

1 _ Preface :

We assume a Notice of Determination of the Engineer has been issued. A permanent sole DB-Member (not an ad hoc appointment) has been appointed by both Parties. The Contractor referred the seven matters to the DB for decision. The decisions were overturned by the DB - presuming the DB-Member was doing his decision with good faith with impartial and independent actions, complying to the DB-Agreement (DBA)

2_ Procedural rules :

The usual procedure about Amicable Settlement and Arbitration is properly described in the CoC.

3 _ Lack of examination of the facts, no proper consultations between the Parties and unreasonable judgement were done by the Employer and Engineer for the Notice of Determination subject to SC 03.5 Apparently the Engineer did not substantiate his ascertainties of the 7 cases in a proper manner. Lack of competence?

4 _ Employer's anger about the Decisions. Rational behind?

The Employer's action indicates he wants to terminate the DBA. But this is not possible. There is only a chance to Terminate JOINTLY, which the Contractor will definitely not allow.

5 _ Action Plan

5.1 ... A Dispute about the DBA seems to be arisen.

Hence the Contractor has to identify the Employer's interpretation of the official letter: Termination, invalidity of the DBA, or [breach of Contract by the Employer](#). The position of the Employer has to elicit. If no cooperation conduct is identifiable, the DB-member shall settle the Dispute about his DBA (i) via [institutional arbitration](#) / PCC. O (ii) conducted under the rules of arbitration of the internal chamber of commerce ICC. Please read paragraph 9 of the DBA.

5.2 ... If the Employer does not want to consult in order to reach an amicable settlement for the [Project Issues](#), he has to proceed with Arbitration for the .

5.3 ... A very strange conduct by the Employer. Apparently, the Rule of Law is not in the mind of the governmental officials. It indicates, that the Country is an Ex-USRR-State. Government officials are still behaving like autocrats, bypassing constitutional laws.