

**E-ARBITRATION RULES AND NEW E-FILING SYSTEM OF COURTS IN THAILAND
IN RESPONSE TO COVID-19
LawPlus Ltd., Thailand
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In response to the Covid-19 pandemic, Thailand issued and implemented a number of medical, social and legislative measures to contain the infection cases and the death toll starting in January 2020. On 25th March 2020, the Thai Government declared the state of emergency to lockdown the country effective from 26th March 2020 to 30th April 2020. On 28th April 2020, the Government extended the lockdown period to 31st May 2020. Social distancing, working from home and staying at home are encouraged during the lockdown period. Several administrative and legislative authorities have issued new rules and regulations to facilitate these measures.

This article discusses the new e-arbitration rules of the Thai Arbitration Institute (“TAI”), the new case information online services of the Courts of Justice of Thailand (“COJ”) and the postponement of witness hearings by the COJ.

1. New E-Arbitration Rules of TAI

On 24th April 2020, the TAI issued its Arbitration Rules on E-Arbitration B.E. 2563 (“**Rules**”) to improve efficiency and practicality of its current e-arbitration system (TAI EASY System). The Rules repealed and replaced its predecessor Arbitration Rules on E-Arbitration B.E. 2562 issued in 2019.

The e-arbitration procedures under the new TAI EASY system are as follows.

1.1 Registration

Parties or their authorized representatives who wish to file a claim or arbitration documents with TAI online must register themselves as a user with the e-arbitration system of TAI through <http://etai.coj.co.th> by uploading a copy of their Thai national ID card or passport if they are individuals or a copy of their Registration Affidavit of Company or Registered Partnership if they are a legal entity. TAI may also ask for copies of other documents.

After verifying the identity documents and finding them acceptable, TAI will issue a username and a password for the user to access the system and for the system to verify the identity of the user and to confirm receipt of documents uploaded in the system by the user. If the user fails to comply with the Rules or commits any act that may be harmful to the security of the e-arbitration system of TAI, his access to the e-arbitration system can be blocked by TAI.

1.2 Documents Filing

The user can upload documents to the e-system any time. However, uploading documents after 12:00 a.m. (midnight) will be deemed uploading on the following working day. If the e-system is down, the user can submit document by email.

Documents to be uploaded must be in the PDF format with a resolution of at least 200 dpi. If they are required to be signed by a wet signature or affixed with a duty stamp, e.g. a power of attorney and the arbitral tribunal appointment form, they must be so signed or affixed before they are converted into the PDF format. Uploading documents with the e-system is deemed that the user has confirmed that the originals of the documents are kept with the user.

1.3 E-Witness Hearing, Arbitration Award and Payment

Arbitration proceedings can be conducted online if it is not agreed otherwise by the parties and if approval is granted by the arbitration tribunal. The parties are bound by e-arbitration proceedings. Online witness hearings are allowed. Electronic signatures are acceptable for the signing of the documents necessary during the e-arbitration proceedings. If online witness hearing of a witness is recorded or capable of audio and video broadcast, it will be deemed that such witness has signed his/her written witness statements.

The arbitral tribunal can grant an award through an online conference and such award is binding and enforceable against the parties.

The payment associated with the online filing of a claim with TAI can be made by debit or credit card, bank transfer and other means to be specified by TAI.

2. Postponement of Witness Hearings

In response to the Covid-19 crisis, effective from 24th March 2020 the COJ postponed all the witness hearings scheduled for 24th March 2020 to 31st May 2020 to the end of 2020 or a later date which may be announced later.

However, the scheduled hearings of witnesses of some types of cases are not postponed. These cases are the criminal case where the defendant pleaded guilty, evidence examination hearings of a criminal case where the defendant is under custody, estate administration cases, cases requesting court's orders for a missing person or to be a guardian, cases requesting court's permission to act for minors and other cases whereby the postponement of the hearings will cause damages to any of the parties of the case.

3. The COJ Issues New E-filing System

On 27th March 2020, the COJ established a new case information online service for information search and document filing called "the Case Information Online Service (CIOS)" as an alternative to the existing e-filing system of the COJ.

The CIOS covers the information about all cases in all courts of Thailand, including the Intellectual Property and International Trade Court, the Central Juvenile and Family Court and the Central Bankruptcy Court. The CIOS allows filing case documents post filing of the complaint or the appeal. Parties to a case can check the case status or file a request for a copy of case documents through the CIOS.

The basic requirements for filing case documents through the CIOS are as follows:

1. The parties or their lawyers must register themselves with the system through <http://cios.coj.go.th> and log into the CIOS before uploading copies of the case documents.
2. The documents to be uploaded must be in the JPEG or PDF format and they cannot be larger than 10 MB with a resolution of at least 200 dpi.

3. If any document which is required to be signed by a wet signature, e.g. a power of attorney and the lawyer appointment form, is filed via the CIOS, it will be deemed that the user has confirmed that the original of the document is kept with the user.
4. The court official will verify each uploaded document before he/she sends a reference number to the user to confirm that its submission has been received. Any court order to be issued thereafter in relation to the uploaded document will be communicated to the user through the CIOS.
5. The document must be uploaded into the CIOS within 4:30 p.m. of the filing deadline. Otherwise, it will be deemed as being filed on the following working day and thus missing the deadline.



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