Some Experiences of an International Contractor with Disputes in Southeast Europe

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Outline

• PORR at a glance
• The melting pot - export in construction
• Disputes in reality
• Conclusions
PORR at a glance

• A modern, international construction group, headquarters in Vienna/Austria.

• Full service provider: Building | Infrastructure | Environment | Development.

• Over 140 years’ experience.

• Active in 16 countries.

• Production output of EUR 3bn with around 12,000 staff.
Market strategy

Austria, Germany, Switzerland, Poland, Czech Republic:
Offering all products and sectors with complete coverage

Some CEE/SEE markets:
Selektive range – extending business coverage as far as economic and political conditions allow

Selective, professional and profitable international activities
The Melting Pot

- Engineer’s interpretation: Know-how and solutions from different construction markets melting together to the benefit of the employer

Industrial Export

- Term „Export“ derived from the concept of shipping goods out of a port
- Producer manufactures goods under conditions that he prevails
- After production goods shipped to customer
Industrial Export → International Construction

**Industrial Export**
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**International Construction**
- Inevitably extensive share of local elements (material, workforce ...)
- Export in construction significantly export of know-how
- Fit together with conditions predominated by employer and local framework (legal, economic, social)
History of disputes at five major infrastructure projects in CEE/SEE

Project value >> € 100m, internationally financed

<table>
<thead>
<tr>
<th>Project</th>
<th>Claim/Dispute amount (% contract value)</th>
<th>Dispute settlement by contract</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>25%</td>
<td>Court</td>
<td>Negotiations have lasted for 3 years yet, ongoing</td>
</tr>
<tr>
<td>B</td>
<td>25%</td>
<td>DAB</td>
<td>Employer refused to designate adjudicator for ¾ year, every decision is followed by Notice of dissatisfaction, ongoing</td>
</tr>
<tr>
<td>C</td>
<td>&gt;25% (contractor's and employer's claims, respectively)</td>
<td>DAB</td>
<td>Arbitration following ICC Rules, ongoing</td>
</tr>
<tr>
<td>D</td>
<td>20%</td>
<td>DAB</td>
<td>No DAB necessary, claims negotiated with internationally experienced engineer</td>
</tr>
<tr>
<td>E</td>
<td>25%</td>
<td>DAB</td>
<td>No DAB necessary, claims negotiated directly with employer</td>
</tr>
</tbody>
</table>
Conclusions

- Austrian contractors have learnt to become more selective with involvements in southeastern Europe
- Disappointing economic development of construction projects frequently caused by proliferating disputes
- Details of agreed dispute resolution do not seem to correlate with efficiency of its implementation
- Project culture and mutual proficiency in international project management do correlate with efficiency of dispute resolution
- Export (of know-how, technology ...) in construction demands partnership
- A DAB is a tool, not a weapon!
Thank you for your attention.