

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

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

??? 22?? ??????????? 2022 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ??????
2006/112/?? – ????? 98 – ?????????? ??? ?????? ????? ?? ?????????? ?????????
????????? ??? ?? ?????????? ?????????? ?????? ??? ?????? ?????????? – ?????????? III,
????? 14 – ?????? ??? ????? “????????? ?????? ?????????? ?????????? ?????????” –
????????? – ?????? ? ?????? ?????????? ?????????? ?????????»

???? ?????? C330/21,

? ? ?????????? ?????? ?????????????? ?????????? ?????? 267 ????, ???
?????? ?? Rechtbank van eerste aanleg Oost-Vlaanderen Afdeling Gent (???????????)
????????? ???????, ?????? ???????, ???????) ?? ?????? ??? 20?? ????? 2021, ? ???
????????? ??? ?????????? ??? 27 ????? 2021, ??? ?????? ??? ???

The Escape Center BVBA

????

Belgische Staat,

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

????????? ??? ??? N. Jääskinen, ?????? ???????, M. Safjan ??? M. Gavalec (?????????),
???????,

????????? ??????????: A. M. Collins

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

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

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

- ? The Escape Center BVBA, ?????????????? ??? ??? H. Vandebergh, advocaat,
 - ? ??????? ????????, ?????????????? ??? ??? P. Cottin ??? J.?C. Halleux, ????? ???
??? ??? C. Pochet,
 - ? ?????????? ????????, ?????????????? ??? ??? M. K. Bulterman ??? A. Hanje,
 - ? ?????????? ????????, ?????????????? ??? ??? M. Pere,
 - ? ?????????? ????????, ?????????????? ??? ??? P. Carlin ??? ??? W. Roels,
- ?????? ??? ??????? ??? ?????, ??? ?????? ??? ?????? ???????????, ?? ?????????? ???
?????? ??? ?????? ??????? ??? ????????,

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

????????

1 ? ??????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 98, ?????????? 2,
?? ??????? ?? ?? ?????? 14 ??? ?????????? III ??? ?????? 2006/112/? ??
?????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ?????? ??????? ?????? ?????? ??????????????
????? (?? 2006, L 347, ?. 1, ??? ????: ?????? ???).

2 ? ?????? ??? ?????????????? ??? ?????? ?????????? ?????????? ?????? The Escape Center BVBA, ? ?????? ??? ?????????????? ??????????????, ??? ??? Belgische Staat (????????? ??????????), ?? ??????????? ??? ?????????? ?????????? ?????????? ?????????? ?????????????? ??? (???) ??? ?????????????? ??? ??????.

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

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

3 ????? ?? ??????? 96 ??? ????????, ?? ?????? ????? ?????????????? ?????????? ??????????????
???? ? ??????? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ? ?????? ??? ??????????????
?????? ?????? ??? ?????????? ??????????.

4 ?? ?????? 97 ??? ??????? ?????? ?????? ?????? ??? ? ?????????? ?????????????? ???
??????????? ?? ??? ?????? ?????????? ??? 15 %.

5 ?? ?????? 98, ??????????? 1 ??? 2, ??? ?? ????? ?????? ?????????? ?????????? ?? ????:

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

[...]»

6 ?? ?????????? III ?? ?????????? ???, ?? ????? ?????????????? ?? ?????????? ??
????????? ??????? ?? ?????? ?? ?????? ?????? ?????????? ?? ??????? ?? ?????????? ?? ??????????
????????? ?? ?????? ?? ?????? ?? ?????? 98 ?? ?????? ??????, ??????? ?? ?????? 14:

«[?] ? ??????? ???? ???? ?????? ???? ??????????».

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

7 ????? ?? ?????? 37, ??????????? 1, ??? ?????? ??? 3 ??????? 1969 ????. ??????????
?????? ?????? ?????????????????? ????, ? ??????? ?????????? ????. ?????????????? ??? ??????
????? ??? ?????????? ????. ??? ?????????? ????. ??? ?????? ????. ??? ?????????? ????.
????????? ?????????? ????. ??? ?????? ????. ?????????? ????. ?????????? ????.

8 ?? ?????? 1 ??? ??????????? ?????????????? ????. 20, ??? 20?? ??????? 1970, ????
?????????? ?? ???? ??????????? ?? ???? ????? ?????????????? ????. ???? ?? ???? ??????????? ??
????? ?? ???? ??????????? ?? ???? ????? ?????????????? ????, ?????? ?? ???? ??????????? ??
?????????? ?? ???? ?? ???? ????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ???? ???? ?? ???? 21
% ??? ??, ??? ??????????? ?? ???? ?? ???? ???, ? ??? ????? ??????????? ?? ???? ??????????
?????????? 6 % ??? ??????????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ??????????? ?? ????
????? ?? ???? ??????????? ?? ???? ?????????? ?? ???? ??????????.

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

9 ??? ????? XXVIII ??? ?????? ? ??? ?????????? ??? ?????? ??? ?????????? ??????????
????????? ??? ?????????? ?? ?????????? 6 % «[?] ?????? ??? ?????????? ?????????? ??
????????? ??????????, ?????????? ??? ?????????? ?????????? ?????? ??? ?????? ???
????????? ??? [...]».

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

10 ? The Escape Center, ?????? ?????????? ?????? ?????????? ?????????? ?? ??? ??
????????? ??? «?????????», ?????? ?????? ?????? ?????? ??? ?????????? ??????????
????? ?????? ???, ??? ?????? ?? ?????????? ?????? ?????? ??? ?? ?????????? ??? ??????
????? ?????????? ??? ??? ??? ?????????? ????. ? ?????? ??? ?????????? ?????????? ??????
????? ??? ??????, ??? ?????? ??? ?? ?????????? ?????????? ?????????? ??????????.
????????? ??? ?????? ?????????? ?????????? ?????????? ??? ?????????? ??? ??????????
?????.

11 ??? ?????? ??? ?????????? ???, ? ?????? ?????? ?????? ?????????? ??? ?? ??????????
21 %. ?????????? ? ??????, ?????????? ??? ?????? ??? ?????? ?? ??? ??? ?????????? ???
????? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??????, ?????? ??? ? ?????????? ?????????? ??? 6 % ?????????? ?? ?????????? ??
????? ?? ?????? ??? ?????????? ???, ??? ??? ?????? ?????? ?????????? ??? 21 %.

12 ?? ? ??????, ? The Escape Center ?????? ??? ?????????? ??? ?????????? ??? 15 % ??
??? ??? ??? ?????? ??? ?? 2015 ??? ??? ?? ?????? ?????? ??? 2018, ??? 48 622,64
????. ? ?????????? ??? ??????, ?????????? ??? ??? ?????? ??? ??????????, ??? ??????????,
???? 25 ?????? 2019, ?????????? ??? ?????? ?? ?????? ? ?????? ?????? ?????????? ?????? ???
????????? ??????????, ?????? ??? Rechtbank van eerste aanleg Oost-Vlaanderen Afdeling
Gent (????????? ??????????, ??????????, ?????? ??????, ??????).

13 ?? ?????? ?????????? ?????????? ??? ? ?????? ??? ?????????? ?????????? ??????????
????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ? ?????? ?????? ???
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??????????
????????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ? ??????????
????????? 21 % ??? ?????? ??? ?????????? ????, ??? ?????? ??????
????????? ??? ?????? ?????? ?????? 6 % ? ?????????? ??? ?????????? ???,
????? ??? ?????? ??? ?????? ?????? ?????????? ??? ??????????, ??????????, ???
????? ??? ??????.

14 ???????, ??? ? ?????? ??????????, ? ?????????? ?????????? ??? ?????? ???
??????, ??? ? ??? ?????? ??? ??????, ??? ?????????? ??? ? ??????????, ?? ?????????? ??
????????? ??? ?????????? ?????? «????? ??? ?????????? ??????», ? ??????
????????? ?? ?????? ?????? ????. ??????, ?? ?????? ?????????? ?????? ??? ??
????? ??? ??? ??? ?????? ??? ?????????? ??? 10? ?????? 2016, Baštová (C-432/15,
EU:C:2016:855), ?????? ??? ?? ?????? ?????? ?????? ?????? ?????????? ??????????
?? ?????? ??? ?????????? ???, ?????? ??? ?????? ?????? ??? ? ?????? ?????? ??
????????? ?????? ?????? ?????? ?????? ?????? ?????????? ??????.

15 ??? ??? ?????? ???, ?? Rechtbank van eerste aanleg Oost-Vlaanderen Afdeling Gent
(????????? ?????????? ??????, ??? ??????), ?????????? ??? ??? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????????? ? ?????????? ?????????? ??? ?????? ???,

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

«???? ?? ????? 98, ?????????? 2, ??? ?????? [??], ?? ?????????? ?? ?? ?????????? ?? ?????????? III,
?????? 14, ??? ?????? ??????, ??? ?????? ??? ? ?????? ?????????? ?????????? ?????????? ??????????
??? ?????? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ??
????????? ?????? ?????? ?????? ?????????? ??????????;»

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

16 ?? ?? ?????? ???, ?? ?????? ?????????? ???, ???' ??????, ?? ?????????????? ?? ??
????? 98, ?????????? 2, ??? ?????? ???, ?? ?????????? ?? ?? ?????? 14 ??? ??????????
III ??? ?????? ??????, ??? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??????????
??? ? ?????? ?????????? ? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ?????????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ??????
????????? ??????????.

17 ????? ?? ?????? 96 ??? ?????? ???, ??? ?????? ??? ?????? ?????????? ?????? ?????? ??????
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??????.

18 ??? ?????????? ?? ?? ???, ?? ?????? 98, ?????????? 1, ??? ?????? ????
????????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ??? ??????????
????????? ????. ?? ?????? 98, ?????????? 2, ??? ?????? ???, ??? ?? ??? ?????? ??? ??????
??? ?? ?????????? ?????????? ??? ?????? ?? ?????????? ??? ?????????? ?????????? ????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ????
????????? ??? ??? ?????? ????.

19 ?? ?????? 14 ??? ?????????? III ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
????????? ?????? ??? ?????? ??? «????????? ?????? ?????? ?????? ??????».
?????????.

20 ? ?????? ?? ?? ?????? ?? «????????? ?????? ?????????? ?????????????? ??????????»
??? ? ?????????? ?????? (??) 282/2011 ??? ??????????, ??? 15?? ?????? 2011, ??
?? ?????? ?????? ?????? 2006/112/?? ?????? ?? ?? ?????? ?????? ??????
????????? ????. (?? 2011, L 77, ?. 1), ??? ?????? ?????? ??? ?????? ??? ??????
?????????, ??? ? ?????? ??? ?????? ?????? ?????? 282/2011 ?????????? ???
????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ? ??????????
????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? (????. ?????? ??? 29??
????????? 2015, Saudaçor, C?174/14, EU:C:2015:733, ?????? 53 ??? 54).

21 ??????????, ?? ?????????? ??? ?????? ??? ?????????? ?? ?????? «????????? ??????
????????? ??????????» ??? ?????? 14 ??? ?????????? III ??? ?????? ??? ?? ??? ??
????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? (??????
??? 10?? ?????????? 2016, Baštová, C?432/15, EU:C:2016:855, ?????? 65).

22 ??? ??????, ?????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ?????? 14 ??
????????? III ??? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?? ??? ??
????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? (??????
????? ??? (????. ?????? ??? 10?? ?????????? 2016, Baštová, C?432/15,
EU:C:2016:855, ?????? 66).

23 ??? ?????????? ? ?????? , ? ?? ??? ?????????? ?????? ?? ??? ?????? ???

????????? ??? ?????? ?? ??????????? ??? ?????????? ?????? ?????????????????? ?????????? ???
????????? ??????, ??? ? ?????????? ?????? ?????? ?????? ??? ?????????????? ?????????? ???
????????? ??????????????. ?????? ?????? ?????? ??? ?????????????? ?????????? ???
????? ?? ?????? ?????????? ?????????? ??? ?????? ?????? ?????????? ?????????? ???
????????? ?????????? ???, ?? ? ?????, ?????????? ?????????? ?????? ??? ?????? ?????? ???
? ?????? ?????????? ?? ?????? ?? ??? (????. ?????? ??? 22?? ?????? 2021,
Dyrektor Izby Administracji Skarbowej w Katowicach, C?703/19, EU:C:2021:314, ??? 37 ???
???? ?????????? ?????), ???, ??? ?????? ???, ?? ?????? 14 ??? ?????????? ???
???? ?? ?????? ?? ?????????? ??? ?? ?????????? ?????????? ??? ??? ?????? ??? ??????
????????? ?????????? (????. ?????? ??? 10?? ?????? 2016, Baštová, C?432/15,
EU:C:2016:855, ??? 64).

24 ?????????? ?????? ?????????????????? ??? ? ?????????? ?? ?????????? ?????? ??????????
????????? ?????? ?????????? ??????????????, ??? ???? ?????????? ?????????? ???
????? ?????? ??? ??? ?????? ?????? ??? ?????? ??? ?????????? ???, ?????? ??? ?????? ???
????????? ??? ?????? 14 ??? ?????????? III ??? ?????? ???, ?????? ??? ?????????? ???
??? ? The Escape Center ?????????? ?????? ??????, ?????? ??? ?????????? ??? ???
????????? ???, ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ???, ???
????? ?? ?????????? ?? ?? ?????? 14 ??? ?????????? ??? ??? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???
????????? ??? ?????? ???.

25 ?????????????? ??' ?????? ??? ?????? ?????? ?????? ?????????? ??? ???? ???? ? ??????????????
????????? ? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?,
????? ?????? ?? ?????? ??????????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???
????????? ?? ??? ?????? ?????? (????????? ??? 27?? ?????? 2005, Levob Verzekeringen
?? OV Bank, C?41/04, EU:C:2005:649, ??? 22, ??? ??? 17?? ?????? 2020, Franck,
C?801/19, EU:C:2020:1049, ??? 25).

26 ?????? ?????? ?????? ??? ? ?????????????? ?????? ?????????? ?????????? ??? ?????? ???
??? ? ??? ? ?? ?????? ?????? ?????????? ??? ? ?????????? ?????????? ?????????? ???, ??
??????, ??? ?????? ??????????, ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ??
??????????, ??? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ???, ??
????????? ??? ??? ?????? ?????????, ??? ???? ??? ??? ?? ?????????? ??? ??? ??? ??????????
????????? ??? ??? ?????? ?????????? ??? ?????? (????????? ??? 21?? ?????? 2008, Part
Service, C?425/06, EU:C:2008:108, ??? 52, ??? ??? 19?? ?????? 2018, Mailat, C?17/18,
EU:C:2018:1038, ??? 34).

27 ??????????, ?????????? ?????????? ?? ?????? ???, ??? ?????? ??????????, ??
????????? ?????? ??? ?????? ?????????? ?????? ?? ?????????? ?????????? ???
?????????, ?????? ??? ?????? 1, ?????????? 2, ?????? ??????, ??? ?????? ???,
????????? ??? ?????????? ?????? ??? (????. ?????? ??? 19?? ?????? 2012, Purple
Parking ??? Airparks Services, C?117/11, ?? ???????????, EU:C:2012:29, ??? 31).

28 ?????????? ?? ?????? ?? ? ?????????? ?????????? ?????????? ??? ???? ????
?????????, ??? ?????? ?????? ?????? ? ?????? ??? ???? ???? ?????? ??? ?????????? ???
????????? ?????????? ?????? ?? ?????? ?? ???? ?????? ?????? ??? ?????? ??? ???? ????
??? ?????????? ?????????? ???, ?? ?????? ?????? ?????? ??? ?????? ??? ???? ???? ????
????????? ??? ?????? ??? ?????? ?????? ???, ?????????? ??? ?????? ??? ???? ???? ????
????????? ??? ??? ?????? ??? ?????? ?????? (????? ??? 19?? ?????? 2012, Purple
Parking ??? Airparks Services, C?117/11, ?? ???????????, EU:C:2012:29, ??? 30 ??? ???

?????????????? ??????????).

29 ??????? ?????? ?? ?????? ??? ?????? ?????????? ?????? ?? ?????? ??????????,
????????? ?? ?????????? ?????? ?? ?????? ?????? ??? ?? ?????????? ?????? ?? ????
????? ?? ?????? ?? ?????? ?????????? ?? ??? ?????? ?????? (????. ?????????? ??? 21??
????????? 2013, Žamberk, C?18/12, EU:C:2013:95, ????? 31 ??? ????? ??????????????
?????????, ??? ??? 8?? ?????????? 2016, Stock '94, C?208/15, EU:C:2016:936, ????? 30).

30 ?? ??????????, ?????????????? ??? ?? ?????????? ??? ?? ?????????? ??? ??
?????? ?? ?????? ?????????? ?? ??? ?????????? ??? ?? ?????? ?????? ??????, ??? ??
??? ??????, ?? ?????????? ?? ?????? (??., ??' ??????, ?????? ??? 22?? ??????????
2015, Régie communale autonome du stade Luc Varenne, C?55/14, EU:C:2015:29, ????? 25 ???
???? ?????????? ??????).

31 ?? ??? ?? ?????? ???, ??? ?????????? ? ?????????? ??????????, ?????? ??
????????? ??? ?????????? ?????????????? ?????????? ?????????? ?? ?????? ??????????
????? ?? ?????????? ?????? ???' ?????? ?????????? ?????????? ??????????
????????? ?? ?????? ?????? ? ?????????? ??? ?????? ?????? ?? ?????????? ??????????
??? ?????? ?????? ?????? . ???????, ? ?????? ?? ?????????? ??? ?????????? ?????? ??????
????????? ?????? ?????? ?????????? ?????????? ?????????? ??????, ?????? ??? ? ??????
????????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ?????????? ??????
????????? ?????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?????????? ??????
????? ?????????? ??? ?????????? ???' ?????, ??? ?????? ??????. ??????????, ???
????????? ?????? ? ?????????? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ?????????? ??????
????????? ??? ? ?? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
????? ?????????? ? ?????? ?????? ?????? ?????????? ?????????? ?????????? ??????????
????? ?????? ??? ? ?????? ?????? ??? ?????? ?????? ?????????? ?????????? ??????????
????? ?????? ??? ? ?????? ?????? ??? ?????? ?????? ?????????? ?????????? ??????????.

32 ??????, ??? ?????? ?? ?????? ?????????? ?? ?????? ?????????????? ?????? ??????
????? ?? ?????? ?????????? ?????????? ??? ?????? ?????? ?????????????? ?????? ?????? ??
????? ?? ?????? ?????? ?????? ?? ?????? ?? ?????? ??? ?????????? ??????????,
????????? ?? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????????? ??????????
????????? ?????? ??? ?????? ?????? ?????? ?? ?????? ?????? ?????????? ?? ?????????? ???
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????. ??? ?????? ???, ?? ??
????? ?????? ? ?????? ??? ?????? ?????? ?????? ?????? ?? ?? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
??' ?????? ???, ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?? ??
????????? ??? ???, ?????? ?? ?????????? ?????, ??? ?????? ?????? ?????? ?????? ???, ?
????????? ??? ?????? ?????? ?????? ?????? (????. ?????? ??? 21?? ?????????? 2013,
Žamberk, C?18/12, EU:C:2013:95, ????? 32 ??? 36 ??? ????? ?????????? ??????????)

33 ???????, ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????? ??
?????????, ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ??????????, ??? ??
????????????? ??? ?????? ?????????????? ??????????, ?????????? ?? ?????????? ??? ?
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ? The Escape Center
????? ?????????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??????
??? ??????????.

34 ???????, ?????? ??? ?????? ??? ?????? ???, ??? ?????? ?????? ?????? ?????????? ?? ???

????? ??? ??????????? ?? ???? ?????? ?? ?????? ?? ???? 98, ?????????? 1 ??? 2, ???
????? ??? ?? ??????? ?????? ?????? ?????? ?? ???? ?????? ?????? ???
?????????? III ??? ????? ??????, ?? ?????? ????? ?? ??? ??????, ??? ??
????????? ??? ?????? ??? ?????? ?? ?????? ?????? ?? ?????? ??? ?????? ??? ??????????
??????????, ?? ?????????? ?? ?????? ?????? ?? ?????? ?????? ?????? ?????? ??? ??
?????????? ??? ?????? ?????? ?????? ??? ?????????? ?????? (????. ?????????? ??? 6??
????? 2010, ??????? ??? ??????, C?94/09, EU:C:2010:253, ????? 28, ??? ??? 9??
????????? 2021, Phantasialand, C?406/20, EU:C:2021:720, ????? 25 ??? ???
????????? ??????).

35 ?? ??????????, ? ?????? ?????????? ?????????? ???, ?? ?? ????? 1 ??? ???????
????????? ????. 20 ?? 20?? ?????? 1970 ?? ?? ?? XXVIII ??? ?????? ? ??
????????? ??? ?????????? ?? ?????? ???????????, ? ?????? ?????????? ?????? ??? ??????
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36 ??? ?? ?????? ???????, ??? ?????? ?????????? ??? ?????? ??? ??????????
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?? 6?? ?????? 2010, ??????? ??? ??????, C?94/09, EU:C:2010:253, ????? 30, ??? ??
27?? ?????????? 2014, Pro Med Logistik ??? Pongratz, C?454/12 ??? C?455/12,
EU:C:2014:111, ??? 45).

37 ?????? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ??????????, ??? ??
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38 ??? ????, ???' ????, ?? ??????? ?? ??? ?? ??? ?????? ?????????? ???
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39 ?????? ??????, ??? ?????? ?? 24 ?????? 1984 ?????? ?????????? ?????????? ???
?? ?????????? «Fitnesscenter», ?????????? ??? ?????? ?? ?????? ??? ??
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40 ????????????, ?? ???? , ??? ?????? ?????????? ?? ?????????????? ?? ?????? ?? ?
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41 ??????? ?? ???????, ??? ?????????? ?????????????? ??????? ?? ?????? ?
????????? ?? ?? ????? 98, ?????????? 2, ??? ??????? ??, ?? ?????????? ?? ?? ?????? 14
??? ?????????? III ??? ????? ??????, ??? ?? ?????? ??? ? ?????? ?????????? ? ??????
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42 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ????? ????? ?????????? ??? ?????? ???
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?? ?????? 98, ?????????? 2, ??? ?????? 2006/112/?? ??? ????????????, ??? 28??
????????? 2006, ??????? ?? ???? ?????? ?????? ?????? ??????????????? ??????, ??
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(???????????)

* ??????? ?????????????; ? ??????????.