

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

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

??? 28?? ?????????? 2023 (\*)

«????????????? ?????????? – ?????????? ?????? ?????????????? ??? ?????????????? ??? ?????????????? ?????? –  
????? 291, ?????????? 2, ??? – ??? ?????? ?????? ?????? ?????????????? ?????? (???) – ??????  
2006/112/?? – ?????? 28 ??? 397 – ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????  
??? ?????????? ?????? – ?????? ?????????? ?????? – ?????????? ?????? ?????? ?????? ??????  
(??) 282/2011 – ?????? 9? – ?????? – ?????»

???? ?????? C?695/20,

? ? ?????????? ?????? ?????????????? ?????????? ?????? 267 ????, ???  
?????? ?? First-tier Tribunal (Tax Chamber) [????????? ?????? ?????????? ??????]  
(????????? ???), ?????? ??????], ?? ?????? ??? 15?? ?????????? 2020, ? ???  
????????? ??? ?????????? ??? 22 ?????????? 2020, ??? ?????? ??? ???

### **Fenix International Ltd**

????

### **Commissioners for Her Majesty's Revenue and Customs**

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

????????? ??? ??? K. Lenaerts, ???????, L. Bay Larsen, ??????????, A. Arabadjiev, A. Prechal, ?. ???????, M. Safjan, L. S. Rossi (?????????), ?. ??????? ??? M. L. Arastey Sahún, ?????????? ???????, J.?C. Bonichot, S. Rodin, J. Passer, M. Gavalec, Z. Csehi ??? O. Spineanu-Matei, ???????,

????????? ??????????: ?. ??????

?????????: C. Strömholm, ?????????? ??????????,

????????? ??? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???  
3?? ??? 2022,

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

– ? Fenix International Ltd, ?????????????? ??? ??? O. Bartholomew, S. Gilchrist ??? D. Greene, solicitors, ??? T. Johnson, M. Schofield ??? ??? V. Sloane, barristers,

– ? ?????????? ??? ?????? ??????????, ?????????????? ??? ??? F. Shibli,  
????????? ??? ??? A. Macnab, barrister,

– ? ??????? ???????, ?????????????? ??? ??? G. Palmieri, ?????????????? ??? ??? A.  
Maddalo, avvocato dello Stato,

- ?? ?????????? ??? ?????????? ??????, ?????????????? ??? ??? E. ????????????????,  
??? M. Chavrier ??? ??? E. d'Ursel,

- ? ?????????? ???????, ?????????????? ??? ??? J. Jokubauskait? ??? C. Perrin,  
????? ?????? ??? ?????? ??????????, ??? ?????????? ??? ?????????? ??? ??? ?? ??????????  
??? 15?? ?????????? 2022,

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

???????

1 ? ??????? ?????????????? ??????? ?? ?????? ??? ?????? 9? ??? ??????????????  
????????? (?) 282/2011 ??? ??????????, ??? 15?? ?????? 2011, ??? ?? ?????? ??????  
????????? ??? ?????? 2006/112/?? ??????? ?? ?? ?????? ?????? ?????? ??????????????  
????? (?) 2011, L 77, ?. 1), ??? ?????????????? ?? ?? ?????????????? ?????????? (?)  
1042/2013 ??? ??????????, ??? 7?? ?????? 2013 (?? 2013, L 284, ?. 1) (???:  
????????? ?????????? 282/2011).

2 ? ??????? ??? ?????????? ??? ??????? ??????? ??????? ??? Fenix  
International Ltd (???: Fenix) ??? ??? Commissioners for Her Majesty's Revenue and  
Customs (?????????? ??? ?????????? ?????, ??????? ?????????), ??????? ?? ??????  
????????????? ????? ?????????????? (?) ??? ??????? ? ?????????? ??? ?? ??????  
????????? ??? ??? ?????? ??? 2017 ??? ??? ?????????? ??? 2020, ?????? ??? ??? ??? ??????  
??? 2020.

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

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

3 ?? ??? ?????? (?) 2020/135, ?? 30?? ?????????? 2020, ??????? ?? ?? ?????? ???  
????????? ??? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ?????????? ???  
????????? ?????????? ??? ??? ?????????? ?????? ??? ??? ?????????? ?????????? ??????????  
????????? (?) 2020, L 29, ?. 1) (???: ??????? ??????????), ?? ?????????? ???  
????????? ?????? ???????, ?? ??????? ??? ?????????? ?????? ??? ??? ??????????  
????????? ?????? ??????? (?)?), ??? ?? ??? ?????? ???????, ? ??? ?????? ?????????? ???  
?????? ??? (?? 2020, L 29, ?. 7).

4 ?? ??? 86 ??? ?????????? ?????????? ??? ??? «????????? ??????????  
????????? ??? ?????????? ??? ?????????? ??? ??????» ??? ?????? ??? ?????????? 2 ??? 3 ??  
????:

«2. ?? ?????????? ??? ?????????? ??? ?????? ?????????? ?? ??? ?????? ?????????? ?? ??????  
????????????? ?????????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ?????????? ??? ??? ??? ?????? ??? ?????????? ??? ??????.

3. ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?? ?????????? ?????????? ?? ??? ??????????  
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ???  
????????????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? [...]».

5 ??? ?? ??? 126 ??? ?????????? ??????????, ? ?????????? ?????? ???  
????????? ?????? ??? ?????????? ??? ?????????? ?????? ??? ?? ??? ?????????? ???

?????????? ????? ???? 31? ?????????? 2020.

## ? ?????? ???

6 ?????????????? ?????? ??? ?????????????? ?????????? ??? ?????????? ??? ?????? ??? ?????  
????????????? ???, ?? ??? ?????? ?????? ?????????? ??? ??? ?????????? ??? ?????? ??? ??????  
2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ?????? ?????????? ???  
????????????? ??? (?? 2006, L 347, ?. 1), ??? ?????????????? ?? ?? ?????? (??)  
2017/2455 ??? ??????????, ??? 5?? ?????????? 2017 (?? 2017, L 348, ?. 7) (?? ????: ????)  
???.).

7 ?? ?????????? 61 ??? 64 ??? ?????? ??? ?????? ?? ???:

«(61) ??? ?????? ?????????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ???.  
?? ?????? ??? ?????? ?????? ?? ?????? ?????? ??? ?????? ??????

(62) ?? ?????? ??? ??????, ????, ?? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??????????  
?? ?????????????? ??????????, ?? ?????? ?????? ?? ?????????? ??? ?? ?????????? ???  
?????????, ??? ?? ?????? ???, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???.

(63) ??????? ?? ?????? ?????????? ??? ?????????????? ??? ?????? ?? ?????? ??????????????, ??  
????? ??? ?????? ?? ?????? ?????????? ?????????????? ??? ?????????? ??? ??? ? ??????????????  
????? ????. ? ?????????? ??? ?????? ?????? ?????? ?????????????????? ??? ?????? ???  
????????? ??? ?? ?????????? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ??????????.

(64) ?? ?? ????, ??? ?????????????? ??? ?????? ?????????? ???, ?? ?????? ??  
????????? ??? ?????????? ??? ?? ?????????? ???, ??? ?????? ??? ?????? ???  
[?????????] ??????»

8 ?? ?????? IV ??? ?????? ??? ?????????? «????????????? ??????» ??? ??????????????  
?? ?????? 3, ?? ?????? ??? «[?]????? ??????» ??? ?????????? ?? ?????? 28 ???.  
??????.

9 ?? ?????? 28 ??? ?????? ??? ?????? ?? ???:

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

10 ? ?????? V ??? ?????? ?????????? «????? ??? ?????????? ???» ???  
????????? ?? ?????? 3 ?????? ?? ??? «[?]??? ?????? ??????». ?? ?????? 3 ???  
????????? ????, ??? ?????? ?????????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ?????????? ???, ??? ?????? 8, ??? 1?? ?????? 2015, ??  
????????????? ???, ?????????? ??? ?????? ??? ?????????? ?????? ??? ?? ?????????? ???  
?? ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? 58 ??? ??????,  
?? ?????? ?????????, ??? ?????? 1, ??? ?? ?????? ??? ?????? ?????????? ??? ??????  
????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?? ?????? ??? ?????? ???  
????? ?????? ???.

11 ?? ?? ??? ?????? ?????????? ???, ??? 1?? ?????? 2015, ?? ??? ??????  
2008/8/?? ??? ??????????, ??? 12?? ?????????? 2008 (?? 2008, L 44, ?. 11), ??? ??????  
????????? ??? 1 ?????? ??? «[?] ?????? ??? ?????????? ??? ??????, ?  
????????????? ???, ? ?????????? ??? ?? ?????????? ?????? ?????????? ??? ?????? ???

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

12 ?? ????? 220 ??? ?????? ??? ??????:

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

1) ??? ??? ?????? ?????? ???? ???? ?????? ??????????, ??? ?????? ??????????????  
???? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???,  
[...]».

13 ?? ????? 226 ?????? ?? ????:

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

[...]

5) ?? ?????? ?????? ??? ???? ?????? ?????????? ??? ?????????? ??? ?????? ??? ???  
????????? ?? ?????? ??? ?????? ??? ??????????,

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

[...]».

14 ?? ????? 397 ?????? ??? ????? «????? ??????» ??? ?????? ?? ????:

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

## **? ?????????? ?????? 282/2011**

15 ?? ?????????????? ?????? 2, 4 ??? 5 ??? ?????????? ?????? 282/2011 ?????? ??  
?????:

«(2) ? ?????? [?] ?????? ?????? ?????? ?????? ?????? ?? ??? [?], ?? ??????, ?? ??????????  
??????????, ?????????? ?? ?????????? ??? ?? ?????? ????. ? ?????? ?????? ?????? ??????????  
????????? ??? ?????? [?] ?? ?????????? ?????? ??? ?????? ?????? ??? ?????????? ??? ?? ??????  
???? ??? ?????? ??? ?????????? ??????, ??? ?????????? ??? ?????? ?????? ??? ??????????  
????????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??????, ?????????? ?? ??? ??? ???  
????????? ??? ?????????? ??????. ?? ?? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ???  
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ???  
????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ???  
??? ?? ?????? ???.

[...]

(4) ?????? ??? ?????? ?????? ?????? ??? ???? ? ?????? ?????? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?? ??? ?????? ?????? ?????? ??? ?????? [?],

???????????? ???? ???? ???? ?????????????? ???? ???? , ??? ?????????? ?????? ??? ???? ???? ????  
??????????, ??? ???? ??? ???? ??? ?????????????? ??????. ??????? ?? ??? ???? ???  
??????????????, ??? ???? ??????? ??? ???? 5 ?????????? 4 ??? ??????? ??? ???? ???? ??????  
????, ? ??? ???? ??????? ??? ?????? ??? ?????? ?????? ??? ???? ???? ???? ??????  
??? ?????? ????. ? ?????????? ?????? ?????????? ?????????? ?????? ?? ??? ???? ?????? ???  
????? ?????????? ??? ?????????? ?????? ?? ??? ???? ?????? ???.

(5) ?? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?? ???? ????  
????????? ?????? ?? ??? ??????, ?????????????? ?? ?? ?????????????? ??????????  
????????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????????? ?????? ?????????? . ??? ??  
????? ?? ?????????? ?????? ?? ?????? ?????????? ???, ?????????????? ?????? ???  
????????? ???, ?? ?????? ?? ?????????? ??????????..»

16 ?? ???? 1 ??? ?????????? ?????????? 282/2011 ?????? ?? ???:

«? ?????? ?????????? ?????? ??? ??? ?????? ?????????? ?????????? ??? ?????? I  
?? V, ?? VII ?? XII ?? ?????? [??].»

17 ?? ?????????? 1 ??? 4 ??? ?????????? 1042/2013, ? ??????  
??????????, ?? 1?? ?????????? 2015, ?? ?????????? ?????????? 282/2011, ?????????? ??  
????:

«(1) ? ?????? [??] ?????? ??? ??? 1? ?????????? 2015 ??? ?? ?????????????????,  
?? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ???????, ?? ?????? ??????????  
?? ?? ?????????? ???, ?????????? ??? ?? ?????? ?????? ??? ?? ?????? ?????? ??????  
????????????? ? ??? ?? ?????? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ?????? ??? ?? ??????  
????????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ??  
???? ?????????? .. ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???  
???? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???  
????????? ??????.

[...]

(4) ??? ??? ?????? ??? [??], ??? ?????? ?????? ?? ?????????????? ?????? ????  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????????????? ?????? ??? ??????????  
????????? ??? ?????? ??? ?????? ?????? ?????? ?????????????? ?????? ??? ?????? ?????? ???  
????????? ????.»

18 ??? ?? ??? 9? ??? ?????????? 282/2011, ?? ??? ?????? ?????????? ??  
??? ?????????? 1042/2013:

«1. ??? ??? ?????? ??? ?????? 28 ??? ?????? [??], ??? ?????????? ??????????????  
????????? ??? ?????????????? ???, ?????????? ? ?????????? ?????, ??? ??????  
????????? ??? ?????????? , ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??????????  
????????? , ??? ??? ??? ? ?? ??? ?????? ?????? ?????????? ?????????????? ??? ?????? ?? ??????????  
??? ?????????? ??? ??? ? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ??? ??????  
???? ?????????? ???.

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

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

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

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

2. ? ?????????? 1 ?????????? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??????  
?? ??????????, ?? ?????????????????? ?? ???? ?????? ?? ???? ?????? ?? ????  
?? ?????? (VoIP), ?? ?????? ?? ???? ?????? ?? ???? ??????, ?? ?????? ?? ????  
?????, ?? ???? ?????? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??????  
????? ?? ???? ??????.

3. ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??????  
?? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??????  
?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??????  
?? ???? ?????? ?? ???? ?????? (VoIP), ?? ???? ?????? ?? ???? ?????? ?? ????  
?? ???? ?????? ?? ???? ??????..»

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

19 ? Fenix, ?? ?????? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??????  
?? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ????  
????? Only Fans (?? ????: ?????? Only Fans). ? ?????? ?? ???? ??????  
«?????» ?? ???? ?? ???? ?? ???? ?? ???? ?????? ?? «?????» ?? ???? «?????»  
(fans).

20 ??? ?????? ?? ???? «?????», ?? ???? ?????? ?? ???? ??????  
?? ??????????, ?? ???? ??????????, ?? ???? ?????? ?? ???? ??????. ?? ???? ??????  
?? ???? ?????? ?? ???? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ????  
?? ???? ?????? ?? ???? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ????  
?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ????  
?? ???? ?????? ?? ???? ?????? «?????» ?? ???? ?? ???? ?????? ?? ????  
?? ???? ?????? ?? ???? ??????.

21 ? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??????  
?? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? «?????».

22 ? Fenix ?? ?????? ?? ???? ?????? Only Fans, ?? ???? ?????? ?? ???? ??????  
?? ?????? ?????????? ?? ???? ?????? ?????? ?? ???? ???????. ? Fenix ?? ???? ??????  
?? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ????  
?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??????  
?? ???? ?????? ?? ???? ?????? Only Fans.

23 ? Fenix ?????? ?? 20 % ?? ???? ?????? ?? ???? ?????? ?? ???? ??????  
?? ?????? ?? ???? ?????? ?? ???? ???????. ?? ???? ?????? ?? ???? ?????? ?? ????  
?? ???? ?,

Fenix ?????????? ??? ?? ?????????? 20 %, ? ?????? ?????????? ??? ?????????? ???  
??????.

24 ??? ?? ???????? ?????????????? ??? ?????????????? ?????????????? ??? ??????????????????  
????????? ?? ??????? ?? ??????? ??? Fenix.

25 ??? 22 ?????????? 2020, ? ?????????? ??? ?????????? ??? ?????????? ??? ?????????????? ??? Fenix  
?????? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
?????? 2017 ??? ??? ?????????? 2020, ????? ??? ??? ??? ?????? 2020, ?????????? ???  
?????? ?? ??????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
?????? 9?, ?????????? 1, ??? ?????????? ?????? 282/2011. ?? ?? ??????, ? ?? ???  
????? ?????? ??? Fenix ?????? ?? ?????????? ??? ?????????????? ??? ??? ?? ?????? ???  
??? ?????? ??? ?????????? ?? ?????? ?? ?????? 20 %, ??? ??? ?? ?????????? ???  
?????? ? ??????? ??????????.

26 ??? 27 ?????? 2020, ? Fenix ?????? ?????????? ??????? ??? First-tier Tribunal (Tax  
Chamber) [????????????? ?????????? ?????? (????????? ?????), ?????? ??????],  
????? ??? ?????????? ??????????. ?? ??? ?????? ???, ? Fenix ??????????, ???' ?????,  
?? ????? ??? ?????? ??? ?????? ?????? ?????????? ?????, ??? ??? ?????? 9? ???  
????????????? ?????????? 282/2011, ????? ??? ?? ?????????? ??? ??? ??????????.

27 ?????? ??? ?????????? ???????????, ? Fenix ?????????? ??? ?? ?????? 9? ???  
????????????? ?????????? 282/2011 ??? ?? ?????????? ??? ?????????? ???/? ??  
????????? ??? ?????? 28 ??? ?????? ???, ?????? ?????????? ??? ?????? ??????.  
??????????, ?? ?????? 9?, ?????????? 1, ??? ?????????? ?????? 282/2011  
????????? ?? ??? ??? ?????? 28 ??? ?????? ???, ?????? ?????????? ??? ? ??????????  
??? ?????????? ?? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?? ??? ?????????, ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???,  
????? ?????? ? ??????. ? ?? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????????.  
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ???, ??????????????  
?? ?????????? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 9?,  
????????? 1, ??? ?????? ???, ??? ?????????? 282/2011. ??????, ??? ??  
Fenix, ?? ?????? 9? ?????????? ?? ??? ??? ?????????? ?????????? ??? ??????????  
?? ?????????? ??? ?????? 397 ??? ?????? ???.

28 ?? ?????? ?????????? ?????????? ?????????? ?? ??? ?? ?????? ??? ?????? 9? ???  
????????????? ?????????? 282/2011.

29 ?????????? ??? ?????? ??? 15? ?????????? 2014, ?????????? ??? ?????? ??????????  
(C-65/13, EU:C:2014:2289), ?? ?????? ?????????? ?????????? ??? ?????? ???  
????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???, ?????? ???  
????????? ? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???, ???  
??????????, ??? ??? ?? ??? ?? ?????? ??? ?????? ????. ??????, ??? ??? ?????? ??? ??  
????? ??????????, ??? ??? ?? ??? ?? ?????? 9? ??? ?????????? 282/2011  
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? 28 ??? ?????? ???, ?????? ??????  
?? ?????????? ??? ?? ?????? ???, ?????????? ??? ?????? 9?, ?????? ??? ??????????  
????????? ??? ??? ??? ??????.

30 ??????????, ?? ?????? ?????????? ?????????? ??? ?? ?????? ??? ?????? 9?,  
????????? 1, ??? ?????????? 282/2011 ?????? ?? ?????????? ??? ?????? ???

????????????? ??? ????? ???? ?????????? ??? ????? ?????????? ???, ??????????, ???  
????????? ??? ????? ?????????? ??????????, ??? ????? ?????? ?????????? ??? ??????  
????????? ??? ?????????? ?? 28 ??? ?????? ??? . ??????????, ??? ?????????????? ??  
????????? ?? ??? ??????? ??? 14?? ??????? 2011, Henfling ??. (C?464/10,  
EU:C:2011:489), ?? ??????? ??? ?????? 9?, ?????????? 1, ??? ?????????? ??????????  
??? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ???,  
????????? ?? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ??????????  
????????? ??? ?????????? ??? ?????? ?, ??? ????? ?????????? ??? ?? ?????? 28 ??? ?????? ???.

31 ??? ??? ?????????? ????, ?? First-tier Tribunal (Tax Chamber) [?????????????  
????????????? ?????? (????????????? ???)] ?????????? ?? ?????????? ??? ?????????? ???  
????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ?????????? ??????:

«????? ?? ??? 9? [?? ?????????? ?????? 282/2011] ?????????? ??? ?? ??? ??  
????????? ??? ?????????? ?????????? ??? ?????????? ?? ?? ?????????? ?????????? ???  
??? ?????????? ??? ?? ?????? 397 ??? [????????? ???], ??? ?????? ??? ?????????? ??/??  
????????? ?? ?????? 28 ??? [????????? ???];»

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

32 ??? ?? ??? 86, ?????????? 2, ??? ?????????? ??????????, ? ??? ?????? ??? ??  
?? 1? ?????????? 2020, ?????????? ??? ?? ?????????? ?????????? ?? ??? ?????? ??????????  
?? ?????? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ??? ??????????  
??? ?????????? ?????????? ??? ?? ??? ?? ?????? ??? ?????????? ?????????? ??? ??????????  
????? ?? ?? ?????? 126 ??? ??????????, ??? 31 ?????????? 2020. ??????????, ??? ??  
????? 86, ?????????? 3, ??? ?????????? ?????????? ??? ? ?????? ?????????? ??????????  
????????? ??? ??????????, ??? ??? ?????? ??? ?????????? 2 ??? ?????? ???, ???  
????????? ??? ??? ?????? ?? ?????????? ?????????? ?????????? ??? ?? ??????????  
??? ??????????.

33 ?? ??????????, ? ??? ?????? ?????? ?????????????? ?????????? ?????????????? ??? ??  
????????? ??? ?????????? ??? 22 ?????????? 2020, ??? ?????? ??? ?? ??? ???.  
????????? ??????.

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

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

35 ?? ?? ?????????? ??????, ?? ?????? ?????????? ??????, ???' ??????, ??  
????????????? ?? ?? 9?, ?????????? 1, ??? ?????????? ?????? 282/2011  
????? ?????? ??? ?????? ??? ?? ?????? ?? ?????????? ?????????? ? ?????????? ?? ???  
28 ??? ?????? ???, ?????????? ??? ?? ??? ?????? ??? ?? ?????????? ?????????? ???  
??? ?????? ?? ??? 397 ??? ?????? ???, ???' ?????????? ??? ?????? 291, ??????????  
2, ???.

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

36 ??????, ?????? ?? ?????????? ???, ??? ?? ?????? 291, ?????????? 1, ???, ?  
????????? ??? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ???.  
?????????, ??? ?? ?????? 291, ?????????? 2, ???, ??? ?????????? ??????  
????????? ??? ?? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ???  
????? ?????????? ?????????? ?????????? ?????? ??? ?????? ???, ?? ?????? ??????????

????????? ?????????????????? ??? ??? ?????????? ??? ?????? 24 ??? 26 ???, ??? ??????????.

37      ????? ?????? ??????????? ?? ?????????? ?? ?????????????????? ?????????? ? ???????  
????????????? ?????????????? ??? ??????????, ?? ?????????????? ?????????????? ??? ?? ?????? 291,  
?????????? 2, ??? ?????????? ?????????????????? ?????????????? ??? ?????? ??? ?????? ??????????  
?????????? ??? ?????? ??? ? ??????? ?????? ??? ??? ?????????? ?????? ?????? ??????????????  
????? ??? ?????? (????. ??????? ??? 1?? ??????? 2016, National Iranian Oil Company ????  
??????????, C?440/14 P, EU:C:2016:128, ??????? 49 ??? 50 ??? ??? ??????????????  
?????????).

39 ???????, ??? ?? ?????????????? ??????? 61 ??? 63 ??? ??????? ??? ?????????? ??? ?  
????????? ??? ?????? ??????, ??????, ??? ??? ?????????? ?? ?????????????? ??? ?????? ???  
????????? ??? ?? ??? ??????????????, ?????? ?????????????? ?? ?????????????? ??? ?????? ???  
??? ?????? ?????????????? ??? ?????????????? ?????????? ??? ?? ?????????? ??? ?????? ???  
?? ?? ?????????? ??? ???????, ?? ?????? ??? ?????? ?????, ??? ?????? ??? ?????? ???  
????????? ??? ?????? ???, ???????, ??? ?????? ?? ?????????????? ??? ?????????? ???  
????????? ??? ?????? ?????????? ?????? ??? ??? ?????? ?????? ?????? ??? ?????? ???.

40 ?? ?????? ?????? ??????????????? ??? ??????????????? ??? ???????????, ? ?????? ??????????  
??? ?? ????? 397 ??? ??????? ???, ?? ?????? ?? ??????? ?????? ??? ?? ??????? ???, ???  
????? ?? ?????? 9?, ??????????? 1, ??? ??????????? ??????????? 282/2011, ?? ??????  
????????? ?? ?????? ?? ??????????? ??? ??????????? ?????????? ??? ??????? 28 ??? ??????  
???.

41 ????????, ????, ????, ??, ???, ???, ?????????????? ?????????????? ???, ?????????????? ???  
????? 291, ?????????? 2, ????, ?????????????? ??? ? ?????? ??? ? ?????? ??? ?????????? ??????  
????????????? ??????, ??? ? ???, ?????? ??? ?????????????? ??? ?????????? ??? ??????. ??  
????? ?????? ??? ??? ?????? ?? ?????????????? ?? ?????????????? ??? ?????? ? ?? ??????  
?????????????, ??? ? ??? ? ??? ?????? 290 ????, ?? ?????????? ??? ?????????? ??  
????? ?????? ?????? ?????? ?????? ??????????????, ??? ?????? ? ?????? ??????????  
????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
(????. ?????? ??? 10? ?????????? 2015, ?????????? ??? ??????????, C?363/14,  
EU:C:2015:579, ??? 46 ??? ??? ?????????????? ??????????).

42 ???????, ? ?????????? ??? ?????????? ?????????? ?????????????? ?????????? ??? ??????  
?? ?????????????? ?? ?????? ?????? ?? ?????????? ?? ?????????????? ?? ?????????????? ??????????  
????????? ?? ?????????????? ?????????????? ?????????? ??? ?????????? ?? ?????????????? ?? ??????????  
????? ?? ?????????????? ??? ?? ?????????????? ??? ?????????? ?????????? ?????????? ?????? (???????)  
??? 10?? ?????????? 2015, ?????????? ??? ??????????, C?363/14, EU:C:2015:579,  
????? 47 ??? ??? ?????????????? ??????????).

43      ????? ??????????, ????. ?? ??????????, ??????? ?????? ?????????? ?????? ?????? ??? ??????,  
????? ? ?????? ???, ????. ??? ?????? ?? ?????? ?????????? ?????????? ??????, ????. ?? ????? 9?,  
????????? 1, ??? ?????????? ?????? ?????????? 282/2011, ??? ??????, ??? ?????? ???  
????????? ????, ?? ?????? ?????? ?????????? ??????? ?????? ?????? ?????? ??????, ?????? ?? ??????  
????? ?????? ?? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ??????????, ???  
?????????????, ????. ????. ??? ?????? ??? ?????? ???, ??? ?. ?????? ?????? ?????????? ??? ?????? 113 ???.

44 ???????????????, ?? ??????????? ????? ?????? ???, ??? ??????? ??? ?????????? ??  
????????????? ?????????????? ??? ??? ???????????, ?? ?????? ?????? ?????? ?????? ??  
????????????? ?? ??????????? ??? ??????? ?????????? ???????, ??????????? ??  
????????????? ? ??????? ??? ??? ?????? ?????????????? ?? ??? ?? ?????? ????. ???????, ??  
????????? ??? ?????????????? ?????? ??? ?????? ? ???????, ??????, ?? ???????  
?? ??? ?????? ??????? ??????? ??? ?????? ??? ?????????????? ?? ?? ?????????? ?????? ??? ??????  
?? ?????? ??????? ?????????? ???, ???????, ?? ?????? ?????????? ? ?????????? ??? ???  
????????? ?? ??????????? ??????, ?????? ?????? ?? ?? ?????????????? ??? ?? ???  
???????????, ?????? ?? ?? ??? ?? ?????? ?????????? ??? (????. ??????? ?? 15??  
????????? 2014, ?????????? ??? ??????????, C?65/13, EU:C:2014:2289, ??????? 43 ??? 46  
??? ??? ?????????????? ??????????).

45      ?? ?? ??? ????? ??????????? ??????? ?? ?? ??? ????? ?? ?????????????????? ?????????????????? ??  
?????????? ??????? ?? ?? ??? ?????????????? ??????? ?????????????? ?? ?? ??????????, ???'  
?????????? ?? ?? ?????? 291, ?????????? 2, ????.

46 ??????????, ??????, ?????? ?? ??????????? ???, ???????? ?????? ??? ????  
????????? ??? ??? ??? ??????????, ?? ????? 291, ?????????? 2, ??? ???? ?????????? ?? ????  
????????? ?? ??? ?? ??? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??  
?? ?????? ?? ?????? ?? ?????? ?????? ??????.

47    ????????, ??? ???. ?????????? ??? ?????? 290 ??? 291 ??? ?????????? ??? ? ??????  
??? ?????????????? ?????????????? ??? ?? ?????????? ??? ?????? ?? ?????????? ???  
????????????? ?????????????? ??? ???????? ??? ???????? ??? ??? ?????????? ??? ?????????? ??  
??????? ??? ?????????????? ??? ???????.

50 ????????????, ?????? ?? ????? ?????? ??? ?????????????? ?????? ?????????????? ???  
???????????, ??? ?????????? ??? ?????? ?????????????? ?????? ???, ?????? ? ??  
????????????? ??????????????, ???? ?? ?????? ?? ?????????????? ??? ?????????????? ???  
????????? ?????? ??? ?????????????? ??? ?????????????? ?????? ???, ??? ?? ????????????,  
??????, ??? ?? ?????? ??? ?????? ?? ?????? ??? ?????? ?? ?????????? ?? ?????? ?????? ??? ??  
???? ?????????? ??? ?? ??????????, ???' ?????????? ?????, ?? ?????????? ??????????  
??? ?????? ? ?? ?????? ?????????? ???.

51    ?? ?? ???????, ??????????? ?? ??????????? ?? ?? ???????????, ?? ?? ??????????? ?? ?? ???????  
9?, ?????????? 1, ??? ??????????? ?????????? 282/2011, ?????? ?? ??? ???? ??  
?????????? ?????????? ?? ?? ??????? ?? ?????? 397 ?? ?????? ??, ???' ??  
????????? ?? ?? ?????? 291, ?????????? 2, ???, ?????? ?? ??????????? ?? ?? ?????? 9?,  
????????? 1 ??????????? ?? ?? ??????????? ?? ??????????? ?? ??????????? ?? ?????? 28 ???  
??????, ??? ??????????? ?? ?? ?????? ?? ??????????? ?? ?????? ?? ?????? ?? ?????? 9?,  
????????? 1, ??????, ??? ?? ?????? ?? ?????????? ??????? ?? ?????? ?? ?? ?????? ?? ?????? ??  
????????? ?? ?? ?????? ?? ?????? 28, ???????, ??? ?????????? ?? ?????? ?? ?? ?????? ??  
????????? ?? ?????? ?? ?????? 28 ???, ??????, ??? ??????????? ?? ?????????? ??  
????????? ?? ?????? ?? ?? ?????? ??.

???? ???? ?????????? ????, ?? ?????? 9?, ??????????? 1, ??? ??????????????  
?????????? 282/2011 ??????? ?? ????? ?????????? ??????? ??????? ?????? ?????  
????????? ?? ????? 28 ??? ??????? ???

52 ????????????????, ??????, ??? ?????? ??? ?????? ??? ?????? ???? ?????? ???? ?????? ?????? ?????  
????????? ????. ??? ?? ?????????? ?????????? ??? ?? ??? ????? ???????, ?? ?????? ?????? ???  
????? ?????????????? ?? ?? ??? ????? ??????????, ????? ? ?????? ??? «?????????????»  
??????», ??? «????????? ??? ??????» ??? ?? «????????????? ??????????????», ?????? ??  
????????????? ?????????? ??? ??????????, ?????????? ??? ?????? ??? ?????? ??? ?? ??????????????  
?? ?????? ?????? (????. ??????? ??? 29?? ?????????? 2015, Gmina Wrocław,  
C?276/14, EU:C:2015:635, ????? 26 ??? ????? ?????????????? ??????????).

53      ??????? ?? ?? ????? 28 ??? ??????? ???, ??? ?????????????? ??? ????? IV ?????, ?  
?????? ??????????? «????????????? ??????», ??? ?????????? ??? ????, ?????????? ???  
????? ??? ??? ??? ?????????? ????, ?????????? ?? ?????? ??????????, ?????????? ???  
????????? ??? ??????? ?????????? ??? ?? ??? ????? ???????.

54 ?? ?????? 28, ?? ?????? ??????????????? ????????, ?????? ?? ?????????????? ??????????????  
????? ?????? ?? ?????? ?????????? ??? ? ? ?????????? ??? ? ? ????????, ?? ? ? ??????, ???  
??? ?????????? ?????????? (?????. ???????? ??? 14?? ??????? 2011, Henfling ???., C?464/10,  
EU:C:2011:489, ??? 36), ?????????? ?????? ???????, ?????? ??? ??????  
????????????????? ?????????? ??? ??????? ??? ?????? ??????????, ? ?? ?????????????? ?  
????? ?????????? ??? ?????? ?????????? ??? ??????? ??? ?????????? ?????????????? ??????????  
???, ???????, ??? ?????? ??? ? ? ?????? ??????? ??? ??? ?????????? ??? ?????? ??????????  
???, ?????? ???????, ? ?????? ??????? ??? ?????? ?????????, ?????? ???????, ??? ???????,  
????????? ??? ??????? ?????? ?????? ?????? (??????? ??? 21?? ?????????? 2021, UCMR –  
ADA, C?501/19, EU:C:2021:50, ??? 43 ??? ??? ?????????????? ??????????).

55      ???????, ?? ??? 28 ??? ?????? ?? ?????? ??? ? ?????????????? ??? ?????? ?? ??????,  
??? ?????? ?????? ?????????, ??????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??????  
????? ?????????? ??? ?????? ? ?????? ??? ?????? ?????? ?????? ??????.

56 ????????, ??? ??? ?????????????? ??????? 2, 4 ??? 5 ??? ?????????????? ????????????

282/2011 ?????????? ???, ??? ?????? ??? ?? ??????? ??? ?????????? ??? ?????????? ??? ??????????????, ??  
????????? ???????????, ?????????? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ??  
?? ?????? ??? ?????? ?????????? ?? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??????, ?  
?????? ??? ?? ??? ?????????????? ?????????? ?????? ? ?????? ?????????? ?????????? ?????????? ??????????  
??? ?????????? ?????????? ???, ?? ?? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ???  
?????, ?????? ????, ??? ?????? ?????????, ?? ?? ?????? ?????????? ?????? ?????? ??? ?????? ??? ??????????  
????????? ?????????? ?????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????????? ?????????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ???  
?????????.

57 ??????????, ???????????, ?? ?????? 9?, ??????????? 1, ??? ?????????????? ???????????  
282/2011, ?? ?????? ??????????? ?? ??? ?????????????? ?????????? 1042/2013, ??? ???.  
?????????? ?? 1 ??? 4 ??? ?????????? ?????????? ???, ???????????????, ?????? ?????? ???.  
????????? ? ?????, ??? ??????? ??? ??????? ???, ???????????????, ?????? ??????, ???.  
????????? ??? ??????? ?????????????? ?????????? ?? ??????? ?? ?????????? ??? ???.  
??????, ??? ?? 1? ?????????? 2015, ?????????????? ??? ?????? ?????? ??? ???.  
????????????? ? ?????, ??? ?? ??????? ? ?? ?????? ??????? ???, ?????????????? ???.  
????? ?????????????? ??? ??????????? ??? ?????????? ???, ?? ?????????? ??? ?????? ??????????  
?? ?????????????? ??? ?????? ??? ? ??????? ?????????? ??? ??? ?????? ??? ???.  
????????? ??? ?????? ?????????? ??? ?????????????????? ??????? ? ??? ?????????? ???.  
????????? ???.

59 ??????? ??????????, ?? ????? 9?, ??????????? 1, ??? ?????????????? ??????????? 282/2011  
????????? ?? ??????????, ?? 1?? ?????????? 2015, ?????????? ?????????? ??  
????????? ?? ?????? 28 ?? ?????? ?? ?????? ?????????????? ?? ?????? ??, ?? ??  
??????, ?? ?????? ?????????? ?? ?????? ?????????? ?? ?? ?????? ?????? ?? ?????? ?????????? ??  
?????? ?????????????? ?? ????? 9?, ?????????? 1, ??? ?????????? ?? ?????? ??????????  
?? ?????? 28, ?? ?????? ???????, ??? ?????? ?? ?????? 54 ?? ??????? ???????,  
?? ?? ?????????? ???????.

60 ????????, ?? ?????????? ??? ?????? 9?, ?????????? 1, ??? ?????????????? ??????????  
282/2011 ??????? ?? ??? ?????????? ??????? ?????? ??? ?????? ??? ???, ??????????,  
?? ??? ?????? ??? ?????? 28.

61 ?????????????? ???, ?????? ?????, ??? ??? ?????????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
282/2011 ??? ?????? ??? ????? ???????? ??? ?????????? [COM(2012) 763 final], ?????? ???  
????? ?????????? ?? ????? 9? ??? ?? ????? ???????, ?????????? ???, ??????????  
????? ??? ?????????????? ??? ??????? ??? ??? 1?? ?????????? 2015 ??? ?????? ??? ???  
????????? ??? ?????? ?????????? ??????????, ?????????????????? ???  
????????????? ??? ?????????? ?????????, ??? ?????????? ?????????, ??? ???  
????????? ??? ?????????? ??????? ??? ?????????? ?????????? ??? ?????

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

62 ??? ?? ?????? ??????? ??????, ?????? ?? ?????? ?????? ??? ?? ?????? 9?, ?????????? 1, ???  
????????????? ?????????? 282/2011 ?????? ?????????? ? ?????? ??? ?????????? ??  
????????? ??? ?????? 28 ??? ?????? ???.

??? ?? ?????????? ??? ?????? ?? ?????? 9?, ?????????? 1, ??? ?????????? ???  
????????? 282/2011 ?????? ?? ??? ?????????? ?????????? ? ?????????? ??? ??  
????????? ??? ?????? 28 ??? ?????? ???

63 ??? ?? Fenix, ?? ??? ?????? ??? ?????? 9?, ?????????? 1, ??? ?????????? ???  
????????? 282/2011 ?????????? ? ?????????? ?? ?????? 28 ??? ?????? ???, ???'  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???.

64 ???' ????, ??? ?????? ?? ?????? ?????? ??? ?????? 9?, ?????????? 1, ???  
????????? 282/2011, ? Fenix ??????????, ??????, ??? ? ?????????? ???  
????? ??? ?????? ?? ???????, ?? ?? ?????? 28 ??? ?????? ???, ?? ?????? ????  
????????? ??? ?????? ?? ?????? ?? ?????????? ?? ?????? ?????????? ?????? ??? ?????? ???  
??? ?????????? ?????? ???, ?? ?? ??????, ?? ?????????? ??? ?????? ?? ?????????? ???  
????????? ??? ?????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????????? ???.  
?????????, ??? ?? Fenix, ?? ?????? ??? ?????? ?????? ??? ?????? 9?, ?????????? 1,  
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ???, ???  
??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ??? ???.

65 ??????, ??? ?? ?????????? ???, ?????? ??? ?????? 9?, ?????????? 1, ???  
?????, ??? ?????????? 282/2011, ? ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????????????? ???, ?????????? ? ?????????? ???,  
????? ??? ??? ?????????? ??? ?????????????? ???, «????????? ??? ?????? ???,  
????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ???, ?????? ??? ? ?? ???  
????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ? ?? ???  
??? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???».

66 ??????, ??? ?? ?????? ??? ?????? ?????????? ??? ? ?????????? ??? ??????,  
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? 397 ???  
?????, ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???  
28, ?????? ?? ??? ?????????? ??? ?????? ???, ??? ?? ?????? ?? ?????????? ??? ?????? ???  
?????????, ? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 28 ???  
????? ??? ???, ??? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
? ??? ?????? ???, ??? ?????? ??? 52 ??? ?????? ??? ?????? ???, ??? ??? ???  
????????? ??? ?????? ???.

67 ??? ??????, ??????????, ?? ?????? ?? ?? ?????? 9?, ?????????? 1, ??? ??????, ???  
????????? 282/2011, ??? ?????????? ??? ?????? ??? ?????????? ???, ?????????? ???  
????????? ?? ?????????? ??? ?????? 28 ??? ?????? ???, ?????????? ???, ??????, ??? ??  
????? ???, ??? ?????????? ??? ?????? 59 ??? ?????? ??? ?????? ???, ??? ?????? 9?,  
????????? 1, ?????? ??? ?????? ??? ?????? ??? ?????? 28 ??? ?????? ???  
??? ?????? ??? ?????? ?????? ??? ?????? ???, ?????? ?????? ??? ?????? ???  
????? 9?, ?????????? 1, ?????? ?????????? ?? ?????? 28, ??? ?????? ??? 50

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

68 ????????, ??? ?????? ??? ?? ?????? 9?, ??????????? 1, ????? ??????, ??? ??????????????  
?????????? 282/2011 ?????????? ??? ? ?????????? ????? ???? ?????? ??? ?????????? ??? ???? ??????  
????????????? ?????? «????????? ??? ?????? ????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????? ?????????? ??????», ?????????????? ??? ? ?????? ?????? ??? ?????????????? ???  
????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ? ??????????  
????????? ?? ?? ?????????? ??? ?????? ?????? ??? ?????? 28 ??? ?????? ???, ? ?????? ???  
????????? ??? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? 28, ???? ??  
????????? ??? ?????????? ??? ?????? ?????? ???.

70    ?? ?? ???????, ?? ?????????? ???. ??????? 9?, ??????????? 1, ?????? ??????, ???.  
?????????? 282/2011 ???. ??????????? ???. ????. ????. ??????????? ???. ?????? 28 ???. ??????  
???, ????. ???????????, ????. ????. ??????. ??????????? ???. ???, ????. ??????????????????? ???.  
????? ???. ??????. ??????. ????. ??????. ??????????? ???. ??????. ????.  
?????????????? ???. ??????, ??????. ??. ??????. ??????. ?????, ????. ??????. ????. ??????. ????.  
?????????? ???.

71 ??????, ? ??????? ?? ?????? «????? ??? ? ? ???? ?????? ?????????? ??????????  
????????????? ??? ? ? ???? ?????????? ??? ? ? ???? ?????????? ??? ? ? ????  
????????? ??? ? ? ???? ?????? ??? ? ???? ?????????? ??????????» ??? ? ???? ?????? ??? ? ????  
9?, ?????????? 1, ??? ?????????? ?????? ?????????? 282/2011 ?????? ?????? ??? ? ????  
??? ? ? ? ? ?????, ?????????? ?????? ??? ? ? ???? ?????? ?????????? ?????? ??????  
????? ??? ? ?????.

72 ???????, ?????????????? ??? ?? ?????????? ?????????????? ??????????????????, ???'?????, ??? ?????????? ??? ?????????? ?????????????? ??? ???????, ? ????? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? «?????? ??????», ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (?)?. ???????? ??? 20?? ?????? 2013, Newey, C?653/11, EU:C:2013:409, ?????? 42 ??? 43, ??? ??? 24?? ?????????? 2022, Suzlon Wind Energy Portugal, C?605/20, EU:C:2022:116, ????? 58 ??? ??? ?????????????? ??????????).

73 ???????, ?? ?????????? ??? ?????????????? ??? ? ?????????? ?????? ?? ?? ?? ?  
????????? ??? ?????? ?????? ?? ??? ????? ??????, ??? ???? ?????????? ??????, ???  
????????? ??? ?????? 28 ??? ?????? ???, ?????? ?? ??????????, ????, ??? ?? ??????  
??? ?????????? ?????? ??? ?????? ??? ?????? (????. ?????? ??? 14?? ?????? 2011, Henfling  
??., C?464/10, EU:C:2011:489, ??? 40).

74 ????????, ?? ????????, ?????????????? ??? ?????? 9?, ??????????? 1, ?????? ??????,  
??? ?????????? 282/2011 ??? ?? ??????? ??????? ?? ?? ?????? ? ?????????????? ??? ??  
??? ?????? ?????? ? ??????? ??????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ?????????? ??????? ?? ??????????, ?? ??? ?????????? ?????????????? ?????????????? ??????

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

75 ?? ????????, ??? ???? ?? ??????? ?????? ??? ???? 9?, ?????????? 1, ???  
????????? ?????? 282/2011, ?????????? ???, ??? ? ? ?????? ???, ?????? ??? ?  
????????? ??? ?????????? «??? ? ? ?????? ??? ? ?????? ?????????? ?????? ??? ?  
???? ?????????? ??? ? ? ?????? ?????? ??? ?????????? ?????? ??? ???? ???  
????????? ??? ????». ??????, ?? ?????????? ??? ?????????? ? ?????????? ?????????? ?????????? ???  
???? ?????????? ??? ? ? ?????????? ??? ?????????? ?????? ?????????? ?????????? ?????????? ??? ?  
????????? ??? ? ? ?????????? ??? ?????????? ?????? ??? ? ?????????? ??? ? ???? ??????????.  
?????????, ? ?????????? ? ? ?????????? ?????????? ??? ?????????? ? ?????????? ? ??????????  
????????? ??? ?????? ?????? ?? ?????????? ?????????? ??? ?????????? ?????????? ??? ??? ???  
????????? ??? ? ???? ??????.

76 ??? ????????, ???' ??????, ? ?????? ?????????? ??? ???? 76 ??? ??????????  
???, ? ?????? ??? ?????????? ??? ? ???? ?????? ??? ???? 9?, ?????????? 1, ???  
????????? 282/2011 ??? ?????????? ??? ???? ?????? ??? ???? ?????? ?? ???, ??????????  
?? ??????????, ??????????????, ??? ?????????? ??? ???? ?????? ?? ??? ?????????? ??? ?  
????? ? ?????? ??? ?????????? ??? ?????????? ?????????? ?????? ??? ? ???? ?????????? ??? ?  
???? ? ??? ? ? ?????????? ??? ?????????? ?????????? ??????????.

77 ??????, ?? ??????? ??? ?????? ?????? ??? ?????? 226, ?????? 5 ??? 6, ??? ??????  
?? ? ?????????? ??? ??????????, ??? ???? ?????? ?? ?????, ????? ???? ?????? 220,  
????????? 1, ??? ???? ??????, ??? ?????????? ??? ???? ?????? ??? ???? ?????? ?? ??????????  
?? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ?????????? ?????, ???  
????????? ??? ?????????? ??? ?????? (????. ?????? ??? 18? ?????? 2013, Evita-K,  
C78/12, EU:C:2013:486, ??? 49 ??? ??? ?????????? ??????), ?????????? ???  
?? ?????????? ??? ?????????? ?? ??? ?????????? ??? ?????????? ?????????? ?????????? ???  
????????? ??? ?????????? ??? ?????????? ??????. ??????, ??? ???? ??? ?????? ??? ??????????  
????????? ??? ?????? ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ?????????? ??? ??????????.

78 ?? ? ??????, ?? ?????? ??? ?????? ??? ???? 9?, ?????????? 1, ??? ??????????  
????????? 282/2011 ?????????? ??? ???? ?????? ??? ?????????? ?????? ??? ???? ?????? ??????  
?? ?????????? ??? ?????????? ???, ?????????? ??? ???? ?????? ??? ???? ?????? ??????????  
?? ?????????? ??? ?????? ?????????? ?????? ??? ?????????? ?? ?????? ??? ?????????? ???  
?? ?????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????????? ??? ???? ???  
????? ??? ? ???? ?????? ??? ?????? ?? ???? ?????? ??? ?????? 28 ??? ?????? ???.

79 ??????, ??????? ??? ???? ?????? ?????? ??? ?????? 9?, ?????????? 1, ???  
????????? 282/2011 ??? ???? ?? ?????????? ?????? ??? ???? ?????? ??? ???? ?????? ???  
?? ?????? ??? ?????? ??? ?????? ?????? ??? ???? ?????? ??? ???? ?????? ??? ????  
????????? ??? ?????? ??? ??????, ??? ??????, ?????????? ??? ?????? ??? ???? ?????????? ???  
????????? ??? ?????? ??? ?????? 71 ??? 74 ??? ?????? ??????, ?? ?????? ???  
????????? ??? ? ?????????? ?? ?????????? ??? ?????? ??? ?????? 28 ??? ?????? ???.

80 ?????, ??? ???? ?? ?????? ?????? ??? ???? 9?, ?????????? 1, ??? ??????????  
????????? 282/2011, ?????????? ???, ?????? ?? ???, «??? ???? ?????? ??? [?? ???]  
?????????, ? ?????????? ??? ?????? ??? ???? ?????, ??? ?????? ??? ?????? ??????????

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

81    ???????, ??? ?? ????? ?????? ??????? ???, ??? ? ??????????? ??? ?? ???  
?????? ?? ??? ??? ??? ????? ??????????? ??? ?? ??? ???????, ?? ??????? ?? ???  
?????????? ??? ????? ?????? ?????? ??? ?????? 9?, ?????????? 1, ??? ??????????? ???????  
282/2011 ??? ?????? ?? ?????????? ??? ??????????, ?? ?? ??????, ??????. ?? ??? ????,  
???? ??????? ?????????? ?????????? ??? ?????????? ??? ?????????????? ???????????????  
??????, ??????? ? ?????????? ?????, ??? ????? ??? ?????????? ?????????????? ???????????,  
? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ????? ?????????? ??????? ???  
?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ?????? ???, ???  
??????, ??????? ? ?????? ?????? ??? ?? ??? ?????? ??? ?????????? ??????? ?????????? ???  
?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ???  
?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
?????? ??? ??????.

82    ??????, ??????????? ???, ?????????? ??? ?????? ??? ?????????? ? Fenix, ?? ???????,  
?????????? ?? ??? ?????? ??? ?????? 9?, ?????????? 1, ??? ??????????? ???????,  
????? ??? ?????? ??? ?????????? ??? ?????????? ?????????????? ??? ???????, ?? ???  
?????? ??? ?????? ?????????? ?????????? ??? ?????? ?????????????? ???????, ???????  
? ?????????? ???, ??? ????? ?????????? ?????????? ???????, ??????? ?? ??? ?????????? ???  
?????? 28 ??? ??????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? 73 ???  
?????? ??? ??????.

83    ???????, ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ???????????  
?????????, ???????????????, ??? ??????????, ?????????????? ?????????? ???????????  
?????????, ?????? ??? ?????? ??? ?????? ?? ?????????????? ??? ??????? ? ?? ?????? ???  
????????? ??? ? ?????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???,  
????????? ?? ?????????? ?????????? ?????????? ??????? ?? ??? ??????, ??? ???  
????? ??? ??? ?????? ?????????????? ??? ? ?????? ?????? ??? ?????? ?????????? ? ??????????? ??  
????? ?????????? ? ?????? ??? ?????? ?????? ??? ?????????? ?? ?????? ?????????? ??? ?????? ???  
??? ?????????? ??? ?????? ??? ?????????????? ?????? ??? ?????????? ??? ?????? ???  
????????????? ??? ?????? ??? ?????????????? ???, ? ?????????? ??? ?????? ??? ?????? ???  
????????? ?? ?????????? ??? ?????? ???????????, ??? ?????????? ??? ?????? ???.

84    ???????, ??????? ??? ?? ??? 28 ??? ?????? ??? ?? ?????? ???, ??? ??  
?????????? ??? ??????????? ??? ?????? ??? ?????? ??? ?????? 9?, ?????????? 1, ???  
?????????? ??? 282/2011, ? ?????????? ??? ?????? ??? ?????? ?? ??????? ???  
????????? ??? ?????????? ??? ?????? 28, ?????????? ?????????? ??? ?????? ?????????? ???  
????? ?? ??? ?????????? ??? ?????? ?????????? . ???????, ? ?????????? ??? ?????? ???  
????????? ?????????? ??? ?????? ??? ?????????????? ??? ?????????? ??? ?????? ???  
?????????.

85    ? ?? ??? ??????? ??? ?????? ?? ?????????? ??? ?? ?????? ??? ?? ?????????? ???  
?????????? ??? ?????? ??? ?????? 9?, ?????????? 1, ??? ???????????  
????????? 282/2011 ??? ?????????? ??? ?????? 28 ??? ?????? ???.

86    ??????????, ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? 50  
??? 82 ??? 84 ??? ??????? ??? ???????, ?????? ??? ?????????? ???, ?????????? ??? ?????? ??? ??  
???? ???????????, ?? ?????? 9?, ?????????? 1, ?????? ??????, ??? ?????????? ??? ???????????  
282/2011 ??? ?????????? ?? ?????????? ?????????? ??? ?????? ?? ?????? 28 ???  
?????? ???, ???, ???????, ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ???  
?????? ??????? ??? ?????????? ??? ?????? 9?, ?????????? 1, ??? ???????????

??????????.

87     ??? ?????????????? ????, ??? ?????? ?? ?????? ???? ?? ?????????? ??? Fenix  
??? ?? ??? ?????????? ???? ?? ?????? 28 ??? ?????? ???? ?? ?????????????? ???? ??  
????? ??? ?????????????? ???? ?? ? ?????? ?????????, ???? ?? ?????? ??????  
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???? ?? ?????????????? , ????  
??? ?? ?????????? ???? ?? ?????? ??????.

88     ??????, ???? ?????? ???, ???????????? ?? ?????????? ?? ?????? 28 ??? ?????? ???,  
?????? ?? ?????????? ???? ?????? ?????? ??? ?????? ?? ?????????????? ?????????? , ???  
????????? ??? ?????????? , ???? ?????? ?????? (??????? ?? 12?? ?????????? 2020,  
ITH Comercial Timi?oara, C?734/19, EU:C:2020:919, ??? 51). ?????????? , ???? ??? ??  
????????? ???, ???? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ??  
????????? ??? ?????? ?????????? ?????????? , ? ?????? ?????? ?????? ???, ??  
????????? ?????????? , ?? ???? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? , ?????????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?? ?????????? ?????? ??? ?????? ???, ? ?????? ?????????? ??? ?????? ???  
????????? , ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? , ???? ??? ?????? ???  
????? 28 ??? ?????? ??? (????. ?????? ??? 14?? ?????? 2011, Henfling ???., C?464/10,  
EU:C:2011:489, ??? 43). ???????, ?????? ??? ?????? ?????? ?????? ?????????? ??  
????????? ??? ?????????? ?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ?????? ??????.

89     ??? ??? ??????? ????, ??? ?????? ?? ??????? ???? ?? ?????? ?????? ??? ?????? 9?,  
????????? 1, ??? ?????????? 282/2011, ???? ??? ?? ??? ?????? ????,  
????????? ? ?????????? ?? ?????? 28 ??? ?????? ???.

90     ??? ???????, ?? ???????, ?????????? ?? ?????? 9?, ?????????? 1, ???  
????????? 282/2011, ?????????? ?? ?????? ?????? ??? ?????????? ??? ?????????? ???  
??? ?????? ?????? ?? ?????? 28 ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ?????? , ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? 397 ??? ?????? ???, ???' ?????? ??? ?????? 291, ?????????? 2, ???.

91     ????????????? ???? ??? ?????? ??? ?????? ?????? ?????????????? , ??? ?????????? ??????????????  
????? ?????? ?? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????  
????? ?????? ?? ?????? ??? ?????? ??? ?????? 9?, ?????????? 1, ??? ??????????  
????????? 282/2011, ???? ?? ?????? , ???? 28 ??? 397 ??? ?????? ??? ??,  
????? , ??? ?????? 291, ?????????? 2, ???.

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

92     ????????? ???? ? ?????? ?????????? ???? ?? ?????? ??? ?????? ?????????? ??? ?????? ???  
??? ?????????? ?????????? ???? ?????? ??? ?????? ?????? ??? ?????? ?????????? , ?' ???  
????????? ?? ?????? ??? ?????? ??? ?????? ?????? ??????. ?? ?????? ??? ?????? ??????????  
????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? , ??? ??????????  
??? ?????? ?????? ??? ?????? (????? ?????? ??????) ??????????:  
??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ?? ?????? ?? ?????? ??? ?????? 9?, ?????????? 1, ??? ??????????  
????????? (??) 282/2011 ??? ?????? , ??? 15?? ?????? 2011, ???? ?? ??????  
????? ?????? ??? ?????? 2006/112/?? ?????? ?? ?? ?????? ?????? ????  
????????? , ??? ?????? ?????? ?? ??? ?????? ?????? ?????? (??)  
1042/2013 ??? ?????? , ??? 7?? ?????? 2013, ???? ?? ?????? , ?????? , ???  
????? 28 ??? 397 ??? ?????? 2006/112/?? ??? ?????? , ??? 28?? ????????

2006, ??????? ?? ?? ?????? ??????? ?????? ??????????????? ??????, ????  
?????????????? ?? ?? ?????? (??) 2017/2455 ??? ???????????, ??? 5?? ???????????  
2017, ???, ????????, ??? ?????? 291, ?????????? 2, ????.

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

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