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Thai Courts Adjust Case Management Procedures for the COVID-19 Crisis

The Thai judiciary has issued multiple measures and guidelines for case management during the COVID-19 outbreak. The latest came in May 2020, when the president of the Supreme Court issued further details and guidance on the handling of cases during the COVID-19 outbreak in an official announcement titled Measures for Case Management According to the Declaration of an Emergency Situation between March 26, 2020, and April 30, 2020, in All Areas of the Kingdom of Thailand.

This announcement generally confirmed and extended previous guidelines issued to provide direction on the management of cases in the Thai judicial system. The Thai judiciary first responded to the crisis on March 24, when they announced postponement of various hearings and set forth guidelines for relevant parties. The president of the Supreme Court gave greater details in measures issued on April 2, and on April 23 the newly formed Sub-Committee for Education, Follow-Up and Finding Solutions for Case Management during the COVID-19 Outbreak issued further guidelines regarding the management and postponement of cases between May 1 and May 30. This article discusses the items detailed in these measures.

Scheduling of Postponed and New Hearings

According to the April 23 guidelines, parties to cases with hearings that are postponed to June 1–30, 2020, should coordinate with the relevant court officer by submitting a signed confirmation of the new hearing date by mail, electronic media, or other method. In instances where the officer is unable to contact or otherwise coordinate with a party, the officer will send a summons by registered mail.

Specific Procedural Contingencies

The sub-committee's April 23 guidelines also detail how to handle some specific circumstances that may arise by grouping cases into three different categories. The first, "special management cases," covers those which involve uncomplicated civil matters that can be completed relatively quickly (such as cases with no answer, or highly specific complaints that can be simply enforced), as well as criminal cases in the preliminary hearing stage and in which the plaintiff is a Thai citizen. The second category is "general cases," which includes more complicated civil cases (such as where the defendant has responded denying the complaint), *prima facie* criminal cases, and criminal cases in which the prosecutor is the plaintiff. The third category is "special general cases," which are general cases with an especially significant amount of evidence requiring extended consideration.

Criminal special management cases that can proceed in court include witness examination hearings where the defendant pleads guilty, and evidence inspection hearings where the defendant is detained in custody. However, the court will

have to consider the number of cases, the people involved, and the robustness of the videoconferencing system connecting the court and the prison or other detention center, in accordance with the Judicial Regulation on the Procedure of Criminal Cases.

As for civil special management cases that can proceed in court, these include matters such as probate hearings, hearings to declare a person disappeared, hearings to appoint guardians for a juvenile, and other cases where the judge believes postponement would result in damage to the parties. The court will also need to exercise discretion regarding the safety of relevant people, whether postponement would be a viable alternative, and each party's consent.

For special management cases, newly filed complaints will be scheduled for August–September 2020, depending on the number of cases, and are to be scheduled after the postponed hearings of April and May 2020. The relevant court officer will send the necessary summons, to inform parties of the scheduled hearings, by registered mail.

General cases and special general cases that can proceed include hearings in criminal cases where the defendant is in custody, hearings in which a party is ready to present witnesses, hearings where the judge believes that the safety of the relevant persons will not be impacted, and hearings where the judge believes postponement would result in damage to either or both parties. Here again, the parties' consent will be taken into consideration.

An example of a general or special general case requiring judicial discretion would be a hearing in which there is only one witness left to present. The judge will consider circumstances such as the potential impact of postponement, or of proceeding without delay, and may choose whether to postpone any hearings scheduled to be held between May 1 and May 30, 2020, with approval from the chief justice or chief judge.

For judgment hearings in criminal cases that were held between May 1 and May 30, 2020, the judgment will be read as scheduled, regardless of whether all defendants have been granted temporary release or remain in custody. However, if the judge believes the hearing will not be safe for those involved, the judge may use his or her discretion to decide whether to postpone the judgement hearings. Any review to consider granting temporary release will be carried out in accordance with the April 2 case management guidelines issued by the president of the Supreme Court.

Judgment hearings scheduled to be held between May 1 and May 30, 2020, will likewise be held according to the further details and guidance provided by the president of the Supreme Court in the measures announced on April 2. These guidelines also apply to cases where the judge needs to review petitions for extension of a deadline to submit an appeal (or final appeal) that falls between May 1 and May 30, 2020.

Staying the Course

The COVID-19 outbreak has been an obstacle to the smooth continuation of judicial proceedings in Thailand, but the courts have shown that they have the resources and adaptability to handle the extraordinary circumstances. While the impacts of this unprecedented situation reverberate through the economic, social, and business spheres, it is important that companies and other parties to litigation or judicial actions maintain a steady strategy, adapting where needed and standing firm when circumstance allow. To ensure that the most effective and economical choices are being taken at this time, businesses should consult with their legal counsel before choosing a course of action regarding ongoing or upcoming litigation. 🏠