

The position of the subcontractor in the whole of contractual relations in construction

Keywords: subcontractor, contract, conflict or cooperation

Management of the built environment

Area of Research: Law

The study is about the position of the subcontractor in the whole of contractual relations in construction. In the Netherlands there is no overview of publications and jurisprudence about the subcontractor yet. After an introduction and a historical overview, from 1800 till now, in the first part of the study the subcontractor will be followed throughout a project. From the pre-contractual phase, the use and misuse of the quotation by the contractor when signing up for the work, making the contract and the content of it, through the execution of the work by the subcontractor, where contract variations come up as well as problems with coordination, to the transfer and possible delay thereof, after which the liabilities after transfer will be discussed.

In the second part, based on publications in the Netherlands and in other (European) countries, it will be explored to what extent the position of the subcontractor can be improved by regulations or otherwise in such a way that conflictual developments between subcontractors and contractors can be avoided and a cooperation between the contractors will arise focused on a shared achievement of the intended result, the creation of a building, taking into account each other's and the client's interests.

Research Methodology: After an introduction and a historical overview since about 1800 a brief outline of jurisprudence and literature is given about what happens during the contractual phase of building with subcontractors. In the second part the research directs to literature and interviewing involved people in the Netherlands and abroad in Europe to look for regulations helping the contractual parties for cooperating avoiding conflicts.

Key Publications: 1.000 arbitral judgments Court of Arbitration for Constructing Industry, TvA 2016/02: *Arbitraal beding: oneerlijk/onredelijk bezwarend?* (with M. Niesen)



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Main Question: *How to let contractor and subcontractor cooperate without conflict*

Deliverables: *Please mention a few concrete deliverables of your research here in less than 20 words.*

Link(s)

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