



**Thailand: Court proceedings during the
COVID-19 outbreak (As of May 7, 2020)**

***This article is based on the information as of May 7, 2020.**

1. Is it still possible to initiate a lawsuit during the COVID-19 outbreak?

Despite the global pandemic, the courts in Thailand are still operating. Thus, relevant parties are able to attend court to file their complaints and other court documents until further notice is given by the relevant court(s). For example, some courts allow parties to submit documents via an e-filing system and, in that regard, seek cooperation from relevant parties to avoid visits to court.

Any party who is involved in a disputed matter that will soon be barred by the prescription period should thus consider initiating the court case in due course.

2. Are scheduled hearings at courts affected by the COVID-19 outbreak?

Even though the courts of first instance are still operating and people can still go to the courts to file their complaints and submit some necessary court documents, scheduled hearing dates, including mediation appointments scheduled up to the end of May 2020, have been postponed by virtue of a resolution issued by the Judicial Administrative Commission and the respective orders issued by each court of first instance. Parties are entitled to request that a court of first instance adhere to the scheduled dates of its hearings, but whether such a request would be approved depends on the discretion of the judge and will only be approved in the situation where postponement thereof would result in damages to the parties (such as in a case that would be barred by prescription if postponed) and the hearing would not impact the health and safety of all involved persons.

Irrespective of the aforementioned, the following hearings are, for example, not obliged to be postponed:

Civil Case

- Hearings for appointment of an estate administrator
- Hearings for declaring a person disappear
- Hearings to appoint a guardian for a juvenile

Criminal Case

- Witness examination hearings in criminal cases where the defendant pleads guilty
- Evidence inspection hearings in criminal cases where the defendant is in the court's custody

In addition to the above, for both civil and criminal cases, the dates scheduled for announcing judgments or orders of the courts of first instance, the courts of appeal and the Supreme Court remain on schedule.

It is important to note that each court of first instance has the power to issue orders to comply with resolutions issued by the Judicial Administrative Commission. Therefore, a court of first instance may specify exceptions to proceed with a case that are slightly different from those of other courts of first instance.

At present, each court of first instance has already scheduled new hearing dates for cases that have been postponed due to the COVID-19 outbreak.

Parties are advised to check with the relevant court to confirm the new hearing dates. If any appointment that requires the presence of relevant parties/witnesses has not yet been rescheduled, it is strongly recommended that a proactive approach be taken by requesting that the court schedule a new hearing date that would be fair to and safe for the parties during this unusual situation.

3. Is a foreign witness allowed to enter into Thailand to attend a court hearing?

At present, all passenger flights are prohibited from entering into Thailand until 31 May 2020. It is thus impossible for foreign witnesses to enter into Thailand during that period. In addition, it should be noted that according to Regulation (No. 1), effective from 26 March 2020 onwards, the only non-Thai nationals permitted to enter Thailand are those holding a valid work permit and a “fit to fly” health certificate (confirming they have been tested and are free from the COVID-19 virus) issued no more than 72 hours before departure as well as an insurance policy with minimum coverage for COVID-19 of not less than US\$100,000. Unless the aforesaid restriction under Regulation (No. 1) is revoked or becomes more lenient, a request for postponement should be made for any hearing that requires the presence of a foreign witness due to the difficulty faced by the witness or concerned party in entering Thailand.

4. Is there any other alternative for a foreign witness to testify to a court if he/she is not able to enter into Thailand and the hearing is not postponed?

In case of emergency, the parties could request that the court take evidence via a video conference, but whether such a request would be approved is subject to the court’s discretion.

5. Is late submission of court documents allowed if a party has been affected by the COVID-19 outbreak?

At present, there is no special order or regulation allowing parties to submit court documents after the stated and official deadlines despite the COVID-19 outbreak. Therefore, if it is likely that you will not be able to meet the deadline for submitting any court documents, you should try to request that the court issue an order extending the period of time fixed by law by relying on the grounds of “special circumstances” before the deadline expires in accordance with Section 23 of the Civil Procedure Code. If the deadline has already expired, you may try to request that the court issue an order extending the said statutory period by relying on both the grounds of “special circumstances” and “*force majeure*” in accordance with the same legal provision. Nonetheless, whether those requests would be permitted by a court is at the court’s sole discretion.

