

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

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

??? 25?? ??? 2023 (*)

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

???? ??????? C?114/22,

??. ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Naczelnego S?d Administracyjny (?????? ?????????? ??????????, ???????) ??
?????? ?? 23?? ??????? 2021, ? ?????? ??????? ??? ?????????? ??? 18 ??????????
2022, ??? ??????? ??? ??????

Dyrektor Izby Administracji Skarbowej w Warszawie

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W. Sp. z o.o.,

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

?????????? ??? ??? ?. ??????, ?????? ???????, I. Jarukaitis (???????) ??? Z. Csehi,
???????,

?????? ??????????: T. ?apeta

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

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

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

– ? Dyrektor Izby Administracji Skarbowej w Warszawie, ?????????????? ??? ?? B.
Ko?odziej, ??? D. Pach ??? ??? T. Wojciechowski,

– ? W. sp. z o.o., ?????????? ??? M. Kwietko-B?nowski, doradca podatkowy,

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

– ? ??????? ???????, ?????????????? ??? A. Armenia ??? ??? I. Barcew,

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

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

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1 ? ??????? ?????????????? ?????????? ?????? ??? ??????? ??? ?????? 167, ??? ??????
168, ??????? ??, ??? ?????? 178, ??????? ??, ??? ??? ?????? 273 ??? ??????
2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ?????? ?????????? ??????
????????????? ?????? (?? 2006, L 347, ?. 1), ??? ?????????????? ?? ?? ?????? 2010/45/??
??? ??????????, ??? 13?? ?????? 2010 (?? 2010, L 189, ?. 1) (??? ????: ?????? 2006/112),
????????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????????????? ?????????????? ??? ??
?????????????.

2 ? ??????? ??? ?????????? ??? ??????? ?????????? ??????? ??? Dyrektor Izby
Administracji Skarbowej w Warszawie (????????? ??? ?????????????? ?????? ??? ??????????,
????????, ??? ????: ?????????? ??? ?????????????? ??????) ??? ??? W. sp. z o.o. ??????? ?? ??
????????? ?????????? ??? ?????? ?????????????? ?????? (??) ? ?????? ?????????????? ??
????????? ?? ?????????? 27 ?????????? 2015, ??????? ??? ?????? ??? W.

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

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

3 ??? ?? ??? 63 ??? ?????? 2006/112:

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

4 ?? ?????? 167 ??? ??????? ?????????? ?? ????:

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

5 ?? ?????? 168 ??? ??????? ??????? ?? ????????:

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

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

6 ??? ?? ??? 178 ??? ?????? 2006/112:

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

?) ??? ??? ?????????? ??? ?????? 168 ?????? ?) ???????, ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?? ?? ?????? 3 ??? 6 ??? ?????? 3 ??? ?????? XI,

[...].».

7 ?? ?????? 273 ??? ?????? 2006/112 ????????:

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

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

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

«3a. ?? ?????????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????? ?? ?? ???? ?, ?? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ?? ?? ??
????????? ?? ?? ??????????? ?? ?? ?? ?? ??????, ???:

[...]

[...]

c) ?????????? ?????? ??? ?????? ?????? ?????????????? ?? ??? 58 ??? 83 ??? ?????? ??????. ??? ???? ?? ?????? ??? ?????? ?????? ?????? ?????? »

9 ?? ???? 58 ?? ustanawia – Kodeks cywilny (????? ????. ??? ??????? ??????), ??? 23??
????????? 1964, ?????????? ?????? (Dz. U. 2020, ??? 1740) (???. ????: ??????? ??????),
????????? ?? ????:

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

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

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

10 ????? ?? ?????? 83 ??? ??????? ???????;

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

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

????????? ?????? ??????????????? ??? ?????????????? ??????? ?????????? ????????, ??????,
????????? ????, ?????? ?????? ?????? ?????? ? ?????????????? ??? ?????????? , ?????? ? ??????
?? ?????? ?????? »

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

11 ??? 27 ?????????? 2015 ?. sp. z o.o. S.K.A ??????? ?????????? ??????? ??
????????? ??? ?? ?????????? ?????? W., ??? ? ?????? ?????????? ???
????????? ??? W.

12 ?? ??????? ??? 20?? ?????????? 2017, ? ?????????? ??? ?????????? ?? ???????
????????? ??? ?? ?????? ?????? W., ??????? ?? ?? ?????????? ???, ?????? ??? ??????
88, ?????????? 3a, ?????? 4, ??????? c, ??? ?????? ???, ??? ??? ?????? ??? ?
????????? ??? ?????? ?????? ??? ?????? ??? ?????? 58, ?????????? 2, ???
??????? ??????, ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??????????, ??? ???
????? ??? ?????? ???.

13 ? ??????? ??? ?????????????? ?? ??????? ??? ?????????? ??? ?????????? ???
11? ?????????? 2018, ? ?????? ????, ???????, ??? ? ?????????? ??? ?????????? ???
???? ?????? ?????????? , ??? ??? ?????? ??? ?????? 83 ??? ?????? ???.

14 ? W. ?????? ??????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? Wojewódzki
S?d Administracyjny w Warszawie (????????? ?????????? ??? ?????????? ???
?????????, ??????), ?? ?????? ?????? ??? ?? ?????? ?????? ?? ?????? ??? 29? ???
2019, ??? ??? ??? ? ?????????? ??? ??? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ???.

15 ? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?? ???
????? ??? ?????? ?????? Naczelnego S?d Administracyjny (????????? ??????????
????????? , ?????).

16 ?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? 88,
????????? 3a, ?????? 4, ??????? c, ??? ?????? ??? ?? ??? ?????? 2006/112.

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

18 ?????????? , ?????? , ??? ?? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???
????????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? 2006/112, ??? ?????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? , ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?
????? ???.

19 ?????????? ?? ???, ?????? , ?????? ?? ?? ?????? 273 ??? ?????? 2006/112, ?? ???
????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
??? ??? ??? ?????? ??? ?????? , ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

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

«????? ?? ??????? ?? 167, 168, ??????? ?, 178, ??????? ?, ??, ?? 273 ??
?????? 2006/112[...] ??? ?? ?????? ??? ?????? ??? ?????????????? ??? ?? ?????????????? ???
????? ?? ?????????? ?? ?????? ?????? ??? ?????? ?? 88, ?????????? 3a, ?????? 4,
????? c), ??? [????? ??? ????], ?? ?????? ?????? ??? ?? ?????????? ??? ?? ??????? ??
????????? ?????? ??? ?? ?????? ?????????? ?????????? (?????) ?????????? ??
????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??????, ??? ??
????????? ?? ?????????? ?? ?? ?????????? ?????? ?????????? ??? ?????????? ??
????????? ?????? ??? ?? ?????? ?????? ?? ?????? ?????? ??? ?????? ??
????????? ??? ?????? [?????] ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??
????????? ??? ??????;»

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

21 ???????????????, ??????????????? ??? ? ?????????? ??? ?????????????? ??? ?????? ??????
?? ? ?????? ??????????? ??? ?????????? ??? ?????? ?? ?????? ??????????, ???' ?????????? ??
????? 94, ??????? ??, ??? ?????????? ?????????? ??? ??????????, ??? ?? ???? ??
?? ??????? ?? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????????? ??? ?????????? ?? ?????????? ?????????? ???
????????? ?????? ??? ?????? ?????????? ??? ?????????? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ???.

22 ??????, ?????? ?? ?????????? ???, ??? ?????? ?????????? ??? ?????? ?????????? ?? ?? ??????
94 ??? ?????????? ?????????? ??? ??????????, ? ?????? ?? ?????? ?????????? ??? ??????
?? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ?????? ?????????? ?? ?????? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ?? ?????? ?????????? ???
?, ???????????, ?? ??????? ??? ?????????? ?????????? ??? ?????? ?????? ??? ?????????? ??
????????? ????. ? ?????? ??? ?????? ??????, ??????, ?? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?? ?????????? ?? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????????? ???
????????? ??? ?????? (????? ??? 24? ?????????? 2022, Suzlon Wind Energy
Portugal, C?605/20, EU:C:2022:116, ??? 31 ??? ?????? ?????????? ???).

23 ?? ??????????, ?????? ?????? ??? ?? ?????? ?????????? ??? ?????? ?????????? ???
????????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????
????????? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
-????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???.
????????? ?????????? ??? ?????? ??????????.

24 ??? ???????, ? ?????? ?????????? ?????? ?????? ??????.

25 ?? ?? ?????????? ??? ??????, ?? ?????? ?????????? ???, ???' ??????, ??
????????? ?? ?? ?????? 167, ?? ?????? 168, ??????? ?, ?? ?????? 178, ??????? ?, ??
?? ?????? 273 ?? ?????? 2006/112, ?????????? ??? ?? ?????? ??? ?????? ???.

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

26 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???'
????????? ?????????? ??? ?????? ??? ?????? ? ?????????? ??? ?????? ??? ?????? ??? ??????
??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ???, ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??????
????????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ????
? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ????
????????????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????? ????

27 ???????, ?????????? ???, ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???,
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ?? ?????? ?????????? ??? ?????? 167 ???. ??? ?????? 2006/112 ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???' ?????, ?? ?????????? ??? ??????
????? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????
????? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????
????? ?????? ?? ?????????? [????????? ??? 28?? ?????? 2011, ?????? ??? ?????? ??? ??????
C?274/10, EU:C:2011:530, ?????? 42 ?? 43, ?????? ??? 24?? ?????? 2022, Finanzamt
M (????????? ??? ?????????? ??? ?????? ???), C?596/21, EU:C:2022:921, ?????? 21
??? ?????? ?????????? ??????].

28 ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ???' ?????? ??? [????????? ??? 14?? ??????????
1985, Rompelman, 268/83, EU:C:1985:74, ?????? 19? ??? 21?? ?????? 2012, Mahagében ???
Dávid, C?80/11 ??? C?142/11, EU:C:2012:373, ?????? 39, ?????? ??? 24?? ?????? 2022,
Finanzamt M (????????? ??? ?????????? ??? ?????? ???), C?596/21, EU:C:2022:921,
????? 22].

29 ????????, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ?????????? ??? ??????.

30 ?? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? 168 ???. ??? ?????? 2006/112. ??????, ??? ??
????? ? ?????????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??
«????????? ??? ???», ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???, ?????? ???, ?? ?????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
??? ??? ?? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

31 ????????, ??? ?? ???? 167 ??? ?????? 2006/112, ?? ??????? ?????????? ?????????? ??????????
???? ?? ????? ?? ???? ????? ? ??? ?????? ?????? ?????? ?????? ?????????? ??????????, ? ?? ?????
????????? ??????????, ??????? ?? ???? ?????? 63 ??? ?????? ?????? ?????, ??? ?? ????
????????????? ??? ?????????? ?????? ? ??? ?????? ?????? ?????????? ?????????, ?? ???????, ?? ??????????
???? ?????? ??????????, ???' ????, ??? ?? ?????? ??? ? ?????? ??? ?????
????????????? (????. ?????????? ??? 26?? ????? 2005, António Jorge, C?536/03,
EU:C:2005:323, ?????? 24 ?? 25? ?? 27?? ?????? 2018, SGI ??? Valérianne, C?459/17 ??
C?460/17, EU:C:2018:501, ?????? 34 ?????? ??? 35, ??? ?? 29?? ?????????? 2022,
Raiffeisen Leasing, C?235/21, EU:C:2022:739, ?????? 40). ????????, ?? ?????????? ??? ??
???? ????? ?????????????? ?????? ?????? ? ?????? ?????????? ?????????, ??? ?????? ??
????????? ?????? ?????????? ??????????.

32 ????????, ?? ?????????? ????? ?????? ??? ?????????? ?????????? ?????????? ?????????? ??? ??????????
??? ??? ???? ?????? ??? ??? ?????????? ????? ?????? ?????????? ??? ?????? ?? ?????????? ??????????
????????? ??? ?????? ?????, ?????????? ??? ??? ?????? ?????? ??? ?????? ?? ?????????? ?? ??????????
????????????? ?????????? ?????????? ?? ??? ?????????????????? ?????????? ?????? (????????? ???
8?? ??? 2019, EN.SA., C?712/17, EU:C:2019:374, ?????? 24 ??? 25 ????? ??? ???
????????????? ??????????).

33 ????????, ??? ?????? ????, ? ?????? ?????? ?? ?????????? ??? ?????????????? ??? ?????? ???
????????????? ??? ?????? ??? ?????????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ??????
????? ?????? ?? ?????????????? ??? ?? ?????????? ??? ?????? ?????????????? ??? ?????? ?????????? ???
? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??????
????? ??????????????????.

34 ????????, ??? ?? ?????????? ? ???' ????? ?????? ??? ?????????? ??? ?????? ?????
???? ?? ?????????? ????, ????? ?????? ?? ?????????? ?? ?????? ?????????????? ?
????????? ??? ?????? ??? ?????? ?????? ?????????? ????? ?????????? ??? ?????????? ???
??? ?? ?? ?????? ?????? ?????????????? ??? ????? ?????????? ??? ????? ??? ?? ??????
??? ?????????????? ????.

35 ???????, ?????????????? ??? ?? ????? ?????????? ????? ? ?????????????? ??? ?? ?????????????? ??? ??, ?
?????? ??????? ?? ?????????????? ?????????????? ??????? ?? ?????????????? ??? ?? ?????????????? ??? ??
??? ?????????????? ?? ?????????????? ??????? ?? ????? ?????????????? ??? ??, ??? ??
?????? ??? ?? ??? ?????? ??? ?????????????? ???????, ????? ?? ??? ?????????????? ??? ?? ?????????? ???
????????? ?????????? ??? ?? (????????? ??? 21?? ?????????? 2018, V?dan, C?664/16,
EU:C:2018:933, ??? 44? ??? 11?? ?????????? 2021, Ferimet, C?281/20, EU:C:2021:910,
????? 39, ??? ?? 16?? ?????????? 2023, DGRFP Cluj, C?519/21, EU:C:2023:106, ???
100).

36 ????? ?????? ??? ?????????? ??? ?????????????? ?????????????? ??? ?????????????????? ???
????????? ??? ?????????? ?????????????? ????????, ? ?????????? ??? ?????? ???
????????????????? ??? ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????????????? ???
????????? ??????????, ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????????? ?????????? (????????? ??? 6?? ?????????? 2012, Mecsek-
Gabona, C?273/11, EU:C:2012:547, ??? 53, ??? ?????? ??? 9?? ?????????? 2023, A.T.S.
2003, C?289/22, EU:C:2023:26, ??? 46 ??? ??? ?????????????? ??????????).

37 ????, ????, ?????? ??????? ?? ???? ?????? ??????, ??? ???? ????????, ???, ??? ???? ?????? ?????, ??? ???? ?????? ?????? ??
?????? ?? ?????, ?????? ????????, ??????? ?? ???? ????????, ??? ???? ?????? ?????, ??? ???? ?????? ?????, ??? ???? ?????? ??????
???????, ??? ???? ?????? ???????????????, ??? ???? ?????? ?????, ??? ???? ?????? ?????, ??? ???? ?????? ?????, ??? ???? ?????? ??????

???????.

38 ??? ??????? ????, ??? ??????????? ? ???????? ?????????? ?? ??? ?????????
????????????? ???, ?? ?????? ??????????? ?? ?????? ?? ?????? ?? ?????? ?? ???????,
?????? ???????????, ???, ??? ?? ??????????? ?????? ?????? ?????? ???????, ?? ???
????????? ??? ??????????????? ?? ??????? ?? ??? ? ?????????? ??????????????? ??
????? ? ?????????? ??? ??????? ???????, ? ?? W. ??? ????? ? ?????????? ??????? ???.

39 ??, ????????, ??? ?? ??????? ??? ?????????? ????? ??????? ??? ? ?? ??? ??????????
????? ?????????????? ??? ?? ?????????? ?????? ?????? ?????? ?????????????? ??? ??????
??? ?????? ??? ??? ?????????? ??? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????
??, ??? ??????, ???' ????, ?? ??? ??? ?????????? ?? ?????? ?????? ??????????.

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

41 ????????, ?????????????? ??? ? ?????????? ??? ??????????????, ??? ??????????????
?? ???? ?????????? ?????????????? ?????????? ?????? ??? ?????? ?????? ??????????
??? ?????????? ? ?????? 2006/112, ?? ???? ?????????? ??? ?????????????? ?????? ??? ?
????????? ??? ??????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?
?????????????. ????????, ?????? ??? ? ?????????? ?? ?????????? ?????????????? ???
????????????? ??? ??????, ?? ?????? ??? ? ?????? ?????? ?????? ?????????? ?????????? ?? ???
????????????? ?? ?????????? ??? ?????? ?????? ??????????????, ?????? ?????????????? ??????????,
??? ? ?????????? ??? ?? ??? ?????????? ?????? ?????? ?????? ?????????????? (????????? ???
3?? ?????? 2005, Fini H, C?32/03, EU:C:2005:128, ?????? 34 ?? 35 ?? 19?? ??????????
2017, Paper Consult, C?101/16, EU:C:2017:775, ????? 43, ?????? ??? 1?? ??????????
2022, Aquila Part Prod Com, C?512/21, EU:C:2022:950, ????? 26).

42 ??? ?????? ?? ???????????, ??? ?????? ??????????, ? ?????? ??? ?????????? ???
?????? ??? ?????? ?????? ?? ??????????? ??? ?????? ??? ? ?????? ? ?????????? ???
???? ?????????? ??? ?????? ??? ???, ??? ?????? ??? ?????? ??????????????, ????
????????????? ??? ???????, ??? ? ?? ??? ?????????? ??? ???, ??? ??????
????????????? ?? ?????? ? ?? ?????????? ??? ?????? ?????????? ?????? ??? ?????????? ???
????????????? ??? ???????, ?????? ? ?? ?????? ??? ?????? ?????????????? ??? ?????? ???
????? ?????? ? ??????????, ?????? ?? ?????? ??? ?????? ?????????????? ??? ?????? ???
????? (????. ?????????? ??? 6?? ?????????? 2012, Bonik, C?285/11, EU:C:2012:774, ??????
40? ?? 11?? ?????????? 2021, Ferimet, C?281/20, EU:C:2021:910, ????? 48, ?? ?? 1??
????????? 2022, Aquila Part Prod Com, C?512/21, EU:C:2022:950, ????? 27).

43 ?????????? ??? ? ?? ?????????? ??? ?????????? ?????? ?????? ?????????? ??????????
?? ???? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?? ?????????? ???, ??
????????? ??? ?????? ?????? ?????? ?? ?????????? ?????? ?????? ?? ?????????? ??????
????????? ??? ?????? ?????? ?????? ?? ?????? ??? ?????????? ?????? ?????? ??????
????????? ?????????? ?? ?????????? ?? ?????????? ??? ?????? ?????????? ?????? ??????
????????? ?????????? ??????. ?? ???????, ?????????? ??? ?????? ?????????? ?????? ??
????????????? ?? ?? ?????? ?????????? ?????? ?????? ?????? ?? ?????? ??????
????????????? ?????? (?????? ?? 9?? ?????????? 2023, A.T.S. 2003, C?289/22,
EU:C:2023:26, ????? 53 ?? ??? ?????????????? ??????????).

44 ??? ?????? ??? ?????????? ???????????, ??? ?????? ?????????? ?????????? ??? ?
????????? ?????????? ?????????? ??? ?????? ??? ??? ?????????? ???, ???, ??? ??

????????? ???????, ??? ???? ?????? ?????????? ??? ?????????????? ??? ?????? ?????? ?????????????? ??
????????? ?????????? ??? ?????? 2006/112 ??? ??? ?????? ?????????? ??? ?????? ??????????
??? ??????? ?????? ??? ?????????? ??????, ??? ???? ?? ?????????? ??? ??????????
????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ???, ???????, ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
????? ?????????? ??? ?????? ??? ?????????? ?????????? (????????? ??? 21?? ??????????)
2006, Halifax ?.??., C?255/02, EU:C:2006:121, ?????? 74 ??? 75? ??? 17?? ?????????? 2015,
WebMindLicenses, C?419/14, EU:C:2015:832, ????? 36, ????? ??? ??? 15?? ??????????
2022, HA.EN., C?227/21, EU:C:2022:687, ????? 35).

45 ??? ???? ??? ???? ?????? ?? ???? ?????? ?????? ??? ?????? ?????? ?????????????? ???
????????? ??? ???? ?????? ?????????? ?????????????? ???, ?????????????? ???, ??? ?????? ???
??, ?? ?????????? ??? ?????? ???, ??? ???? ?????????? ??? ?????? ?????? ?? ??????????
?????? ??? ??????, ??? ?????? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????????? ???, ??? ?????, ?????????, ?? ?????? ??? ?????? ?? ?????????? ??
????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????? ??? ?????????? ?? ?????????? ????.
????????, ?? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ?? ?????????? ??
????????? ??? ?????? ??? ?????? ?????????????? ?????????? ??? ?????? ??? ?????? ??????????
??? ??? ?????????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??????????
????????? ??? (????????? ??? 17?? ?????????? 2015, WebMindLicenses, C?419/14,
EU:C:2015:832, ????? 42, ??? ?????? ??? 9?? ?????????? 2023, A.T.S. 2003, C?289/22,
EU:C:2023:26, ????? 40).

46 ??? ???????, ? ??? ???? ?????????? ??? ?????????????? ??? ???????????, ? ??? ???? ???
????????? ??? ???? ???, ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??????????
??????????, ?? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ??????????????
?? ??? ?????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ? ??????
????????? ??? ?????? ?????? 2006/112 (????????? ??? 16?? ?????? 1998, ICI,
C?264/96, EU:C:1998:370, ????? 26, ??? ??? 27?? ?????? 2011, Tanoarch, C?504/10,
EU:C:2011:707, ????? 51, ??? ??? ?????? ??? 9?? ?????????? 2023, A.T.S. 2003,
C?289/22, EU:C:2023:26, ????? 41).

47 ???????, ?????????? ??? ???? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ??????? ?????? ??? ?????? 273 ??? ?????? 2006/112, ?????????? ??
?????????? ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ? ???????????, ??? ??????
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? (????????? ??? 9?? ?????????? 2021, Kemwater ProChemie, C?154/20,
EU:C:2021:989, ????? 28 ??? ????? ?????????? ??????????).

48 ?? ??????????, ??????, ?????????? ??? ???? ?????? ??? ?????? ?????????????? ??? ?????? ???
?????? ?????????? ??? ?????????? ??? ???? ?????? ??? ?????? ??? ?????? ??? ??????????????
?????? ? ???? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???, ?? ??
??????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????????
?? ?? ?????? ??? ?????, ?????? ?? ?? ?????????? ??? ?????? 33 ??? 38 ??? ??????
??????, ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????????
????? ??? ?????? ?? ?????????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
??????, ???????????, ?????? ?? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? 32 ??
?????? ?????, ?? ?? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ????.
??????, ??? ?????? ?????????? ??? ?????, ???' ?????, ?? ?????????? ??? ??

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

49 ????????, ??? ?? ?????????? ??? ?????????? ?????????????? ?????????? ??? ?
?????? ?????? ?????? ?????????? ?????, ???????, ????? ?????????? ????? ?????? ? ?????????????? ???
????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ???, ???????, ?????? ???'
????????? ??? ?????? ?????, ?????? ?? ?????????? ?? ?????????? ?, ?????????? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????????? ?????????? ???,
????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ?????? 2006/112, ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??
????????? ??? ?? ?????? ?????? ??? ?????? ??? ?????.

50 ??? ?? ?????? ??????, ?????????????? ?????? ??? ?????? ??? ?????????? ??? ??????????????,
????????? ???, ??? ?????? ??? ??? ?????? ?????? ?????? ??? ? ?????? ??? ?????? ???
????????? ??? ? ???????, ??????? ?????? ??? ?????? ?????? ???????, ??? ?????????????? ???
????????? ?????? ?????????? ?? ?? ?????????? ??? ?????????? ?????? ?????????? ??? ???,
????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ?? ?????? ??? ?????????? ??????
??? ???????????, ??? ?? ?????? ??? ?????? ??? ?????? ???, ??? ?????????????? ???????????
????? ?? ?????????? ?????? ?, ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????????? ??? ??
????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? 2006/112, ?? ??????
????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ??? ??? ?????? ?????? ???
?????????.

51 ????????, ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ? ?????????? ??? ?? ?????? 167,
?? ????? 168, ??????? ??, ?? ?????? 178, ??????? ??, ??? ?? ?????? 273 ?? ??????
2006/112, ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ?????????????? ??? ??
????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????????? ???
????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ?????? ???
????????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ???????, ??? ?? ?????????? ?? ?????????? ??? ?????? ?????? ???
????????? ??? ?????????? ?????? ??? ?????????? ???, ??? ?? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ?, ??? ?? ??? ?????? ??? ?????? ??? ??????

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52 ????????, ??? ? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????? ???
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????????? ?????????????? ,?' ???
????????? ?? ?????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ??????????????
????? ?????????? ?????????????? ??? ?????????? ???, ??? ??? ?? ??? ?????? ??? ?????? ???.

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

? ? ?????? 167, ?? ?????? 168, ??????? ??, ?? ?????? 178, ??????? ??, ??? ?? ??????
273 ??? ?????? 2006/112/?? ??? ?????????? ??? 28?? ?????????? 2006, ??????? ??
?? ?????? ?????? ??? ?????? ?????????? ?????, ??? ?????????????? ?? ??? ?????? ???
2010/45/?? ??? ?????????? ??? 13?? ?????? 2010, ?????????? ??? ?? ?????? ???
????? ??? ?????????? ??? ?????????? ??? ??? ?????????? ???, ??? ?????????? ???,

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

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

(?????????)

* ?????? ??????????: ? ????????