



# Overview of Recent Changes in Korean Defense Procurement Dispute Resolution

2025.12.01

## Introduction

The National Contract Dispute Mediation System is an alternative dispute resolution mechanism established under Article 29 of the Act on Contracts to Which the State is a Party (the “**National Contract Act**”). It was introduced to reduce the time and cost associated with court proceedings and to provide a more efficient means of resolving disputes between contracting parties to a government contract.

As defense procurement contracts constitute a category of government procurement contracts, a party that suffers a disadvantage under such a contract may file an objection pursuant to the relevant regulations. The objection must be submitted within 15 days from the date on which the party became aware of the cause of the dispute or within 20 days from the date on which the cause occurred. After filing the objection, the party may request mediation with the National Contract Dispute Mediation Committee<sup>1</sup>.

Recently, the Korean government established a Defense and Defense Industry Subcommittee under the National Contract Dispute Mediation Committee. In light of this development, several noteworthy points are summarized as follows.

## 1. Purpose of Establishing the Defense and Defense Industry

### Subcommittee: Specialized Resolution of Liquidated Damages Issues

Defense procurement contracts are, in principle, subject to the National Contract Act, as they fall within the broader category of government procurement contracts. However, the National Contract Act is a general statute designed to govern all types of government contracts for the purchase of goods, services, and construction. As a result, it has long been criticized for failing to fully reflect the unique characteristics of defense procurement, which typically involves long development timelines and inevitable trial and error.

To address these concerns, there have been attempts to enact a separate Defense Procurement Contract Act and to establish a Defense Procurement Contract Mediation Committee as a specialized forum for disputes related to sanctions such as liquidated damages. Ultimately, however, the government and the National Assembly decided not to enact a separate statute to establish such separate committee and instead chose to create a Defense and Defense Industry Subcommittee under the existing National Contract Dispute Mediation Committee through the amendment to Article 111-6 of the Enforcement Decree of the National Contract Act made on December 24, 2024.

The matters subject to mediation by the National Contract Dispute Mediation Committee include contracts with an estimated value of at least 50 million Korean Won for goods or services, covering the following issues:

- (1) eligibility to participate in bidding,
- (2) determination of the successful bidder,
- (3) forfeiture of bid or performance bonds to the national treasury,
- (4) payment for completed work or services,
- (5) adjustment or settlement of the contract price,
- (6) liquidated damages and the scope of their calculation, and
- (7) termination or cancellation of the contract

When the Defense Acquisition Program Administration initially explored the establishment of a dedicated Defense Industry Contract Mediation Committee, it focused on resolving professionally liquidated damages related disputes, among the above subject matters, through the committee. This policy direction is expected to continue under the newly established Defense and Defense Industry Subcommittee. Defense procurement contracts include unique grounds for mitigation of liquidated damages that do not exist in ordinary government procurement contracts, and they are also subject to separate rules regarding liquidated damages rates and maximum limit.<sup>2</sup> In light of these characteristics, the new subcommittee is expected to contribute to faster and more effective dispute resolution by applying expertise tailored to the specific nature of defense procurement contracts.

## 2. Distinction from Existing Systems: Defense Procurement Contract Review Committee and Others

The Defense Procurement Contract Review Committee, which has long operated pursuant to Article 61-12 of the Enforcement Decree of the Defense Business Act, also reviews and adjusts matters such as the imposition or mitigation of liquidated damages and restrictions on bidding eligibility. In this respect, it appears similar to the National Contract Dispute Mediation Committee. However, the two bodies are different in nature. The Defense Procurement Contract Review Committee conducts an internal review of the appropriateness of proposed adverse measures and adjustment thereto, if necessary, before they are imposed, whereas the National Contract Dispute Mediation Committee functions as an alternative dispute resolution mechanism designed to address disputes that have already arisen between contracting parties after such measures have been implemented. The two systems also differ in their scope of review, procedural operation, and the legal effect of their decisions, making it important to clearly distinguish between them.

In addition, since April 2019, the Defense Acquisition Program Administration has operated its own Ombudsman

Committee for Liquidated Damages to review complaints and provide recommendations regarding corrective measures. With the introduction of the newly established Defense and Defense Industry Subcommittee, the Ombudsman Committee for Liquidated Damages has now been discontinued, and the procedures have been streamlined so that parties must file their applications for mediation with the National Contract Dispute Mediation Committee<sup>3</sup>.

Given the frequent introduction, amendment, and abolition of various dispute resolution mechanisms available to contractors facing adverse actions such as liquidated damages in the performance of defense procurement contracts, it is essential to identify the most effective remedial process for each individual case and to utilize it in a timely manner. Early engagement with legal professionals and the development of a structured and strategic response plan are critical to ensuring an effective outcome.

**Shin & Kim's Military Procurement & Defense Industry Team consists of experts with extensive practical experience and specialized knowledge in handling liquidated damages, responding to the National Contract Dispute Mediation Committee, managing review committee proceedings, and conducting related administrative and civil litigation for the Ministry of National Defense, DAPA, and defense contractors. We provide optimal solutions for all legal issues arising in defense procurement and other public contracts, including bidding procedures, liquidated damages, and sanctions against unscrupulous contractors. If you have any questions or need assistance, please feel free to contact us for more detailed advice.**

<sup>1</sup> On March 12, 2025, the Ministry of Economy and Finance announced measures to expand the remedies available to companies participating in public procurement. As part of this initiative, the government proposed extending the deadlines for filing objections and mediation requests, and the relevant amendments are currently in progress. Under the proposed amendments, the deadline for filing an objection would be extended from fifteen days to twenty days from the date the party became aware of the cause, and from twenty days to thirty days from the date the cause occurred. In addition, the deadline for submitting a mediation request would be extended from twenty days to thirty days from the date of notification.

<sup>2</sup> For more detailed information on liquidated damages applicable to defense procurement contracts, please refer to the newsletter issued by the Defense Industry Team of Shin and Kim on May 8, 2025. [\[Link\]](#)

<sup>3</sup> However, although the Ombudsman Committee for Liquidated Damages has been abolished, the Ombudsman system under Article 6 of the Defense Acquisition Program Administration continues to operate. Accordingly, where there are complaints or issues related to liquidated damages, the Ombudsman system remains available for use.

[\[Korean version\]](#) 국방·방산분야 소위원회[국가계약분쟁조정위 산하] 신설에 따라 방위사업계약 관련 분쟁 발생 시 적절한 대응방안 선택이 더욱 중요해졌습니다

## Key Contacts

Philippe Shin

In-Hyoung Cho

Senior Foreign Attorney

+82-2-316-4206  
pjshin@shinkim.com

**Sangsoo (Eddie) Lee**

Foreign Attorney

+82-2-316-1727  
ssolee@shinkim.com

Partner

+82-2-316-1615  
ihcho@shinkim.com

**Jin Han-ock**

Associate

+82-2-316-4647  
hojin@shinkim.com