

## Thai Judicial Authorities Announce Hearing Postponements amid COVID19 Outbreak

In an effort to help stem the COVID 19 virus outbreak in Thailand, the nation's chief judicial authorities have ordered the postponement of most court hearings until the end of May 2020. In a resolution issued by the Judicial Administrative Commission (JAC) and an announcement by the President of the Supreme Court (the "Announcement"), all courts of first instance (i.e. trial-level courts) must set new dates for hearings that are currently scheduled between March 24 and May 31.

### Exceptions

There are exceptions to the postponement requirement, including the following:

- ▶ Witness examination hearings in criminal cases where the defendant pleads guilty or the defendant is in the court's custody (without bail)
- ▶ Evidence inspection hearings in criminal cases
- ▶ Probate hearings
- ▶ Hearings for declaring a person disappeared
- ▶ Hearings to appoint guardians for a juvenile
- ▶ The Announcement also allows a judge to keep a hearing at its scheduled date if the parties consent and a postponement would result in damages to the parties. With that in mind, if the judge is of the opinion that holding the hearing would jeopardize health and safety, or if the number of attendees at the hearing is high, the judge has the full authority to not conduct the hearing.

For practical purposes, litigants should check with the court to confirm if their hearing has been rescheduled.

### Appellate Courts

Although the Announcement only mentions hearings scheduled by courts of first instance, in practice, appellate-level hearings would also be rescheduled. Under the Thai system, the Appeal Court and Supreme Court do not carry out their own hearings. Instead, the courts of first instance conduct the hearings, but only as ordered by the appellate court. For example, an Appeal Court or Supreme Court judgment would be read by the court of first instance in the case. As a result, these hearings would be postponed.

### Foreign Parties/Witnesses

At present, due to the COVID-19 situation, foreigners attempting to enter Thailand must have a medical certificate issued no more than 72 hours before travelling which confirms they have been tested and are free

from the virus. Foreigners must also present an insurance policy showing minimum coverage for COVID-19 of not less than US\$100,000. In practice, it is difficult for a foreigner to obtain such clearance, making appearances at Thai court hearings virtually impossible. Under the Announcement, however, it is much easier to postpone a hearing with foreign witnesses, saving the foreign party the challenge of traveling to Thailand at this difficult time. However, in case of emergency, the parties can ask the court to allow the witness to appear through video conference. Whether or not such a measure would be allowed is solely at the court's discretion.

## **Court Filings**

The Announcement only covers hearings. As such, all prescription periods (statutes of limitation) are still in effect. The complaint department is still operating, so parties must still file their complaints, and other court submissions, by the required deadlines. However, as the situation is fluid, this may change. We will keep our readers updated on all developments regarding the Thai courts and justice system in this extraordinary time.

For more information on this development, or on any aspect of dispute resolution in Thailand, please contact Tilleke & Gibbins at [bangkok@tilleke.com](mailto:bangkok@tilleke.com) or +66 2056 5555.

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