

**CURRENT REPORT FILED WITH THE POLISH FINANCIAL
SUPERVISION AUTHORITY IN WARSAW****DATE: 17 January 2024**VERIFIED
ENVIRONMENTAL
MANAGEMENT
REG. NO. PL 2.24-001-5

Subject: Withdrawal from Contract and Settlement with St. John Paul II 'MEMORY AND IDENTITY' Museum in Toruń for reasons attributable to Employer [CR No. 2/2024]

Text of the report:

The Management Board of RAFAKO S.A. of Racibórz (the "**Company**") – further to (i) Current Report No. 5/2019 of 16 April 2019 announcing the execution by the Company and Muzeum PAMIĘĆ I TOŻSAMOŚĆ im. św. Jana Pawła II (w organizacji) (in formation) of Toruń (the "**St. John Paul II 'MEMORY AND IDENTITY' Museum in Toruń**" or the "**Employer**") of a design & build contract for the construction of the St. John Paul II MEMORY AND IDENTITY Museum Building (the "**Contract**"), (ii) Current Report No. 49/2021 of 23 December 2021 announcing the execution of an annex to the Contract, (iii) Current Report No. 101/2023 of 13 October 2023 announcing the execution of a settlement agreement between the Company and the St. John Paul II 'MEMORY AND IDENTITY' Museum in Toruń (the "**Settlement**"), and (iv) Current Report No. 127/2023 of 21 December 2023 announcing the receipt of a notice of withdrawal from the Contract and the Settlement from the St. John Paul II 'MEMORY AND IDENTITY' Museum in Toruń on 20 December 2023, along with a call on the Company to carry out a survey of the work performed under the project on 21 December 2023, and further announcing that the Company challenged the Employer's right to withdraw from the Contract and the Settlement in its entirety, as articulated in a letter to the Employer of 21 December 2023, stating that the Company deemed the notice ineffective and giving rise to none of the legal effects provided therein

– hereby announces that due to the expiry, without the issues listed below having been effectively remedied, of an additional time limit set for the Employer to:

- (i) cease the breaches identified in the Company's letter No. RAFAKO/DPG01/2024/005 of 9 January 2024, including by fulfilling its obligations under the Contract and the Settlement which it continues to be in default on, and
- (ii) cooperate in order to enable the Company to perform the Contract and the Settlement,

– which breaches and failure to cooperate by the Employer have prevented the Company from performing the Contract and the Settlement, particularly in the part related to the implementation of the Remedy Plan, as defined in the Settlement, in line with the Detailed Financial and Work Schedule to the Remedy Plan, as duly presented to the Employer in accordance with the Settlement, on 17 January 2024 the Company served the Employer with a notice of withdrawal from the Contract and the Settlement with effect from the date of the notice, i.e. extending to the work that has not yet been performed under the Contract and/or the Settlement.

Furthermore, the Company has asserted that, as it remains ready to implement the Remedy Plan in its entirety and the obstacles it has encountered are solely due to the actions and fault of the Employer, the Company retains the right to receive the entire Contract Price under Clause 5.1.1 of the Contract, as amended by Clause 2.2 of the Settlement, including the right to receive remuneration for the part of the work contemplated by the Contract but left incomplete as at the withdrawal date, encompassing a part of the Remedy Plan, that is the total outstanding amount of **PLN 25,418,282.26 VAT exclusive**. On this basis, on 17 January 2024, the Company issued the final VAT invoice for PLN 12,980,300.00 VAT exclusive in

respect of the Remedy Plan, which is due 30 days from the date of delivery of the invoice, and failure to make the payment within this time limit will result in the matter being brought to court. The Company wishes to indicate the Employer's complete lack of cooperation in the performance of the Contract and the Settlement as the reason for the withdrawal, particularly where it relates to the implementation of the Remedy Plan, as defined in the Settlement, in line with the Detailed Financial and Work Schedule to the Remedy Plan, as duly presented to the Employer in accordance with the Settlement. In the Company's opinion, the evident lack of cooperation, or indeed deliberate obstruction by the Employer, is supported by the fact that, despite the statutory and contractual obligations of the Employer under the Contract and the Settlement to duly cooperate with the Company in achieving the common objective set out in Section 36 of the Settlement Recitals:

- 1) the Employer unjustifiably denies the undisputed fact that the Company has duly submitted the Detailed Financial and Work Schedule to the Employer in accordance with the Settlement, and refuses approval without valid cause,
- 2) the Employer has ineffectively attempted to withdraw from the Contract and the Settlement with effect as of 20 December 2023, claiming the Contractor's alleged failure to provide the Detailed Financial and Work Schedule to the Remedy Plan within 30 days of the Settlement date as the basis for the withdrawal,
- 3) the Employer denied access to the Museum's premises to representatives of the Company and the Company's subcontractors involved in the implementation of the Remedy Plan on 21 December 2023, 22 December 2023, and 2 January 2024,
- 4) the Employer continues to unjustifiably deny access to the Museum's premises to the Company's representatives seeking access to remedy the defects outlined in the Final Acceptance Defects List, attached as Appendix 8 to the Settlement, on the terms and conditions provided for in the Settlement, particularly Clause 3.13 thereof,

– which, despite the Company's readiness to proceed with the work and rectify all qualifying defects in the Final Acceptance Defects List, has prevented the Company, for reasons attributable solely to the Employer, from performing the Contract and the Settlement, including the part related to the implementation of the Remedy Plan, as defined in the Settlement, in line with the Detailed Financial and Work Schedule to the Remedy Plan, as duly presented to the Employer in accordance with the Settlement.

The Company would like to point out that, in response to its letters Ref. No. EMITENT/DPG01/2024/005 of 9 January 2024 and Ref. No. EMITENT/DPG01/2024/013 of 12 January 2024, constituting the final call on the Employer to cease breaches of the Contract and the Settlement by the final time limit of 1pm on 15 January 2024, under pain of the Company's withdrawal from the Contract and the Settlement solely due to the fault of the Employer, the Employer, in its letter of 16 January 2024, contested the Company's justified requests presented in the above letters. Faced with no alternative, the Company has proceeded to withdraw from the Contract and the Settlement with effect from the date of the notice, i.e. to such extent as work agreed under the Contract and the Settlement has not yet been performed, solely due to the fault of the Employer.

Legal basis:

Article 17(1) of the Market Abuse Regulation – inside information.

Robert Kuraszkiewicz – President of the Management Board

Andrzej Marciniak – Member of the Management Board