

A Study of Concurrent Delay in Public Construction Contract of Taiwan's Legal System: Based on Common Law and FIDIC

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Abstract

The delays of Public Construction Contract are the main controversial types in government procurement cases. In "Analysis of cases of the source and the question types of Government Procurement Dispute events" of 2003 published by the Public Construction Commission of Executive Yuan, the dispute of contract performance period is 26.13% of all controversies. It seems that the dispute of delays has become an important issue. In such controversy, the most complex cases are "Concurrent Delays", which delay occurred not only in the contractor, also present in the owners or third case. How such obligations of Concurrent Delay should be allocated? Could contractor request Time extension? Whether Owner could claim compensation for Liquidated damage? Whether Contractor could claim the additional expenses or Prolongation Cost? All these are recognized as the problem internationally. However, investigation of this problem is not in vogue in domestic academic circles, and it is dealt with only with Comparative Negligence or *clausula rebus sic stantibus* in the processing of court cases. It is without consideration of the nature, responsibilities or Risk Allocation of Concurrent Delays, so that criteria is not clear, and causes problems caused in application of law. This article is intended to introduce and study for the types of Concurrent Delays which recognized international, and distribution for responsibility or Risk Allocation of Concurrent Delays. This article is also trying to apply them for the similar issues in future in Taiwan's legal system.

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Keywords: concurrent delay, risk allocation, time extension, prolongation cost, FIDIC, delay and disruption protocol