



QORTI TAL-APPELL

IMĦALLFIN

**S.T.O. PRIM IMĦALLEF MARK CHETCUTI
ONOR. IMĦALLEF JOSEPH R. MICALLEF
ONOR. IMĦALLEF TONIO MALLIA**

Seduta ta' nhar it-Tnejn, 20 ta' Marzu, 2023.

Numru 1

Rikors numru 556/22/1

Executive 4 Security Joint Venture, komposta minn Executive Security Services Limited (C-45125), Diemme S.C.A.R.L. (Numru tar-Registrazzjoni tal-Kooperattiva A187235), BAVA Holdings Limited (221374M) u G4 Vigilanza S.p.A. (Numru REA BS-554071)

v.

Central Procurement and Supplies Unit, Direttur Generali (Kuntratti), u Signal 8 Security Services Malta Limited (C-54368)

Il-Qorti:

1. Rat li dan hu appell imressaq fit-30 ta' Novembru, 2022, mill-*Joint Venture* rikorrenti Executive 4 Security wara deċiżjoni li ta l-Bord ta' Reviżjoni dwar il-Kuntratti Pubbliċi (minn hawn 'il quddiem imsejjaħ "il-

Bord”) fit-23 ta’ Novembru, 2022 fil-każ referenza CT2234/2021 (każ numru 1816).

2. Dan il-każ jirreferi għas-sejha pubblika bl-isem “*tender for the provision of security services for the Minister of Health – Lots 1 to 7*”. Għal din is-sejha nxehtu diversi offerti fosthom mill-*Joint Venture* rikorrenti u s-soċjetà intimata. Il-*Joint Venture* rikorrenti ġiet skwalifikata u appellat għal quddiem il-Bord peress illi ġiet skwalifikata minn *lot 1* b’aggravju jkun li l-offerta tas-soċjetà intimata, li ġiet dikjarata bħala l-oblatur preferut, kienet anqas minn dak li seta’ tassattivament jiġi ndikat skont ir-rekwiżiti tas-sejha. Il-Bord iddeċieda favur is-soċjetà rikorrenti fid-19 ta’ Awwissu, 2022. Il-Bord iddeċieda, dejjem b’referenza għal-*lot 1*, li l-offerta tas-soċjetà intimata kienet baxxa u mhux normali skont ir-Regolament 243 tal-Legislazzjoni Sussidjarja 601.03. Minn din id-deċiżjoni ma sar ebda appell.

3. Wara din id-deċiżjoni, id-Direttur tal-kuntratti rrealizza li għamel żball fl-analiżi tal-*lots* l-oħra kollha, u għażel li jikkancella l-għotjiet tal-*lots* l-oħra kollha, u jirivaluthom mill-ġdid a bażi ta’ dak li ddeċieda l-Bord fir-rigward ta’ *lot 1*. Id-Direttur ikkonsidra wkoll li l-kumitat evalwattiv kien l-istess wieħed għal-*lots* kollha u jekk seħħ nuqqas fl-evalwazzjoni ta’ *lot 1*, l-istess nuqqas ikun ġie ripetut fil-*lots* l-oħra kollha. Dawn il-*lots* l-oħra kienu ġew rakkomandati li jingħataw lis-soċjetà intimata.

4. Is-soċjetà intimata ħassitha aggravata b'din id-deċiżjoni u ressqet oġġezzjoni għall-quddiem il-Bord limitatament fir-rigward ta' *lot* 4, prinċipalment fuq il-baži li dak li ġie deċiż mill-Bord fil-kuntest ta' *lot* 1 ma kellux jiġi applikat fil-każ ta' *lot* 4 u l-lots l-oħra.

5. Il-Bord, fid-deċiżjoni tiegħu tat-23 ta' Novembru, 2022 laqa' l-oġġezzjoni tas-soċjetà intimata u ordna lid-Dipartiment tal-Kuntratti jannulla u jirrevoka d-deċiżjoni li ħa fir-rigward *lot* 4 li kellha tibqa' rrakkomandata li tingħata lis-soċjetà intimata. Il-Bord ordna wkoll li d-Dipartiment jieħu kwalunkwe azzjoni li jqis neċessarja dwar *lots* 2, 3, 5, 6 u 7 wara l-konkluzjonijiet tiegħu. Id-deċiżjoni tal-Bord hija s-segweni:

“The Board refers to the minutes of the Board sitting of the 17th November 2022.

Having noted the objection filed by Signal 8 Security Services Malta Limited (hereinafter referred to as the Appellant) on 28th October 2022, refers to the claims made by the same Appellant with regard to the tender of reference CT2234/2021 – Lot 4 listed as case No. 1816 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Albert Zerafa & Dr Natalino Caruana De Brincat

Appearing for the Department of Contracts: Dr Mark Anthony Debono

Appearing for the Contracting Authority: Dr Leon Camilleri & Dr Alexia Farrugia Zrinzo

Whereby, the Appellant contends that:

- a) The Director General Contracts erroneously interpreted the decision, dated 19th August 2022 in Case 1775, by applying the said decision to all Lots, this notwithstanding that the Director General Contracts was fully aware the original letter of objection filed by

Executive 4 Security Joint Venture was merely limited to one lot, ergo Lot 1. Moreover, the Public Contracts Review Board in the decision dated 19th August 2022 clearly evaluated the letter of objection filed by Executive 4 Security Joint Venture which was only limited to Lot 1.

b) Without prejudice to the aforesaid, the decision for withdrawing the award letter dated 29th April 2022 by Director General Contracts does not (a) highlight the reasoning use (sic) or applied behind such administrative act so much so that reference to article 39 (1) of the SL 601.03 was made without context or expiation on the applicability thereof, and (b) that if one had to assume that the decision of the Director General Contracts was based on the assumption that there exist alleged abnormalities vis-à-vis Lot 2 to Lot 7 the Director General Contracts prima facie should have indicated which are these alleged abnormalities. That at face value there seem to be no abnormalities vis-à-vis Lot 2 to Lot 7. That the aforesaid can be confirmed by the fact that no economic operators appealed the recommended awards vis-à-vis Lot 2 to Lot 7 on the same ground that Executive 4 Security Joint Venture originally applied.

c) Without prejudice to the aforesaid, the Director General Contracts action is erroneous and unreasonable when, by virtue of the correspondence dated 18 October 2022, he extended the right to appeals process on the Lots 2 to 7, notwithstanding that such process was already exhausted. With such decision and wide interpretation, the Director General Contract acted against the principle of natural justice and this not in line with article 39 (1) of the SL 601.03 which holds that the 'Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner' That by analogy by such decision (limitedly to Lot 2 to 7) the Director General Contract is in actual fact and definitely discriminating against the Objector. All economic operators have been treated equally when they had the opportunity to appeal the first time (which in fact was the case vis-à-vis Lot 1).

d) Without prejudice to the aforesaid, the Director General Contract gave the impression that the right to appeal is relevant on every individual Lot since it is applicable individually to each Lot, when in actual fact there was merely one identical erroneous and unreasonable decision communicate (sic) in merely one letter which was taken across the board vis-à-vis Lot 2 to Lot 7. Moreover, this was a financial burden on the Objector since notwithstanding the decision was one applicable across the board Signal 8 Security Services Malta Limited (C54368) have been force (sic) to pay the fee for each identical objection.

This Board also noted the DoC's Reasoned Letter of Reply filed on 7th November 2022 and its verbal submission during the hearing held on 17th November 2022, in that:

a) Preliminary –

Despite that the General Contracts Committee had recommended for award the objector by means of a letter dated 29th April 2022, the decision of the Public Contracts Review Board, *a fortiori* this implies that the Tender Evaluation Committee had not evaluated the tender offers in the other Lots in accordance with the tender document specifications, namely the proper calculation of the costs involved in the provision of the services.

This decision had been the basis of the decision of the General Contracts Committee in terms of regulation 72 and regulation 15 of the Public Procurement Regulations, 2016 whereby the DoC can exercise its administrative authority to revoke the award of the contract should there be discrimination in the award.

b) Payment of deposit of Objection –

The DoC submits that the objector has not adhered to the procedure prescribed for the payment necessary for the lodging of the objection since it has paid by a cheque addressed to the Public Contracts Review Board instead of bank transfer addressed to the Cashier, Government of Malta as stipulated in the letter of the DoC dated 18th October 2022.

c) Erroneous interpretation –

Contrary to the submissions of the objector, the DoC did not interpret wrongly the decision of the Public Contracts Review Board since same decision ordered the Contracting Authority to re-evaluate all the bids received in the tender. Therefore, DoC respectfully disagrees with the following statement made by the appellant: *“Moreover, the Public Contracts Review Board in the decision dated 19th August 2022 clearly evaluated the letter of objection filed by Executive 4 Security Joint Venture which was only limited to Lot 1”*

d) Duty to give reasons –

The DoC respectfully disagrees with the following submission of the objector whereby it states that the DoC has not provided reasons nor justified its administrative decision to revoke the award of the contract and that regulation 39 has been applied without context.

Firstly, the appellant cannot be correct in its statements that the decision taken by the DoC *“was based on the assumption that there exist abnormalities”* since any contrary interpretation of the

evaluation process undertaken by the Tender Evaluation Committee entails that the same Committee had adopted a different methodology for calculating the administrative costs involved in the tender offers for the different Lots, when the content of the services for the different Lots involves the same considerations for the same services.

Contrary to the submissions of the objector whereby it states that the DoC should have indicated the *“alleged abnormalities”* in the letter dated 18th October 2022 by the DoC communicated to the objector refers to the decision of the 19th August 2022 whereby the context for the application of regulation 39(1) of the Public Contracts Review Board and the alleged abnormalities refers to the irregularity of the Evaluation to scrutinise abnormally low tenders: *“Thus, since the General Contracts Committee has only been made aware of the defect in evaluation by means of the PCR B decision and the functions of same committee is to evaluate reports and recommendations of contracting authorities and to act on any irregularities detected in the tendering process, the Committee is obliged to ensure that the necessary action has to be taken. Although the PCR B decision may only have direct legal consequences on the evaluation of Lot 1, the Evaluation Committee's failure to scrutinise abnormally low bids, as detailed in the decision of the PCR B, is a defect of evaluation of the tenders which affects the evaluation carried out for all the Lots”*

According to Section 1.3 of the Tender Document, the Estimated Procurement Value for Lots 2 to 7 had been as follows: Lot 2 - €3,653,173.68, Lot 3 - €5,684,1 65.89, Lot 4 - €23,288.40, Lot 5 - €193,423.10, Lot 6- €282,565.92, Lot 7 - €2,825,659.20. In accordance with the Letter dated 29th April 2022, the same contracts were awarded to the objector in the following amounts: Lot 2: €3,443,097.84 (€210,075.84) Lot 3: €5.357.784.25 (€326,381.64) Lot 4: €21,949.20 (€1,339.20), Lot 5: €182,300.30 (€11.122.27), Lot 6: €266,316.96 (€16,248.92), Lot 7: €2,663,169.60 (€162,489.96).

While it is acknowledged that no economic operator had appealed the recommended awards vis-a-vis Lots 2 to Lot 7, since the recommended award contracts are offers by the objector all being below the estimated procurement value issued in the tender document, such fact should prima facie call for the scrutiny by the Tender Evaluation Committee.

The Public Contracts Review Board, in its considerations for its decision dated 19th August 2022, states: *“Therefore, it is evident that the 'normal' 40-hour week (multiplied by 2 as done by Mr Farrugia) is certainly not enough resources to cover such a demand in the tender document and therefore mitigating alternatives need to be procured. As outlined in jurisprudence, economic operators are at liberty to bid at what appears to be abnormally low bids, by for*

example foregoing their element of profitability, but these have to be duly scrutinised by the evaluation committees”

Since the Public Contracts Review Board had by means of its decision dated 19th August 2022 ordered the setting up of a new Tender Evaluation Committee for the evaluation of offers on account of the lack of scrutiny of low bids, the same reasoning should be applied to the other Lots in the call for tenders under examination, considering that the evaluation of tenders and the recommendations of the Tender Evaluation Committee are drawn up in an individual report in accordance with regulation 17(1)(b) and regulation 241 of the Public Procurement Regulations, 2016.

e) Discrimination and exhaustion of the right of appeal –

The DoC respectfully disagrees that the action of the DoC is erroneous, unreasonable or that it discriminates among economic operators on account that such process has already (sic) exhausted since the application of the decision for the revocation of the award communicated by letter 18th October 2022 is based on its residual authority in terms of regulation 15 of the Public Procurement Regulations, 2016 which provides that such authority may be exercised even after the passage of the time of appeal: *“The Director has the right to cancel the award of a contract at any time during a call for tenders or quotations even after the recommended bidder has been decreed and the time establish to file and (sic) appeal before the Public Contracts Review Board has lapsed... made in such « way as to discriminate between economic operators.”*

That the DoC submits that there is no discrimination among the different economic operators nor against the objector since the procedural right of appeal is granted ex lege in accordance with regulation 270 of the Public Procurement Regulations, 2016 for the decision to revoke the award. Therefore, the DoC respectfully (sic) that the decision undertaken for the revocation of the award is not in any manner unreasonable or discriminatory.

f) Procedure for the right of appeal and the amount of the deposit-

With all due respect, the DoC in its letter dated 18th October 2022 had issued a decision which revoked the award of six public contracts all of which had been awarded to the objector namely Lot 2, Lot 3, Lot 4, Lot 5, Lot 6 and Lot 7.

The procedure prescribed for communicating the alleged erroneous decision of the revocation of the award by the DoC is an administrative matter which has no bearing whatsoever on the procedural right of the objector to lodge an appeal in terms of

regulation 270 of the Public Procurement Regulations, 2016 with respect to the different Lots;

With respect to the submissions of the objector as to the amount fixed as deposit for the filing of the objection, the objector states that: *“Moreover, this was a financial burden on the Objector since notwithstanding the decision was one applicable across the board Signal & Security Services Malta Limited have been force (sic) to pay the fee for each identical objection”*

The DoC respectfully disagrees that the DoC in its letter dated 18th October 2022 there had been any discretion in its decision-making since it had applied the methodology stipulated ex lege and prescribed in regulation 273 of the Public Procurement Regulations, 2016.

This Board, after having examined the relevant documentation to this appeal and heard submissions made by all the interested parties including the testimony of the witness duly summoned, will now consider Appellant’s grievances.

a) **On the Preliminary submissions –**

This Board will as from the outset declare that its decision, numbered 1775, issued on the 19th August 2022, specifically deals with Lot 1 of tender CT2234/2021. The Department of Contracts state in their letter of reply, (reference to point 4 of the “DoC” letter filed on 7th November 2022) that such decision has legal implications on the other lots forming part of the call for tenders. This Board categorically disagrees with such a statement for a number of reasons which will be duly explained further on. However, it is pertinent to immediately point out that as per Section 1 – Instruction to Tenderers, part 5 (C) (ii), lots 1 to 7 had different and unique specifications relevant to each and every one of them. Without the necessity to state the obvious, lot 1, being the largest in monetary value, had the widest specifications to be adhered to. Lots 2 to 7, in general and in varying degrees, had less requirements with respect to Key Experts.

b) **Payment of deposit of Objection –**

This Board notes that the same DoC representative did not want to proceed with further submissions on the matter. Therefore, this Board will not delve further into this point apart from stating that cheques made payable to the Public Contracts Review Board have always been accepted as a correct manner of settling appeal dues since the inception of the Public Contracts Review Board. The instructions to make payments to the Cashier, Government of Malta by bank transfer was only instituted as an interim measure at the onset of the Covid pandemic to avoid handling paper.

c) **Erroneous interpretation –**

As initially pointed in paragraph (a) of this Board's considerations above, this Board categorically disagrees with the interpretation that the DoC is giving to PCR decision 1775 issued on 19th August 2022. The Board's remit and jurisdiction, in case number 1775, was solely on Lot 1 of tender CT2234/2021. It is pertinent to note that reference to 'Lot 1' is mentioned on numerous occasions. This both in the minutes and the decision section of case 1775. Without the below being referred to as an exhaustive list, Lot 1 has been referred to in:

- i. The title of the Decision itself;
- ii. The title of the Minutes;
- iii. Page 2 of the Minutes;
- iv. Page 7 paragraphs 'A', 'B' and 'C' of the Decision; and
- v. The Deposit paid.

Therefore, this Board cannot again but not emphasise, that decision 1775 was solely meant to refer to Lot 1 of CT2234/2021.

d) **On the main merits of the appeal –**

- i. This Board notes that the deposit paid on this appeal is only in relation to Lot 4. Hence any eventual decision of this Board is solely attributable to Lot 4.

However, it is also fundamental to note that the DoC's letter of 18th October 2022 is using the same reasoning for the withdrawal of award for Lots 2 – 7.

- ii. Relevant to these proceeding is the testimony under oath of Mr Joseph John Grech whereby he stated "*All the ancillary requests involved in these operations (reference to Lot 1) were detailed which was not the case in lots 2 to 7 were rates were based on the minimum.*" The Board notes that this testimony is corroborated by Section 1 – Instruction to Tenderers, part 5 (C) (ii) as already mentioned in Board considerations para (a) above.

- iii. More relevant is the testimony under oath of Mr Anthony Cachia whereby initially this Board concurs with the reasoning he (in representation of the DoC) exercised when he stated "*If there is doubt on one lot there is no peace of mind that other lots are correct*". However, where this Board completely disagrees is when he stated "*I worked on the principle that if lot 1 was wrong than all other lots had to be abnormally low.*" Moreover, he confirmed that he had not checked that in the case of lot 4 only security officers were required.

The Board disagrees for the following reasons.

1) This Board's decision, i.e. 1775 of 19th August 2022, even though it discussed in detail the principle of 'Abnormally Low' bids, it found in favour of the Appellant on the specifics of the 'Key Experts'. More specifically, that Duty Senior Guards and Supervisors had to be on duty on a 24-hour basis all year long including Public and National holidays and inconsistencies were found on this matter.

2) There were absolutely no issues raised on the 'Security Officers'. This is evidenced when the Board had stated *"The figure of €10,129,159.27, representing the estimated number of hours at the minimum rate payable to employees (Security Officers) is not being disputed. This also as per paragraph 3 of the Contracting Authority's letter of reply"* in point (d) of the 'Relevant points' and *"The above is all deemed relevant as if one were to add the figure of €10,129,159.27, representing the estimated number of hours at the minimum rate payable to employees (Security Officers) which as already analysed is not being disputed,"* in point (e) of the 'Conclusions'.

iv. Therefore, this Board opines that the ideology used by the DoC when deciding on and formulating the letter withdrawing awards of Lots 2 – 7 dated 18th October 2022 is based on wrong motivations. This for the simple fact that Lot 4 requires no 'Key Experts' at all, while all the other lots (Lot 2, 3, 5, 6 & 7) require different and less 'Key Experts' than Lot 1.

v. This Board therefore, opines that the DoC, once it interpreted (wrongly) the PCRB's decision 1775 as it did, was duty bound to check on these matters (the specific issues why the PCRB upheld the Appellant's grievances) rather than just rely on the principle of 'Abnormally Low' for the withdrawal of award of Lots 2 – 7.

Therefore, this Board will uphold the Appellant's main grievance in requesting the revocation of the Department of Contract letter dated 18th October 2022, with specific reference to Lot 4.

e) **On he injunction –**

This Board notes the documentation presented by Appellant during the hearing, reference to the injunction filed by Signal 8 Security Services Malta Limited.

This Board feels it is important to state that its jurisdiction rests solely on Lot 4 for reasons already listed above.

Reference is hereby made to the testimony of Mr Anthony Cachia whereby

Dr Albert Zerafa “..... Jigifieri ara jekk naqblux, mela allura, id-decizjoni illi ser tittiehed fir-rigward ta’ Lot 4, issa sia *posittiva* ghal Signal 8 jew inkella kontra Signal 8. Naqblu allura li ha jkollha *effett fuq il-Lots l-ohrajn ukoll.*”

Xhud (Mr Anthony Cachia) “*Iva.*”

Since the injunction is a matter between the DoC and Signal 8 the Board is optimistic that its decision on Lot 4 and the views expressed by the Director will now open the way for settlement to be reached on the remaining lots to avoid further delays.

The Board,

Having evaluated all the above and based on the above considerations, concludes and decides:

- a) Uphold Appellant’s Letter of Objection and contentions,
- b) Order the Department of Contracts to annul and revoke its decision on Lot 4 as per its letter 18th October 2022, therefore awarding Lot 4 to the Appellant company,
- c) To take any necessary action it deems fit on Lots 2, 3, 5, 6 and 7 after the conclusions of this Board and
- d) Directs that the deposit paid by Appellant to be reimbursed”.

6. Minn din l-añhar decizjoni tal-Bord, il-*Joint Venture* rikorrenti issa ressqet appell għal quddiem din il-Qorti. Din il-*Joint Venture* issa appellanti tqis li d-Direttur tal-Kuntratti mexa sew, f’għieñ it-trasparenza u l-ugwaljanza, li ħassar id-decizjonijiet kollha li ttieñdu fir-rigward *lots* 1 sa 7 biex jiġu evalwati mill-ġdid minn kumitat evalwattiv kompost minn membri ġodda, kif kien irrakkomanda l-Bord fil-każ ta’ *lot* 1.

7. Issa li semgħet it-trattazzjoni tad-difensuri tal-partijiet u rat l-atti kollha tal-kawża u d-dokumenti esebiti, tinsab f’pożizzjoni li tgħaddi għas-sentenza.

Ikkonsidrat:

8. Din il-Qorti tibda billi tosserva li d-deċiżjoni li ħa d-Direttur tal-Kuntratti li jħassar dak li ddeċieda l-kumitat evalwattiv hija waħda li seta' jieħu a bażi tar-Regolament 15 tal-imsemmi Leġislazzjoni Sussidjarja 601.03. Dan ir-Regolament jipprovdi illi:

“15. (1) Id-Direttur tal-Kuntratti għandu dritt li jħassar għotja ta' kuntratt f'kull waqt tal-proċess tas-sejħa jew kwotazzjonijiet ukoll wara li jkun ġie mħabbar l-offerent magħżul u jkun ukoll għadda ż-żmien biex jittressqu lmenti quddiem il-Bord ta' Reviżjoni jew Qorti, jekk jinstab illi l-għotja ta' dak il-kuntratt tkun saret bi ksur ta' dawn ir-regolamenti jew tkun ingħatat b'mod li jiddiskrimina bejn l-operaturi ekonomiċi”.

9. Din id-diskrezzjoni mogħtija lid-Direttur mhix waħda assoluta iżda f'dan il-każ ġiet eżerċitata korrettement. Il-Bord sab li l-analiżi li kien għamel il-kumitat evalwattiv fil-konfront ta' lot 1 kienet żbaljata, u l-membri ta' dan il-kumitat stqarrew illi huma qiesu l-offerti finanzjarji tal-offerenti l-oħra kollha bl-istess mod kif qieshom għal-lot 1. Ir-riżultat hu, u hekk ikkonfermaw, li jekk kien hemm nuqqas fil-lot 1, dan ġie replikat fil-lots l-oħra kollha. Kieku, fil-verità, qiesu l-offerti finanzjarji għal-lots l-oħra b'mod differenti milli qieshom għal-lot 1, dan ikun ifisser li tkun saret xi ħaġa irregolari.

10. F'dan il-każ, jirriżulta li fil-lots l-oħra, l-offerti tas-soċjetà intimata kienu prattikament kollha kemm huma madwar 6% anqas mill-*estimated procurement value* u kellhom għalhekk jiġu investigati. Dan ikompli

jiġġustifika li d-diskrezzjoni eżerċitata mid-Direttur ma kinitx biss fuq “assunzjoni”, kif b’hal donnu jimplika l-Bord, iżda kienet bażata fuq fatti *prima facie* li fuqhom id-Direttur kien tenut u legalment obligat li jaġixxi.

11. Darba li d-Direttur irrealizza li jekk tinbidel l-evalwazzjoni ta’ *lot* 1, skont kif qal il-Bord, ikun hemm trattament differenti bejn il-*lots*, kien fid-dover li jara li n-nuqqas jew żball li ġie rikonstrat g’hal-*lot* 1, ma jiġix perpetwat u replikat f’*lots* 2 sa 7. Kif intqal aktar qabel, il-membri tal-kumitat evalwattiv qalu li huma qiesu l-element finanzjarju bl-istess riga li qiesu f’*lot* 1. Li kieku baqa’ passiv fir-rigward ta’ *lots* 2 sa 7, meta d-Direttur kien rinfaċċjat bid-deċiżjoni tal-Bord, t’fisser li d-Direttur kien qed jaċċetta li l-oblaturi ta’ *lot* 1 u dawk ta’ *lots* 2 sa 7 kienu ser ikunu trattati b’mod differenti. Veru li d-deċiżjoni tal-Bord tad-19 ta’ Awwissu 2022 kienet fil-kuntest biss ta’ *lot* 1, iżda dik id-deċiżjoni kellha mpatt fuq l-offerti l-oħra, u g’halhekk id-Direttur f’dan il-każ eżerċita d-diskrezzjoni mogħtija lilu bl-imsemmi Artikolu 15 b’mod legittimu u korrett għax altrimenti kien ikollu riżultat kontra l-liġi u diskriminatorju.

Għaldaqstant, għar-raġunijiet premissi, tiddisponi mill-appell ta’ Executive 4 Security Joint Venture billi tilqa’ l-istess u tħassar u tirrevoka d-deċiżjoni li ħa l-Bord ta’ Reviżjoni dwar Kuntratti Pubbliċi fit-23 ta’ Novembru, 2022, u tikkonferma d-deċiżjoni li ħa fir-rigward id-Direttur tal-kuntratti.

Id-depożitu li ħalset G4S Security Services Ltd. mal-oġġezzjoni tagħha quddiem il-Bord għandu jintilef, u l-ispejjeż marbuta ma' dan l-appell għandhom jitħallsu wkoll minn din is-soċjetà appellata.

Mark Chetcuti
Prim Imħallef

Joseph R. Micallef
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