?????????? ?????? ?????????? ?????? ?? ?????? ??? ?????? ?? ?????? ??????????
????? ??? ?????.

43 ?? ?,?? ??????, ????????, ??? ????? ??? ??????????? ??? ?????????????? ??????????????????
?????????????, ???????? ?????????????? ??? ????? ????? ????? ????? ??? ?????? ??? ?????? ?????
????????? ?????????? ??? ?????????????? ?????? ?????????? ??????????????, ?????????? ???
????????????? ?????????????? (??., ??' ????? ??? ??????, ??????? Europäisch Iranische
Handelsbank ????, ??????????, C:585/13 P, EU:C:2015:145, ????? 95).

44 ???????, ?????? ?? ??????????? ?? ?? ??????? ??? ?????????????? ?????
????????????? ?? ??????? ?? ?????????? ?????????????? ?????????????? ?????, ??,
?????? ?? ?? ??????????, ?? ?????????? ?? ??????? ?? ?????????? ?????? (??., ??' ???)
?? ??????, ?????? ??????, C?181/04 ?? C?183/04, EU:C:2006:563, ????? 32 ??? ?????
????????????? ??????????).

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

46 ???????????, ?? ?????????????? ??????? ??? ?????????? ?????????????? ?????????? ??? ?????????? ?????????????? ?????????? ???
????????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????????? ???
????????? ??? ?????? ??????, ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????
??? ?????? ???????, ?????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????????? ?? ??? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ??????
????? ?????????? ??? ? ?????? ?????? ??? ? ?????? ?????? ??? ? ?????? ?????? ??? ? ?????? ?????? ??? ? ?????? ???, ???
??????????????, ?? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ? ?????? ?????? ?????? ?????? ??????
????? ?????????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ? ?????? ?????? ??? 1?? ?????????? 2007.

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

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

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

49 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ?????? ????? ?????????? ??? ?????? ??????
??? ?????????? ?????????????? ??? ?? ?????? ?????? ?????? ?????????? ?????????????? ,?' ????
????????? ?? ?????????? ??? ?? ?????????? ?????? . ?? ?????? ??? ?????? ??????????????
???? ?????????? ?????????? ??? ?????????? , ??? ??? ?? ??? ?????? , ??? ?????????? .
??? ??? ?????? ?????? , ?? ?????????? (????? ????) ??????????:

1) ?? ????? 273, ????, ????, ??? ?????? 2006/112/EK ??? ???????, ??? 28??
????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????????????? ?????, ???
????????????? ??? ??? ?????? 2009/162/?? ??? ?????????? , ??? 22?? ??????????
2009, ??? ??????? ??? ??? ?????? ?????? ?????? ?????????? ?????????? ?????? ???
????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????????? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ?????? ??????
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ?????? , ??? ??
?? ??? ??? ?????? ?????? ?????? ?? ?????????? ??? ? ?????????? ??? ? ?? ??? ??????????
???? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? .

2) ?? ?????? ??? ?????????? ??????? ??? ?? ?????????? ??? ?????????????? ??? ??????????????
????????????? ??? ?????????? ??? ?? ?????? ?????????? ?????? ?????? ??? ?????????????? ???
????? ??? ?????????? ??? ?????? ?????? ?????? , ?????? ? ?????? ?????? ?????? ?????????? ??
????? ?????? ??? ? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??
????????????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ?????? ?????????? ??????
?? ? ?????? ???? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
?? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? , ?????? ??? ?????????? .

(?????????)

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