

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

??? 27?? ?????? 2013 (\*)

«??? – ?????? 2006/112/E? – ????? 44 ??? 47 – ????? ????? ????? ?????????? ???  
????????????????? ?? ?????????????? ?????? – ????? ?????????????? – ?????? ??? ??????  
????????? ?????? ?? ?????? – ?????? ?????????? ?????? ?????? ??????????????  
?????????»

???? ?????? C-155/12,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ???  
?????? ?? Naczelnego S?d Administracyjny (??????) ?? ?????? ??? 8?? ?????????? 2012, ?  
????? ??????? ??? ?????????? ??? 30 ?????? 2012, ??? ?????? ??? ????

### **Minister Finansów**

????

### **RR Donnelley Global Turnkey Solutions Poland sp. z o.o.,**

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

????????? ??? ??? A. Tizzano, ?????? ???????, M. Berger, A. Borg Barthet, E. Levits ???  
J.-J. Kasel (??????), ???????,

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

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

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

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

– ? RR Donnelley Global Turnkey Solutions Poland sp. z o.o., ?????????????? ??? ??? W.  
Varga, radca prawny,

– ? ??????? ????????, ?????????????? ??? ??? B. Majczyna ??? M. Szpunar,

– ? ??????? ????????, ?????????????? ??? ??? K. ?????????????? ??? M. ????????,

– ? ??????? ????????, ?????????????? ??? ??? J. Hottiaux ??? C. Soulay,

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ?? ??????????  
??? 31?? ??????? 2013,

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

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1 ? ?????? ?????????????? ?????? ??? ?????? ??? ?????? ??? ?????? 44 ??? 47 ???  
?????? 2006/112/?? ??? ???????, ??? 28?? ??????? 2006, ?????? ?? ?? ????

?????? ????? ?????????????? ??? (?? L 347, ?. 1), ??? ?????????????? ?? ??? ?????  
2008/8/E? ??? ??????????, ??? 12? ?????????? 2008 (?? L 44, ?. 1, ??? ????: ?????? ???  
???).

2 ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????  
????? ??? Minister Finansów (????????? ??????????) ??? ??? RR Donnelley Global Turnkey  
Solutions Poland sp z o.o. (??? ????: RR), ?????? ?????? ?????? ?????? ?????? ??????  
????? ?????????? ??? (??? ????: ???), ?? ?????????? ??? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??? ?????? ???  
????? ??? ??? ???.

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

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

3 ?? ????? 44 ??? ?????? ??? ?????? ?? ????:

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

4 ?? ????? 47 ??? ??? ?????? ?????? ?? ????:

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

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

5 ?? ????? 5, ?????????? 1, ?????? 1, ??? ?????? ?????? ??? ?????? ??? ?????? ??????????????  
????? (ustawa o podatku od towarów i usług), ??? 11? ?????? 2004 (Dz. U. n° 54, ??? 535),  
?? ??? ??? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? (??? ????: ???  
???), ?????????? ??? ?? ?????????? ?????? ??? ?? ?????? ?????? ???  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ???).

6 ?? ????? 8, ?????????? 1 ??? 4, ??? ?????? ??? ?????? ?? ????:

«1. ?? ?????? ?????? ????" ??? ?? ??? 5, ?????????? 1, ?????? 1, ?????? ??? ??????  
?? ?????????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ?????????? ???, ? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
7, ?????????????? ????:

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

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

3) ??? ??????? ?????????? ??????? ?????????? ? ??' ?????? ??????? ?????? ? ??  
????????? ????.

[...]

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

7 ??? ?? ????? 28b, ?????????? 1, ??? ?????? ???, ?? ?????? ??? ??????  
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ?????????? ? ?????? ??? ??????  
? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??? ?????????? ???  
????????? 2 ??? 4 ??? ??? ?????? 28e, 28f, ?????????? 1, 28g, ?????????? 1, 28i, 28j ???  
28n.

8 ?????? ??? ?????? 28b, ?????????? 2 ??? ?????? ???, ?? ?????????? ??? ??  
????????? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ???, ?? ??????  
????????? ?? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ? ??? ?????????? ???, ?? ?????? ???  
????????? ??? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???.

9 ?? ????? 28e, ?????????? 1, ??? ?????? ??? ?????? ?? ?????:

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

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

10 ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????????????, ? RR ?????? ??  
????????????? ????, ?????????? ?? ??? ??? ?????????????? ?? ??? ?????? ??? ?????? ???  
??? ?????? ???, ?????? ?????? ?????????? ?????????? ?????????? . ? ?????????? ??? ??????  
?????????????, ?????? ???, ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???, ?? ??????????  
????? ?? ?????????? ?????????? ??????, ?? ?????????? ??? ?????????? ???, ?? ?????????? ???  
????????? ??????, ?? ?????????? ??? ?????? ??? ?????? ???, ?????? ??? ?????? ???  
????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?????????? ???  
????????? ???, ? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ???  
??? ?????????????? ??? ?????? ??? ?????? ?????????? . H ?????????? ??? ?????? ??????????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ? RR. ??????, ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.  
????????? ??? RR ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

11    ??? 25 ??????? 2010 ? RR ??????? ??????? ?????????????? ??? ?????? ??? ?????? ???  
?????????? ??? ?????? ??????? ??? ?????????? ?????????????? ?????????????? ??? ?????? ??? ??????  
????????????? ??? ?. ??? ?????? ?? ?????? ??????, ? ?????? ?????? ?????????? ??? ?????? ??? ??????  
????????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????  
???. ???????, ?? ?????????? ??? ????? RR ?????????? ??? ?????????? ?? ?????? ??? ??????  
???????. ???????????, ?????? ??? ?????????????? ??? ?????? ?? ?????? ??? ?????????? ???  
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??????, ???  
????????????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ??????  
????? ??? ??????? ?? ? ?????????? ?????? ?????????? ?????????? ??????.

12    ?? ??? ??? 8 ??????? 2010 ??????? ?????????????? ??? ?????? ?????????? ?????????? ???,  
????????????? ??? ??? Minister Finansów, ?????????? ??? ?????? ??? ?? ??????????  
????????????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??? ??,  
?? ??????, ?????????? ??? ????? 28e ??? ?????? ????. ??? ?????? ??? ?????????? ??? ??????  
??? ?????? ??? ?? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????  
????????????? ??? ??????.

13    ? RR ?????? ??????? ??? ?????? ??? ?????????????? ?????? ?????????? ??????????????  
????????????? ??? ? ??????? ??? ?????? 28b ??? ?????? ??? ?????? ??? Minister Finansów  
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? 47 ??? ?????? ???, ??? ??????  
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????. ??????????????  
????? ??? ?????????? ??? ?????????????? ???????, ?? ?????????? ?? ?????????? ??????????  
????????? ?????? ?????? ?????????? ??? ??????. ???, ? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ?????? ??? ?????? ?????????? ??????.

14    ?? ??? ??? 25 ??????? 2010 ?????? ??? ? Wojewódzki S?d Administracyjny w ?odzi  
(????????? ?????????? ??? ?????????? ??? ?ód?) ?????? ?????? ??? ?? ??? ???????,  
????????? ??? ?? ?????????? ??? ?????? ? RR ??? ?????? ?????????? ?????????? ?? ???????.  
?????????, ??? ?? ?? ??? ?????? ???????, ??? ?????? ?????? ?? ?????????????? ??  
????????? ?????????????? «????? ?????????? ?????? ??????», ?????? ??  
????????? ??? ?????????? ??? RR ??? ??? ?????????????? ??? ?????? ??  
????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??  
??????????. ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??  
??????????. ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??  
??????????. ?? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??  
????? ?? ?????????? ??? ??? ?????????????? ?????? ??????. ??????, ? ?? ???  
????? ?????????? ??? ?????????? ?? ?????????? ?????? «????? ?????? ?? ??????» ???  
??? ?????? ??? ?????????? ??? ?????????? (??????? ??? 7? ?????????? 2006, C-166/05,  
Heger, ?????? 2006, ?. I-7749) ??? ??? ?????, ??? ?????? ?, ?????? ?? ?????? ??  
????? 47 ??? ?????? ????. ???????, ?????? ?? ?????? ??? ?????? ??  
????????????? ??? ?????? ??? ?????????? ??????????, ?? ?? ??? ?????? ?????? ??  
????????????? ??? ??????.

15    ??? ?????? ??? ??????? ??? ?????????? ?????????? ??? ?????? ??? ?? ??? ?????? ??????????  
????? ??? Naczelný S?d Administracyjny (????? ?????????? ?????????? ??????????), ? Minister  
Finansów ?????????? ??? ??? ?????? ?????????? ?????????? ? ?????? ?????? ?????????? ?????? ?  
????? ??? ?????????? ???????, ?????????? ??? ?? ?????? ?????????? ??? ?????? ? RR  
????????? ??? ?? ??? ?????? ?????? ?????????? ???????, ? ?????? ?????????? ??? ??  
????????? ??? ?? ??? ?????? ??? ?????? ?????????? ?????? ??? ?? ?????????? ??? ??

????? ??????????????. ??????, ? ?????? ??????????? ??? ?????????? ?????? ?????? ??  
????????????? ??? ????? ?? ?????? 28e ??? ?????? ??? ??? ???????, ?? ?? ??????,  
???? ??????.

16 ??? ?? ?????? ??????????, ??? ?? ?????????????? ?????? Heger, ??? ??  
????????? ??? 3?? ?????????? 2009, C-37/08, RCI Europe (??????? 2009, ?. I-7533), ???  
?? 27?? ?????????? 2011, C-530/09, Inter-Mark Group (??????? 2011, ?. ?-10675), ??????  
??, ??? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??????? ?? ??????? ???  
?? ?????? ??? ?????? 47 ??? ????????, ?????? ?? ?????????? ??? ?????? ?????? ??????????????.  
?? ??????????, ?????? ?????? ?????? ?????????? ??????? ??? ?????? ??? ?????? ??????????  
????????? ??? ????????, ??? ? ?? ????? ?????? ?????? ?????? ?????????????? ??????.

17 ??? ?? ?????? ???, ?? Naczelnny S?d Administracyjny ?????????? ?? ??????????  
?? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ?? ?????????? ??????????  
?????:

– «????? ?? ??? 44 ??? 47 ??? [?????? ??] ??? ?????? ?? ?? ?????????? ??????  
????????? ?????????? ?????????? ??, ?? ?????? ?????????? ??? ?????????? ??  
????????? ??, ?? ?????? ?????? ??? ?? ?????????? ??? ?????? ?????????? ?????????? ??????  
?? ?????? ??, ?? ?????????? ??? ?????? ??? ?? ?????? ?????? ??? ??, ?? ??????  
????????? ??, ?? ?????????? ?????? ??? ?????? ?????? ?????? ?? ?????? ?? ??????  
????????? ??, ?? ?????????? ?????? ??? ?????? ?????? ?????? ?? ?????? ?????? ??????  
?? ?????? 47 ??? [?????? ??] ??? ?????? ??? ?????? ?????? ?????? ?? ?? ?????? ??????,  
– ? ?????????? ?? ?????????? ??? ?? ?????? 44 ??? [?????? ??] ??????????????  
???? ?? ?? ?????? ??, ?? ?????????? ??? ?????? ?????? ??, ?? ?????????? ?? ?????????? ??,  
???? ?? ?? ?????? ??, ?? ?????????? ??? ?????? ?????? ?? ?? ?????? ?????????? ??, ?,  
????????? ??, ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ???;»

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

18 ?? ?? ?????????? ?? ?????? ??? ?????? ?? ?? ?????? ?????????? ?????? ???' ??????, ?? ??  
????? 47 ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??????????  
????????? ??, ?? ?????? ?????????? ?? ?????? ??? ?????? ?????????? ?? ?????????? ??, ??  
????????? ??, ?? ?????? ?????? ??? ?????? ?????? ?????? ??, ?? ?????? ?????? ??, ??  
????????? ??, ?? ?????? ?????? ??? ?????? ?????? ??, ?? ?????? ?????? ?? ?? ?????? ?????? ??, ??  
????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ??, ??  
????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ??, ??  
?? ??, ?? ?????? ??????.

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

20 ??????????, ?? ?? ?????????? ?? ?????? ?????????? ??, ?? ??????????  
????????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ??, ?? ??????????  
????????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ?????? ?????? ??, ??  
????????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ?????? (?????????  
?? 21?? ?????????? 2008, C-425/06, Part Service, ?????? 2008, ?. I-897, ????? 51, ?? ??  
27?? ?????????? 2012, C-392/11, Field Fisher Waterhouse, ????? 15).

21 ???????, ?? ?????????? ??? ?????? ??? ???? ?????? ?????? ?? ?????????? ?? ??????  
????? ??? ? ?????????? ??? ?????? ??? ?????? ? ?????????? ?????? ??? ???? ?  
????????????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ?????? ?????? ???  
????????????? ?? ?????? ?????? (??., ??' ?????, ??????? ??? 27?? ?????????? 2005, C-41/04, Levob  
Verzekeringen ??? OV Bank, ?????? 2005, ?. I-9433, ????? 22, ????? ??? ??????????????  
?????? Field Fisher Waterhouse, ????? 16).

22 ????? ?????? ?????? ??? ???? ?????????? ?????? ?????? ?????????? ?????? ?????? ??????  
??? ? ??? ? ?? ?????? ?????? ?????????? ??? ? ?????????? ?????? ?????????? ??????, ??  
??????, ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??????. ??????????,,  
??? ?????? ?????? ??? ?????? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ???  
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ?????????? ??? ?????????? ?????? (??., ??' ?????, ?????????? ???  
25?? ?????????? 1999, C-349/96, CPP, ?????? 1999, ?. I-973, ????? 30? ????? ??? ???  
10?? ?????? 2011, C-497/09, C-499/09, C-501/09 ??? C-502/09, Bog ??., ?????? 2011, ?. I-  
1457, ????? 54, ????? ??? ?????????? ?????? Field Fisher Waterhouse, ????? 17).

23 ????? ?????????? ??? ?????? ?????????? ?? ?????? ?????? ?? ???? ?????????? ???  
????? ?????? ??? ?????? ?????? ?? ?????? ?????????? ??? ?????? ?????? ??? ???? ??????????  
????????? ??? ?????????? ?????????? ??? ?????? ?? ?????????? ?????? ?????????? ??? ??????????,,  
????? ?????? ?? ?????????? ??? ?????? ?? ?????? ?????? ??? ?????????? ?????? ??? ???  
????? ?????? ??? ?? ?????????? ??? ?????? ?????? (??., ??' ?????, ?????????? ?????? ???  
Levob Verzekeringen ??? OV Bank, ????? 23, ????? ??? ?????? ??? 19?? ?????? 2012, C-  
334/10, ?, ????? 24).

24 ??????, ?????????? ? ??????????, ??? ?????????? ??? ?????? ?????? ?????? ??????????  
?? ?????? 21 ?? 23 ?? ????????, ???, ???, ??? ?????? ??? ?????? ??? ?????? ???  
?????????? ??????????, ? ?????????? ??? ?????????? ?????? ?????? ?????? ??? ?????? ??  
? ?????? ????????, ??? ?????????? ? ????????, ? ?????????? ?? ?????????? ??  
????????????? ??????, ? ????????, ? ?????????? ??? ? ??????? ?????? ?? ?????? ??  
????????????? ??? ?????? ???????, ?? ?????????? ?????? ?????? ??? ?????? ?????? ??  
????????????? ??? ?????? ???????, ?? ?????????? ?????? ??? ?????? ?????? ???  
????????????? ??? ?????? ???????, ?? ?????????? ?????? ??? ?????? ?????? ???  
????????????? ??? ?????? ???????.

25 ????????, ??? ?????? ??? ?????????????? ??? ?????????????? ?????????????? ??  
????????? ??????????, ?????????????? ?????????????? ??? ? ?? ??? ?????? ???, ? ????  
????????? ?? ?????????? ?????? ?????? ?????? ?? ?????? ?? ?????????? ?? ??? ?????? ?????????? ??  
????????? ?????? ?????? ?? ??? ?????? ?????????????? ??? ?????????? ??? ?????? ??????????  
????????? ??? ?????? ????????

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

27 ??? ??? ??????? ??????, ??????, ???????, ?? ?????????? ??? ?????? ??? ?????? ???  
?????? ?? ?????????? ??? ?????????????? ??? ? ?? ??? ?????? ???.

28 ??????, ?????????? ? ?????????? ??? ? ?????? ??? ?????? ???, ??? ??? ? ??? ? ??? ??????  
77/388/??? ??? ??????????, ??? 17?? ????? 1977, ??? ?????????? ??? ?????????? ???

? ?????? ?????, ??? ??????? ?? ??? ???? ?????? ?????? ?????????? – ?????? ??????? ????  
????????????? ?????: ?????????? ?????????? ??? (?? ????. ??? 09/001, ?. 49, ??? ????:  
???? ????), ??? ?????? ??????????????, ?????????? ??? ?????? ??? V, ??? ???? ????  
??? ?????????? ????, ?? ??????? 3, ??? ?????? ??? ?????? ?????? ?????????? ????, ??  
?????? 2 ??? 3 ??? ?????? ??????, ??? ?????? ??? ?????? ?????? ?????? ????, ???  
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???.

29    ?? ?? ??????, ??? ?????? ?? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ??????  
????????? ?????? ??? 44 ??? 45 ??? ?????? ???, ?? ?????? ?????????? ????  
????????? ??????, ?????? ?? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ???  
????? ??? ?? ?????? ?????? ??? 46 ??? 59? ??? ?? ?????? ?????? (??., ??'  
????????? ?? ??? ?????? ??????, ?????? ??? 26? ?????????? 1996, C-327/94, Dudda,  
????? 1996, ?. I-4595, ????? 21).

30    ?? ??????????, ?????? ?? ?????????? ?? ?????? ?????????? ?????????? ??? ????  
????? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? 47 ??? ?????? ????.

31    ??? ?????? ?? ?????? ??? 47, ??? ?????????? ???' ?????? ??? ??????  
9, ?????????? 2, ????????, ??, ??? ?????? ??????, ?????????? ? ?????????? ??? ??  
????????? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??  
????????? ??? 47, ?? ?????????? ?? ??? ?????? ?????? ?? ?????????? ??? ?? ??????  
????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???.

32    ????????, ??? ?? ??????? ?? ?????? ?????? ?????? ?????? ??? ?????? ?? ??????  
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ?????? ??? 47  
??? ?????? ??? (??., ??' ????, ?????????? ?????? Inter-Mark Group, ??? 30).  
??????, ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????????  
??? ?????? ??? (??., ??? ?????? ?? ?????? 9, ?????????? 2, ?????? ??, ??? ??  
??????, ?????????? ??? Heger, ??? 24).

33    ??? ?????? ??? ?????? ??? «????????», ?????????? ? ?????? ??? ?? ??????????  
????? ??? ?????? ??? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ??  
????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
(??., ??' ????, ?????????? ??? Heger, ??? 20).

34    ????????, ??? ?????? ???? ???? ?????? ?????? ?????? 35 ??? ?????????? ???,  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? 47 ???  
?????? ??? ??, ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????  
??????.

35    ????????, ???????? ??? ?????? ?????? ?????? ?????? ?????????? ?????? ?? ??? ???  
? ??? ??? ???? ?? ??????, ?????? ?????? ? ?????? ?????? ?????? ?? ??? ?? ??????????  
?? ??? ?? ??????. ?????? ??????, ?????? ???, ??? ??? ?????? ?????? ?????? ??????  
?????? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? (??., ??' ????,  
????????? ??? Heger, ??? 25).

36 ??????????, ?????????? ? ?????????? ??? ?? ?????? ?????????? ???  
????????????? ??? ??? 47 ??? ?????? ???, ?? ?????? ?????? ??? ?? ????, ??? ??  
????????? ??????? ?? ???????, ??? ?? ??????????, ?????????????????????? ???  
????????????? ??? ?? ??? ?????????? ?????????????????? ?? ???, ??????????????  
??? ?? ??????? ??? ?? ??????? ?????? ??? ?????? ??? ?????????? ?? ??????????.

37 ?? ?? ??????, ??????? ?????????? ??? ? ???????, ? ?????? ??? ?????? ??  
????????? ?? ??????? ?? ??? ??????? ???????, ?? ?????????? ?? ?? ??????????  
????????????? ??? ?? ???????, ????? ?????? ?? ?????????? ??? ?????? ?????????? ??? ??  
??? ?????? 47 ????? ?? ??? ??? ??? ????? ?????? ??? ?????? ?????? ??? ?? ??? ??????  
????????? ??????? ?? ?????? ??? ?????? ?????? ?????????????????? ??????????.

38 ?? ?????????? ???, ??? ?????????? ? ?????? ?????????? ??? ?????? 42 ??? 43 ???  
????????? ???, ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ????, ???  
?????????, ?????????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??  
????????????? ?? ??? ?? ??????? ?? ?????? ?????? ?????? ?? ?????????? ??? ?????? ??????????  
????????? ??? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???  
????????? ?????????? ?? ?? ??????????, ?????? ?????????? ??? ? ?????? ??? ?????? ??? ??????  
?? ?????????? ??? ?????? 47 ??? ?????? ???.

39 ??? ??????, ??? ?????????? ?????? ??? ?????? ?? ?????? ? ?????????? ??? ?? ??? 47  
??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??????????????  
?????????????, ? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ?? ??????, ???  
????????????? ??? ?? ?????????? ?????????????? ??????, ??? ?????????? ??? ?? ???,  
????????????? ???, ??? ?????????? ??? ??????????????, ??? ?????????? ??? ?? ??? ?????? ??? ??,  
???? ?????? ?????????? ??????, ??? ?????????? ??? ?? ??? ?????? ?????? ??? ?????????? ??? ??,  
????????? ??????????, ?????????? ??? ?? ??? ?????? ?????? ?????? ? ?????????? ??? ?? ??? ??????  
???? ?????? ?????????? ??? ?????? ?????????? ?????? ?????????? ??? ?? ??? ?????? ??????  
????????? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ?????????? ??? ?? ??? ??????.

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

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

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

?? ??? 47 ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006,  
????????? ?? ?? ?????? ?????? ?????? ?????? ?????????????? ????, ??? ?????????????? ??  
?? ?????? 2008/8/E? ??? ??????????, ??? 12?? ?????????? 2008, ??? ?? ??? ??????  
?? ?????? ?????? ?????? ?????????? ?????????? ?????????? ?, ??? ?????? ??????????  
?? ?????? ??? ?????????? ?? ???????, ??? ?????????? ???, ?? ?????????? ???, ??? ??????  
????????????? ??????, ??? ?????????? ???, ?? ?????????? ???, ??? ?????? ??????????  
?? ?????????? ??? ?????????? ??? ?? ?????? ???, ??? ?????? ???, ??? ?????? ??????????  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????? ??????????,  
????????? ??? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??????  
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??????  
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

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

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