

DIS German Arbitration Institute

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## Giesa, Helmut F.

Dipl.-Ing. Univ. Prof Eng. Wirtschaftsingenieur

b. 1957

GuB GmbH

Gutachten und Beratung / Expertise & Advice

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## Current activity

[i] Civil Engineer with Economical and legal Background ...

[ii] FIDIC Claim management: identify evidences, substantiate the entitlements, defend and resolve Claims ...

[iii] FIDIC Variation management either initiated by Employer or by Contractor / Value Engineering ...

[iv] Evaluation expert for Merits / entitlements to safeguard the essential facts ... [v] Valuation expert for Quantum in time, cost plus profit with forensic Disruption and Delay Analysis ...

[vi] Support for Referrals / responses to Statement of Cases (SoC) / rejoinders / rebutals for Dispute Boards ... [vii] Hearings + DB decision ...

[viii] Amicable Settlement and preferred ...

[ix] Alternative Dispute Resolution (ADR) like Mediations or Conciliations instead

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[x] Arbitral Tribunals with the uncertainty of recognition, enforcement and challenges.

## Professional focus

Construction/Engineering

Compliance

Intellectual Property

Real Estate

Infrastructure and Transport

Project management

Quantum expertise

Insurance

## Areas of law

Adjudication/Dispute Boards ... Dispute Avoidance and Adjudication Boards

Alternative Dispute Resolution (ADR)

Construction law

Civil law

EU law

Mediation

Conciliation

Environmental law

Contract law

## My career

- Our holistic and hands-on experiences in TECHNICAL, FINANCIAL, ADMINISTRATIVE and CONTRACTUAL Management are the **conditio sine aqua non** of our success rate for Claim and (Alternative) Dispute Resolutions
- **RESOURCE** management with MONTHLY performance indicators: Plant's output production, Equipment utilization, fuel / lubricants consumption, Material flow (steel, bitumen, cement), prefabricated elements, Human resources (productive + unproductive), facts meaningful taken and countersigned in Engineer's diary
- **SCHEDULING** / time planning, Network, sequences, dependencies, Critical Path Analysis, monthly rate of progress monitored (scheduled against performed output), forensic disruption and delay analysis [prospective, contemporaneous (recommended), retrospective critical path approach either with production rates or cost-based methods] (i.e. Earned Value Analysis); float owners
- **COST** Planning with prime costs / direct, TIME- and VALUE related costs / indirect costs, site establishment and site dismantling, production rate > unit rate computation . Our Experts have practical COST ESTIMATE experiences to derive Unit Rates and competitive Bid Prices.
- **Claim and Variation Management** : CAUSATION / ENTITLEMENTS + Effects / Quantum in Time, cost, profit to increase the scope of works for Contractors or Employer's / Engineer's intentions. We provide our expertise for Employers and Contractors. Donors obviously are more interested to comply with the Environmental and Social Framework, as with **OVERSPENDING of monies**. If properly justified, apparently nobody will challenge

the EMPLOYER's initiated VARIATIONS or Contractor's VALUE ENGINEERINGs (due to Employer's Design errors / Requirements).

- Our Consulting Experts support Employers and/or Contractors in the pre-phases (Statement of Cases, rejoinders, rebuttals), **HEARINGs** and post-phases of DB / DAB/ DRB / DAAB Dispute AVOIDANCE and Adjudication Board like AMICABLE SETTLEMENT / Conciliations / Arbitrations as Experts
- We are ready to support the **ARBITRAL Tribunals** as a competent TECHNICAL SECRETARY or as an party-appointed CONSULTANT Expert with our competence, success rate and fair market value.
- Regress: If incompetent Contractors and/or Architect/Engineers do not PERFORM sufficiently and do not DELIVER the promised services/works adequately - within the time-, cost and quality frames - due to **INFRINGEMENT** of their contractual obligations - GuB supports the Clients/Customers receiving INDEMNIFICATION of their occurred loss and damage, esp. if the requirement "Fit For Purpose" was not met.
- We recommend to our customers to settle their Disputes by **MEDIATIONS** or by CONCILIATION "alternative dispute resolutions" proceedings.
- We provide theoretical knowhow and practical advices / service input for specific cases. Tutoring and Services for a specific claim or dispute resolution. We facilitate workshops : [www.GuB21.de/42FIDIC+EDF.pdf](http://www.GuB21.de/42FIDIC+EDF.pdf)
- **Procurement deficiencies** may cause a lot of uncertainties for the final Contract Price due to inadequate Site Data (SC04.10) and monthly Adjustments for Changes in **Legislation** and **monthly Costs** Multipliers / rise and fall of price escalation. FIDIC formula with its Cost indices and/or reference price (not recommended to apply) do not reflect the economical development in a suitable way. **EU / European Union revision of price** formula serves a more fair purpose with its reference to indices in conjunction with actual "mono-material"-consumption with "**allowable**" **conversion factors** for cement (i.g. 250 kg "allowable" cement quantity per 1 m<sup>3</sup> concrete), steel quantity (xx tons per 1m<sup>3</sup> B25 / B35 / B45 concrete), bitumen (%G yy "allowable" bitumen per 1 ton asphalt) and its indices of social charges of approved actual labour-costs.  
It is recommended to monitor the monthly fuel consumption for the production plants and the fuel consumption for the operations and Blasting material.

## Arbitration experience

(1) We have knowledge about the different Arb-ORGANISATION (ICC, DIS, UNCITRAL) and ...

(2) we know the concept of PROCEDURAL management either

(2a) New Prague Rules (civil law) with the **INQUISITORIAL model** or in controversy the

(2b) International Bar Association / IBA-Guidelines (common Law) with the **ADVERSARIAL approach**.

(3) We use to ask for Arbitration-Support a hourly Fee of 300 Euro for negotiation.

(4) We facilitate Workshops in Technical, financial, administrative and contractual management for a lower rate as for Arbitral Tribunal support (7h/d \* 300E/h = 2100 Euro per day).

(5) The Breakdown of Prices (fixed, variable Costs + secretarial assistance expenses) for workshops to solve specific MATTERS can be retrieved under [www.GuB21.de/Tutor.pdf](http://www.GuB21.de/Tutor.pdf) ([www.GuB21.de/12.pdf](http://www.GuB21.de/12.pdf))

## Publications

- Digital Contract Administration Application DCA\_APP

## Languages

German

English

## Memberships

- DIS Arb ... German Arbitration institutes ... [www.disarb.org](http://www.disarb.org)
- VDI German Association of Engineers
- GPM Association for Project Management
- VSVI Society for Road Construction and Transportation

## Further information

A ... We are open for any subject

A1 ... to IDENTIFY your problematic situation,

A2 ... to SUBSTANTIATE your time, cost, profit implications

A3 ... to ANALYSE your required scope of services

A4 ... to EVALUATE the evidences, cause - effect, RISK Matrix

A5 ... to VALUATE the time and costs frame, and

A6 ... to CONCLUDE your MATTERS / issues

A7 ... in order to enable our Customers / Clients - with well gathered facts - non-regretted decision, i.e. to **cooperate with us in a sophisticated way.**

B ... Please inquire either

B1 ... e-mail : [Helmut@aid21.de](mailto:Helmut@aid21.de)

Workshops Kenya >>> [www.GuB21.de/42FIDIC+EDF.pdf](http://www.GuB21.de/42FIDIC+EDF.pdf)

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