

RECENT UPDATES ON THAILAND LITIGATION TIMEFRAME

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The question most commonly asked by disputing parties in Thai court proceedings is how long it takes to get a judgment. The most common answer is that it depends on the court's discretion which is correct but does not answer the question.

"This act requires judicial authorities, including the Thai Courts of Justice, to set out a clear timeframe for each process/stage of their judicial services."

Prior to 23 January 2023, there was no specific legislation that provided a timeframe for a judge in conducting proceedings. Consequently, the timeframes for court proceedings are unpredictable and subject to the judges in charge of each case. In the Courts of First Instance, it generally takes between one to three years before the court hands down a judgment. And in the appellate stage, it often takes another one to three years. To our knowledge, the longest proceedings in the Court of First Instance to date were approximately four and a half years from the filing date.

A recent development is the Act on the Timeframe of Judicial Proceedings B.E. 2565 (2022) (the "Act") which came into force on 23 January 2023. This act requires judicial authorities, including the Thai Courts of Justice, to set out a clear timeframe

for each process/stage of their judicial services. Further, the Office of Judiciary has issued the Judicial Regulation on the Timeframe for Court Cases B.E. 2566 (2023) (the "Regulation") which came into force on 24 January 2023 to regulate the timeframe in court proceedings. Since then, we have observed developments on the approach and practice of Thai courts in determining the timeframe for court proceedings.

The Regulation sets out specific timeframes for each category of cases which have been categorised by the nature and complexity of the dispute. For instance, in non-contentious civil cases, or in cases of default proceeding, the Regulation requires the Courts of First Instance to render its judgment within six months of the filing date. In other contentious civil cases, the Courts of First Instance must render its judgment within one year of the filing date. In the appellate stage, the Courts of Appeal would also have six months or up to one year from the date they received case files, subject to the nature and complexity of the disputes.

The timeframes imposed by the Regulation may be extendable under the following circumstances: case management between courts, settlement negotiations between parties, suspension or stay of proceedings and certain other circumstances in each proceeding.

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In case of delay, relevant parties are entitled to seek clarification with the courts on the status of the proceedings, the cause of delay and the estimated time to complete the expected tasks. In response, the Court Officers are required to respond to the enquiring party within 15 days of receipt of such a request. Following the response, the court officer is required to make an official report regarding the request and response to the Chief Judge of that court and the Office of Judiciary.

In the event that the court officer fails to make an official report or if the Office of Judiciary finds that the delay was caused by unjustifiable and reasonable grounds, the Chief Judge of that court shall proceed with disciplinary actions against the judge or the court officer who caused the delay. This appears to be the only sanction provided for by the Act.

The Administrative Court and the Constitutional Court have also issued regulations on timeframes. For example, the timeframe for administrative cases depends on the workload of the Administrative Judge in charge of the case. The time allowed for the Administrative Court proceedings (the First Instance Court) and the Supreme Administrative Court proceedings (the High Court) ranges from two and a half years to three years and nine months. Unlike the Administrative Court, the Constitutional Court proceedings are required to complete within one year from the date the court officially accepts the case for its consideration.

Since 23 January 2023, we have seen some improvements where the courts try to expedite proceedings. Our observation is that the courts tend to take a stricter approach when exercising its discretion on any request relating to the timeframe of the proceedings, such as a request for an extension of time. Thai courts are now facing a challenge to meet the requirements under the Act and the Regulation as there are numerous pending cases where trials had temporarily been suspended during the Covid-19 pandemic. Our view is that if the courts can effectively manage these pending and incoming cases, we can expect to see more such positive developments in terms of time consumption in Thai court proceedings.

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