



**The Dispute Resolution Board Foundation**

*Fostering Common Sense Dispute Resolution Worldwide*

**2nd Bucharest Regional Conference  
and Training Workshop  
Bucharest, Romania**

**PROCEDURAL RULES**



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Although the DB process is meant to be little formal and very flexible, it cannot do without some regulations/rules by which it is governed and by which the users, the Contract Parties and the DB members are bound. The result of dispute resolution through the DB process may be severe upon one or all Parties. Acceptance of such outcome will also largely depend on the observance of Procedural Rules by the DB.

Parties usually give the DB wide authority to establish procedural rules best fitted to resolve a dispute. However, some standard forms of contract (like FIDIC) do provide some Procedural Rules, which are usually agreed by the Parties with the Contract between.



What are the purpose and the effect of such Procedural Rules?

They give the Parties and the DAB Members a good understanding on what they are embarking on and they have the effect to be binding.

For the purposes of today's training only the FIDIC Procedural Rules will be dealt with, which are annexed to the General Conditions.



Let us have a look at the FIDIC Rainbow Suite of Contracts incl. the MDB version:

- Red Book: 9 Procedural Rules
- MDB version: 9 Procedural Rules
- Yellow Book: 6 Procedural Rules
- Silver Book: 6 Procedural Rules
- Gold Book: 12 Procedural Rules

Before going to the contents/substance of these Rules, it should be clarified how they enter - in a binding way – the DB procedure.



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Clause 20.2 (20.3 Gold Book) deals with the appointment of a Dispute Board. The relationship between the Parties and the DB Members is established in a contractual agreement called the “Dispute Adjudication Agreement”. It is established in this Clause that the agreement between the Parties and the DB Members shall incorporate by reference the “General Conditions of Dispute Board Agreement”, which are appended to the General Conditions. These General Conditions of Dispute Board Agreement in Article 4, General Obligations of the (DB) Member, subarticle 4(e), oblige the DB Members to comply with the annexed Procedural Rules.

This closes the circle.



## Short review of the Procedural Rules:

- Rules 1, 2 and 3 in the Red Book, the MDB version and the Gold Book deal with DB Site visits. (Purpose, timing and organisation)
- Rule 4 in the Red Book, the MDB version and the Gold Book deal with provision and exchange of documents. (Yellow Book and Silver Book Rule 1)
- Rule 5 in the Red Book, the MDB version and the Gold Book sets standards in case of dispute referral. (Yellow book and Silver Book Rule 2)



- Rules 6, 7 and 8 in the Red Book and in the MDB version deal with authorities given to the DB by the Parties. (Rules 6, 9 and 10 in the Gold Book and Rules 3, 4 and 5 in the Yellow book and the Silver Book)
- Rule 9 in the Red Book and in the MDB version deals with DB hearing and subsequent decision making. (Rules 11 and 12 in the Gold Book, Rule 6 in the Yellow Book and the Silver Book)
- Rules 7 and 8 in the Gold Book only deal with errors in the DB decisions.



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As this is a workshop where all should work, from here on I will invite you to work with me to discuss and elaborate the practical meaning of the Rules.

This will happen in the following form:

I will ask questions and you will give or work on the answers, which we will then discuss. If you think that too one-sided in my favour, you are right. But, as a consolation, you will be given your chance to ask questions too. I pray that I will be able to give you the proper answers.