

Payment of DAB Decisions [SC20.4] and Late Payment [SC14.8] Breach of Contract in Compliance to FIDIC Interim Payment Certificates, e.g. MDB2010



Actions	DAB	ENG	EMP	CON	SC
DAB / Dispute Adjudication / Dispute Board issues his decision with the Content A, B, C, D, E. to ALL Parties: EMP, CON, and ENG	§ →	→			SC20.6
<i>The Dispute Board unanimously decide and directs that</i>	§ →		→		
<i>A _ XXX shall pay to YYY the sum of 51.234.567 Euro</i>	§ →			→	SC14.7
<i>B _ within 56 days of the date of the decision.</i>					
<i>C _ A competent DB will clearly express: The Engineer shall issue an IPC promptly to the Parties XXX + YYY, dated with the date of DB decision > Compliance !!!</i>		€ →		→	SC14.3 (f)
<i>D _ XXX is entitled to an Extension of Time for the completion of Works of 210 days</i>					
<i>E _ XXX and YYY are each liable to pay on half of the fees and expenses of the Dispute Board. A separate invoice will be issued to the EMP and CON</i>					

Explanation: XXX stands for Employer EMP, YYY stands for Contractor CON, if the EMP is liable towards the CON

Deadline of payment within 56 days, without any "suspensive effect"			56		SC14.7
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If XXX (debtor) has not credited the liable amount to the YYY (creditor's) bank account **within 56 days**, XXX is in **in delay of payment**, the debtor infringes the Contract and the National Law, too. The Contractor can suspend the works and terminate.

The call for Amicable Settlement and Arbitration **do not suspend the obligation to pay the "ruling" of the Dispute Board**. The Dispute Resolution Procedure (Amicable Settlement Arbitration) can not prevent the payment of the DB-Decision The resolution procedure can only overturn the DB-decision, and the **unsuccessful Party remedies the payment made, later on**.

1st issue: **Salary/Fee+per diem**: Negotiate proper Remuneration www.ppe61.de/S+RFP-FinancialProposal.pdf
 2nd Issue : **Price Escalation** formula to fix in the written contract www.ppe61.de/S+PriceEscalation-FC+LC.pdf

Today > 3rd Issue: Inflation is climbing

Payment Moral goes down

Debtors are reluctant to pay their obligations on time

maybe they are even sliding along the path
of insolvency or bankruptcy.

Hence it is good to provide a “provisional” Notice of Claim to the Debtor ... You owe us ...

**“Provisional” (“precautionary”) Notice of Claim (Verzugszinsen):
Late Payment Interest**

Note: German Civil Code and EDF-Projects does not require a reminder. The debtor is automatically in default without any given Notice. Anyway, it does not harm to send a short Notice to the Debtor:

You owe us late payment interest with starting point (due since) and rate of interest.

(i) EDF / EU	Official Journal of European Union: EURIPOR or ECB Refinancing rate / prime rate PLUS 3,50% > Article 53 Delayed Payments	Current ECB (prime rate) = 0,575 + 3,500% =4,075%
(ii) FIDIC	FIDIC : national Bank / CB of the beneficiary Country Discount rate PLUS 3,00% > Sub-Clause 14.8	Current ECB (prime rate) = 0,575 + 3,50% =4,075%
(iii) BGB / Civil Code	Code of Civil Law BGB Germany Verzugszinsen = ECB / Basis- ZinsSatz plus 9% for commercial contracts > Section / §288 BGB	Current ECB =0,575 + 9% =9,575%
(iv) Your national legislation and Jurisdiction?	Which regulation entitles the Creditor for interest rate in your country: Base Rate plus x% ? a_ Value of Interest Rate based on Code of Civil / Common Law? b_ by default or by a criterion, c_ by giving a “Notice to Claim”?	Georgia / Caucasus = 10%-12% ? Ukraine = 11%-13% ? Turkey = 12%-14% ?

Deadlines for Payment (Employees): at the end of service month, latest.

Worldwide STANDARD: latest within 30 days payment of submission of invoice (via pdf-file)

Usually Freelancer agree for shorter Periods of monthly **Interim Payments, between 7-14 days.**

Your response about Payment Deadlines for interim & final Invoice amounts, **Interest rates** in your country is highly appreciated: Emma@PPE61.de

Issues to review in Construction Business: www.ppe61.de/HUB123.pdf

This File: [14.8+DelayedPayment.pdf](#) (Verzugszinsen late payment interest / Basis-Zinssatz prime rate)