

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

??? 29?? ?????????? 2015 (*)

«????????????? ?????????? — ????? ?????????????? ????? — ?????? 2006/112/?? — ????? 9,
????????? 1 — ????? 13, ?????????? 1 — ?????????? ?????? — ?????????? ???
???????? “???? ???? ?????? ??????????” — ?????????? ?????? — ?????????? ??????????????
????????? ??? ?????????? ?????? ?????? ?????? ??? ?????????? ?????????? ?????????? ??????????
????????? — ?????????? ?????????????? ?????? ?????? ?????? ?????? ?? “????????????? ??? ?????”
???? ??? ?????? ??? ?????????? ??? ?????? 2006/112 — ????? 4, ?????????? 2, ??? 5,
????????? 3, ???»

???? ?????? C?276/14,

?? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Naczelnego S?d Administracyjnego (?????? ?????????? ??????????, ???????) ??
?????? ?? 10?? ?????????? 2013, ? ????? ?????? ??? ?????????? ??? 5 ?????? 2014,
??? ?????? ??? ???

Gmina Wroc?aw

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Minister Finansów,

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

????????? ??? ??? ?. ??????, ???????, K. Lenaerts, ???????????, A. Tizzano, R. Silva de
Lapuerta, T. von Danwitz, A. Ó Caoimh, J.?C. Bonichot, C. Vajda, ?????????? ??????????, E.
Levits, A. Arabadjiev, M. Safjan, A. Prechal, E. Jaraši?nas, C. G. Fernlund (?????????) ??? J. L.
da Cruz Vilaça, ????????,

?????? ??????????: N. Jääskinen

?????????: M. Aleksejew, ??????? ??????????,

?????? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???
5?? ??? 2015,

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

- ? Gmina Wroc?aw, ?????????????? ??? ??? L. Mazur, K. Sachs, A. B??dowski ??? ???
A. Januszkiewicz, ?????????? ??????????,
- ? Minister Finansów, ?????????????? ??? ??? J. Kaute ??? T. Tratkiewicz,
- ? ??????? ??????????, ?????????????? ??? ??? B. Majczyna ??? ??? A.
Kramarczyk?Sza?adzi?ska,
- ? ??????? ??????????, ?????????????? ??? ??? ?. ?????????????? ??? ?. ????????,
- ? ??????? ??????????, ?????????????? ??? ??? M. Owsiany?Hornung ??? L. Lozano

Palacios,

???? ?????? ??? ?????? ??????????? ??? ??????? ??? ???????? ??? ?????? ?? ???????????
??? 30?? ??????? 2015,

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

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1 ? ?????? ?????????????? ?????????? ?????? ??? ??????? ??? ?????? 9, ?????????? 1,
??? ??????? 2006/112/?? ??? ???????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ??????
?????? ??? ????? ?????????????? ??? (?? L 347, ?. 1, ??? ?: ?????? ????).

2 ? ?????? ??? ?????????? ??? ??????? ?????????? ?????? ??? Gmina Wroc?aw
(????? ??? Wroc?aw, ??????) ??? ??? Minister Finansów (????????? ???????????, ??? ???:
????????) ??????? ?? ?? ?????? ?? ??????? ?? ??????? ?????????????? ??? ???
????????????? ??? (??? ?: ???) ?????????????? ?????????????? ?????????????? ??????????????.

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

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

3 ? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? 1? ?????????? 2007 ???
???? ?????? 77/388/?? ??? ???????????, ??? 17?? ????? 1977, ??? ?????????????? ???
????????? ??? ?????? ???, ??? ??????? ?? ??? ?????? ?????? ?????? ?????? ???
????????? ??? ?????????????? ????: ?????????? ?????????? ??? (?? ????. ????. 09/001, ?.
49, ??? ?: ???). ??? ??? ?????????? 1 ??? 3 ??? ?????? ???
?????????, ??? ?????? ?????????? ??? ?????????????? ??? ?????? ?????????????? ???
????????? ???, ?? ??? ?????????? ??? ??????????, ????? ??? ?????????????? ???' ???
????????? ???.

4 ? ?????????? ??? 65 ??? ?????? ??? ?????? ??? ?????? ?? ???:

«????????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?? ??????????????
????????????? ??? ?? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ???
?? ?????????? ??? ?????? ??? ?????????? ???, ? ?????????? ??? ?????? ?? ?????? ???
????? ?? ??? ??? ??? ?????????????? ??? ?????? 5 ??? ??????. ?????? ?? ??? ???
??? ?????????????? ??? ?????? ???, ? ?????? ?????? ??? ?????????? ?? ?????????? ???
??? ?????????? ??? ?????? ???»

5 ?? ??? 9, ?????????? 1, ??? ?? ??? ??????, ?? ??? ?????????????? ???' ????
?? ??? 4, ?????????? 1 ??? 3, ??? ?????? ??????, ?????? ?? ???:

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

?? “????????? ??????????” ?????????? ??? ?????????????? ??? ??????????, ??
????? ? ??? ?????????? ???????, ?????????????? ??? ?? ??? ??????????????
????????, ??? ?????????? ?????????????? ??? ?? ??? ?????????????? ??? ??????????
?????????????. ?? ?????????? ?????????????? ???, ??????, ? ??????????????
????????? ?? ?????? ?????, ?? ?????? ?????? ??? ?????? ?????????? ??????????..»

6 ?? ?????? 13, ??????????? 1, ??? ?? ??? ??????, ?? ?????? ??????????? ???' ??????
??? ?????? 4, ??????????? 5, ??? ??? ????? ??????, ?????? ?? ????:

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

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

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

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

7 ?? ?????? 15, ?????????? 1 ??? 6, ??? ?????? ??? 11?? ?????? 2004, ??? ?? ???? ??,
??? ?? ?????? ??? ?????? (Dz. U. nr 54, poz. 535 ze zm.), ??? ?? ?????? ?????????? (???
????: ??? ?? ???), ?????? ?? ???:

«1. ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ???????, ?? ?????????? ?????? ???
????? ?????????? ??? ?? ?????? ??????? ?? ?????? ?????? ??? ?????? ?????? ?????? ??????
????????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? 2, ?????????? ??? ?????? ?
??? ?????????? ??? ?? ?????????? ??? ??????.

[...]

6. ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?????????? ??? ?? ???? ??,
??? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ?? ?????? ?????? ??????
????????? ?????????? ??? ?????????? ?????????? ??? ?????????????? ??? ?????????? ??????
????????? ?????????? ??????..»

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

8 ? ?????? ??? ?????? ??? ?????? ??? Wroclaw ??? ?? ?????? ?????? ?? ?????? ?? ??????????
????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ?????????? ?????????? ??????????
????????? ??? ?? ??? ?????.

9 ??? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?? ???? ??,
Wroclaw ?????????? ?? ?????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ??? 8??
????????? 1990 ??? ?????? ?????????????? (Dz. U. 2001 nr 142, poz. 1591 ze zm.) ?? ??
????????? 284 ?????????? ?????????? ?????????? ?????????? ??? ?????????? ??? ??????????
????????? ???, ??? ?????? ?????? ?????????? ?????????? ???, ?????????? ???, ??????????
????????? ??? ?????? ?????? ??? ?????????? ??? ??????????.

10 ? ?????? ??? Wroclaw ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??? ??,
????? ???, ?????????? ?? ?????????? ??? ?????? ?????? ??? ?? ?????? ?????? ??? ??,
????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ?????????? ?? ?? ??, ???
??? ?? ???, ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?? 15,

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

11 ? ?????????? ????, ?? ??? ?????????????? ?????????????? ???, ?????? ??? ?
????????????? ?????????? ?????????? ?? ?????? ?????????????? ??? ???? ?????? ???
????? ??? Wroclaw, ?????? ?????? ??????????, ?????? ?? ?????????????? ???????,
????????? ?????????????? ?? ???????????, ??? ???? ?????? ??? ?????????????? ????,
?? ?????? ?????????? ?? ???, ?????? ?? ?????????? ???? ?? ?????????? ????.

12 ? ?????? ??? Wroclaw ?????? ?????????? ?? ???? ??? ?????? ??? ?????????? ??? ?????????? ?????
????? ?????????? ??? ???? Wojewódzki S?d Administracyjny we Wroclawiu
(????????? ??? Wroclaw), ??? ?????? ?? ?????????? ??? ?????? ??????. ???
???????, ? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? Naczelnny
S?d Administracyjny.

13 ? ?????????? ?????????? ??? Naczelnego S?d Administracyjnego, ?????????? ??? ? ??????
????????? ??? ?????? ??????? ?????????? ?????????, ?????????? ?? ?????????? ??? ??????
???? ?????????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ??? ??????
???? ?????? ?????? ?? ?????? ?????????? ??? ?? ?????? ?????????? ??????????
????????? ??????????.

14 ????? ???? ?????????????? ??????????? ???????????, ?????????????? ?? ?????? ?? ??
?????????????? ?????????????? ??????????? ??????????? ?????? ?????????? ???????????
??????????????, ??????, ?????? ?? ?????? ?????? ?????? ? ?????? ?????????????? ??????? ??
?? ? ?????? ????. ???? ????? ?? ?????? 9, ??????????? 1, ??? ?? ??? ??????, ? ?? ???
?????????? ?????????? ??? ?????????? ??????????? ??????????? ??????? ??? ???????
?????????? ?????????? ??? ?????????? ?????, ?????????? ??? ?? ?????????? ??????????????????
? ????? «???? ???? ??????????» ??? ?? ?????? ? ????? «???? ???? ??????????». ??? ??
?????????? ????, ??? ?????? ?????????? ? ??????? ??? ??????????? ??????????? ??? ??
???? ?????????? ??? ??????? ?????, ??????? ?? ?? ?????????? ??? ???????????, ??? ??
????? ??? ?????? ?????????? ?????????????? ?????? ?????? ?????????? ??????????? ??? ???.
????????, ?????? ?? ?????????? ?? ?????? ?????????? ??? ?? ??? ?????????? ??????????? ??? ??
??? ?????????? ???????????.

15 ?????? ??????? ?? ??????? ?????? ??????????, ? ?? ?????? ?????????????? ?????????? ??????????
?????????, ???' ??????, ??? ?? ?????? ?? ?????? ?????????? ?????????? ?????? ??????????????
????? ?????? ?????????????? ??? ?????????? ?????????? ?????? ??? ?????? ??????????
?????????, ??? ?? ?????????????? ?????????? ?????? ?????????? ?????????? ??? ?????? ??????????
????????? ?????? ?????? ??????????????. ?????? ?????? ?????????? ?? ?????????? ??
?????????, ??? ????????????, ??? ?????????? ?????? ??? ??? ?????????? ???
????????? ???.

16 ?? ??????????????? ?????????????? ??????????? ?????????????? ??? ?????? ??? ????
??????????, ???? ?????????? ?????? ?? ?????????? ?????????? ?????????????? ?????????????? ???
?????, ??? ?????? ?????? ??? ??????????. ?? ?????????????????? ??? ?????? ?? ?????????? ??? ????
???, ?????????????????? ??' ?????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ????
??? ?????? ???????? ??? ?????? ?????????? ??? ??? ?????????????? ??? ?? ??? ?????? ??? ??????.

17 ????????, ?? ??????? ???? ?????????????? ?????? ?????????????? ??' ??????? ??? ???
????????????? ??? ????, ?? ?? ??? ?????? ??? ?????????????? ?????? ??? ?????????? ???
?????. ???????, ??? ?????????????? ???????, ??? ?????????????? ?? ?????? ??? ?????????? ???

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

18 ?????????????? ??? ????? ?? ???????, ? ?????????????? ?????????? ?????????? ??? Naczelnny
S?d Administracyjny, ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ?????????? ??? ??????
??????????, ?????? ???, ?????? ??? ?????? ???????, ?? ?????????????? ?????????? ??????????????
????????? ?????????? ??? ?????? ?????? ?????? ?????????? ???, ?????? ??? ?????? ?????????? ??????????
????????? ?????????? ??????.

19 ? ??????? ?????????????? ??? Naczelnny S?d Administracyjny ?????????? ??? ??, ????
??? ??????? ??? ??????, ??? ??? ?????? ?????????????? ??? ?????????? ?????????? ??????????
??? ?????????? ?????? ?????????? ?????????? ?? ??? ?????? ?? ?????????? ?? ??? ??? ?????????? ???
????? ??? ?????? ???.

20 ?? Naczelnny S?d Administracyjny ?????????? ??? ?????? ??? ? ?????????? ???
????????? ??? ?????? ??? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????? ?????????? ???
??? ?? ?????????? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ???
??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
?? ????? 9, ?????????? 1, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? 13
??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ?????????? ???, ??????????, ???
??? ?????????? ?? ? ?????????? ??? ?????? ?? ?????? ?? ?????????? ?????????? ?? ??????????
????? ?? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????????? ??? ???
??? ?????? ??? ?????? ??? ?????????? ???.

21 ???????, ?? ?????????? ??? ?????? ?????????? ??? ?????? ?? ?? ??? ?????? ?????????? ???
?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ??
????????????? ??? ?????? ?????????? ?? ?????? 4, ?????????? 2, ?? 5, ?????????? 3,
??.

22 ??? ?? ??????? ???, ?? Naczelnny S?d Administracyjny ?????????? ?? ?????????? ??
????????? ??? ?? ??????? ??? ?????????? ??? ?????????? ?? ?????????? ?????????? ???:
«????? ?? ??????? ?? ?????????? ??? ?????????? ??? ?????? ?????????????? ???, ??? ?? ?????? ???
????? 4, ?????????? 2, ?? ?????????? ?? ?? ?????? 5, ?????????? 3, [??], ??? ??????????
????? ??? (????????? ?????? ?????? ?????????? ?????????? ???) ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? 13 ??? ?????? [2006/112], ?????? ??? ?????? ???
????????? ??? ?????????? (?????????????) ??? ?????????? ??? ?????? 9, ?????????? 1,
?? ?? ??? ??????;»

23 ? ?????????? ?????????? ??? ?? ?????????? ?? ?????????? ?? ?????? ??????????
?????????, ???' ?????????? ??? ?????? 16, ?????? ??????, ??? ?????????? ?? ??????????
?? ?????????? ???.

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

24 ?? ?? ??????? ???, ?? ?????? ?????????? ???, ???' ??????, ?? ?????????? ?? ?? ??
????? 9, ?????????? 1, ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????

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

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

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

25 ??? ??? ?????????????? ??? ?????????????? ??? ????? ?????????? ??? ?????????? ??? ?????
?????? ?? ?????????????? ??? ?? ?????? ???, ? ?????????? ??? ????? ?????? ?????????? ??? ??
?????? ??? . ???????, ??? ??? ?????????? ??? ??? ?????????? ?????????? ??? ?????????? ??? ??
?????? ??? ??? ??? ?????? ??? ?????????? ?????????? ??? ?? ?????????? ??? ?????????? ??? ??
?????? ??? ??? ?????????? ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ??? ??
??????????? ??? ??????? ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
??????????? ??? ??????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? (???????)
????????? ??? ???????, C?480/10, EU:C:2013:263, ????? 33 ??? ????? ??????????????
?????????).

27 ? ?????? III ??? ??????? ??? ?????? ??? ?????? ??? «????????????? ??? ???».
???? ??? ?????? ??????? ??? ?? ??? ?????, ?????? ?? ????? 9, ?????????? 1, «[?]?????? ??
“?????????? ????” ?????????? ????, ??? ?????? ?????????? ??? ??
????????? ????, ?????????? ???????????, ?????????? ??? ??? ?????????? ????.
??? ?? ?????????? ??? ?????????? ????.

28 ?? ?????? ?? ???? ?????????? ??????, ?????? ?? ?? ?????? ??? ?????? «?????????????», ?????? ?????? ?????? ??? «????????????? ??? ?????» ????? ?????? ????? ?????????? ??? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? 28 ??? 29 ??? ?????????? ???, ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???.

29 ??????????, ??? ?????????? ??? ?? ?????????????? ??? ????? 9, ?????????? 1, ???
?????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ???, ?? ????? 13, ?????????? 1, ???
????? ??????? ?????? ??? ?? ?????????? ?????? ?????? ??? ?????????? ??
????????? ??? ?? ??? ?? ???? ?????????? ???? ??, ??? ?????? ?????????????? ??
?????? ???????, ??? ?? ? ? ???? ?????? ??? ?? ??? ?? ?????????? ?? ??????????
????????? ??? ?????????? (?????? ?????? ??? ?? ???, C79/09,
EU:C:2010:171, ??? 77).

30 ???????, ??? ?? ?????????? ?? ?????????? ??????? ??????? ?????????? ???????
????? ??? ?????? ??? ??????? ???, ???, ??????, ??????? ?? ? ? ????? 9, ?????????? 1, ???
?????? ?????, ?? ?????? ?????????? ?????????????? ?????? ?????? ??????????.

31 ????? ?????? ??? ??????? ??? ?????? ?????, ?????????????????? ??? ??? ??????????????
???? ?? ?????????? ?????????????????? ?????? ??????????????. ??? ?????????????? ?????? ??? ?? ?
???? ?????????????? ??? ?????????? ????? ?????????? ??? ?????????? ?? ?????? 13,
????????? 1. ??? ??????? ????.

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

33 ??? ?? ?????????? ?? ?? ?????????? ?????? ?????? ?????????????? ??????????????????
????? ???? ?????? ??????????, ???? ?? ??????????, ???? ?????????? ???? ?? ?????????? ??
?????????????, ??, ???? ??? ?????? ??? ?????????????? ????, ? ?????? ??? ?????? ?????? ??
??? ?????? ???? ?????? ?????????? ???? ?????? ?????????? (??., ??' ?????, ??????????
????????? ???? ????, 235/85, EU:C:1987:161, ??? 14? Ayuntamiento de Sevilla,
C?202/90, EU:C:1991:332, ??? 10? FCE Bank, C?210/04, EU:C:2006:196, ?????? 35 ??? 37,
????? ??? ?????? ???? ????????, C?154/08, EU:C:2009:695, ?????? 103 ??? 107).

34 ???????, ??? ??????? ? ??????? ?????????? ??? ?????? 40 ??? 41 ??? ??????????
???, ?????????? ?? ?????????? ? ?????? ?????? ?????????? ?????? ?? ?????????? ??
????? ?????? ?????? ???? ?????????????? ???? ??? ??????, ???? ??? ?????????? ??
????? ??? ??????, ???? ??? ?? ?????? ??? ?????????? ?????? ??? ?????????? ??
????????????? ????. ??? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ???
?????????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????., ??' ????, ?????????? ?????? ??? ?????? ???, 235/85, EU:C:1987:161, ??? 14?
Heerma, C?23/98, EU:C:2000:46, ??? 18, ??? van der Steen, C?355/06,
EU:C:2007:615, ?????? 21 ??? 25).

35 ??? ?? ??? ??????, ?????????????? ???, ??? ?????????????? ??? ?????? 44 ???
????????? ??? ?????? ??????????, ?? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ? ?????????? ??? ?????? ?????????? ?????????????? ?????? ??? ??????
????????? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ?????? ?????? ??????.

36 ?? ???? ?? ?????? ???, ? ???? ?????? ???? ?? ??? ?????? ?????? ???? ??
????????? ?????? ??? ?????? 9, ?????????? 1, ??? ?????? ???? ??? ?????? ??
????????? ????. ??????????, ???? ??? ?? ????? «????? ?????? ??????????» ??? ??
????? «????? ?????? ??????» ?????? ??? ?????? ?????? ?? ?????????? ??
????? ?????????? ???? ??? ?????? ?????????? ??????????.

37 ??? ?? ??? ?????? ???, ??? ?? ?????? ??? ?????? ?????????? ??? ?????? ????
????????? ??? ?????? ?????? ?????????????? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?????? ??? ?????? ???' ?????? ??? ?? ?????????? ???
????? ??? Wroclaw ??? ??? ??? ?????????? ??? ??? ?????? ??? ?????????? ???
????? ??? ?????????????? ????, ?????????? ??? ?? ?????? ?????? ??? ?????? ??????????
? ?? ??? ???.

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

39 ??? ???????, ??? ?????? ?????? ? ?????????? ?????????? ??? Naczelnego S?d
Administracyjnego, ?? ????, ??? ? ???? ??? Wroclaw, ??? ?? ?????????? ??? ??????????
????????? ??? ?????? ?? ??????????, ?? ?????????? ??? ?? ?????????? ??? ?????? ???, ??
??? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 9, ?????????? 1, ???
????????? ???.

40 ?????, ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????????, ??????????????,
??????, ??? ?? ?????????? ??? ?? ??? 9, ?????????? 1, ??? ?????? ???, ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?
????????? ??? ?????????? ??????, ??? ?????? ??? ?????????? ??? ?????????? ?? ??? ?????? 4,
????????? 2, ???.

41 ???????, ?? ?????????? ??? ?????? ??? ?? ??? ?????? ??? ??????????????, ???
????????????? ??? 5, ?????????? 3, ??? . ??????????, ??? ?????????? ??? ?? ???
????????? ??? 65 ??? ?????? ???, ? ?????? ???, ??? ? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?? ?????? ?????? ?????????? ???, ?????? ??
????????? ??? ?????? ??? ?????? ???.

42 ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ??? ?????????? ???
????? ?? ??? ? ?????? ??? ?? ??? 9, ?????????? 1, ??? ?????? ??? ?? ??? ?? ???
????? ??? ?????? ??? ?????? ??? ??????, ??? ?? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ???
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43 ? ?????? ??? ?????? ??? ?????? ??? ?? ??? ?????????? ?? ??? ?????? ??? ?????????? ???,
??? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?????????? ???
????????? ??? ?????? ???.

44 ?????????? ??? ?????? ???, ??? ?????? ?????????, ? ?????? ??? ?????? ???
?????????, ??? ??? ?????? ??? ?????????? ??? ?? ??? ?????? ??? ?????? 267 ???, ??
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? (????? Balazs, C?401/13 ??? C?432/13, EU:C:2015:26, ??? 49 ????)

45 ?????? ?????? ???' ?????? ??? ?????? ?? ?????????? ???' ?????? ??? ?????? ??

??? ??????? ??? ?????? ?????????? ?????? ??? ??????????? ????????, ?? ??????????? ???
?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????????? ?? ???????????
?????? ??? ?????? ?????????? ??? ???????, ??????????? ??? ?????????? ???????????
????? ??????? ? ??????? ??? ?????? ?????????? ??? ???????, ?????????? ??? ???????
????? ??? ?????????????? ??? ??? ?????? ?????????? ?????????? ?????????? (?????? Balazs,
C?401/13 ??? C?432/13, EU:C:2015:26, ????? 50 ????? ??? ??? ?????????????? ??????????).

46 ????? ?????? ? ?????????? ??? ? ?????????? ?????? ??? ?????????? ??? ???????
????????? ?????????? ???????????. ??????????, ??? ??? ??' ?????????? ?????????? ??
????? ?????????? ?????? ??? ??? ??? ?? ??? ?? ?????????? ??? ?? ?????????? ??????????
?????????.

47 ????????????? ??? ??? ??????, ??? ?????????? ?????? ?????????? ??????????
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48 ????????? ??? ? ?????? ?????????? ??? ? ?????? ??? ?????? ?????????? ??? ???????
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?? ???
????????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ?????? ??? ?????? ??????????
????? ?????????? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??
????? ?????????? (????? ?????? ??????) ??????????:

?? ??? 9, ?????????? 1, ??? ?????? 2006/112/?? ??? ??????????, ??? 28??
????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????????????? ????, ???
?? ?????? ??? ?????????? ???????, ????? ?? ?????????? ??? ?????? ??? ?????? ???
????????????? ?????? ?????? ?????????????? ?????? ?????? ?????? ?????? ?????? ???
????????????? ??? ?????? ?????????????? ?????? ?????? ?????? ?????? ?????? ???
????????????? ??? ?????? ?????????????? ??? ?????? ?????? ?????? ???.

(?????????)

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