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The International Comparative Legal Guide to: Litigation & Dispute Resolution 2011

A practical cross-border insight into litigation & dispute resolution

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Commercial Dispute Resolution

Thailand

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I. LITIGATION

1 Preliminaries

1.1 What type of legal system has Thailand got? Are there any rules that govern civil procedure in Thailand?

Thailand has a civil law system. The Civil Procedure Code governs civil procedure in Thailand.

1.2 How is the civil court system in Thailand structured? What are the various levels of appeal and are there any specialist courts?

The civil courts include courts of general jurisdiction and specialised courts. The civil courts of general jurisdiction are divided into District Courts, which hear claims with a value of up to Baht 300,000, and Provincial Courts, which hear claims of over Baht 300,000. The Appeals Court hears appeals from the civil courts of general jurisdiction and there is a further level of appeal up to the Supreme Court, Thailand's highest level of court.

The specialised courts are as follows:

- a) The Administrative Court.
- b) The Central Bankruptcy Court.
- c) The Central Labour Court.
- d) The Central Tax Court.
- e) The Intellectual Property and International Trade Court.
- f) The Juvenile and Family Court.

With the exception of the Juvenile and Family Court, judgments of the specialised courts can be appealed directly to the Supreme Court. The Supreme Administrative Court hears appeals from the Administrative Court.

1.3 What are the main stages in civil proceedings in Thailand? What is their underlying timeframe?

The main stages of civil proceedings in Thailand are as follows:

Filing Proceedings – Civil proceedings are commenced by filing a complaint with the court. If the court accepts the complaint, it will be served on the defendant(s) by a court officer. The defendant(s) has 15 to 30 days (depending on the means of service) from the date of service within which to file an answer and any counterclaim. Once any counterclaim is filed on the claimant, the claimant will also have 15 to 30 days to file an answer to the counterclaim.

However, the court frequently grants extensions of time for filing answers upon reasonable request.

Settlement of Issues Hearing – Once the answers are filed, the court schedules an administrative hearing for the purpose of settling the issues in dispute and scheduling trial hearings. The court also has a policy of encouraging the parties to mediate, and may schedule one or more mediation hearings. The settlement of issues hearing is likely to be scheduled within a month or two of the filing of the answers and any mediation hearings within a few months of the settlement of issues hearing. However, the trial hearings may not be scheduled for a further eight months to a year.

Trial – The court endeavours to schedule consecutive hearings for the taking of evidence of each party. The number of hearings depends on the number of witnesses each party wishes to present and the volume of documentary evidence to be presented.

Judgment – Generally, the court will issue its judgment within a month of the close of trial hearings. There will be a judgment hearing at which the oral judgment will be given, but the written judgment may not be available until several weeks later. The overall length of time from filing a complaint through to a lower court judgment, based on current court backlogs, is 12 to 18 months.

1.4 What is Thailand's local judiciary's approach to exclusive jurisdiction clauses?

Choice of jurisdiction clauses are not enforceable in Thailand. Where a clause provides that the parties submit to the exclusive jurisdiction of the courts of a country other than Thailand, the Thai court will not respect the clause and will assume jurisdiction over any claim filed with the Thai court, provided the Thai court has jurisdiction in accordance with the Civil Procedure Code.

1.5 What are the costs of civil court proceedings in Thailand? Who bears these costs?

The party filing the complaint with the court is required to deposit a court filing fee equal to 2% of the anticipated claim (to a maximum of Baht 200,000), if the claim amount is not higher than Baht 50 million. For claims above Baht 50 million, the court filing fee is Baht 200,000 plus 0.1% of the amount of the claim exceeding Baht 50 million.

In addition, there are the attorneys' fees for litigating the claim. Although the court has discretion to order that the losing party pays the winning party's attorneys' fees, large fee awards are not common and usually only a fraction of the true costs are

recoverable. Therefore, parties to litigation in Thailand must proceed on the basis that they will bear the bulk of their own legal fees and will have limited exposure in respect of the opposing party's legal fees.

1.6 Are there any particular rules about funding litigation in Thailand? Are contingency fee/conditional fee arrangements permissible? What are the rules pertaining to security for costs?

There are no specific rules about funding litigation in Thailand. However, contingency fee arrangements are generally considered to be unethical in Thailand, though there are some Supreme Court judgments that have enforced certain contingency fee arrangements in the particular circumstances and others that have voided them as unethical.

Security for costs orders are available where the plaintiff is not domiciled or does not have a business address in Thailand and has no assets in Thailand, or there is a strong reason to believe that the plaintiff will avoid payment of costs and expenses if it is unsuccessful. Upon the defendant's request, the court may order the plaintiff to deposit money or security with the court and routinely does so in cases involving foreign plaintiffs.

2 Before Commencing Proceedings

2.1 Is there any particular formality with which you must comply before you initiate proceedings?

It is common for claimants to send a demand letter to defendants prior to commencing proceedings, but this is not a formal requirement.

For certain claims, specific requirements under the Thai Civil and Commercial Code must be complied with before a claim can be filed.

A mortgagee must send a notice to the debtor specifying a reasonable period of time within which the debtor must comply with its obligations and must wait for the period of time in the notice to expire before filing a claim.

Unless a contract specifies a fixed period of time for performance, a party must send a notice to the other party specifying a reasonable period within which to perform its obligations before rescinding the contract.

Finally, in respect of a hire of property, a hirer must send a notice to the lessor demanding the remedy of any defects before the hire contract can be terminated. Equally, a lessor must send a demand notice to a hirer to require performance in accordance with the contract or to take care of the property before the hire contract can be terminated. A claim may only be filed after the notification and subsequent termination.

2.2 What limitation periods apply to different classes of claim for the bringing of proceedings before your civil courts? How are they calculated? Are time limits treated as a substantive or procedural law issue?

There are different prescription (limitation) periods for different types of claims and the periods vary from one month to ten years, as prescribed by the Civil and Commercial Code. The prescription period for claims for which no specific period is prescribed by law is ten years. Some contractual claims may fall within this catch-all prescription period of ten years, but there are different prescription

periods for specific types of contracts.

The claimant in a wrongful act (tort) case must file the claim within one year from the date on which the claimant became aware of the wrongful act and the person obligated to pay compensation (or within three years if the tort claim is filed under the Consumer Case Procedure Act), but no later than ten years from the date of the wrongful act. If the wrongful act is also a criminal offence, the prescription period may be longer than one year.

As prescription can be a difficult and imprecise area of the law in Thailand, it is recommended that prospective claimants seek advice from counsel on the issue of prescription at an early stage.

Time limits are treated as a substantive law issue. Therefore, the expiry of a prescription period does not prevent a claim from being filed, but the defendant will have a complete defence to the claim.

3 Commencing Proceedings

3.1 How are civil proceedings commenced (issued and served) in Thailand? What various means of service are there? What is the deemed date of service? How is service effected outside Thailand? Is there a preferred method of service of foreign proceedings in Thailand?

The claimant files a complaint with the court and pays the court filing fee, the amount of which is based on the value of the claim. Once the complaint is accepted by the court, the claimant files a request for a summons and the copy of the complaint to be served on the defendant by a court officer. The court officer will first attempt to personally serve the proceedings on the defendant. If personal service is not successful, the court officer may post (affix) a copy of the summons and complaint in a conspicuous place at the defendant's address for service. Alternatively, the court officer may mail the summons and complaint to the defendant's address.

The defendant has 15 days from the date of service of the proceedings within which to file an answer to the complaint. Therefore, if the proceedings are personally served, the defendant has 15 days within which to file an answer. If the proceedings were served by posting at the premises, service is deemed to take effect 15 days after the date of posting; therefore, the defendant effectively has 30 days within which to file an answer.

If the defendant is not domiciled in Thailand, does not carry on business in Thailand, and does not have an agent or lawyer in Thailand, service must be effected through diplomatic channels. This is a lengthy process and can take six months to a year. Service is deemed to take effect 60 days after the date of actual service.

3.2 Are any pre-action interim remedies available in Thailand? How do you apply for them? What are the main criteria for obtaining these?

Temporary attachment orders, restraining orders, and orders requiring government agencies to suspend or revoke certain property registrations are available pre-action upon *ex parte* application. However, the complaint must be filed at the same time as the application.

The court will grant the application if it is satisfied that: i) the defendant may try to avoid execution of any judgment by removing his property from the court's jurisdiction or otherwise transfer, sell, or dispose of such property; ii) the defendant intends to repeat or continue the conduct complained of; iii) the defendant intends to register, modify, or cancel a registration of property; or iv) the defendant intends to move documents or evidence from the

jurisdiction or will dispose of or destroy it, and that the claimant will suffer injury or trouble as a result.

3.3 What are the main elements of the claimant's pleadings?

The claimant must prepare a complaint in the prescribed form. The complaint must contain: i) the names of the court and the parties; ii) the details of the facts and allegations on which the claim is based and on which the claimant wishes to rely in trial hearings; and iii) the relief applied for. There is no requirement to attach any documents, although it is recommended to attach important relevant documents, such as the contract in a contractual dispute. In addition, it is not necessary to state the legal basis on which the claim is made, since the court will determine the relevant law to be applied. The Supreme Court has clarified that the complaint should contain sufficient information for the defendant to understand the claim against him or her and be able to make an argument in his or her defence.

3.4 Can the pleadings be amended? If so, are there any restrictions?

A claimant or defendant can amend their claims or defences or allegations or contentions. The claimant's amendments to the complaint may consist of increasing or decreasing the value of a claim, waiving any of the claims in the original complaint, or submitting a supplementary complaint to protect his or her rights pending trial and enforcement. The defendant's amendments to an answer may set up new defences to the first or subsequent claims or amend the allegations and contentions to support his defence or contradict the claimant's claims. However, a new or supplementary complaint or counterclaim may only be filed if it has some connection with the original complaint to justify them being tried and adjudicated together.

An amendment to the complaint or answer must be submitted before the settlement of issues hearing, or if there is no settlement of issues, at least seven days before the commencement of the trial hearings, unless there is a good reason why it could not be filed within that time, it is an amendment involving public order, or it is a correction of an insignificant error or mistake.

4 Defending a Claim

4.1 What are the main elements of a statement of defence? Can the defendant bring counterclaims/claim or defence of set-off?

The answer (defence) must clearly state whether the defendant admits or denies all or part of the claimant's allegations and the reasons for denial. The defendant should raise any arguments on which he or she intends to rely in his or her answer. This is because when the court settles the issues in dispute, it will compare the complaint and answer and set the disputed issues, based on which of the allegations raised in the complaint are contested. If an argument has not been included in the answer, the court will not consider any evidence to support that argument and will base its decision on the evidence relating to the issues in dispute.

The defendant can file a counterclaim against the claimant provided it relates to matters connected to the complaint. If the counterclaim is not related to the complaint, the defendant must file a separate case against the claimant.

The defendant may claim a set-off in his or her answer in respect of his or her claim against the claimant.

4.2 What is the time limit within which the statement of defence has to be served?

The answer must be filed at the court within 15 days of the date of service or deemed date of service of the complaint.

4.3 Is there a mechanism in your civil justice system whereby a defendant can pass on liability by bringing an action against a third party?

A defendant can summon a third party to join the case if he or she can show that he or she has a right to sue the third party or to be sued by such party by virtue of a right of recourse or a right to compensation. Alternatively, a defendant can apply to the court for an order joining the third party in the case that the third party's appearance is required by law or is in the interests of justice.

4.4 What happens if the defendant does not defend the claim?

If the defendant does not file an answer, the claimant must file a request with the court (within 15 days of the deadline for the defendant to file the answer) to order that the defendant is in default of answer. If the claimant does not file such request, the case will be struck out. If the claimant does file the request, the court will order the defendant to be in default of answer. In this case, the trial will continue and the defendant is allowed to cross-examine the claimant's witnesses, but is not allowed to present any evidence.

4.5 Can the defendant dispute the court's jurisdiction?

The court will consider whether it has jurisdiction to hear the case before accepting the case. However, the defendant is entitled to apply to the court prior to filing an answer, to contest the jurisdiction of the specific court and to ask for the case to be transferred to another court which has jurisdiction. In doing so, the defendant must give reasons as to why it is not convenient to try the case in the first court or why the defendant will not receive justice in the first court. The first court must consent to the transfer of the case to the other court. If it refuses, the Chief Judge of the Appeals Court will determine the matter.

5 Joinder & Consolidation

5.1 Is there a mechanism in your civil justice system whereby a third party can be joined into ongoing proceedings in appropriate circumstances? If so, what are those circumstances?

As mentioned in question 4.3 above, the defendant can apply to join a third party to the proceedings if he or she has the right to sue or be sued by the third party and can also apply to the court for an order joining a third party if required by law or in the interests of justice. In addition, a third party may apply to be joined as a party to acknowledge, protect, or enforce a right or if he or she has a legal interest in the result of the case.

5.2 Does your civil justice system allow for the consolidation of two sets of proceedings in appropriate circumstances? If so, what are those circumstances?

Yes, cases can be consolidated provided that all or any of the parties

are the same and the trial of the cases will be facilitated if they are tried together. The court must also be satisfied that there is sufficient connection between the cases. Any of the parties may apply for the cases to be consolidated or the court may decide independently to order the consolidation of cases.

5.3 Do you have split trials/bifurcation of proceedings?

No, this is not applicable in Thailand.

6 Duties & Powers of the Courts

6.1 Is there any particular case allocation system before the civil courts in Thailand? How are cases allocated?

There is no formal case allocation system in Thailand. The Chief Judge in each court will decide which judge will handle each new case based on considerations such as the complexity and value of the case and the seniority and experience of the judge.

6.2 Do the courts in Thailand have any particular case management powers? What interim applications can the parties make? What are the cost consequences?

The courts have wide case management powers in accordance with regulations issued by the President of the Supreme Court. The court has the power to limit the number of witnesses each party may present and to ensure that the evidence that the witness will give relates to the issues in dispute. The court may also restrict the number of hearings for each party to present their evidence.

The same interim applications that are available pre-action are also available at any time before judgment. As mentioned in question 3.2, parties may make interim applications for temporary attachment orders, restraining orders, and orders requiring government agencies to suspend or revoke certain property registrations. A defendant may also make an application for a security for costs order.

Generally, the issue of costs is not considered until the conclusion of the case and the court has complete discretion when ordering the losing party to pay the winning party's costs, and may take into account the conduct of the parties throughout the case and whether the parties have acted in good faith. In addition, a party is liable to pay the costs of any unnecessary proceedings instigated by that party or of delaying the case, even if that party is ultimately successful.

6.3 What sanctions are the courts in Thailand empowered to impose on a party that disobeys the court's orders or directions?

A party who disobeys the court's orders or directions will be held to be in contempt of court. The court can then order the party to leave the court's premises and can also impose a sentence of imprisonment, a fine, or both. If the penalty is imprisonment and a fine, the maximum sentence of imprisonment is six months and the maximum fine is Baht 500.

6.4 Do the courts in Thailand have the power to strike out part of a statement of case? If so, in what circumstances?

The court can decide on a particular question of law that may dispose of the whole case or particular material issues in the case without conducting hearings, either on application of one of the

parties or of its own accord.

6.5 Can the civil courts in Thailand enter summary judgment?

The concept of summary judgment as it is understood in other jurisdictions does not exist in Thailand, save for the power of the court (mentioned in 6.4 above) to decide on a particular question of law and dispose of the whole case or material issues in the case.

6.6 Do the courts in Thailand have any powers to discontinue or stay the proceedings? If so, in what circumstances?

The court may discontinue the proceedings if the claimant abandons the case by failing to request for the summons and complaint to be served or by failing to take any action required by the court within the requisite time limit. The court may stay the proceedings if one of the parties dies, pending substitution by the party's heir or executor. Finally, if the civil case is linked to a criminal case, the Criminal Procedure Code provides that the civil court will be bound by the facts appearing in the judgment in the criminal case. Accordingly, the civil court may stay the civil proceedings pending judgment in the criminal case.

7 Disclosure

7.1 What are the basic rules of disclosure in civil proceedings in Thailand? Are there any classes of documents that do not require disclosure?

There is no formal disclosure procedure. Parties must simply submit the documents on which they wish to rely to prove their case seven days before the first trial hearing. There is no obligation to disclose documents that are unhelpful to their case. A party can request the court to subpoena documents in the possession of the opposing party or third parties. The courts do not support fishing expeditions, so a request for documents must be specific. This means that parties usually only apply for documents they have already seen and know to exist (for example, a specific agreement or piece of correspondence) or documents they know must exist as a routine business requirement (for example, bank statements).

7.2 What are the rules on privilege in civil proceedings in Thailand?

Thailand recognises the lawyer-client privilege. The privilege extends to any confidential document or fact that is entrusted or communicated by a party to a person acting in his or her capacity as a lawyer, including outside counsel and in-house lawyers. In making a determination as to whether a refusal to disclose a document or fact is well-grounded, the court can summon a party to give an explanation.

7.3 What are the rules in Thailand with respect to disclosure by third parties?

A party may ask the court to subpoena documents from a third party, as mentioned in question 7.1 above.

7.4 What is the court's role in disclosure in civil proceedings in Thailand?

The court will ensure that the documents to be submitted during the

trial are relevant to the issues of the case and will order the production of documents in possession of the opposing party or third parties upon request by a party.

7.5 Are there any restrictions on the use of documents obtained by disclosure in Thailand?

Documents obtained by court subpoena may only be used in the proceedings in which they were obtained.

8 Evidence

8.1 What are the basic rules of evidence in Thailand?

The basic rules of evidence are that unless a fact is generally known, indisputable, or admitted by a party, it must be proven by evidence. A party relying on a fact has the burden of proving that fact and can adduce any kind of evidence to do so, provided it complies with the law on admissibility and production of evidence.

8.2 What types of evidence are admissible, which ones are not? What about expert evidence in particular?

Only evidence that is relevant to the facts of the case that must be proved by a party is admissible. In addition, evidence is only admissible if the parties provide the list of evidence seven days before the commencement of the trial, unless the court considers that it is important evidence and should be admitted in the interests of justice. The court can dispense with evidence that is superfluous or irrelevant. Hearsay witness evidence is not admissible unless the court rules otherwise.

The court can, at its discretion or on a party's application, call an expert if it considers this necessary. The court can invite the parties to designate the expert by mutual agreement, provided that no person can be compelled to serve as an expert unless he or she has agreed and has been entered into the court's register of experts. In addition, any party to a dispute can present as a witness any person with expertise in a particular art, science, trade, foreign law, and so on, whose opinion may be of value in settling the issues in dispute, regardless of whether that person is engaged in that particular occupation.

8.3 Are there any particular rules regarding the calling of witnesses of fact? The making of witness statements or depositions?

A party may request the court to issue a summons for a witness of fact to attend court to testify in the trial. The court will consider whether the testimony to be given by the witness is relevant to the issues of the case before issuing the summons. A party may not issue a summons to the King, Queen, or an heir to the throne or to Buddhist monks or novices or anyone else with legal protection or privilege. Witnesses of fact must give oral testimony and can only read a written statement if the court gives permission or the witness is an expert witness. A party can cross-examine the witnesses of the opposing party. After each witness has given testimony, the court prepares a memorandum of the testimony, which is a summary rather than verbatim. The memorandum of the testimony is read to the witness, who then signs the memorandum.

8.4 What is the court's role in the parties' provision of evidence in civil proceedings in Thailand?

The court's role is to ensure that the evidence is relevant to the issues in the case. In addition, the court has an obligation to warn witnesses against self-incrimination in respect of specific questions.

9 Judgments & Orders

9.1 What different types of judgments and orders are the civil courts in Thailand empowered to issue and in what circumstances?

The court can give a judgment for the payment of money or issue orders to require certain actions or injunctions prohibiting certain actions. The court can only give the relief that is requested in the complaint.

9.2 What powers do your local courts have to make rulings on damages/interests/costs of the litigation?

The courts can make damage awards in respect of actual damages. The courts are also empowered by law to award punitive damages, but rarely do so. Courts are explicitly empowered to impose punitive damages in cases filed under the recent Consumer Case Procedure Act, which authority may result in higher overall damage awards than traditionally dispensed in Thai courts. It remains to be seen, however, the extent to which the courts will award punitive damages under the Act.

The court can order interest on money judgments to run up to the date of payment at the contractual rate agreed by the parties, or in the absence of any agreement, at the statutory rate of 7.5%.

The court has discretion to order the losing party to pay the successful party's legal fees based on statutory minimum and maximum guidelines linked to the value of the claim. The court will take into account the complexity of the case, the time devoted, and the amount of work carried out by the lawyer. As mentioned in question 1.5 above, large legal fee awards are not common in Thailand and usually only a fraction of actual fees may be recovered.

9.3 How can a domestic/foreign judgment be enforced?

A domestic judgment may be enforced by applying for the appointment of an execution officer who will attach the debtor's assets and liquidate them in the market or at auction. The judgment creditor itself is responsible for locating the debtor's assets, which can be difficult because the courts are reluctant to exercise their authority to compel asset disclosure from the debtor.

Thailand is not a party to any conventions on the enforcement of foreign judgments and Thai courts generally do not enforce foreign judgments. The foreign judgment may be submitted as evidence in new court proceedings commenced in the Thai court, but will only be one piece of evidence and a full trial on the merits will be required.

9.4 What are the rules of appeal against a judgment of a civil court of Thailand?

The Appeals Court has jurisdiction over appeals of Civil Court judgments, although questions of fact, in general, cannot be appealed unless the dispute exceeds Baht 50,000.

Judgments of the Intellectual Property and International Trade, Tax, Bankruptcy, Labour, and Administrative Courts can only be appealed to the Supreme Court. Unless the dispute exceeds Baht 200,000, questions of fact cannot generally be appealed to the Supreme Court.

II. DISPUTE RESOLUTION

1 Preliminaries

1.1 What methods of dispute resolution are available and frequently used in Thailand? Arbitration/Mediation/Tribunals/Ombudsman? (Please provide a brief overview of each available method.)

The Thai courts frequently conduct court-supervised mediation in the presence of any or all parties, with or without their lawyers. In addition, the court is authorised to appoint independent parties to assist in the mediation. The court encourages parties to mediate where possible, but such mediation is not compulsory. Out-of-court mediation is also available, but is not so common.

The most frequently used method of alternative dispute resolution to litigation in courts in Thailand (apart from informal negotiation) is arbitration. Parties may agree to resolve any disputes by arbitration. Usually, a form of institutionalised arbitration is preferred to *ad hoc* arbitration. Arbitration may be preferred in international contract cases in view of the fact that foreign judgments cannot be enforced in Thailand, whereas foreign arbitral awards given in countries that are signatories to the New York Convention or the Geneva Protocol are recognised and enforceable in Thailand. Other advantages of arbitration include the ability to choose the place and language of arbitration. In addition, arbitration proceedings are confidential, whereas court proceedings are open. It is also possible for the parties to choose an arbitrator who is an expert in the relevant field. Finally, arbitration proceedings may be more conducive to continuing business relations with the opposing party as litigation is considered to be more adversarial in nature.

1.2 What are the laws or rules governing the different methods of dispute resolution?

The Arbitration Act B.E. 2545 (2002) governs arbitration in Thailand and closely follows the UNCITRAL Model Law, with the following exceptions that are unique to Thailand. First, the arbitration tribunal does not have the power to give interim remedies; an application must be made to a Thai court. In addition, the Act exempts arbitrators from liability in performing their duties, unless a party is injured as a result of an arbitrator's intentional or grossly negligent acts. Finally, unlike the Model Law, the Act includes criminal provisions whereby an arbitrator can be fined, imprisoned for up to ten years, or both, for demanding or accepting bribes.

1.3 Are there any areas of law in Thailand that cannot use arbitration/mediation/tribunals/Ombudsman as a means of dispute resolution?

It is generally accepted and recognised that criminal, family, and certain types of labour and IP disputes cannot be submitted to arbitration on account of being contrary to public policy.

In addition, on July 28, 2009, the Cabinet passed a Resolution that

prevents the use of arbitration clauses in all types of contracts between a governmental organisation and a private company, unless Cabinet approval is obtained.

2 Dispute Resolution Institutions

2.1 What are the major dispute resolution institutions in Thailand?

The two main domestic arbitration institutes in Thailand are:

The Thai Arbitration Institute of the Alternative Dispute Resolution Office

Office of the Judiciary

Criminal Court Building, 5th-6th Floor

Ratchadapisak Road, Chatuchak, Bangkok 10900

Tel: +66 2541 2298 9

Fax: +66 2512 8432

The Thai Commercial Arbitration of the Board of Trade of Thailand
150 Ratchabophit Road

Wat Ratchabophit, Phranakorn, Bangkok 10200

Tel: +66 2622 1860 76

Fax: +66 2225 3372

2.2 Do any of the mentioned dispute resolution mechanisms provide binding and enforceable solutions?

Arbitration provides a binding and enforceable solution.

3 Trends & Developments

3.1 Are there any trends in the use of the different dispute resolution methods?

Arbitration is the most common dispute resolution method for resolving construction disputes, disputes relating to concession agreements, and securities disputes.

3.2 Please provide, in no more than 300 words, a summary of any current issues or proceedings affecting the use of those dispute resolution methods in Thailand?

The Thai Arbitration Institute (TAI) has recently introduced Med-Arb, which reflects the Thai courts' policy to encourage parties to mediate before proceeding with the trial. When parties elect to arbitrate their dispute at the TAI, the TAI will now encourage the parties to mediate the dispute before proceeding with the arbitration. The TAI provides the mediator. At present, the TAI does not yet provide stand-alone mediation services, but may do so in the future.

Another issue that is the subject of much discussion among the arbitration community in Thailand is the use of underhanded tactics by some opposing parties in arbitration proceedings. There has recently been a spate of attacks on foreign lawyers involved in arbitration in respect of immigration matters, such as visas and work permits.



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Tilleke & Gibbins

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