

ADR IN FIDIC AND THE CYPRUS PERSPECTIVE

Dispute Resolution in the Private Contracts in Cyprus

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PRIVATE CONTRACTS IN CYPRUS

JOINT COMMITTEE OF CONSTRUCTION CONTRACTS CYPRUS (MEDSK)

- E1(A) Building Works With Quantities
- E2(A) Building Works Without Quantities
- E3(A) Small Building Works (up to €100.000,00)
- E4(T) Civil Engineering Works With Approximate Quantities
- Y1 Sub-Contract With Quantities
- Y2 Sub-Contract Without Quantities
- Π1 Suppliers Sub-Contract

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PRIVATE CONTRACTS IN CYPRUS

OTHER CONTRACTS

- JCT – Amended to suit
- FIDIC 4th
- FIDIC 1999
- Custom Made

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CONSTRUCTION DISPUTE RESOLUTION METHODS

- Negotiation
- Mediation
- Expert Determination
- Adjudication
- Arbitration
- Litigation

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METHODS AVAILABLE TO THE PARTIES

	NEGOTIATION	MEDIATION	ADJUDICATION	ARBITRATION	LITIGATION
Main Contracts					
E1(A)					
E2(A)					
E3(A)					
E4(T)					
Sub-Contracts					
Y1					
Y2					
Π1					

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WHAT IS THE PURPOSE OF DISPUTE RESOLUTION PROVISIONS

England and Wales, Scotland

- Housing Grants Construction and Regeneration Act 1996 Amended by
- Local Democracy, Economic Developments and Construction Act 2009

Australia (New South Wales & Victoria)

- Building and Construction Industry Security of Payment Act

➤ **Promote cash-flow to Contractors etc and Consultants**

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WHAT IS THE PURPOSE OF DISPUTE RESOLUTION PROVISIONS

Maxim

- Justice Delayed is Justice Denied

Dawnays Ltd v FG Minter [1971] 2 All ER 1389

There must be 'cashflow' in the building trade. It is the very lifeblood of the enterprise. - Lord Denning

The purpose of Dispute Resolution Provisions in Construction Contracts is:

To Promote the Quick Resolution of Disputes

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EFFECTIVENESS OF DISPUTE RESOLUTION PROVISIONS IN PRIVATE CONTRACTS

	QUICK	BINDING/ENFORCEABLE	CONTROL ON OUTCOME
Negotiation			
Mediation			
Adjudication			
Arbitration			
Litigation			

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EFFECTIVENESS OF DISPUTE RESOLUTION PROVISIONS IN PRIVATE CONTRACTS

- Negotiations – As effective as the parties would like them to be
- Mediation – Mediation Act (N. 159(I)/2012)
 - Under E3(A) and E(T) not binding unless otherwise agreed
 - S32 of Mediation Act
- Adjudication – Non Statutory
- Arbitration – Arbitration Law Cap. 4 (Arbitration Law Cap. 5 - 6/1/1944)
 - England and Wales Arbitration Act 1950
 - Consolidated English Arbitration Act 1889 Arbitration Act 1934)
 - Arbitration Acts 1975 and 1979

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EFFECTIVENESS OF DISPUTE RESOLUTION PROVISIONS IN PRIVATE CONTRACTS

- Arbitration Acts 1950, 1975 and 1979 Criticisms
 - Slow and expensive
 - Courts were too ready to intervene in the arbitral process
- England and Wales Arbitration Act 1996
 - Increased the scope of party autonomy
 - Strengthens the powers of the arbitral tribunal and
 - Limits judicial intervention in the arbitration process while preserving the courts power to provide assistance where necessary to make arbitration a fair and efficient dispute resolution procedure

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