

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

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

??? 30?? ?????????? 2024 (*)

«????????????? ?????????? – ????? ?????? ?????? ?????????????? ?????? (???) – ??????
2006/112/?? – ????? 203 – ?????????? ?????????? – ??????? ??? ?????????? ??? ??
????????? – ?????????? ??? ??? ?????????? ??? ??? – ?????????? ?????????? ?????????? ???
????????? ??? ?????????? ?? ??? ?? ?????????? ??? ?????????? ???, ?? ?????? ??? ?????? ??
????????? ??? ?????????? – ?????????? ??? ?????????»

???? ?????? C442/22,

? ? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Naczelnego S?d Administracyjny (?????? ?????????? ??????????, ???????) ??
?????? ??? 26?? ??? 2022, ? ????? ?????? ??? ?????????? ??? 5 ??????? 2022, ???
?????? ??? ???

P sp. z o.o.

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Dyrektor Izby Administracji Skarbowej w Lublinie,

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

Rzecznik Ma?ych i ?rednich Przedsi?biorców,

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

????????? ??? ??? N. Pi?arra, ??????? ????????, K. J?rim?e (??????????), ??????? ???
????? ????????, ??? M. Safjan, ???????,

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

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

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

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

– ? P sp. Z o.o., ?????????????? ??? ??? B. Przeciechowski, adwokat, ??? ??? I. Skrok,
doradca podatkowy,

– ? Dyrektor Izby Administracji Skarbowej w Lublinie, ?????????????? ??? ??? B.
Ko?odziej ??? T. Wojciechowski,

– ? Rzecznik Ma?ych i ?rednich Przedsi?biorców, ?????????????? ??? ??? P. Chrupek,
radca prawny,

- ?????????? ???????, ?????????????? ??? ??? J. Jokubauskait? ??? ??? M. Rynkowski,

???? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ???
??? 21?? ?????????? 2023,

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

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1 ? ??? ?????? ?????? ?????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? 203
??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ?????? ?? ?? ???
?????? ??? ?????? ?????????????? ??? (?? 2006, L 347, ?. 1, ??? ????: ?????? ??? ??).

2 ? ?????? ?????????? ??? ?????? ?????? ??? P. sp. z o.o. (??
????: ?????? P) ??? ??? Dyrektor Izby Administracji Skarbowej w Lublinie (????????? ???
????????? ??? Lublin, ??????, ??? ????: ?????????? ???), ?????? ?? ??????
????? ?????????? ??? (???) ??? ?????????? ?? ?????? ?????????? ?? ???
????? ? P. K., ?????? ??? ?????? P.

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

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

3 ?? ????? 9 ??? ?????? ??? ?????? ?? ????:

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

?? "????????? ??????????" ?????????? ??? ?????????????? ??? ??????????, ???
????? ? ??? ?????????? ????, ??? ?????????? ????, ??? ?????????? ????, ??? ?????????? ???,
?????????, ??? ?????????? ?????????????? ????, ??? ??? ?????????? ????, ??? ??????????
??????????. ?? ?????????? ?????????? ????, ????, ? ??????????
????????? ? ????, ????, ?? ??? ?????? ????, ??? ?????? ????, ??? ?????? ????, ????, ???.

2. ??? ??? ?? ?????? ??? ?????????? 1, ?????????? ??? ?????? ?? ?????????? ???
????? ?????? ?? ??? ?????? ?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ???
??? ?????????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
[?????????] ??????????..»

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

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

5 ?? ????? 203 ??? ?????? ?????????? ?? ??????:

«? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

6 ?? ????? 205 ??? ?????? ??? ??????:

«???? ?????????? ??? ?????????? ??? ?????? 193 ??? 200 ??? ??? ?????? 202, 203 ??? 204,
?? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

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

7 ?? ?????? 108, ?????????? 1, ??? ustanawia o podatku od towarów i usług (????? ??????? ?? ?? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 2004 (Dz. U. ??? 2011, ???. 177, ?????? 1054), ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? (??? ????: ??? ?????? ???), ?? ?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? 203 ??? ?????? ???, ?????????? ?? ???:

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

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

8 ??? ?? ?????? ?????? ?????? 2001 ??? 2014, ? ??????? P., ?????????? ???, ???????, ?????? ???, ?? ?????????????? ?????? ?????? ?????? ??? ?????? ?????? ?? ?????? ??? ?????? ?????? ?? ?????? ??? 2005 ? ?????????? ??? P. K.

9 ?????? ?????????? ???, ?????????? ???, ?????? ?????? 2010 ??? ?????????? 2014, ? ??????? ??? ?????? 1 679 ?????????? ??? ?????? ?????????? ??? 1 497 847 ?????????? ??? (?????? 319 254 ???), ?? ?????????? ?? ?????? ?????? ?????? ??? ??? ?????? ?????????? ??? ??? ?????????? ??? ???.. ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? P. ??? ? ?????????? ??? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ??????.

10 ?? ?????? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? P. K., ?? ?????? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? P. K. ??? ? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????.

11 ?? ? ? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? P. K. ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? P. ??? ??? ?????? ?????? ??? ?????? P. K. ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? P. ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? P. ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (?? ????: ???).

12 ??? 24 ????? 2014 ? P. K. ?????????? ??? ??????????????.

13 ?????? ?????????? ???, ? Naczelnik Urzędu Skarbowego (????????? ??? ?????????? ???, ??????, ??????) ?????? ?????? ?? ??? ?????? ?????????? ?? ??? ?????? ??? ?????? 2010 ??? ?????? 2014.

14 ?? ?????? ??? 31?? ?????? 2017, ? ?????????? ??? ?????? ?????? ??? ??????.

????. ??????? ??? ? ??????? P. ??? ??? ?????????? ??? ???????????? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ??????????. ??????????, ?????? ?????? ???
????????? ?????? ?????? P. K., ? ?????? ???????, ??? ?????? ???
????????? ???, ?? ?????? ?????? ?????? ??? ?????????? ??? ?????? ??? ??????
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????
??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????? ? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ?????? P. ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? P. K.
??? ?????? ?? ?????? ??? ?????? ?? ?????? ?? ?????? ??? ?????? P.

15 ???????, ??? ?????????? ???? ???? ?????????? ?????? ??? ?? ??????????
????, ?? ?????????? ?? ??? ?????? ?????? ?? ?????? 108, ?????????? 1, ??? ?????? ????.

16 ?? ?????? ??? 23? ?????????? 2018, ?? Wojewódzki S?d Administracyjny w Lublinie
(????????? ?????????? ??? ?????????? ??? Lublin, ??????) ?????? ??? ?????? ???
????? ? ?????? P. ??? ??? ?????? ??? ?????????? ?????? . ?????? ??????, ? ??????
????? ?????? ?????? ??? Naczelnego S?d Administracyjny (????????? ??????????
????????? , ??????), ?????????? ?????????? ??? ?????? ??? ?????? ??????.

17 ??? ???? ?????? ???, ?????? ??? ?????? ?????? ?????? ?????? ??????????
????????? ??? ?????? ??? ?????? ?????? 108, ?????????? 1, ??? ?????? ????,
?? ?????? ?????? ??? ?????? ?????? ?????? ??? 203 ??? ?????? ????.

18 ??? ???? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ????. ?????????? , ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

19 ??? ???? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ??
????? , ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 108, ?????????? 1,
??? ?????? ????. ? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ? ?????? ??? «????? ??????» ??? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 203 ??? ?????? ????.

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

«1) ????? ?? ?????? 203 ??? ??????? ????? ?? ????? ?????? ???, ?? ?????????? ??? ?????????? ??
??? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ?? ???, ??? ?????? ?????????? ??
????????? ??? ?????????? ??? ?? ?????????? ????? ?? ???, ?? ?????? ??? ?????? ?? ??????
????? ??? ??????????, ?????? ?? ?????????? ??? “??????? ??? ?????????? ??? [??] ??
?????????” ??? ??????? ????:

– ? ?????????? ??? ?????? ??? ?????? ?? ?????? ?????????? ?????? ?????????????? ??? ?????? ??
????????? ?

– ? ?????????? ? ?????? ?????? ?????????? ??? ??? ??? ?????????? ?????? ?????????? ???
????????? ??? ?????????? ???;

2) ??? ??????, ?????????? ?? ?????? ??????? ?????? ??? ?????? ?????? ?????? ?????? ??
?????????, ??? ?????? ?????? ??? ?????? 203 ??? ?????? ?????? ???, ?? ?? ?????? ???
????????? ??? ?? ?????? ?????? ??? ?????? ?? ??? ?????? ?????? ??? ?????? ?????????? ???
????????????? ??? ?????? ??????, ?? ??? ?????? ?????? ?? ?????? ?????? ??? ?????? ?????????? ???
????? ???, ? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ???, ??? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ??????;»

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

21 ?? ?? ?? ?????????? ??? ???????, ?? ?????? ?????? ?? ?????????? ??? ???????, ??
?????? ?????????? ???, ???' ??????, ?? ?????????? ?? ?? ??? 203 ??? ?????? ???
????? ??? ?????? ???, ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ? ??? ?????????? ?????? ?? ?????? ?????? ?????????? ???
????????? ??? ?? ?????????? ???, ?? ?????? ??? ?????? ?? ?????? ??? ?????????? ???
????????? ???, ? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???, ??? ???
????? ??? ?? ??????.

22 ??? ?? 203 ??? ?????? ???, ? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ??? ?? ?????? ??? ?????? ???.

23 ??? ?????, ??????, ?? ?????? ?????????? ??? ?????? 203, ?? ?????????? ???
????????? ??? ? ??? ??? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? [???.
????????? ??? 31?? ?????????? 2013, Stroy trans, C?642/11, EU:C:2013:54, ??? 38, ???
??? 8?? ?????????? 2022, Finanzamt Österreich (??? ??? ?????? ?????????? ?? ?????? ???
?????????), C?378/21, EU:C:2022:968, ??? 19].

24 ???????, ??? ?????? ?????????, ?? ?????? 203 ?????????? ??? ?????? ?????? ???
????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? [????????? ??? 31?? ?????????? 2013, Stroy
trans, C?642/11, EU:C:2013:54, ??? 32, ??? 8?? ?????????? 2022, Finanzamt Österreich
(??? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ???), C?378/21, EU:C:2022:968, ???
20]. ??????, ??????, ?? ?????? ?????????? ??? ? ??? ?????? ?????? ??? ?????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? [???. ???
??? 8?? ?????????? 2022, Finanzamt Österreich (??? ??? ?????? ?????? ??? ?????? ???
?????????), C?378/21, EU:C:2022:968, ??? 21].

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

????? ?????????????? ?????????????? ??????????????, ?????? ?????? ?????????? ?????????? ??????????
????????????? ??????. ??, ????????, ??? ?????????? ?????? ?????????? ?????????? ??????????, ?? ????
203 ??? ?????? ??? ??? ??? ?????? [????. ?????? ??? 8?? ?????????? 2022, Finanzamt
Österreich (??? ??? ?????? ?????? ?????????? ?? ?????? ?????? ??????????), C?378/21,
EU:C:2022:968, ??? 24].

26 ?? ??????????, ??? ??? ?????? ????? ?????????? ?????????? ??? ?? ??????
????????? ?????????? ?? ?????? ??? ?????. ???????, ?????????????? ?????????? ?????? ???
????????? ?? ?????????? ??? ?????????? ?? ?????????? ?????????? ?????????? ??????????
??? ??? ??????. ?? ?????? ?????????? ?????????? ??? ? ?????????? ?????????? ?????????? ??????????
????? ??? ??????????, ???????? ?? ?????????? ?????????? ??? ?? ?????????? ??
????????? ?? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ??? ?????? ?????????? ?????????? 203 ??? ?????? ???, ????
????????? ?????? ??????.

27 ??? ?????, ???????, ??? ?????????? ??? ??????????, ??? ?????????? «?????????» ??????????
203, ?????????? ??? ? ?????????? ?????? «?????????» ??????????
??? ? ?? ??? ?????? ??? ?????? ???' ?????? ?????????? ???, ??? ?? ??? ?????????? ??? ?????? ???
??? ?????? 9 ??? ?????? ????. ???????, ??? ?? ?????????? ??? ?????? ??? ??????
????????? ?????? ???' ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? 203 ???
??????, ?????? ?????????? ??? ?? ??? ??????????.

28 ????????, ?? ?????? ??? ????? 203 ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
?? «??????? ??? ?????????? ??? [??]», ??? ?? ?????? ??? ?????? ???, ??? ?? ???
????????? ?? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????????? ?? ??????
??? ??????????, ?? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????????? ??? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?. ???????, ? ?????? «?????????????
?????», ??? ?? ?????? ?????????? ??? ??? ??? ?????????? ???????, ?? ?????? ??
????????? ??? ??? ?????? ?????????? ??? ?????? ??? ??? ?????? ??????.

29 ??????, ?????????????? ???, ??? ?????? ??????????, ? ?????????????? ???
????????????? ??? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??????????
??? ?????? ? ?????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
????? ??? ?????? ?????? ?????? (????. ?????????? ??? 29?? ?????? 2004,
Gemeente Leusden ??? Holin Groep, C?487/01 ??? C?7/02, EU:C:2004:263, ??? 76, ??? ??
??? ?????? 2020, Terracult, C?835/18, EU:C:2020:520, ??? 38).

30 ?? ???, ???, ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? 203 ??? ??????
????? ??? ??? ?????? ??? ? ?????????? ?? ?????????? ??? ?????????? ?????????? ??? ??????
????????? ???, ? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????
????? ???, ?????? ?? «??????? ??? ?????????? ??? [??]», ??? ?? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? «????? ???
????????? ??? [??]», ??? ?? ?????? ??? ?????? ??? 203.

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

32 ???????, ?? ?????? ??????????? ?????????????? ??? ?????? ?????? ??????????? ???
? ?????????? ??? ??????? ?????? ?????????????? ?????????? ?????????????? ?? ?????????? ???
????? ?????????? ??????????? . ???????????, ?? ???? ?????? ?????????? ??? ?????????????? ??
??? ?????????? ??? ???, ?????? ???, ??? ?????? ?? ?????? ?????????? ??? ?????????????? ???
????????????? ??????????? ???????????, ?????? ?? ?????????? ?? ?????? ?????? ?????????? ???
??? ?????????? ????. ???????, ? ?????????? ??? ?????? ?????? ??? ? ?????????? ?????? ???
????????? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ?????? ?????????? ?? ??????????
??? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ??? . ?? ?? ??????, ? ?? ??? ???
????? ??? ?? ?????????? ??? ?????????? ???, ??? ??? ?????? ??? ?????? ??? 203 ??? ??????
???, ?????? ?? ?????????? ? ?????????? ??? ???, ??????, ?????? ?????? ?? ?????????? ??? ???
??? ?????????? ??? ?????? ?????? ?????????? ???' ?????????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? 203 ??? ?????? ?????????? ?????? ???.

33 ???????, ?????????????? ???, ??? ?????? ???????????, ? ??????, ???????, ?????????? ??????????
??? ?????????? ?????????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????, ??? ??????????
????? ?? ??????? ??? ?????? ?? ?? ?????????? ??? ??? ?????????????? ?? ?????????? ???
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????? ??? ?????????????? ??? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ???
(????????? ??? 27?? ?????????? 2007, Teleos ?., C?409/04, EU:C:2007:548, ??? 65,
??? ??? 21?? ?????? 2012, Mahagében ??? Dávid, C?80/11 ??? C?142/11, EU:C:2012:373,
????? 54).

34 ??? ?? ?????? ???, ?? ?????????? ??? ?????? ?????? ???, ?????? ?????????? ??????????
??? ??? ?????? ?????????? ??? ?????? ??? ??? ?????? ?????????? ?? ?? ?????????? ??????, ?
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????????????? ??? ??? ??? ?????? ?????????? ?? ?????????? ?????? ? ?????????? ?????????? ???
????????? ??? ? ?????????? ?????? ?????? ?????????? (????????? ??? 21?? ?????? 2012,
Mahagében ??? Dávid, C?80/11 ??? C?142/11, EU:C:2012:373, ?????? 60).

35 ?????????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? 29 ??? ??????
????????, ??????? ?????? ?????? ?????????? ??????, ??? ?????? ??? ?????? 203 ??? ??????
????? ???, ?? ?????? ??? ?????? ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ? ??????????
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????????, ?? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
??? ?????? ?????? ?????? 203.

36 ????????, ??? ?? ?????????? ?????, ??? ?????????? ????? ? ??? ??????????
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????, ?????? ??? ?????? 203 ??? ?????? ??? ?????.

37 ?????????? ??? ?????? ??? ?????? ??????, ??? ?????????? ?????? ?????????? ??? ?????? ??
????? ? ?????????? ??? ?? 203 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??????
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????? ?? ?????????? ?? ?? ?????????? ??? ?????????? ??? ???, ??? ??? ?? ?????? ??? ?????? ??? 203,
????? ?? ? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????????
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38 ?????? ??? ?????? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ?????????? ??? ?????? ???
??? ?????????? ?????????????? ??? ?????? ?????????? ??? ?????? ?????????? ??????????????, ?' ????
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? ? ?????? 203 ??? ?????? 2006/112/??, ??? ??????????, ??? 28? ?????????? 2006,
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????????? ?????????????? ??? ?????????? ??? ?? ?????????? ??? ?????? ???, ?? ??????
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????????? ??? ?????????? ??? ???, ??? ??? ?????? ??? ?????? ??? ?????? 203, ??? ??? ?? ? ?? ???
????????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??? ???
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(?????????)

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