

"Thailand" **7**
What you
need to know - No.

Legal System

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The European ASEAN Business Centre (EABC) is a European Trade Organisation contributing to improve the trade and investment environment for European companies in Thailand with an aim to see a larger number of European companies (especially SMEs) being established in Thailand and increased export and investment by European companies into Thailand.

The EABC supports trade advocacy by playing an important role as the independent voice of European business vis-à-vis Thai authorities. It also acts as a focal point for market information for European companies in Thailand, facilitating their market access.

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EABC European Union's window to Thailand



Legal System

Overview of Thailand Legal System

Thailand's laws follow the pattern of civil law countries of continental Europe. In a legal dispute the court decides a case based on an interpretation of the statutory provisions. The court's interpretation is not as broad as that of a court in a common law country and its decision will not develop a body of law. Although, interpretations by the highest courts (Supreme Court) become precedent under the doctrine of stare decises.

The Constitutional Court is the highest court of appeal, although its jurisdiction is limited to clearly defined constitutional issues. The Courts of Justice have jurisdiction over criminal and civil cases and are organized in three tiers: Court of First Instance, Court of Appeal and the Supreme Court of Justice. Administrative courts have jurisdiction over suits between private parties and the Government, working in similar way to European countries' legal systems.

For specific areas there are also specialized courts: the Central and Regional Intellectual Property and International Trade Courts and the Central Bankruptcy Court.

All cases are decided by judges, as there are no juries, and foreigners can expect the courts to be impartial.

This leaflet is part of the EABC publication series on "Thailand" What you need to know. The information in this leaflet is provided for informational purposes only, and should not be construed as business or legal advice on any specific facts or circumstances.

Judicial System

The Thai judiciary generally consists of the following:

- Courts of First Instance, which are trial courts having original and general or special jurisdiction of all civil and criminal matters;
- Courts of Appeal, which determine legal and factual issues on appeal from the Courts of First Instance;
- Supreme Court, highest court level for presenting any appeal.

The judiciary is independent from the control of the executive branch. Judges are appointed and removed by the King upon recommendation of a judicial commission under the Ministry of Justice. Thailand's judicial system divides the court into two categories:

- Two common courts, consisting of the civil and criminal courts for each jurisdiction,
- Six specialized courts: the Family and Juvenile Court, the Labor Court, the Tax Court, the Intellectual Property and International Trade Court, the Central Bankruptcy Court, and the Administrative Court.

There are four principal fundamental codes: the Civil and Commercial Code (CCC), the Civil Procedure Code (CPC), the Penal Code (PC), and the Criminal Procedure Code (CrimPC).

In civil and criminal courts, trials are generally heard over a series of non-consecutive hearing dates. Trials can last over a period of several months or longer, according to the complexity of the case. A typical case will usually take 18 to 20 months for judgment to be rendered at the lower level.

An appeal in the Court of Appeals usually takes an additional 12 to 24 months, with a similar period for appeals to the Supreme Court. On average a labour trial with delays can run 2-3 years before a verdict is given.

Proceedings in these specialized courts are generally faster than those in the common courts. Because in these specialized courts hearings proceed without adjournment until all evidence is taken after which the Court renders its judgment or order, they tend to be faster than those in the common courts.

Arbitration

Thailand has an independent judiciary that is generally effective in enforcing property and contractual rights. The legal process is slow in practice, however, and litigants or third parties sometimes affect judgments through extra-legal means. Disputes such as the enforcement of property or contract rights have generally been resolved through the Thai courts.

Under the Arbitration Act, B.E. 2545 (2002), written agreements to arbitrate a dispute are given binding effect by the Courts of Justice or Administrative Courts, depending on the nature of the dispute, and neither party can appeal against the merit of the arbitral award.

The Thai Arbitration Institution (TAI) and the Office of the Arbitration Tribunal of the Thai Chamber of Commerce and Board of Trade of Thailand are leading arbitration institutions in Thailand. Under the Arbitration Act, domestic arbitration usually occurs under the rules of the Thai Arbitration Center.

Thai courts generally recognize and enforce arbitration awards whether they are made in Thailand or elsewhere. The Arbitration Act also provides that the Courts may enforce foreign arbitration awards if the parties involved are entitled to rely on the terms of relevant international conventions. Thailand is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958).

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