

62019CJ0335

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??? 15?? ?????????? 2020 ( \*1 )

[?????? ??? ?????????? ?? ?? ??????? ??? 26?? ?????????? 2020]

«????????????? ?????????? – ????? ?????? ?????? ?????????????? ?????? (???) – ??????  
2006/112/?? – ????? 90 – ?????? ??? ????? ?????????? ??? – ?????? ? ?????? ?? ?????????? ???  
????????? – ?????????? ??? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????????  
????????? – ?????????? ?? ??? ????? ?????? ? ?????????? ?? ?????????? ?????????????? ??????????????  
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?? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???  
????????? ?? Naczelnego S?d Administracyjnego (????????? ?????????? ??????????, ?????????) ??  
????????? ??? 6?? ?????????? 2018, ? ????? ?????? ??? ?????????? ??? 24 ?????????  
2019, ??? ?????? ??? ????

E. sp. Z o.o. sp. k.

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Minister Finansów,

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

????????? ??? ??? J.-C. Bonichot (?????????), ??????? ??????????, L. Bay Larsen, C. Toader,  
M. Safjan ??? N. Jääskinen, ????????,

?????? ??????????: J. Kokott

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

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

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? E. sp. Z o.o. sp. k., ?????????????? ??? ??? A. Bartosiewicz, ?????????? ??????????,

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? ??????? ??????????, ?????????????? ??? ??? B. Majczyna,

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? ??????? ????????, ?????????????? ??? ??? J. Jokubauskait? ??? M. Siekierzy?ska,

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??? 4?? ??????? 2020,

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1

? ??????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 90 ??? ??????  
2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ???? ?????? ??????  
????????????? ??? (?? 2006, L 347, ?. 1).

2

? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? E. sp. Z o.o. sp. k. ???  
??? Minister Finansów (????????? ????????????, ????) ?????? ?? ?????????? ??????????????  
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-3

?? ?????? 63 ??? ??????? 2006/112 ?????? ?? ????

«? ?????????????? ????. ?????????? ??? ? ????? ?????????? ?????????? ????. ????. ????. ????.  
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4

?? ?????? 73 ??? ??????? ?????? ?????? ?? ????????

«???? ??? ?????????? ?????? ??? ??? ?????? ??????????, ?????? ?????? ??? ?????????? ???  
????? 74 ??? 77, ? ??? ?????? ?????? ??? ?????? ?????????????? ?????????? ?????????? ???  
???????????, ??? ?????? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ???  
? ?????? ??? ?????????? ??? ??? ??????????, ??? ?????? ??? ?????? ??????????,  
????????????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ?????? ??? ??? ?????? ??? ?????? ???.

5

?? ?????? 90 ??? ?? ??? ?????????? ??? ?? ????:

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

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

6

?? ?????? 184 ??? ????? ???????? ?????????? ?? ??????:

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

7

?? ?????? 185 ??? ?????? 2006/112 ?????? ?? ????:

«1. ? ?????????????? ??????????????, ????, ???, ??? ???? ?????? ??? ?????? [??? ????  
????????????? ??? (???)], ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???  
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2. ??? ?????????? ??? ?????????? 1, ??? ?????????? ?????????????? ??? ?????????? ???  
????????? ????, ??? ??? ?????? ??? ?????? [????? ?????? ? ?????] ?????? ??????, ??  
????????? ??????????, ?????????? ? ?????? ??? ?????????? ??? ?????????? ? ??????????????  
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????????? ??? ?????? 16.

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

8

?? ?????? 273 ??? ?????? ?????? ??? ?? ????:

«?? ?????? ??? ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
?? ?????????? ??? ?????? ?????????? ??? ??? ??? ??? ?????? ??? ??????, ?? ??? ??????????  
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? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????????????? ??? ??  
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????? 3.»

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9

?? ?????? 89a ??? ustanawia o podatku od towarów i usług (????? ???? ??? ?????? ??? ??  
??? ??????????), ??? 11?? ?????? 2004, ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???  
????? ?????? ??? (Dz. U. 2011, ????. 177, ??? 1054, ??? ?: ??? ?????? ???), ??? ??  
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«1. ? ?????????????? ??? ???? ??????, ??? ?????????????? ?????????????? ?? ?????  
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??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????????? ??? ?????? ??? ???? ??  
?????????.

1a. ? ?? ?????????????? ??? ?????????? ?????????????? ??? ???? ?????? ??? ????  
????????????? ? ?????????? ?? ?????????? ?????? 150 ?????? ??? ???? ????  
????????? ??? ?????? ???? ?????????? ?????????? ??????????.

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

1)

? ?????????? ?????? ? ? ?????? ?????????? ?????????????? ?????? ?????????????? ??? ???? ????,  
????? ??? ?????? ??? ?????? 15, ?????????? 1, ? ?????? ?????? ?????????????? ??? ????  
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3)

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1 ?????????????? ?????????? ??????????:

a)

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b)

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5)

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[...]

3. ? ?????????? ??? ?????? 1 ?????????? ??? ?????? ?? ?????????????? ?? ????  
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????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

4. ?? ?????????? ?????????? ? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ???  
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 1  
?????????????, ? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???

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

[...]»

10

??. ?????? 89b ??? ?????? ??? ?????? ??? ?????? ?? ????:

«1. ?? ?????????? ?? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
??? ?????????? ?????? ? ?????? ?????????? ??? ??????, ?????? 150 ?????? ??? ?? ??? ?????? ???  
????????? ??? ?????? ? ??? ?????????? ?????????? ??????????, ? ?????????? ??????????  
?? ?????????? ??? ?????? ??? ?????? ??? ?? ??? ?????? ?????????? ?? ?????? ?????? ???  
????????? 150 ?????? ??? ?? ??? ?????? ??? ?????????? ??? ?????????? ? ??? ?????????? ??????????  
?????????.

1a. ? ?????????? 1 ??? ?????????? ?? ? ?????????? ?????????? ??? ?????????? ??? ?????????? ??  
????????? ??? ?? ?????????? ?????? ??? ?????????? ??? 150 ?????? ??? ?? ??? ?????? ???  
????????? ?????????? ??? ?? ??? ??????????.

2. ?? ?????????? ?????? ?????????????? ??? ?????????? ??? ?????? 150 ?????? ??? ?? ???  
??? ?????????? ??? ?????? ? ??? ?????????? ?????????? ??????????, ? ??????????????  
????? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? . ? ??????????  
1a ?????????? ???' ??????????.

[...]

4. ?? ?????????? ?????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???  
?????????????, ? ?????????? ??? ?????? ??? ?????????? ?? ?????? ?? ??? ?????? ??? ?? ???  
????? ??? ?????? ??? ?????????? ??? ?????????? 1. ? ? ?????????? ?????? ?????????? ???  
?????????, ? ??? ?????? ?????? ?????????? ??? ?? ??? ?????? ??? ?????????? ??? ?????? ???.

[...]»

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

11

? E., ?????? ?????????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????? ???, ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????? , ?????? ?????, ?? ?????? ?????? ?????? ?????? ?????? ???, ?? ?????? ??? ??????  
????????? ??? ?????? . ??? ?? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????  
??? ?????? ?????? ???.

12

? E. ?????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ????  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
????? . ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? , ? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ??? ?????? ?????? ??? ?????? ???  
????? ?????? ??? ?????? . ?????? , ? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ???

????? ??? ??????? ??????????? ??? 150 ?????? ??? ?? ??? ????? ??? ??????????? ????????,  
????????????? ??? ?????????????? ??? ?????? ?? ?????????? ??? ?????? ????. ?????????? ???  
???? ?????????? ?? ?????????? ??? ????? ?????????? ?? ?????????? ??? ?????? ????. ?????? ? ??????  
?????????, ? E. ?????? ??? ?????? ????? ??????????, ??? ?????? ??? ?????? ??? ?????? ??? ??  
???? ??? ??? ?????????? ??? ?????? ??? ?? ??? ????? ?????????, ?????? ??? ??? ?????? ??? ??  
????????????? ?????????? ?????????? ?? ?????????? ?? ?????????? ???, ?????? ??? ?????? ?  
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? 89a ??? ?????? ??? ?????? ???.

13

? ? ?????????? ??? 12? ? ?????????? 2015, ? ?????? ??? ?????????? ?????? ???  
????????? ??? ?????? ??? E. ????????, ?????? ???, ??? ?? ?????? 90 ??? ??????  
2006/112 ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??????????  
??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??????, ?????????? ???  
????? ? ?????????? ??? ?????? ?????? ?? ?????? 89a ??? ?????? ??? ?????? ????. ???????,  
?? ??? ?????????? ??? ??? ??? ?????????? ??? ?????? ???, ? ?????????? ??? ?????? ???  
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??? ?? ?????? ??? ??????.

14

? ? ?????? ?????????? ?????????? ??? ? E. ?????? ??? ?????? ??? ?????? ?????? ???  
????????????? ?????????? ?????????? ??? ?????? ??? ?? ?? ?????????? ??? ?????? 89a  
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
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????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???.

15

? E. ?????????? ?????????? ??? ?? ??? ?????????? ?????????? ?????? ??? ?????????? ??  
????? ??? ?????? ?????????? ??????????. ?? ???????, ?????? ?????? ?????? ???  
????????? ??????????, ?????????? ??? ?? ?????????? ?????????? ?????????? ?????? ???  
??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ?????????? ??? ?? ?????? ??? ??????.

16

? ? ?????? ?????????? ?????????? ?? ?????? ?? ?????????? ?????????? ???  
????????? ??? ?????? ??? ?? ??? ?????? ??? ?????????, ??? ?????? ??? ?????? ???, ???  
????????? ??? ?????? ??? ?????? ??? ?????? 90 ??? ?????? 2006/112.  
????????? ??? ?????? ??? ?????? ??? ?????? ??? 15? ??? 2014, Almos Agrárkülkereskedelmi  
(C?337/13, EU:C:2014:328), ??? ??? 23? ??? 2017, Di Maura (C?246/16,  
EU:C:2017:887), ?? ?????? ?????????? ?????????? ?? ??? ??? ?? ?????????? ???  
????????? ??? ?????? ??? 89a, ?????????? 2, ??? ?????? ??? ???.

17

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

?????????? ??? ?????? 185, ?????????? 2, ??????? ??????, ??? ?????? 2006/112 ???  
????????? ????, ?? ??? 89b ??? ????? ??? ????? ?????? ??? ???? ?? ?????????? ???  
????????? ??? ?????????? ?????????????? ??? ?????? ??? ?????????? ???, ?? ??????????  
????????? ??? ?????????? ??? ????????, ?? ?????? ?????????? ??? ??????. ????????, ?? ??????????  
??? ?????? ???, ?? ?????? ??? ?????? ?????? ??? ?????., ????????, ?? ??????????  
??? ?????????? ??? ?????? 89a ??? ?????? ??? ???, ????????, ? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????? ???, ?????????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???.  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????.

18

? ? ?????? ?????????? ?????????? ?????? ??? ? ?????????? ??? ???? ???, ??? ????  
????? 89a, ?????????? 2, ??? ????? ???, ? ?????????? ??? ?????? ?? ??? ?????? ???  
????????? ?????????? ? ?????????? ?????? ??? ?????? ?????? ?? ?????????? ??? ??????  
??? ?????????? ?????? ??????????, ?????? ??????????, ?????? ?????, ?? ??????  
????????????? ??? ?? ?????????? ?????? ?????? ?????? ?????????????? ??? ??????????. ????????, ??  
????????? ??? ?? ?????????? ?????? ??? ?? ?????? 90, ?????????? 2, ??? ?????? 2006/112  
????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? 89a, ?????????? 2, ???  
????? ??? ?, ?? ?????? ?????????? ?????????? ?? ???? ?????? ?? ?????????? ??? ??????  
????? ?????????? ?????? ?? ?????? ?????? ?????? ?????????????? ??? ?????? ??? ??????????  
????????? ??????.

19

??? ??? ??????? ????, ?? Naczelnego S?d Administracyjnego (????????? ?????????? ??????????,  
????????) ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???  
????????? ?? ?????????? ?????????? ??????:

«1)

????????? ?? ?????????? ??? ?????? 2006/112[...] –????????? ?? ??? 90, ??????????  
2, ??? ?????? ???–, ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????????? ???  
??? ??????????????, ?? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ??  
????????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????, ?? ?????????? ?????? ??? ?????? ??  
?????????, ??? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ?????? ?????????? ? ??????????  
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2)

?????????, ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????  
????????? ?? ?????????? “????????? ??? ?????? ?????? ?????? ?????? ??????????” ??? ???  
????????? ???, ??? ??? ?????? ?????? ??? ?????? ?????? ? ?????????? ??? ?????? ??? ???  
??? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??????????  
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? ?????????? ??? ??? ?????? ??? ?????????? ?????????????? ??? ????????????,

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? ?????????? ??? ? ?????????? ?????? ?????????????? ??? ?????? ?? ?????????? ??? ?????? ???;»

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

20

?? ?? ??? ?????????????? ??????????, ?? ?????? ?????? ?? ??????????????, ?? ??????  
?????????? ?????, ???' ??????, ?? ?????????????? ?? ?? ????? 90 ??? ?????? 2006/112  
????????? ?????? ?????? ? ?????? ?????? ?? ?????? ??? ?????? ?????????? ??? ??? ??? ???  
????????? ?? ?????, ???? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
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????????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ?????????????? ??? ?????????? ???, ???? ??? ?????? ??? ?????? ??? ?????????? ???  
??? ?????????? ??? ?????????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ?????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???.

21

???????, ?????????????? ??? ?? ????? 90, ?????????? 1, ??? ?????? 2006/112, ?? ??????  
????? ??? ?????????? ??????, ??????????, ????, ?????? ? ?????? ?? ?????????? ?? ??????????  
?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????????? ??? ?????? ??? ??? ???  
????????? ??? ?????, ?????????? ?? ?????? ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ???  
???, ??????????, ?? ???? ??? ??? ??? ?????? ? ?????????? ??? ?????? ???, ?????? ??? ??  
????????? ??? ?????? ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???  
???. ? ?????? ??? ?????????? ?????? ?????????? ?????? ??? ?????? 2006/112, ??? ??  
????? ? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??????????  
????????? ?? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?? ???  
????? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? (????????? ??? 8?? ???  
2019, A-PACK CZ, C?127/18, EU:C:2019:377, ?????? 17 ??? ?????? ?????????????? ??????????).

22

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

23

????????? ?? ?????? ??? ?????? 90, ?????????? 1, ??? ??? ?????? 273 ??? ??????  
2006/112, ???? ??? ?????? ??? ??????????, ??? ?????????????? ??? ?? ?????? ??? ??????????  
????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ??????????????  
??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???  
????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
??? ?????? (????????? ??? 6?? ?????????? 2018, Tratave, C?672/17, EU:C:2018:989, ???? 32  
?? ?????? ?????????? ??? ??????).

24

???? ?? ?????????? ??? ??????????? ?????????? ?????? ?? ?????? ??? ?????????? ?????????????? ???  
????????? ??? ??????????? ? ??? ??????????? ??? ?????? ???' ?????? ?? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (?????)  
??? 6?? ?????????? 2018, Tratave, C?672/17, EU:C:2018:989, ??? 33 ??? ???  
????????? ??????).

25

??????, ?? ?????????? ??? ??????? ?? ?????????? ?? ?????????? ??? ?????????? ???  
?????? ??????? ??? ?????????? ??? ?????? ?? ??????? ?????? ??? ?????? ?????????? ??? ??  
?????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ???, ???  
??? ?????????? ??? ??????, ? ?????????? ? ??? ?????? ??? ?????? ?????? ?????????? ???  
?????????. ??? ?????? ?????????? ?????????? ?????? ??? ?????????? ??? ?????????? ???  
????????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
????? (????? ??? 6?? ?????????? 2018, Tratave, C?672/17, EU:C:2018:989, ??? 34 ???  
???? ?????????? ??????).

26

? ???? 90, ?????????? 2, ??? ?????? 2006/112 ?????????? ??? ?????? ??? ??  
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 90, ?????????? 1, ??? ??  
???? ?????? ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ??? ??????.

27

?????????, ?? ? ?????? ? ?????? ?? ??????? ?? ?????????? ??? ?????? ???  
????????? ?????????? ? ??????? ?? ???????, ? ?????????? ? ? ?????? ??? ??????????  
????????? ?? ??????? ?? ?????????? ??????, ? ?? ?????? ?? ?????? ??? ??????????  
????????? ???' ?????? ?? ?????? ??? ?????? ?????????? ??? ??????????, ??? ?????? ???  
????????? ?????? ?? ??????? ?????????? ??????????. ??????, ?????, ??? ?????? ?? ??????????  
?? ?????????? ?? ??????? ?????????? ?????? ?? ?????????? ??? ?????????? ???,  
????????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??????????  
?? ?????????? ?? ? ?? ??????? ??? ???????, ?????? ??? ?????? ??? ??????????, ?? ??????????  
?? ??? ?????????? ? ??? ?????? ??? ???????, ??? ??? ?????????? ??? ?????? ??? ?????? ???  
?????????, ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? (????. ?????? ??? 23?? ?????????? 2017, Di Maura, C?246/16,  
EU:C:2017:887, ??? 16 ??? ??? ?????????? ??????).

28

???? ??? ?????? ?? ??????????, ??? ? ?????????? ?????????? ?????????? ???  
????????? ??? ? ?? ?????????? ??? ?????????? ??????????, ??? ?????????? ?????????? ???  
???? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????, ?? ?????? ??????????  
????????? ? ?? ?????? ??? ?????? ?????? (????? ??? 8?? ?????? 2019, A-PACK CZ,  
C?127/18, EU:C:2019:377, ??? 19 ??? ??? ?????????? ??????????).

29

?????????, ? ?????? ??? ?????????????? ?????????????? ?????? ?? ?????? ??????????????????  
????????????? ?? ?????? ??? ?????????? ?? ?????? ??? ?????? ?? ?????? ??? ?????????? ??? ?? ??  
????????????? ??? ?????????? ??? ?????? ??? ?????????????? ?????????????? , ? ??????  
????????????? ?? ??? ?????? 2006/112, ??? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ??  
????????????? ?? ?????????? ??????, ?? ?????????? ?? ?????????? , ?? ?????? ??? ??????  
????????? ??? ??? (????????? ??? 8?? ????? 2019, A-PACK CZ, C?127/18, EU:C:2019:377,  
????? 20 ??? ??? ?????????????? ??????????).

30

?????????, ???????? ??? ?????? ?????? ?? ?????? ?? ?????? ??? ?????? ?? ?????????? ??  
????????????? ??? ?????????? ??? ?????????? ?? ?????? ??? ?????? ?????? ?????????????? ? ??  
?? ?????? ?????? ?????????? ?????, ?????????? ??? ?????? ?????????? ?????????????? ??? ??????  
?? ?????? ?????? ??? ?? ??? ?????????????? , ?????????????? , ?????, ?? ?????? ?? ?????? ??  
?? ?????????? ?????? ??? ?????? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ?? ??????????  
(????????? ??? 8?? ????? 2019, A-PACK CZ, C?127/18, EU:C:2019:377, ????? 21 ??? ???  
????????????? ??????????).

31

????????, ?? ?????? ??? ?????? ? ?????????? ??? ?????? ?????? ?? ?????????? ??????????????  
????? ??? ?????? ?????????? ??? ???, ?????? ?? ?????????? ??? ?????? ??? ?????????????? ???  
??, ??? ??? ?????? ?????????? , ?????? ???, ???, ??? ??? ?????????? ??? ?????????????? ???  
????? ??? ?????????? ??? ?????????? , ? ?????????????? ?????? ?? ?????????? ?? ?????????????? ???  
?? ?? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ??????????????  
????????????? ??? ?? ?????? ?????????? ?? ?????? ??? ?????? ??? (????????? ??? 8?? ?????  
2019, A-PACK CZ, C?127/18, EU:C:2019:377, ????? 22 ??? ??? ?????????????? ??????????).

32

? ? ?????????? , ?? ?????????????? ??? ?????? 89a, ?????????? 2, ?????? 1, ??? ?????? 3,  
????????? a ??? b, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? , ?? ??????  
?? ?????????? ??? ?????????? , ?????? ??? ?????? 90, ?????????? 1, ??? ?????? 2006/112,  
?? ?????????? ??? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ???  
????????? ?? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ??? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? , ??? ? ?, ??? ?????? ???  
?????? ? ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? , ??? ?????? , ??? ? ?????????? ??? ?????? , ??? ?????????? , ??? ??????????  
????????? ??? ?????? ??? ?????? 90, ?????????? 2, ??? ?????? 2006/112.  
????????? , ?????? ?? ?????????? ?? ? ?????????? ??? ?????????????? ?? ??????????????  
????? ??? ?????????? ??? ?????? ??? ? E. ?????????????? ??? ??? ?????? ??? ?????? ??? ??????  
????? ? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

33

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

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

34

? ??? ?, ??? ??????, ??? ???????, ??? ?????????? ??? ?????? ?? ?????? ??? ?????? ??????? ???  
?? ??? ?? ?? ? ?????????? ?????????? ?????????????? ??? ?????? ?? ?????????? ??? ??? ??  
????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??????????  
?????????, ?????? ?? ?????????? , ?????? ??? ?? ?????????? ??? ?????? ???' ??????  
????????? ???, ??? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??? ??????  
????????? ???, ??? ?????? 28 ??? ?????? ??? 8?? ??? 2019, A-PACK CZ (C?127/18,  
EU:C:2019:377), ?? ?????????? ?????? ?? ?? 90 ??? ?????? 2006/112 ??????????  
?? ?????? ?????????? ? ??? ?????? ?????????? ??? ? ?????????? ??? ?????? ??? ?????? ??  
????? ?? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??  
?????????, ??? ??????? ???, ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ???, ???  
? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???.

35

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

36

?? ??????????? ?? ??????????? ?? ????? ???? 32 ?? 35 ?? ??????? ?? ??????????? ??  
?????????? ?? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?? ??????? ??  
?????????? ??, ???, ??? ?? ???, ??????????? ?? ?????? ?? ?????? ?? ?????? ?? 90 ??  
?????? 2006/112 ?? ?? ????? 184 ?? 185 ?? ????? ?? ?????, ??? ?? ???????????????  
?? ?? ?? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?????????? ?? ?? ?? ?? ?? ??  
?????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?????????, ?? ??????? ??  
???????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?????????? ??, ?? ??????? ??  
?????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?????????? ??, ?? ??????? ??  
????????????? ?? ?????? 89a ?? ????? ??, ??? ?? ????? ??, ?? ?????????? ??, ??, ??? ??  
????????????? ?? ?????? 89b ?? ????? ??, ??? ?? ??????????, ?? ??????????, ??, ??  
?? ?? ?? ?? ?? ?? ?????????? ??, ?? ?????????? ?? ?? ?? ?? ?? ?? ?? ?? ?? ?? ??  
?????????????.

37

??????, ?? ?????????? ?? ????? ??, ?? ?? ?????? 90 ?? ??????? 2006/112 ?????? ??  
????????? ?? ?????????? ?? ?? ?????????? ?? ?????????? ?? ??????? ?? ?????? ?????????? ??  
????? ??????, ??? ?? ?????????????? ?? ???????, ??? ??????? ?? ?????????? ??  
?????????? ? ??????? ?? ??????? ?? ??????? ??, ?? ?????? 185 ?? ?? ?????? ??????? ??  
?? ??????????? ?? ??????? ?? ??????? ?? ??????? ?????????????? ?? ???????????????  
????? ??? ?????????? ??, ?? ?????????? ?? ?? ??? ?? ?????? ?? ??????? ?? ?????????? ??  
????? ??? ??? ?? ?????? ?????????? ?? ??????? ?? ??????? ?? ?????????? ?? ?????????? ??  
????????? (?????? ?? 22?? ?????????? 2018, T?2, C?396/16, EU:C:2018:109, ??? 35).

38

??????????, ??? ?? ??????? ?? ?????? ???????, ???' ?????????? ?? ?? ?????? 90,  
????????? 1, ??? ?????? 2006/112, ???, ??? ?????????? ???????????, ??? ??????????????  
????? ??? ?????? ?? ??????? ?? ?????? ??????? ?? ?????? ?? ?????? ?? ?????????? ??  
??????????, ?? ?? ??? ?????? ?????? ?????? ??????? ?? ???????????, ??? ?????????? ??  
?? ?????????? ???????????????, ?? ?????? 185, ?????????? 2, ?????????? ??, ??? ??????  
2006/112, ?????????? ? ?????? ??????????? ?? ?????? ?? ?????????? ?? ?????????? ??  
????????? ?? ?? ?? ?????? ??????????? ???. ??? ?????? ?????? ?????? ?? ?????????? ??????????  
?????????? ?? ?????? 89a ?? 89b ?? ?????? ?? ??.

39

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

40

????? ?????, ??????, ??? ??????, ?????? ?? ?????? ?? ?????? ?????? ???, ?????? ?????? ???  
?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????????? ??? ?????? ???  
?? ?????? ??? ?????????, ?????? ??? ?????? ??? ?????, ?????? ??? ?????? 63 ??? ??????  
2006/112, ?????????? ? ??????????? ?? ?????? ??? ?????? ??? ?????? ?????????? ???????????,  
????? ??????????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ???????????,  
?????????? ??? ?? ??????? ?? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ????.  
????????, ??????????? ??? ?????? ??? ?????????? ???, ??? ?????????? ??? ?? ?????? 21 ???

????????? ????????, ? ??? ?????????? ??? ?????, ??? ????? ?????????? ??? ?????? 73 ???  
??????? 2006/112, ?????????? ??? ?????????? ????? ?????????? ??????????, ? ?????????? ??????  
????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ???, ?? ?????????????? ??  
???? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????????? ??? ??????  
????????? ?????????? ??? ? ?????????? ??? ?????? ?? ??? ?????????? ?? ??? ?????? ?????????? ???  
????? ??? ?????????? ?? ??? ?????? ??????. ????????, ?? ?????????? ??? ?????? ??? ??????  
?? ??? ?????????? ??? ?????? ??? ?????? ?????????????? ??? ?????????? ??? ?????? ??? ?? ??  
????????? ??? ?????????? ??? ?????????? ??? ?????? ???.

41

????? ????, ????????, ??? ????????, ????????????, ?????????????? ??? ????? ?????? ??? ??? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??? ???  
????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ?????????? ??? ??? ??? ??  
????? ?? ?????? ??? ?????? ??? ?????? ?????????? ?????? ??? ???, ?? ??? ??????????  
????????????? ?????????? ??? ?????? ??? ?????? ?????? ??? ??? ?????? ?????????? ??????????  
????????????? ??? ?????? ?? ??? ?????????? ??? ?????? ??? ?????? ?? ??? ?????? 185 ??? ??????  
2006/112, ?? ??????? ????????, ?????? ??? ?????? ??????, ?????????? ?? ??????????  
(????????? ??? 2?? ?????? 2005, Waterschap Zeeuws Vlaanderen, C?378/02, EU:C:2005:335,  
????? 32, ??? ??? 22?? ?????? 2012, Klub, C?153/11, EU:C:2012:163, ????? 46). ??? ??  
????????? ????, ?? ??? ?????? ??? ?????????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????????? ???  
????? ???????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???.  
????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?? ??  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

42

????? ???? ?? ???, ??? ??? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ??? ???  
????????? ???, ????????, ?????????? ?? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ??????  
? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????????????? ?  
???????????, ?????? ?? ??????, ??? ?????????? ? ?????? ?????? ?????????? ??? ?????? 58 ??? 60  
??? ?????????? ???, ??? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???' ??????? ??? ??  
????????????? ??? ?????? ??? ?????? ??? ?????????? ?????? . ????????, ? ?????? ??? ??? ??????????  
?? ????, ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? 185,  
????????? 2, ??????? ???????, ??? ?????? 2006/112, ?? ??????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??????  
????? ?????? ???????? ?? ??? ?????? ?????? ?????????? ?????????????? ??? ?????????? ???, ?????? ???  
?? ????????, ?? ??? ?????? ???, ??? ?????? ?????? ?????????? ??? ?????? ??? ?? ????????.

43

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

44

???????????, ????????????, ??????, ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
???????????, ??? ?????????? ?? ?????????????? ? ?????? ??? ?????? ??? ?????? ??? ?????? 90,  
????????? 2, ??? ?????? 2006/112, ??? ?????? ?????????? ??? ?????? 26 ??? 30 ???  
????????? ????????, ??? ??? ?????????? ?????????? ??? ?? ??? 90, ?????????? 1, ???

????????? ?????? ??? ?????? ??????? ??? ?????????? ??? ?????????? ??? ?????????????? ?? ??? ?? ?  
?? ?????????? ? ??? ???????? ?????????? ?????? (??., ???' ??????????, ???????? ??? 8?? ????  
2019, A?PACK CZ, C?127/18, EU:C:2019:377, ????? 25).

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?????????, ?????????????? ??? ????? ??? ?????????? ??? ?????????????? ??? ?????????? 24 ???  
????????? ?????????? ??? ?????? 273 ??? ?????? 2006/112, ??? ?? ?????????? ???  
???? ??? ?????? ??? ?? ?????????? ??? ?????????? ??? ?? ?????????? ?? ???????, ???  
? E., ?? ?????? ?? ?????? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????  
??? ?? ?????????? ??? ?????? ??? ? ??? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ???  
????? ?????????? ?????? ?????????? ? ??????????????. ?????? ?? ?????? ??? ?????? ?????  
???? ??????, ??? ?????????? ??? ?????? 40 ??? 41 ??? ?????? ??????, ??  
????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ? ?????????? ??????????????  
??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?? ??? ?????? ?????? ?????? ??? ??? ?  
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??  
????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ???  
??? ?? ?????????? ??? ?????? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????????? ?????????????? ??? ?????????? ?? ??? ?????? ??? ?????? ??????????  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? 273 ??? ??????  
2006/112 (??????? ??? 8?? ??? 2019, A?PACK CZ, C?127/18, EU:C:2019:377, ????? 27).

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

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?????????, ?????????????? ???, ?????? ?? ??? ?????? ??? ??????????????, ? ????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ?? ??? ??  
????????????? ??? ??? ?????? ??? ?????? ??? ?????? 2006/112 ?????? ?? ??? ?????? ?????????? ???  
??? ?????????? ??? ?????? ??? ?????????????? ?? ??? ?????? ??? ??? ??? ?????? ??? ?????? ???  
????? ??? ?????????? ??? ??? ?????? ??? ?????? (??????? ??? 23?? ?????????? 2017, Di  
Maura, C?246/16, EU:C:2017:887, ????? 25).

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

? ? ?????????? ?? ? ?????????? ?????? ?????????????? ?????? ?????? ?????? ??? ?? ??????????,  
????????? ?? ? ?????????????? ??? ?????????? ?????? ??????. ??? ?????? ?????? ??? ??  
????? ?????? ?????????????? ??? ??? ?????????? ??? ?????? ?????????? ?????? ???,  
????????? , ?????? ?????? ?????????? ??? ??? ?????? , ? ?????? ?????????? ??? ??  
????????????? ??? ?? ? ?????????? ??? ??? ?????????? ??? ?? ? ?????????? ??? ?? ?????  
????????? , ?????? ??? 23?? ?????????? 2017, Di Maura, C?246/16, EU:C:2017:887, ??? 27).

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? ?????? ??????? ?? ??????? ??????? ???, ??????, ?? ????? 89a, ?????????? 1a, ??? ??  
???? ?? ? ??????? ?????? ?? ??????? ??? ??????? ??? ?????? ?????? ??? ?? ?????? ? ???????  
????????????? ?? ? ?????????? ???, ???????, ?????? ??? ?????? 89a, ?????????? 4, ???  
????? ????, ? ??????? ?????? ?? ?????? ?? ?????? ?????? ??? ?????? ?????? ??? ?? ??? ??  
????????? ??? ???, ??? ?? ?????? ??? ?????? ?????? ??? ?????, ? ?????? ?????? ???  
????????? ? ?????????? ?? ?????????? ???, ?????????????? ?? ?????????? ?????? ???  
????????? , ??' ??????, ?????????? ??? ?? ?????? ?????????????? ??? ?????? ?????? ???  
????? ??? ?????????????? , ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??????  
?????????.

50

? ?????????? ?? ???? ?? ???? 48 ?? ?????? ?????? ?????????? ?????? ?????? ?????? ???  
?? ???? ?????? ?????????? ?????????????? ? ?????????? , ??? ?????? ? ?????????? ???  
?? ?? ? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? , ???'  
????? , ?? ?????? ??? ?? ??? ?????? ?????? ?????? ?????? ?????????? . ??? ??????  
????????? ?????? ?????? , ?? ??? ?????????? , ?? ?????? ?????????? ?????? ?????????????? ???  
????????? ??? ?????????? ???, ?????? ?????????? ?? ?????? ??? ?????? ?????????? ???  
????????? , ?? ?????????? ?????????? ?? ?????? ?? ??? ?????? ?????????? ??? ?????? ???  
????? , ?? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ???  
????????? ?? ??? ?????? 2006/112 (??., ???' ?????? , ?????? ??? 23?? ??????)  
2017, Di Maura, C?246/16, EU:C:2017:887, ??? 28).

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[????? ?????????? ?? ??????? ??? 26?? ?????????? 2020] ???? ?????? ??? ?????????? ???  
????? ?????? ?? ?????? ?????????? ??? ?? ? ?????????? ??? ?? ?????? ?????? ???  
?? ?? ? 46 ?? ?????? ?????????? ?????? ?????? ?? ?????? ??? ?????? ?????? , ?? ?????? ? ??????????  
????????? ?????? ?????? , ?????? ?????? , ?????? ?????? , ?? ?????? ? ??????????  
?? ?? ?????????? ?????? ?????? ?????? ?????? ?????? , ?? ?????? , ?????? ?? ?????????? ???,  
????? , ?? ?????? 90, ?????????? 1, ??? ?????? 2006/112 ?????? ??? ??????  
????????? ??? ?? ??? ?????? ?????? ?????? (????????? ??? 15?? ?????? 2014, Almos  
Agrárkülkereskedelmi, C?337/13, EU:C:2014:328, ??? 34) ???, ???????, ? ??? ??  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????????  
????? ?????????? ??? ?????? ?????? , ?? ?????? ?????? ?????? , ?? ?????? ??????????  
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????  
????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? (????????? ??? 24??  
????? 2019, Popawska, C?573/17, EU:C:2019:530, ??? 61).

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? ?????? , ?????? ??? ?????????? ??? ?? ??. ??? ?????? ?????? ???  
????????? ??? ?? ???? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????? ???  
?? ?????? 90, ?????????? 1, ??? ?????? 2006/112, ?????? ?? ?????????? ??? ?????? ???

????????? ??? ??????? ???????????? ??? ????? ?? ?????????? ?????????????? ?? ?????????? ?? ??????  
??? ?????? ???????? ??? ?????? ??? (????. ??????? ??? 15?? ?????? 2014, Almos  
Agrárkülkereskedelmi, C2337/13, EU:C:2014:328, ????? 35), ??? ?? ?????????? ?????????  
????????? ?????? ? ?????????? ?? ?????? ?????? ??? ?? ?????? ?????????? ?????? ??? ??  
????????? ?? ?? ?????? ??? ??????. ?? ?????? ???, ?? ??? ?????? ???, ?????????????? ???  
????? ?????????? ??? ?????? ?????? ??? ?????? ??????, ?????????? ? ?????????? ???  
????? ?????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ? ?????? ??? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ??????????, ?? ?????????? ?? ?????????????? ? ??? ??? ?????? ???  
????????? ??? ??? ??????.

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????????? ??? ?????? ??? ??????? ??? ?????? ??????, ??? ?????????? ?????????????? ??  
????????? ??? ?????? ?? ?????? ? ?????????? ??? ?? ?????? 90 ??? ?????? 2006/112 ??? ??  
????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ?????????? ???  
??? ??? ??? ?????????? ?? ?????, ??? ??? ?????? ??? ?????????? ??? ?????? ? ??? ??????  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ???  
????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???, ? ??????????  
????????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????????????? ??? ?????????? ???, ??? ??? ?????? ??? ?????? ??? ?????????? ???  
??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???  
????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???.

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

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

? ? ?????? 90 ??? ?????? 2006/112/? ? ? ??????????, ??? 28? ?????????? 2006, ??????? ??  
?? ?????? ?????? ?????? ?????????????? ???, ??? ??? ?????? ??? ?????????? ??? ??????  
????????? ? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????????? ???  
(??) ??? ??? ?????????? ?? ?????, ??? ??? ?????? ??? ?????????? ??? ?????? ? ???  
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ??????????  
??? ?????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ?????????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??  
????????? ?????????????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

(?????????)

( \*1 ) Langue de procédure : le polonais.