

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

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

??? 1?? ??????? 2021 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ??????
2006/112/?? – ?????????? ?????? – ?????? ?????????? ??? ?????? ?????????? ??????????????
????????????? ?????? – ?????? ?????????? ??? – ?????? ??? ???? ??????????
??? ?????????? ??? ??? ??? ??? ?????? ??? ?????? ?????????? – ??? – ?? ??? ??????
????????????? ??? ??? ?????? ?????? ??? ?????? ?????????? – ??? ??? ?????????? ???
??? – ?????????? ??? ??? ??? ??? ?????? ?????????????? ??? ?????????? ???
?????»

???? ?????? C?521/19,

?? ?????????? ?????? ?????????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Tribunal Superior de Justicia de Galicia (???????, ???????????, ??? ???????,
??????) ?? ??????? ?? 19?? ?????? 2019, ? ????? ?????? ??? ?????????? ??? ?????????? ???
?????? 2019, ??? ?????? ??? ?????

CB

????

Tribunal Económico Administrativo Regional de Galicia,

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

????????? ??? ??? A. Prechal, ??????? ???????, N. Wahl (?????????), F. Biltgen, L. S.
Rossi ??? J. Passer, ???????,

??????? ??????????: G. Hogan

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

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

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

- o CB, ?????????????? ??? ??? C. Gómez Docampo, abogada,
- ? ??????? ????????, ?????????????? ??? ??? S. Jiménez García,
- ? ??????? ????????, ?????????????? ??? ??? G. Palmieri, ?????????????? ??? ??? G.
Galluzzo, avvocato dello Stato,
- ? ??????? ????????, ?????????????? ??? ??? L. Lozano Palacios ??? J.
Jokubauskait?,

???? ?????? ??? ?????? ???????????, ??? ???????? ??? ?????????? ??? ??? ?? ???????????
?? 4?? ??????? 2021,

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

???????

1 ? ?????? ?????????????? ?????????? ?????? ??? ???????? ??? ?????? 73 ??? 78 ???
?????? 2006/112/EK ??? ????????, ??? 28?? ??????? 2006, ??????? ?? ?? ???
?????? ??? ????? ?????????????? ??? (?? 2006, L 347, ?. 1).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? CB ??? ???
Tribunal Económico Administrativo Regional de Galicia (????????????? ?????? ??????????
????????????? ?????? ??? ???????, ??????) ?????? ?? ?? ?????????????? ??? ??????
?? ?????????????? ??? CB ??? ??? ?????????? ??? ??? ?????????????? ??? ??????
????????????? ?????? ?????????? ??? ????? ?????????? ?????? ?????????? ??? ?? ??? 2010 ???
2012.

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

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

3 ? ?????????? ??? 7 ??? ?????? 2006/112 ??? ?? ???:

«?? ?????? ?????? [????? ?????????????? ??? (??)] ?? ?????? ?? ?????????? ??
????????????? ?? ??? ??? ?????????? ?????? ??? ?? ?? ?????????? ??? ?? ?????????? ???
????????????? ???, ??? ??? ?????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????
????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? ?????????? ??? ??
????? ? ?????? ??? ?????? ?????????? ??? ??????..»

4 ?? ?????? 1 ??? ?????? ??? ?? ???:

«1. ? ?????? ??? ?????? ??? ?? ??? ?????? [??].

2. ? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?? ???
?? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ?????????? ?? ?? ??? ???
????? ??? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ??? ?????? ?????????? ???
?????.

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

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

5 ?? ?????? 73 ??? ?? ??? ?????? ??? ?? ???:

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

????????????????????? ??? ?????????????? ??? ?????????????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ..»

6 ?? ?????? 78 ??? ?????? ?????????? ??????????? ?? ????:

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

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

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

7 ?? ?????? 178 ??? ??????? 2006/112 ?????? ?? ????:

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

) ??? ??? ?????????????? ??? ??? 168 ????????? ?), ????????, ??? ?????? ???
????????? ??? ?????? ??? ??? ?????? ?????????, ?? ?????? ?????????, ?? ?????? ???
????? ?????? ??? ??? ?????? 220 ??? 236 ??? ???? 238, 239 ??? 240,

[...]».

8 ???? ?? ?????? 193 ??? ?? ??? ????????, ? ??? ?????????? ??? ?? ??? ?????????? ???
????? ? ?????? ?????????????? ?????????? ?????? ?????? ? ?????? ?????????? ,?????
??? ?????????? ??? ? ??? ????? ?????????? ??? ??? ?????? ?????? ??? ?? ??? ????? 194 ??? 199
??? ?? ?????? 202 ??? ?????? ??????.

9 ?? ?????? 220, ??????????? 1, ??? ??????? 2006/112 ?????????? ?? ??????????:

«???? ?????????????? ??? ??????????? ?? ?????????????? ??? ?????????? ?????????????? ??? ??? ??????,
??? ??? ?????????? ?????? ? ??? ????? ?????????? ?, ??? ?????? ??? ??? ??? ?????????? ???,
??? ??????, ??? ?????????? ??????????:

1) ??? ??? ??????????? ?????? ? ??? ?????? ??????????, ??? ?????? ??????????????
????? ?????? ?????????? ??? ?????? ? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ,

[...]

5) ??? ??? ?????????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ? ??? ??
?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ..»

10 ????? ?? ?????? 226 ??? ???????:

«?? ??? ?????????? ???. ????????. ?????????? ???. ?????????????? ???. ????? ????????. ??????, ????? ???.
????????? ???. ?????????? ???. ????? ?????????? ???. ????? ???. ?????? ???. ???, ??? ????? ???.
????????? ???. ?????????? ???. ???' ????????. ??? ?????????? ???. ?????? ???. 220 ??? 221:

[...]

6) ? ?????????? ??? ?? ?????? ??? ?????????????? ??????? ? ? ?????? ??? ?? ?????? ???
???????????,

7) ? ?????????? ??? ?? ?????? ?????????????????? ? ?????????????? ? ?????????? ?????? ?
? ?????? ?????????? ? ? ?????????? ??? ?? ?????? ?????????? ? ?????????? ???
????????? ??? ?? ?????? 220, ?????? 4) ??? 5), ?????? ? ? ?????? ?????????? ???
????????? ??? ?? ?????? ??? ?? ?????????? ?????? ??? ??????????,

8) ? ??? ?????? ??? ?? ?????? ??? ?? ?????? [..] ???????, ? ??? ??????
????? ??? ?? ??? ?? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ???
????????????? ??? ?? ??? ???????,

9) ? ?????????? ??? ?? ???????????,

10) ?? ??? ?? ?????????? ???, ?????? ?? ?????????? ?????? ??? ?????? ??? ?? ???
? ?????? ??? ?????? ??? ?????? ??? ???????, [...].

11) ?? ??? 273 ??? ?????? ??????? ?? ???:

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

? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?? ?????????? ??? ?? ???
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ?? ?????????? ??? ??
????????? 3.»

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

12) ?? ??? 78, ?????????? 1, ??? Ley 37/1992 del Impuesto sobre el Valor Añadido (?????
37/1992 ??? ??? ??? ?????????????? ???), ??? 28?? ?????????? 1992 (BOE ????. 312, ???
29?? ?????????? 1992, ?. 44247), ?????????? ?? ???:

«? ??? ?????? ??? ?? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?? ?????????? ??? ?? ???
????????? ? ?????? ? ?????? ?????? ??? ?? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ??????.

13) ?? ??? 88 ??? ?????? 37/1992, ?? ?????? ?????????? «????????? ??? ?????»?????
?? ??????:

«1. ?? ?????????? ??? ?? ?????? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ???
????????? ??? ?? ?????? ?????????????? ??? ?? ?????????? ??? ?? ???????, ?? ?? ??????? ???
????????? ?????????? ??? ?? ??? ??, ?????? ? ?????? ?????? ?????? ?????? ??? ?? ??? ??????????
??? ?????? ??? ??, ?????? ?????? ??? ?? ?????????? ??? ?? ?????? ??? ?? ?????????? ??? ?? ???
????????? ??? ??, ??? ? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ??? ?????????? ??? ??
????, ??? ?? ??? ?????? ??? ?? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????? ??? ??
????? ?????????? ??? ?? [??], ? ??????, ??????, ?????? ?? ?????????? ??? ?? ???????
??????, ?????? ??? ?????? ?????????? ??? ?? ???????, ??? ?????? ??? ?? ?????????? ??? ?? ???

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

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

3. ?????????????? ??? ????? ?????????????????? ??? ??? ????? ?????? ?????????? ??? ??????????
??? ?????????? ??????????.

4. ?? ?????????? ?????????????? ?????????????? ??? ???? ?? ?????????? ?????? ?? ????
?????????? ?? ???? ?? ???? ? ?????? ?????? ?????? ??????????.

5. ?????????? ?????? ??? ?????????? ??? [??] ??? ?????????? ?? ?????????? ???
????????????? ??? ?????? ?????? ?????? ?????????? ??????.

14 ?? ?????? 89 ??? ?? ??? ?????? ?, ?? ?????? ?????? ??? ?????? «????????? ??? ?????? ???
????? ??? ??????????????», ?????????? ?? ??????????:

«1. ?????????????? ??? ????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
??? ?????????? ??? ????? ?????? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ? ???
????????? ??? ?????????? ??? ?????? ??? ??????, ??? ?? ?????????? ??? ?????? 80 ??? ??????????
?????, ?????????? ?????????? ??? ?????? ?????? ?????????? ??? ??????. ? ?????????? ?????? ??
????????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??????????????
? ?????????? ?? ??? ?????? ?????????? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ??????????
?????????, ??? ??? ?????????? ??? ??? ?????? ?????????? ?????????? ??? ??? ??? ??? ??????????
???? ??? ?????? ?????? ?????????? ? ?????? ??? ?????? ?????????? ??? ?????? ?, ???????????,
????????? ?? ?????????? ??? ?????? 80 ??????????.

2. ?????????? ????? ?????????????? ?????????? ?????????? ??? ????? ?????????????? ??? ??? ?????????????? ?????????? ??? ??????.

3. ??????????? ???. ?????????? ???. ?????????????? ???. ????????????, ?? ???. ??? ?????? ???. ?????? ???.
????????????? ???. ??? ?????????? ???. ??? ?????? ???. ????????????:

1) ????? ? ?????????? ??? ??????????? ????? ?????? ?????????????????? ??? ?? ?????? 80 ??????,
????????????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?? ?????? ??? ?????? ???
????????? ?? ?????????????? ? ??????????????, ??? ?????? ?????????????? ?????????? ??????????
??? ?????????? ??????????, ??? ?????? ?????????? ?????? ?? ?????????????? ?????? ???
????? ??? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ???
????????? ???.

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

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

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

15 ? CB ?????? ?????????????????? ??? ?????? ?????????????? ?????????????? ??????????
????????? ?? ??. ??? ?? ??????? ?? ???, ?????? ?????????? ??? ????? Lito, ???
????? ?????????? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ??
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? (??????).
?????????, ? CB ?????? ?? ??? ?? ?????? ?????????? ?????????? ??????????, ???
????????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?? ??? ?????? ??????????,
??? ?????????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? Lito.

16 ??? ??????? ???, ?? ??????? ??? ?????????????? ??? ?????? ??? ??????????
????????? ?????? Lito ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??????????
??? ?? ?????? ?????????? ? ?? ?????????? ?????????? ?????????? . ??? ?????? ???,
????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ??? ?????? ??? ?????? ???.

17 ? CB ?????????? ?? 10 % ??? ?????? ??? ?????? Lito. ?? ?????? ??? CB
????????????? ???, ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??
????? ?????????? . ? C? ??? ?????? ?????????? ?????? ? ?????? ?????????? ?????????? ???,
????? ??? ?????? ?????? ???, ?? ?? ??????, ??? ?????? ??? ?????? ???.

18 ?????? ?????????? ??? CB, ? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? Lito,
???? 64 414,90 ??? 2010, 67 565,40 ??? 2011 ??? 60 692,50 ??? 2012, ???
????????????? ? ?? ??? ???, ???????, ? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??
??? ??? ?????? ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????????? ??? ?? 2010 ??? 2012, ?????????? ?? ?????? ??? CB, ?
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

19 ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? CB, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ???.

20 ??? ?????? ???, ? CB ?????????? ??? ? ?? ??? ?????? ?????? ??? ?????? ???
? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ???
Tribunal Supremo (????????? ??????????, ??????) ?????? ??? ??? ?????????? ???
????????? , ??? ??? ?????? , ??? ? ?????????? ??? ?????? ?????? ???, ???' ???,
????????? ?? ???, ??? ??? ?????????? , ??? ?????? ?????? ??? ?????? ?????? , ???
????? ?? ?????????? ??? ?????????????? ??? ?????? ??? ??? ?????? ?????? ??? ??
????????? ??? ?????? ???.

21 ?????????? , ? CB ?????? ???, ?????? ??? ?????? , ?????? ??? ?????? ???
?? ?????? ??? ?????????? ??? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ???,
????? ?????????? ?????? ?????? , ?????? ?? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????? ??? ?????? ???.

22 ?? ?????? ?????????? ?????????? ???, ?????????? ?? ?????????? ??? ??? ?????? ???

???? ?????? ??????, ?????? ?? ??????????? ?? ???? 37/1992, ??? ?????????????? ??? ??
Tribunal Supremo (?????? ??????????), ?????? ?? ???? ?????? ?? ??????, ??????
????????? ??? ??? ?????????? ?????? ?????????????? ?????????? ??? ??????
?????????, ?????? ??? ?????????? ?????? ?????????? ?????, ?????? ??? ?????? ?????????? ???
????? ??? ?????? ?????? ???, ?? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ???
??.

23 ??? ?????? ???, ?? Tribunal Superior de Justicia de Galicia (?????? ?????????? ???
????????, ??????) ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????
?? ?????? ?????????? ???:

«????? ?? ????? 73 ??? 78 ??? [?????? 2006/112], ??? ?? ?????? ??? ?????? ???
??????????, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???????????,
????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???????????, ??? ??????
??? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? [??]
[??], ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? [??]
????????? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ???
????? ??? ??? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ???
????????????? [??];

????? ???????, ?? ?? ??????, ??? ?????????????? ????, ??? ?????? ? ?????????? ??????????
?? ?? ?????????? ????, ?? ?????? ????, ??? ?? ??????? ?? ?????????? ??? ?? ??????????
?? ?????????? ??? 28?? ?????? 2016, Astone (C?332/15, EU:C:2016:614), ??? 5??
????????? 2016, Maya Marinova (C?576/15, EU:C:2016:740), ??? ??? 7?? ?????? 2018, Dobre
(C?159/17, EU:C:2018:161), ??? ?? ??? ??? ?????????? ??? ?????????????? ???
????????????? ??? ???, ?????????? ?? ?????????????? ?? ?????????????? ??? ?????? ??? ?????? ???
?? ?????????? ? ?????????? ???;»

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

24 ?? ?? ?????????? ????, ?? ?????? ?????????? ????, ???' ??????, ??? ??
?????????? ?????????? ?? ??? ?? ?????? ??? ??????, ??? ?? ?????? ??? ?????? ??? ?????? ???
??????????, ??? ?????? 73 ??? 78 ??? ?????? 2006/112, ?? ?????? ?????? ???
????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???, ???
?????, ?????????? ????, ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????, ??? ?????????? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ???
?? ?????? ??? ??? ?????? ?????? ??????. ?? ?????? ?????????? ?????????? ??, ?? ???
????? ??????????, ?????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ? ??? ??? ???.

25 ??????? ?? ??????? ???, ?????? ? ?????????? ?????? ??? ?????????? ?????????????? ??????????????
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ?
????? 2006/112 (?????? ?? 12?? ?????? 2020, ??? Comercial Timi?oara, C?734/19,
EU:C:2020:919, ??? 39 ??? ??? ?????????? ??????), ? ?????????? ??? ??????
????????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???, ??? ?? ?????? 73 ??? 78 ???
????????? ?? ?????????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
?????, ??? ?? ?????? 273 ??? ?? ??? ??????, ??? ??? ?????? ??? ?????? ??? ?? ??? ??????, ???
??? ?????? ??? ?? ?????????? ?? ???????, ?? ?????????? ??????, ?????????? ??? ?? ??? ???
????????? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

26 ???????, ??? ?????????? ? ?????? ?????????? ??? ?????? 29 ??? ??????? ???,
?? ?????? ??? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???

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

27 ?????? ?? ???????????, ???????, ??? ? ?????????? ??? ??????, ?????????????? ???
????????? ??? ?????????? ?? ?????? ??? ??? ?????????? ??? ?????????? ??????????????
????????????? ???, ???????????, ??? ??????, ?????????? ? ?????? ??? ?????? ??? ???? ??
????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????? 2006/112,
????? ??? ?????? ??? ???????????, ?? ?????? ??? ?????????? ??? ?????????????? ??? ???? ??
??? ?????????? ?????? ??? ???, ?????? ??? ???, ?????? ?????? ?????????????? ???????, ??
????? ??? ??? ?????? ??? ?????????? ?????????? ?????????? ?????????? ???.

28 ???????????, ??? ?????? ???????????, ?????????? ?? ?????????? ??? ?????????????? ???
????? ?? ?????????? ??? ??? ?????????? ??? ??? ??? ?????? ??? ?????? ?????????? ?????????? ?
????????????? ?? ?????? ?? ?? ?????? ??? ?????????? ? ??? ?????????? ??? ?????? ??????????????
????? ?????????? ??? ?????? ??? ?????????????? ??? ??? ?????????? ??? ?????? ?????? ??????
????????? ???, ?? ?????? ??? ?????? ?????????? ??? ?????????????? ??? ??? ?????? ??? ??? ??? ??
????????? ? ?????????????? ??? ?????? ??? ?????????? ??? ?????????? ?????????????????? ???,
??? ???????????, ??? ???????, ??? ?????????? ?? ?????? ??? ?????? ??? ?????????? ??????????
????? ??? ?????????? ???????????????, ?????????? ??? ?????? ??? ?????? ??? ??????????????
????, ??? ??? ?????????? ??? ?? ?????????????? ??? ?????? ?????????? ???' ?????, ?? ??????
????? ???, ? ?????? ??? ?? ?????? ?????????? ??? ?????? ???' ?????? ?????, ?????? ?? ?? ??????
178, ??????? ??, ??? ?????? 2006/112, ???' ?? ?????? ? ?????????? ??? ?????? ???.
????? ??? ?????? ??? ?????????? (????. ?????? ??? 21?? ?????? 2018, Volkswagen,
C?533/16, EU:C:2018:204, ?????? 37, 38, 42 ?? 43 ??? ?????? ?????????????? ??????????).

29 ??? ?????????????? ?? ?????? ???????????, ??? ??? ?????? ??? ?????? ??? ?????? ???
?????????, ??? ??? ?? ????? 88, ?????????? 2, ??? ?? ????? 89, ?????????? 3, ?????? 2,
??? ?????? 37/1992, ?????????? ??? ? ?????????? ??? ?????????????? ??? ?????? ?? ?????? ??
????? ??? ??? ?? ?? ?????? ?????????? ? ?????? ??? ??? ?????????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ???, ?? ???????????, ??? ?????????????? ??? ?????????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
?????????.

30 ???????, ??? ?????? ??? ??????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ?????????? ???, ?????? ?? ?????? ?????????????? ?????? ??? ?????? ?? ?????? ??
??? ?????????? ??? ?????? ??? ?????? ?????????? ?, ?????? ??? ?????? ??? ?????? ?? ?????? ??
????????? ??? ?????? ???, ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?????? Lito, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??
????? ??? ?????? ? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????. ??????, ??? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????? ???, ?? ??????????
??? ?????? 89, ?????????? 3, ?????? 2, ??? ?????? 37/1992 ?????????? ??? ?????? ??????????
????????? ??? ???, ???????, ??? ??? ?????? ??? ?? ??? ?????? ?????? ??? ?????? ?????????? ???
????? ??? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??????????.

31 ?? ?????? ??? ?????? ??? ??????????? ??? ?????? ??? ?????????? ??? ?????????? ???
??? ?????? ?????????? ?? ?????? 220 ??? ?????? 2006/112 ??? ???, ?? ?? ??????, ?? ??????
??? ?????????? ?? ?????????? ?????? ?????????? ??? ?????? 226, ?????? 6 ??? 10, ??? ??????
??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??
????? ?????? ?????????? ??? ???????????, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ??? ?????????? ??? ?????? (????? ??? 7?? ?????? 2013, Tulic?
??? Plavo?in, C?249/12 ??? C?250/12, EU:C:2013:722, ?????? 34 ??? ?????? ?????????????).

?????????).

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

33 ??? ??? ??????? ??????, ? ??? ?????? ??????? ??? ?????, ??? ??????? ??? ?????? 73 ???
78 ??? ??????? 2006/112, ??? ? ???????????, ??????????? ??? ?????? ??? ?????? ?????????? ????
? ?????????? ??? ???? ??? ???? ???? ???? ?????????? ??? ???, ??????, ???
????????????? ?? ??? ?????? ??? ??? ?????? ?????? ?????? ?????????? ????, ??? ???? ??
????????? ??? ??? ??? ?????????? ? ?? ?????? ?????? ?????????? ????, ??? ???? ?????? ??????
????????? ?? ?????????? ?????? ?????? ?????? ?????? ????, ?? ?????? ?????? ?????????? ??????
????? ??? ??? ?????????? ?????????? ?????????? ????.

34 ??? ??? ??? ??????, ?? ?????????? ?????? ??? ?????? ?????????????? ??? ?? ??????????
???? ?? ?????????? ???, ??????? ??? ?? ??? ?????? ??? ?????? ?? ?????? ?? ??????
?????????, ???' ??????? ??? ?????? 220 ??? ?????? 2006/112, ??? ?????? ??
????????? ?? ??? ?????????? ??? ?????????? ??? ?? ?????? 226 ??? ??????, ??? ??????
? ??? ?????? ?? ?????? ?? ?????? ??? ?????? ???, ?????? ?? ?????? ??? ??????, ???
?????????, ??? ??? ?????? ??? ?????? ???, ??? ?? ??? ?????? ?????????? ????
????? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?? ?????? ??????
?????, ??? ?????????? ??? ??? ?????? ??? ?? ??? ?????? ??? ?? ??? ?????? ???.

35 ???????, ?????????? ?? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??
????? ?????????? ?? ??? ??, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? 30 ??? ??????? ???????, ?????? ?????? ? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ??????????
????? ?????? (????. ?????? ??? 7?? ??????? 2013, Tulic? ??? Plavo?in, C?249/12 ???
C?250/12, EU:C:2013:722, ????? 37).

36 ?????????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????????????? ??? ?? ??? ??
?? ??? ?? ?????????? ?? ?????????? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ??, ??? ?
??? ?????? ?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?? ?? ?????????? ???
????????? ??? ?????? 28 ??? 31 ??? ?????? ??????.

37 ? ??? ??? ??? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?? ??? ??????????
?? 28?? ?????? 2016, Astone (C?332/15, EU:C:2016:614), ??? 5?? ?????????? 2016, Maya
Marinova (C?576/15, EU:C:2016:740), ??? ??? 7?? ?????? 2018, Dobre (C?159/17,
EU:C:2018:161), ??????? ???, ??? ?????? ? ?????? ? ?????? ?????????? ??? ?????? 33 ???
????????? ???, ??? ?? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ??????????
????? ?????? ?????????????? ??? ?? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????????? ??
??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ???
????????? ??? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

38 ?????????? ??? ?????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?? ??? ??
????????? ??? ?????????? ??? ?????? ???, ???' ?????????? ??? ?????? 273 ???

? ??????? 2006/112, ?? ?????????? ??????? ??? ?? ?????????????? ??? ?????????????? ???, ??????????, ??? ?????????? ??? ????? ?????? ??? ?????, ???' ?????????? ???
?????? 325, ?????????? 1 ??? 2, ????, ?? ?????????? ??? ?????????????? ??? ?????????????? ???
????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ? ?????????, ??? ??? ?????????? ??? ?????? ???
????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? (????. ??????? ??? 5?? ?????????? 2017, M.A.S. ??? M.B., C?42/17,
EU:C:2017:936, ????? 30). ?????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????? ??? ?? ????? 73 ??? 78 ??? ?????? 2006/112.

39 ?????????? ??? ?????? ??? ??????? ??? ??????, ??? ?????????? ??? ?????? ???
????? ? ?????????? ??? ? ?????? 2006/112, ?????? ?? ?? ?????? 73 ??? 78 ?????, ??????????????
??? ?? ?????? ??? ?????? ??? ?????????? ??? ???, ??? ??? ?????? ???, ???
????????? ??? ???, ?????????? ???, ??? ?????????? ???, ??? ?????????? ??? ?????? ??? ??????
??? ?????????? ???, ??? ?????? ?????? ???, ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ?? ??? ??????
????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ??? ?????? ?????? ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ??? ???, ?????? ???, ??? ?????? ??? ?????? ???, ?? ?????????? ??? ???
????? ?? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
??? ?????? ??? ??????.

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

40 ?????????? ??? ? ?????? ?????????? ??? ?? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
??? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ???, ?' ???
????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??????????
????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????.

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

? ?????? 2006/EK ??? ??????????, ??? 28?? ?????????? 2006, ?????? ?? ?? ???
????????? ??? ?????????? ????, ??? ?? ?? ?????? 73 ??? 78 ?????,
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ??? (??), ??? ?????? ???, ??? ?????????? ??? ?????? ???,
????????? ????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ?? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ???, ??? ?????? ??? ??????
?????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???.

(?????????)

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