

“Temporary Works” failed > with body injuries / fatalities

A _ Starting point: „Design of temporary structure / production facility“

A0 Contractual requirements

The Construction Contract based on Red Book/MDB2010 with **no specified design for permanent works**, except in the Particular Conditions of Contract SC04.8: If no design for Temporary works is provided, **the Contractor shall get the approval of the Temporary Works (SC01.1.5.7) ahead of execution.**

A1 The Contractor submitted the structural analysis and drawings.

A2 The Engineer approved the structural analysis and the drawings.

A3 After assembling the temporary structure, the operation of the temporary facility - with gantry cranes – was running smoothly.

A4 In the wintertime the **wind- and snow load** caused a failure of the temporary structure.

A5 Consequential loss + damage: Body injuries / fatalities happened.

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B _ Interim Assessment

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B _ Interim Assessment

- B1 The **Engineer approved** the submitted Contractor's structural analysis and design. FIDIC Sub-Clause 03.1(c) **retrieves** the Engineer from any Contractor's **responsibility he has under the Contract**, including errors, **omissions**, discrepancies and non-compliance.
- B2 The Contractor, *basically a Builder (Red Book)* is responsible subject to the contract for **Adequacy, Stability and Safety** for all **Site operations** and of all **methods of construction**.
- B3 Apparently, the Contractor has built the temporary structure in a **safe and stable way** pertinent to the **approved design drawings** by the Engineer.
The facility was fit for the intended use / fit for purpose for several months.
- B4 However, neither the Contractor nor the Engineer have obviously computed the **wind- and snow loads**, which have caused the breakdown of the structure.
- B5 No **specified authority** was defined in the Contract for the Engineer's approval of the structural design/drawing, hence the Engineer acted on behalf of the Employer.

C _ Subsumption >>> Who is responsible under the auspice of ...

- C1 Contractual FIDIC Law?
Where do you identify the **interface between the obligations of the Engineer and Contractor** in general?
- C2 Civil / Common / Law of the Country?
How does a **judge evaluate the case?**
- C3 Do you have results of a **DAAB-Decision / Arbitration case** or result of a legal lawsuit about the **interface of Parties' responsibilities?**

If you do not want to publish your opinion here, please send an e-mail to Emma@PPE61.de .

We treat the private mails confidential and we keep our promise.

Thank you very much in advance.