



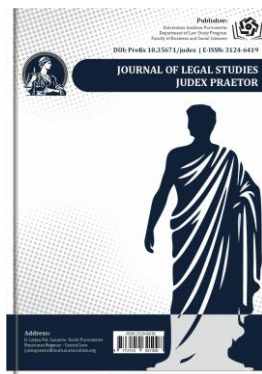
Legal Consequences of Construction Project Delays in Indonesia: A Normative Analysis of Breach, Liability, and Dispute Resolution

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ABSTRACT

Construction delays are a recurring problem in the implementation of construction contracts and may disrupt cost, schedule, and the intended benefits of a project. Existing studies cited in this article predominantly examine the causes and performance impacts of delays, while legal discussions tend to address default, liability, or dispute resolution separately. This study therefore examines how Indonesian law qualifies construction delays, allocates responsibility among the parties, determines their legal consequences, and provides mechanisms for resolving resulting disputes. The research employs normative legal research using statutory and conceptual approaches. Primary legal materials comprise the Civil Code, Law Number 2 of 2017 concerning Construction Services, Government Regulation Number 22 of 2020, and relevant contractual provisions, supported by secondary legal literature and prior studies. The analysis shows that a delay does not automatically constitute a breach of contract; its legal characterization depends on its cause, contractual risk allocation, and whether the delay is excusable, non-excusable, compensable, or concurrent. Contractor-caused delays may trigger penalties, damages, termination, and performance-bond encashment, whereas owner-caused or excusable delays may justify extensions of time and, where legally and contractually supported, compensation. The study contributes an integrated legal framework linking delay classification to liability and dispute resolution, emphasizing clearer contractual mechanisms for notice, evidence, time extensions, and allocation of delay risk.

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INTRODUCTION

Infrastructure development depends substantially on construction services, which create a contractual legal relationship between service users and service providers. The construction work contract is not merely an administrative instrument; it determines the parties' rights and obligations, including the completion period, performance standards, allocation of risk, and mechanisms for addressing contractual non-performance. Indonesian construction law, pursuant to Article 1 number 8 and Article 47 of Law Number 2 of 2017 concerning Construction Services, expressly places these matters within the legal framework governing construction service relationships.

In practice, however, construction projects frequently depart from the agreed schedule. A delay may increase project costs, postpone the use or economic exploitation of the completed facility, and disrupt the performance of related contractual obligations. The problem is therefore not limited to project management. It raises a legal question concerning who bears the risk of delay and whether the delay constitutes a breach of contract, an excusable event, or a compensable delay. Studies cited in this article have identified delay as a significant factor affecting project performance and have documented recurring causes such as payment problems, material shortages, and weak project execution.¹

The causes of delay are multidimensional. They may originate with the service user, including late payments and changes in design; with the contractor, including inadequate project management, labor shortages, material procurement problems, and financial constraints; or from circumstances outside the parties' control, including extreme weather and force majeure. The legal significance of these causes is substantial because responsibility for the delay determines whether a contractor may obtain an extension of time, claim compensation, or instead face contractual sanctions.²

The central legal issue is therefore the classification and attribution of delay rather than delay itself. A contractor cannot properly be treated as in default merely because the contractual completion date has passed without examining the cause of the delay and the parties' respective contractual obligations. Conversely, a contractor cannot rely on external circumstances automatically without demonstrating that the circumstances satisfy the applicable contractual and legal requirements. Government Regulation Number 22 of 2020 is particularly relevant because it provides a framework

¹ M. R. Hidayat and S. Nugroho, Analysis of the Impact of Construction Project Delays on Project Performance, *Civil Engineering Journal*, Vol. 19, No. 2, (2024), p. 88.

² A. Fadli and M. Yusuf, Factors Causing Delays in Construction Project Implementation in Indonesia, *Construction Engineering Journal*, Vol. 12, No. 1, (2023), p. 55.



for time extensions, force majeure, and sanctions in construction service implementation.

Under Indonesian civil law, late performance may constitute default when the obligated party fails to perform according to the agreed time due to its fault or negligence. The resulting consequences may include penalties, damages, termination, and the enforcement of performance security. The practical importance of this issue is reflected in the existence of legal studies concerning default handling in specific construction projects, including the Mataram Metro Monument Project, while broader research has also examined disputes in the construction sector. These studies indicate that delay is not only a technical project problem but also a recurring legal and dispute-resolution problem.³

The research gap addressed in this article lies in the need to connect three questions that are often discussed separately: the legal qualification of construction delays, the allocation of responsibility based on the cause of delay, and the legal consequences and dispute-resolution mechanisms that follow from that allocation. Rather than merely listing statutory provisions or causes of delay, this study develops an integrated normative analysis of how Indonesian construction law should distinguish contractor-caused, owner-caused, excusable, compensable, and concurrent delays. The objective is to identify the legal consequences attached to each category and to clarify the implications for contractual risk allocation and dispute resolution.

Accordingly, this article asks: (1) how Indonesian law regulates and qualifies delays in the completion of construction projects; (2) what factors cause delays and how responsibility should be allocated between the parties; and (3) what legal consequences and dispute-resolution mechanisms arise from the different classifications of delay. The study is intended to contribute a more systematic legal framework for distinguishing delay from actionable default and for improving the drafting and implementation of construction contracts.

METHOD

This study employs normative legal research, treating law as a normative system and examining legal rules, principles, doctrines, and legal scholarship concerning delays in construction contract performance. The statutory approach is used because the legal consequences of delay are distributed across the Civil Code, construction-services legislation,

³ Sri Ayu Dwi Santika and Zaenal Arifin Dilaga "Tinjauan Yuridis Terhadap Penanganan Wanprestasi Pada Pengerjaan Proyek Monumen Mataram Metro," *Private Law*, Vol. 4 No. 2, (2024), p. 574.



implementing regulations, and contractual provisions. The conceptual approach is used to clarify the concepts of default, force majeure, delay classification, contractual liability, and dispute resolution.⁴

The legal materials were collected through a structured review of the relevant statutory provisions, construction contract principles, legal doctrines, and published studies identified in the source literature. Primary legal materials comprise the Civil Code, Law Number 2 of 2017 concerning Construction Services, Government Regulation Number 22 of 2020, and relevant contractual provisions. Secondary materials include books, journal articles, and prior studies addressing construction delays, project management, contractual default, and construction disputes. Tertiary materials are used where necessary to clarify terminology and legal references.⁵

The analysis proceeds in three stages. First, the relevant rules are identified and systematized according to the legal issue they regulate. Second, the rules are interpreted by comparing their normative requirements with the conceptual categories of delay and default. Third, the results are analyzed qualitatively and prescriptively to determine the relationship between the cause of delay, allocation of responsibility, legal consequences, and available dispute-resolution mechanisms. This approach is intended to move the discussion from a descriptive inventory of regulations toward a coherent legal argument about responsibility and consequences.⁶

RESULT & DISCUSSION

A. Legal Regulation and Qualification of Construction Delays

Construction delay is legally significant when a party fails to perform an obligation within the period required by the contract. The applicable legal framework is not contained in a single provision. It consists of the Civil Code rules on default and damages, the specific framework of Law Number 2 of 2017 concerning Construction Services, Government Regulation Number 22 of 2020, and the detailed clauses of the construction contract. The interaction of these sources is important because statutory rules establish the general legal framework, while the contract commonly specifies the schedule, notice requirements,

⁴ Muhaimin, *Metode Penelitian Hukum*, Mataram: Mataram University Press, (2023), p. 47.

⁵ I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif dalam Membenarkan Teori Hukum*, Jakarta: Kencana, (2024), p, 156.

⁶ Dyah Ochtorina Susanti and A'an Efendi, *Penelitian hukum: Legal Research*, Jakarta: Sinar Grafika, (2023), p, 18.



extension-of-time procedure, penalties, and dispute-resolution mechanism.⁷

The Civil Code provides the general basis for determining default. Articles 1238, 1243, 1246, and 1267 establish the consequences of failure to perform, including compensation, cancellation, and enforcement of contractual performance. In a construction project, however, the mere fact that the completion date has passed should not be treated as conclusive proof of contractor default. The legal analysis must first establish whether the obligation was due, whether the contractor failed to perform as required, whether the failure was attributable to the contractor, and whether the contract or applicable law recognizes an extension or exemption from liability.⁸

Law Number 2 of 2017 adds a sector-specific framework by regulating the legal relationship between service users and construction service providers and requiring construction services to be performed according to principles of honesty, fairness, balance, professionalism, and accountability. These principles strengthen the argument that contractual responsibility should be allocated according to the actual conduct and obligations of each party rather than automatically imposed on the contractor as the party performing the physical work.⁹

Government Regulation Number 22 of 2020 provides more operational rules concerning construction contract implementation, including time extensions, force majeure, and sanctions. Its significance lies in differentiating delay caused by circumstances outside the contractor's fault from delay caused by contractor negligence. Where the delay results from events beyond the contractor's responsibility or from changes ordered by the service user, an extension of time may be available. Conversely, contractor-caused delay may justify sanctions under the contract and applicable law.¹⁰

The contractual dimension remains decisive because Article 1338 of the Civil Code embodies *pacta sunt servanda*: a legally valid agreement

⁷ Siti Nur Kamila, Rudi Mulyanto, and Etis Cahyaning Putri, Analisis Tanggung Jawab Kontraktor atas Keterlambatan Pekerjaan Konstruksi Menurut Undang-Undang Jasa Konstruksi, *AMAR*, Vol. 3, No. 2, (2025), p, 58–69.

⁸ Madjumsyah Hariadi, Sami'an, and Aulia, Penilaian Unsur Wanprestasi Dalam Kontrak Proyek Konstruksi Bumn (Studi Kasus Putusan Mahkamah Agung Nomor 1361 Pk/Pdt/2024). *Journal of Syntax Literate*, Vol. 11, No. 3, (2026), p.2079.

⁹ Nisma Deli Nevianti, Felicitas Sri Marniati, and Ismail, Kepastian Hukum Kontrak Kerja Konstruksi terkait Wanprestasi Penyedia Jasa dalam Menyerahkan Bangunan Tidak Tepat Waktu kepada Pengguna Jasa. *CENDEKIA: Jurnal Penelitian dan Pengkajian Ilmiah*, Vol. 1, No. 9, (2024), p. 609–625.

¹⁰ Siti Nur Kamila, Rudi Mulyanto, and Etis Cahyaning Putri, *Loc.Cit.*



binds the parties as law. Accordingly, a construction contract should be read as the principal instrument for allocating time-related risks, provided that its clauses comply with mandatory legal requirements. A sound delay clause should identify the contractual completion date, events giving rise to an extension, notice and evidence requirements, the method of calculating delay, the applicable penalty, and the consequences of prolonged non-performance.¹¹

Accordingly, delay should be legally qualified through attribution rather than chronology alone. In civil-law terms, late performance may constitute default when the failure to perform on time is attributable to the obligated party. In government construction projects, the Commitment Making Officer may provide an opportunity for completion or an extension where the statutory requirements are satisfied. The critical point is that an extension of time and a finding of default are not mutually exclusive concepts; the legal effect depends on the cause, contractual procedure, and evidence of responsibility.¹²

B. Causes of Delay and Allocation of Responsibility

The source literature identifies recurring causes of construction delay, but their legal significance differs according to who created the risk and whether the event was reasonably within that party's control. A useful legal classification is therefore to distinguish contractor-caused delay, owner-caused or compensable delay, excusable delay, and concurrent delay. This classification is more useful for legal analysis than an undifferentiated list of technical causes because it connects factual causation with the parties' contractual rights and liabilities.

First, shortages of skilled labor and construction materials may delay performance. Where the shortage results from poor procurement, inadequate workforce planning, or the contractor's failure to manage resources, the risk ordinarily falls within the contractor's sphere of responsibility. The source literature identifies material supply problems and low labor productivity as dominant causes of delay, making resource planning a relevant component of professional contractual performance.¹³

Second, ineffective project management may constitute a legally relevant form of negligence when inadequate planning, supervision, coordination, or control of time, cost, and quality causes the contractual

¹¹ Nisma Deli Nevianti, Felicitas Sri Marniati, and Ismail, *Loc.Cit.*

¹² *Ibid.*

¹³ Ervianto and Wulfram I, *Manajemen proyek konstruksi*, Yogyakarta: Penerbit Andi, (2022), p, 184–186.



completion date to be missed. The legal consequence depends on proof that the management failure caused or materially contributed to the delay. Thus, project management is not merely an engineering concern; it can become evidence in determining contractual fault.¹⁴

Third, late payment by the service user may shift responsibility away from the contractor. Payment is itself a contractual obligation, and failure to pay on time may prevent the contractor from financing labor, materials, and other project requirements. In such circumstances, the contractor may have grounds to seek an extension of time and, where the contract and applicable law permit, compensation. The analysis should therefore avoid treating the contractor's physical control of the worksite as equivalent to legal control over all causes of delay.¹⁵

Fourth, variation orders and design changes can affect the contractual completion period because they alter the scope, specifications, quantities, or method of work. Repeated changes may make the original schedule objectively unattainable. The legal issue is whether the variation was authorized, how it affected the critical path and completion date, and whether the contract provides a mechanism for adjusting time and price. A contractor should not be penalized for additional work that the service user validly orders without adjusting the contractual schedule where such adjustment is legally warranted.¹⁶

Fifth, extreme weather may qualify as an excusable event when it is outside normal expectations and satisfies the contractual requirements for an extension. The relevant inquiry is not whether rain or bad weather occurred, but whether the event materially prevented performance and falls within the agreed or legally recognized risk allocation.¹⁷

Sixth, force majeure may excuse non-performance where the event is beyond the parties' control and the legal requirements for exemption are satisfied. Articles 1244 and 1245 of the Civil Code are relevant to this assessment. The party invoking force majeure must demonstrate the causal relationship between the event and the inability to perform; the label "force majeure" alone is insufficient.

Seventh, administrative and licensing constraints may delay commencement or continuation of work. Delayed approvals, permits, drawings, or contractual documents may be attributable to the service

¹⁴ Soeharto Iman, *Manajemen Proyek dari Konseptual sampai Operasional*, Jakarta: Erlangga, (1995), p, 327-330.

¹⁵ Salim H.S, *Hukum kontrak: Teori dan teknik penyusunan kontrak*, Jakarta: Sinar Grafika, (2021), p, 151-154.

¹⁶ *ibid*

¹⁷ Soeharto Iman, *Op.Cit.*, p, 332-334.



user or another responsible authority rather than the contractor. In government projects, the legal effect of such delay should therefore be assessed through the contractual allocation of administrative responsibilities and the applicable statutory procedures.

The comparative literature cited in the source further demonstrates that delay causes are recurring across construction projects. Research reported by Lewis and Atherley on 30 building projects in India identified late payment, poor contractor execution, material mismanagement, labor shortages, heavy rain, unexpected ground conditions, additional owner-requested work, design changes, planning errors, and approval delays among the relevant causes. Although this evidence is not Indonesian, it supports the broader proposition that delay is multi-causal and requires an attribution-based analysis rather than a single-cause explanation.

The source literature also distinguishes excusable, non-excusable, compensable, and concurrent delay. Excusable delay generally permits an extension of time without compensation; non-excusable delay results from contractor failure and generally permits neither extension nor compensation; compensable delay arises from owner failure and may justify both additional time and compensation; and concurrent delay involves overlapping causes. This classification is legally useful because it prevents the consequences of delay from being determined solely by the final number of days of lateness.¹⁸

A similar attribution-based classification distinguishes owner-caused delay, permitted third-party delay, and contractor-caused delay. The legal consequence follows the risk allocation: owner-caused delay may support additional time and compensation, permitted third-party delay generally supports additional time without compensation, and contractor-caused delay may lead to sanctions and, in serious cases, termination. The analytical advantage of this classification is that it places causation and contractual risk allocation at the center of legal responsibility.

The economic consequences also reinforce the need for correct attribution. Contractors may incur additional overhead because project duration is extended; consultants may lose time that could have been allocated to other projects; and owners may lose expected revenue or public-service benefits from delayed facilities. In government projects,

¹⁸ Proboyo, B., Keterlambatan waktu pelaksanaan proyek klasifikasi dan peringkat dari penyebab-penyebabnya. *Civil Engineering Dimension*, Vol. 1, No. 1, (1999), p. 46-58.



delay may affect the timely delivery of public services, while in private projects it may postpone the commercial use of a building. These consequences provide the practical rationale for linking delay analysis to contractual remedies rather than treating delay as a purely technical matter.

C. Legal Consequences of Construction Project Delays

Once delay is attributed to a party as a contractual breach, several legal consequences may follow. The consequences should be applied proportionately and according to the contract and statutory framework. The principal consequences identified in the source are delay penalties, compensation, termination, performance-bond encashment, and dispute resolution. Importantly, these remedies are not automatically cumulative; their availability depends on the contractual clause, the applicable legal provision, the degree of breach, and the circumstances causing the delay.

A late penalty is the most direct contractual consequence of contractor-caused delay. In government construction practice, the penalty is commonly calculated by reference to the contract value and the number of days of delay. Its legal function is both compensatory and disciplinary, but its imposition still requires a proper determination that the delay is attributable to the contractor and not protected by an extension or force-majeure provision.¹⁹

Compensation may also arise when the elements of default and loss are established. Article 1243 of the Civil Code provides a basis for compensation following default, while the contractual framework may further determine recoverable losses and the procedure for submitting a claim. The critical legal issue is causation: compensation should be connected to losses that result from the actionable delay and are legally attributable to the breaching party.²⁰

Contract termination is a more severe consequence and should be distinguished from an ordinary delay penalty. Where delay exceeds the permitted period and the contractor no longer demonstrates an ability to complete the work, the service user may have grounds to terminate the contract in accordance with the agreed procedure and applicable law. Termination should therefore follow contractual notice and verification

¹⁹ Robin Antonius Sanjaya, "Disputes in the Construction Sector in Indonesia," *Jurnal Hukum Lex Generalis*, Vol. 6 No. 9, (2025), p. 5.

²⁰ Ediyanto Arief, Sarwono Hardjomuljadi, and Sami'an, *Kepastian Hukum Penyelesaian Sengketa Kontrak Konstruksi Melalui Arbitrase. JIHHP: Jurnal Ilmu Hukum, Humaniora Dan Politik*, Vol. 5 No. 4, (2025), p. 174.



requirements rather than operate as an automatic consequence of any delay.²¹

Performance-bond encashment functions as a form of contractual security for the service user. It may be invoked where the contractor is proven to have breached the contract and the contractual requirements for encashment are satisfied. Because performance security can have significant financial consequences, the parties should ensure that the contract clearly identifies the circumstances and procedure for its enforcement.²²

Force majeure produces a different legal consequence. A delay caused by a qualifying force-majeure event should not be treated as contractor default merely because the completion date has passed. The contractor must, however, establish the event, its impact on performance, compliance with contractual notice requirements, and the absence of circumstances that would otherwise place the risk on the contractor. The legal distinction is therefore between delay as a factual event and default as an attributed legal condition.

D. Dispute Resolution for Construction Delay

Construction delays frequently generate disputes concerning responsibility, extensions of time, penalties, compensation, and termination. Article 88 of Law Number 2 of 2017 places emphasis on dispute-resolution mechanisms agreed by the parties. This contractual orientation supports the principle that construction disputes should, where possible, be managed through procedures that preserve project continuity and business relationships before resorting to adjudicative proceedings.

Negotiation is generally the first mechanism because the parties can directly examine the cause of delay, the critical-path impact, the required extension, and any adjustment to price or contractual obligations. Mediation introduces a neutral third party to facilitate settlement without transferring decision-making authority to the mediator. Conciliation is similar but allows the conciliator to formulate proposals or recommendations. These mechanisms are particularly

²¹ Silfia Rini, Detho Wahyu Saputra, and Yulia Setiani, *Penyelesaian Sengketa Proyek Pada Penyedia Jasa Konstruksi Di Kota Pekanbaru*. *Journal of Infrastructure and Civil Engineering*, Vol. 4 No. 2, (2024), p. 88.

²² Era Fransiska, Adi Saputro, Sami'an, and Sarwono Hardjomuljadi, *Penyelesaian Sengketa Konstruksi Melalui Arbitrase*. *Jurnal Pendidikan Indonesia*, Vol. 6 No. 2, (2025), p. 804.



useful where the parties wish to preserve their continuing contractual relationship.

Arbitration provides a private adjudicative mechanism based on an arbitration agreement. In construction disputes, arbitration may be attractive because the process can accommodate technical evidence and specialist decision-makers, while offering confidentiality and a final and binding award. Court litigation remains available where required or where other mechanisms fail or are not agreed. Judicial proceedings may determine whether a delay constitutes breach, the amount of recoverable damages, and other legal consequences, but they generally involve greater time and cost than negotiated or alternative dispute-resolution processes.²³

From a legal-risk perspective, the most important lesson is that dispute resolution should begin before the contractual completion date expires. Construction contracts should require timely notice of delay, contemporaneous records of the event and its impact, periodic schedule updates, procedures for variation orders, and a clear extension-of-time mechanism. Such provisions make later adjudication more evidence-based and reduce the risk that a factual delay becomes a dispute over incomplete records or competing narratives.

CONCLUSIONS

Construction project delay in Indonesia should be understood as a factual event whose legal consequences depend on attribution, contractual risk allocation, and the applicable statutory framework. The Civil Code, Law Number 2 of 2017 concerning Construction Services, Government Regulation Number 22 of 2020, and the construction contract operate together in determining whether a delay constitutes actionable default. The principal contribution of this study is the identification of an integrated approach that connects the cause of delay with its legal classification: contractor-caused delay may constitute non-excusable default, owner-caused delay may be compensable, qualifying external events may be excusable, and overlapping causes require a concurrent-delay assessment.

The legal consequences should follow that classification rather than be imposed solely because the contractual completion date has passed. Where contractor responsibility is established, the consequences may include delay penalties, compensation, termination, and performance-bond enforcement. Where delay is attributable to the owner or to qualifying external circumstances, the contractor may instead be entitled to an extension of time

²³ Robin Antonius Sanjaya, *Op.Cit.*, p, 9–10.



and, where supported by law and contract, compensation or other relief. The study therefore recommends that construction contracts specify delay categories, allocation of risk, notice and evidence requirements, extension procedures, penalty calculation, and dispute-resolution stages with greater precision. These measures would strengthen legal certainty, reduce avoidable disputes, and align construction project management with the contractual and statutory allocation of responsibility.

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