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Thailand



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Sakolrat
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1 Litigation – Preliminaries

1.1 What type of legal system does your jurisdiction have? Are there any rules that govern civil procedure in your jurisdiction?

Thailand is a civil law country. Civil procedure is mainly governed by the Civil Procedure Code (“CPC”). Precedents set by the Supreme Court’s judgments are not officially recognised in the same manner as those of common law countries.

1.2 How is the civil court system in your jurisdiction structured? What are the various levels of appeal and are there any specialist courts?

Civil courts comprise three tiers: (i) Courts of First Instance; (ii) Courts of Appeals; and (iii) the Supreme Court. Specialised courts include the Labour Courts, the Juvenile and Family Courts, the Central Taxation Court, the Central Intellectual Property and International Trade Court, and the Central Bankruptcy Court.

1.3 What are the main stages in civil proceedings in your jurisdiction? What is their underlying timeframe (please include a brief description of any expedited trial procedures)?

The main stages in civil proceedings are as follows:

- **Complaint/statement of claim** – litigation starts with the plaintiff’s filing of a complaint or statement of claim with a court. The statement of claim sets forth all the particulars of the plaintiff’s claims, including the relevant facts, allegations, nature of such claims, claimed amount, and/or relief requested.
- **Statement of defence and counterclaim** – a defendant is required to submit a statement of defence within 15 days from the effective date of service of a writ of summons. Unless a time extension is granted by the court, failure to submit a statement of defence within the deadline may lead to a default judgment. A statement of defence includes a defendant’s admission or denial of the plaintiff’s allegations in whole or in part, as well as the reasons for denial. The defendant may also include a counterclaim in a statement of defence, provided that such counterclaim relates only to matters stated in the plaintiff’s complaint.
- **Determination of issues for trial** – if the parties to a dispute cannot reach an amicable settlement during the pre-trial stages, the court will proceed with the case by scheduling a hearing to determine the issues to be considered during the trial. The court will determine the issues and set

the burden of proof with respect to such issues. Subsequently, trial dates will be scheduled for the examination of evidence to be presented by each party according to their respective burden of proof. In practice, trial dates will take place around three to six months after the issues are determined.

- **Examination of evidence** – a trial commences with the examination of evidence to be adduced by each party in support of their allegations or contentions. Generally, a party bearing the higher burden of proof is required to lead evidence first. At least seven days prior to the relevant trial date, the first list entailing documents, physical evidence, and witnesses to be adduced by each party together with photocopies of such documents must be submitted to the court and made available to the opposing party. Presentation of evidence is made to the court on the scheduled trial dates. A party’s lawyer conducts direct examination (examination-in-chief) of each witness or submits the witness’ written statement *in lieu* thereof. After the direct examination, the witness may be cross-examined by the opposing party’s lawyer. Thereafter, the initial lawyer may re-examine the witness.
- **Judgment** – there are no provisions regulating the period until a judgment is reached. A judgment by a Court of First Instance may take approximately one to four months from the date the court proceedings are completed, depending on the complexity of the case. Except for special rules for cases involving small amounts, a judgment is usually drafted and orally pronounced in the court. Judgments are based on the relief sought by the complainant. Relief granted by a judgment may include specific performance, a permanent injunction on actions, and/or damages. In certain circumstances, violations of certain laws empower the court to award punitive damages.

1.4 What is your jurisdiction’s local judiciary’s approach to exclusive jurisdiction clauses?

The courts that have jurisdiction over disputed matters shall be as stipulated by the CPC or other procedural laws for specialised courts. Any agreement on exclusive jurisdiction differing from the CPC or such procedural laws is unenforceable.

1.5 What are the costs of civil court proceedings in your jurisdiction? Who bears these costs? Are there any rules on costs budgeting?

Court fees on entry of claims (or counterclaims) for cases in which the relief is in monetary terms is calculated at each level of court at the following rates:

- For claims concerning property or money: 2% of the claimed amount of THB 50 million or less with a maximum fee of THB 200,000, plus an additional fee at a rate of 0.1% of the claimed amount beyond the first THB 50 million.
- For claims concerning the enforcement or revocation of an arbitral award made in Thailand: 0.5% of the award or an amount in controversy of THB 50 million or less with a maximum fee of THB 50,000, plus an additional fee at a rate of 0.1% of the amount beyond the first THB 50 million.
- For claims concerning the enforcement or revocation of an arbitral award made outside Thailand: 1% of the award or an amount in controversy of THB 50 million or less with a maximum fee of THB 100,000, plus an additional fee at a rate of 0.1% of the amount beyond the first THB 50 million.
- For requests concerning the enforcement or foreclosure of a mortgage: 1% of the claimed amount of THB 50 million or less with a maximum fee of THB 100,000, plus an additional fee at a rate of 0.1% of the amount beyond the first THB 50 million.

Court fees on entry of claims for a case in which the relief is not in monetary terms is THB 200 per case.

In addition to the above, there are other minimal fees for judges and bailiffs for taking evidence out of court, witnesses' fees and expenses, etc.

Generally, a judgment will include an order requiring a losing party to cover the other party's actual court fees, as well as other expenses in an aggregate sum not exceeding 1% of the claimed amount. A judgment will also include reimbursement of the lawyer's fees to the winning party regardless of the amounts of lawyer's fees actually paid by that party, in an amount not exceeding 5% of the claimed amount in the first court and 3% at each level in the higher courts, respectively.

1.6 Are there any particular rules about funding litigation in your jurisdiction? Are claimants and defendants permitted to enter into contingency fee arrangements and conditional fee arrangements?

There are no specific rules concerning litigation funding in Thailand. A precedent set by a Supreme Court judgment in 2020 states that an agreement for contingency fees of 30% of the claimed amount recovered from a defendant is lawful and enforceable.

1.7 Are there any constraints to assigning a claim or cause of action in your jurisdiction? Is it permissible for a non-party to litigation proceedings to finance those proceedings?

There are no constraints to assigning a claim or cause of action insofar as such assignment is concluded in line with the applicable laws. Currently, there are no specific rules prohibiting a non-party from financing litigation proceedings. However, based on a precedent set by the Supreme Court, financial support from a third party without any legal interest in a court case or with the intent to profit from the dispute is likely to be regarded as contrary to public order and good morals, and hence is unenforceable.

1.8 Can a party obtain security for/a guarantee over its legal costs?

Defending parties may obtain a court order directing claimants to deposit money or furnish security for payment of costs and expenses if the claimants are not domiciled or do not have any business place or assets in Thailand, or if there is a reason to believe that they will evade such payments if they lose the case.

2 Before Commencing Proceedings

2.1 Is there any particular formality with which you must comply before you initiate proceedings?

Generally, there are no formalities a claimant must comply with before initiating proceedings, save for requests concerning the enforcement or foreclosure of a mortgage where the mortgagee must have first delivered to the debtor a written notice demanding performance of the debtor's obligations within a reasonable time before entering an action in court. For other claims, it is also advisable to have delivered a written notice to the debtor to establish that the debtor has been in default.

2.2 What limitation periods apply to different classes of claim for the bringing of proceedings before your civil courts? How are they calculated? Are time limits treated as a substantive or procedural law issue?

Prescription periods are fixed by a substantive law – the Civil and Commercial Code (the “CCC”) – ranging from six months to 10 years, depending on the claims. Prescription periods fixed by law cannot be contractually extended or reduced. Prescription begins to run from the moment the claim becomes enforceable. The CCC also provides that when such prescription has not been set up as a defence, the court cannot dismiss the claim on the grounds of prescription.

3 Commencing Proceedings

3.1 How are civil proceedings commenced (issued and served) in your jurisdiction? What various means of service are there? What is the deemed date of service? How is service effected outside your jurisdiction? Is there a preferred method of service of foreign proceedings in your jurisdiction?

Means of service to defendants domiciled in Thailand, subject to the court's order/approval, include: (i) registered mail with acknowledged receipt; (ii) express mail service; (iii) delivery by the bailiff to the named defendants' domicile, to be accepted by them or their assignees; or (iv) posting at the named defendant's domicile. Service is deemed effected when delivered, save for the service made by posting, which takes effect only after a period of 15 days (or any longer period fixed by the court) has elapsed.

If a defendant is domiciled in a foreign country, the plaintiff must submit to the court a petition requesting a service of summons and complaint, enclosing certified translations of the summons and complaint in the language of the said country or in English. The court may order to proceed the service by international express mail service or courier, through diplomatic channels, by posting at the courthouse, or by a newspaper publication. The service in such case is deemed effected when delivered, or after 60 days from the date of newspaper publication.

3.2 Are any pre-action interim remedies available in your jurisdiction? How do you apply for them? What are the main criteria for obtaining these?

If there is a concern that evidence may be lost or destroyed, a motion can be submitted to a court prior to filing any complaint for a court order to take such evidence.

Interim remedies before judgments are also available under the CPC in the form of protective measures, including: (i) seizure or attachment of the property in dispute; (ii) a temporary

injunction restraining the defendant from repeating or continuing a wrongful act or breach of contract; (iii) an order directing a registrar to hold up registration, modification or cancellation of registration pertaining to the property in dispute; or (iv) the provisional arrest and detention of the defendant. Plaintiffs are entitled to file with the court, together with their complaints or at any time before judgment, *ex parte* applications requesting the court to order all or any of such protective measures. The plaintiffs are required to demonstrate that their complaints have good cause and sufficient grounds for obtaining protective measures.

3.3 What are the main elements of the claimant's pleadings?

The statement of claim sets forth all the particulars of the plaintiff's claims, including the relevant facts, allegations, nature of such claims, claimed amount, and/or relief requested.

3.4 Can the pleadings be amended? If so, are there any restrictions?

Amendments can be made to most pleadings, especially with respect to a complaint or an answer, if such amendments consist of increasing/decreasing the claimed amount, waiving any claim, completing the original complaint, setting up new defences, or revising the allegations or contentions; this is provided that a request for such amendments is submitted prior to the date of determination of issues for trial, or at least seven days before the first hearing of evidence examination in the case of no such determination of issues. Late submission of such requests may be admissible if there is reasonable cause, or if a requested amendment involves public order or the correction of a manifest error or mistake. An amendment to a complaint or an answer is prohibited if it constitutes a new claim, unless such claim has a sufficient connection to the original claim to justify a combination of claims for trial and adjudication.

3.5 Can the pleadings be withdrawn? If so, at what stage and are there any consequences?

Most pleadings can be withdrawn. Before the defendants file their answers, withdrawals of the plaintiffs' complaints can be made effective by filing written notice with the court. Any withdrawal of the plaintiffs' complaints made after the defendants' answers had been filed is subject to the court's permission. The court may grant such permission only after having heard the defendants or the interpleaders, if any, or after an agreement for settlement is concluded between the parties.

If the defendant's answer is withdrawn, a judgment or an order disposing of the case may be rendered by the court in the plaintiff's favour by default upon being requested by the plaintiff, provided that the court deems the complaint well-grounded and not contrary to law. In this regard, the court may take evidence in connection with the plaintiff's allegations as it deems necessary.

4 Defending a Claim

4.1 What are the main elements of a statement of defence? Can the defendant bring a counterclaim(s) or defence of set-off?

A defendant is required to submit a statement of defence within 15 days from the effective date of service of a writ of summons.

Unless a time extension is granted by the court, failure to submit a statement of defence within the deadline may lead to a default judgment. A statement of defence includes a defendant's admission or denial of the plaintiff's allegations in whole or in part, as well as the reasons for denial. The defendant may also include a counterclaim in a statement of defence, provided that such counterclaim relates only to matters stated in the plaintiff's complaint.

4.2 What is the time limit within which the statement of defence has to be served?

Once the service of summons and complaint is made effective, the named defendant must submit a statement of defence within 15 days. A motion for an extension of the period for filing the defence statement must be submitted to the court prior to the expiration of such period. The court may grant any such extension if it is justified by special circumstances.

4.3 Is there a mechanism in your civil justice system whereby a defendant can pass on or share liability by bringing an action against a third party?

The court may summon a third party on a defendant's motion submitted before a judgment showing that the defendant may sue or be sued by such third party by virtue of a right of recourse, or right to compensation in case the judgment is rendered against the defendant, or when it is deemed necessary by the court in the interest of justice.

4.4 What happens if the defendant does not defend the claim?

See question 1.3 and 3.5 for a defendant's failure to answer.

If the defendant has submitted an answer but is in default of appearance, the court shall proceed with the trial and adjudication of the case *ex parte*. In both circumstances, the court may rule in favour of the plaintiffs only if it appears that their allegations are well grounded and not contrary to law.

4.5 Can the defendant dispute the court's jurisdiction?

Defendants may dispute the court's jurisdiction over a matter and must include such dispute in their defence statements. An agreement fixing a court's jurisdiction that differs from the applicable law shall be void and unenforceable.

5 Joinder & Consolidation

5.1 Is there a mechanism in your civil justice system whereby a third party can be joined into ongoing proceedings in appropriate circumstances? If so, what are those circumstances?

A third party may join an ongoing proceeding by way of interpleading, through either such third party's own motion or a court's order following a disputing party's motion. A third party's motion in the circumstance where it is necessary for the acknowledgment, protection, or enforcement of such third party's rights may be submitted with the court before a case is pending; or, where such third party's claim arises in connection with the execution of a judgment or order, with the court that has issued the writ of execution. The third party that has

a legal interest in the results of a case must submit such motion to become a joint plaintiff, joint defendant, or a substitute for a disputing party with such party's consent at any time before judgment. The court may permit such interpleading in the circumstances where a disputing party may sue or be sued by the third party by virtue of a right of recourse or right to compensation in case the judgment is rendered against such disputing party, or when it is deemed necessary by the court in the interest of justice.

5.2 Does your civil justice system allow for the consolidation of two sets of proceedings in appropriate circumstances? If so, what are those circumstances?

Two or more cases pending in the same court, or two different Courts of First Instance, with the same persons constituting all of the parties, may be tried together if the courts see fit, or if a request is stated in any or all of the parties' pleadings at any time before judgment. The court is empowered to issue an order consolidating the proceedings of the cases only after having heard all parties to such cases and being satisfied as to the connectivity of the cases.

5.3 Do you have split trials/bifurcation of proceedings?

In Thai courts, there are no juries, hence no bifurcation. However, the CPC provides for certain mechanisms during proceedings of a Court of First Instance which may be comparable with split trials. Firstly, the parties may agree to submit the dispute, in reference to all or any of the issues, to be decided or settled by arbitration. The court will then give judgment in accordance with such an arbitral award. Secondly, at the court's discretion or an interested party's request in a case involving several claims, the court may, as it sees fit, issue an order of disjoinder for all or any of the said claims to be tried separately.

6 Duties & Powers of the Courts

6.1 Is there any particular case allocation system before the civil courts in your jurisdiction? How are cases allocated?

There is no specific case allocation system. A plaintiff's complaint must be filed with the court having jurisdiction over its subject matter in accordance with the stipulations of the CPC and the Act Promulgating the Law for the Organization of the Courts of Justice B.E. 2543. For courts having jurisdiction over multiple civil affairs divisions, such as the Court of Appeals for Specialized Cases, each appealed case will be allocated accordingly.

6.2 Do the courts in your jurisdiction have any particular case management powers? What interim applications can the parties make? What are the cost consequences?

The court may issue several orders during its proceedings, e.g.: demanding a claimant deposit security for costs and expenses of the case; summoning evidence; commanding the inspection of things or places; and appointing experts, etc., insofar as is permitted by law and in the interest of justice. As a policy, many courts also urge and lead the parties to engage in settlement discussions at a time deemed appropriate during any stage of its proceedings. Interim applications include those discussed in question 3.2. There are no significant court costs in relation to the proceedings mentioned above.

6.3 In what circumstances (if any) do the civil courts in your jurisdiction allow hearings or trials to be conducted fully or partially remotely by telephone or video conferencing, and what protocols apply? For example, does the court – and/or may parties – record and/or live-stream the hearings and may transcriptions be taken? May participants attend hearings remotely when they are physically located outside of the jurisdiction? Are electronic or hard-copy bundles used for remote hearings?

At the court's discretion or the parties' request, hearings or trials of civil cases may be conducted via videoconference on a platform that provides a stable connection, insofar as each party's rights are not affected. Only permitted participants are allowed to attend, and they are strictly prohibited from recording or reproducing the proceedings. Participants physically located outside of Thailand may attend electronically conducted hearings with the court's permission. Documents intended to be introduced as exhibits at the remote hearings must be submitted to the court electronically.

6.4 What sanctions are the courts in your jurisdiction empowered to impose on a party that disobeys the court's orders or directions?

Civil contempt of court, as provided for in the CPC, includes disobeying a court's order or directions and other abuses of procedures. The court is empowered to impose punishment on persons committing contempt of court by expulsion from the court's precincts, or by imprisonment not exceeding six months and/or a fine not exceeding THB 500. Contempt of court is provided for in the Penal Code as an offence punishable with imprisonment and/or a fine.

6.5 Do the courts in your jurisdiction have the power to strike out part of a statement of case or dismiss a case entirely? If so, at what stage and in what circumstances?

The courts have the power to strike out a statement of claim entirely if it is illegible, drawn up unintelligibly or with excessive prolixity, does not contain the required signatures, is not enclosed with such documents required by law, or is barred by the provisions of the law governing the territorial jurisdiction and competency of the courts. After a complaint is accepted by the court, a case may be struck out or dismissed in whole or in part in the circumstances where: (i) a party applies for a court's decision to dispose of the whole case or any particular issues in the case by raising a question of law; (ii) a plaintiff neglects to proceed with the case within such time required by law or fixed by the court; (iii) written notice of a complaint withdrawal is submitted to the court before the defendant files his answer; (iv) a plaintiff's motion for permission to withdraw a complaint is submitted to the court after the defendant's answer or the interpleader's pleading is filed (no permission for such withdrawal will be granted without having heard the defendant or the interpleader (if any)); and (v) the parties have reached a compromise settlement in writing.

6.6 Can the civil courts in your jurisdiction enter summary judgment?

The court may issue a summary judgment in exercising the power mentioned in question 6.5 above.

6.7 Do the courts in your jurisdiction have any powers to discontinue or stay the proceedings? If so, in what circumstances?

The courts have the discretionary power to stay the proceedings in a case where the parties mutually agree to be bound by an outcome of another pending case. In a civil case in connection with an offence, the court will stay proceedings while the offence is pending criminal proceedings, as the civil court is bound by the facts appearing in the judgment of a criminal case.

7 Disclosure

7.1 What are the basic rules of disclosure in civil proceedings in your jurisdiction? Is it possible to obtain disclosure pre-action? Are there any classes of documents that do not require disclosure? Are there any special rules concerning the disclosure of electronic documents or acceptable practices for conducting e-disclosure, such as predictive coding?

No comprehensive discovery scheme is available in Thai courts. The basic rules of disclosure under the CPC only require each party to file with the court, at least seven days before the day of taking evidence, a list entailing descriptions of witnesses and documents to be adduced, as well as things, places and experts to be inspected or questioned in support of such party's allegations or contentions. Copies of the list and the described documents must also be provided to the other party, except for those documents that are known or have been in the possession of the opposing party. Litigants may, at the court's discretion, revise or submit additional lists of evidence.

If a party intends to rely on documents in the possession of the opposing party or a third party, a request to the court to issue an order directing the said party to deliver the original documents or certified copy of the original documents to the court can be made. The same rules apply to e-proceedings. There is no set of rules or acceptable practices for conducting e-disclosure, such as predictive coding. Under the CPC, before a civil case is initiated, a person intending to rely on a document or a witness's statement in the future, who is apprehensive that such document or witness will be lost in an untimely manner or become difficult to adduce, may file a motion for an order directing such document or witness's statement to be taken as evidence at once.

7.2 What are the rules on privilege in civil proceedings in your jurisdiction?

Under the CPC, lawyers may refuse to disclose confidential information of the client that becomes known during the course of performing their official duties, except where the client's consent is given or such disclosure is required by a court order.

7.3 What are the rules in your jurisdiction with respect to disclosure by third parties?

Please see question 7.1: a third party may be subject to an order directing such party to deliver to the court certain original documents intended to be adduced by a party as evidence. Failure to comply with such court order is a criminal offence punishable by imprisonment and/or fines.

7.4 What is the court's role in disclosure in civil proceedings in your jurisdiction?

The court does not play an active role in disclosure, other than issuing orders for disclosure of documents as described in question 7.1.

7.5 Are there any restrictions on the use of documents obtained by disclosure in your jurisdiction?

Once a document is submitted to the court, there is no restriction on its use as documentary evidence. A party's right to object to the opposing party's introduction of a document is forfeited if there is a failure to object prior to the taking of such document as evidence. However, such forfeiture will prejudice neither the court's power to inquire and decide as it sees fit as to the existence, genuineness, or accuracy of the document, nor the said party's right to contend that a contract or obligation stated in the document is invalid or misconstrued by the opposing party.

8 Evidence

8.1 What are the basic rules of evidence in your jurisdiction?

Save for facts that are generally known, indisputable, or admitted or deemed admitted by the opposing party, a party relying upon any facts to support such party's claim and/or defence carries the burden of proof of such facts. To satisfy the burden of proof, the party has the right to submit any kind of evidence subject to the laws governing the admissibility and production of evidence. The court has discretion to decide whether the evidence is relevant to the issue and sufficient to be taken as conclusive or not, and then give judgment accordingly.

8.2 What types of evidence are admissible, and which ones are not? What about expert evidence in particular?

Evidence to be submitted must be relevant to the case and the issue in dispute. Hearsay evidence is not admissible unless otherwise permitted by the court.

Upon an application of the concerned party or by the court's own accord, the court may call for an expert to give testimony verbally or in writing.

8.3 Are there any particular rules regarding the calling of witnesses of fact, and the making of witness statements or depositions?

A party may request the court to issue a subpoena ordering the attendance of a witness at a hearing to give testimony. Such request must be made by an application submitted to the court before the day of taking evidence, explaining why the testimony of such witness is required and how the witness is related to the issue in dispute. Testimony will be given verbally, and the opposing party will have an opportunity to cross-examine the witness. The court will summarise the testimony in a statement

and read such statement to the witness for signing off. At a party's request, without the opposing party's objection and with the court's approval, a witness' written statement may be submitted *in lieu* of giving answers at a hearing or direct examination. Such written statement must be submitted at least seven days prior to the day of taking evidence in relation to the witness. The witness will appear before the court for cross-examination and re-examination unless the parties agree otherwise.

8.4 Are there any particular rules regarding instructing expert witnesses, preparing expert reports and giving expert evidence in court? Are there any particular rules regarding concurrent expert evidence? Does the expert owe his/her duties to the client or to the court?

An expert appointed by the court may give their opinion either orally or in writing. If the court is not satisfied with the written opinion of an expert or if a party applies by motion, the court may demand a supplementary written opinion from an expert, summon an expert to appear in court to give an oral explanation, or appoint other experts. There are no rules regarding concurrent expert evidence. An expert has a duty to assist the court impartially on matters relevant to the expert's area of expertise, and is not supposed to be an advocate for the party engaging them. Experts intentionally giving false testimony involving an essential matter in a case are liable to penalties including imprisonment not exceeding five years, and a fine not exceeding THB 100,000.

9 Judgments & Orders

9.1 What different types of judgments and orders are the civil courts in your jurisdiction empowered to issue and in what circumstances?

The civil courts are empowered to render or issue various types of judgments and orders, such as: (i) verbal or written orders granting or dismissing written or oral motions; (ii) a decision with respect to the issues of a case, to be given after completion of the trial; (iii) default judgment – see question 1.3 above; (iv) summary judgment – see question 6.5 above; and (v) consent judgment, to be given as an endorsement of the parties' agreement to settle their dispute amicably.

9.2 Are the civil courts in your jurisdiction empowered to issue binding declarations as to (i) parties' contractual or other civil law rights or obligations, (ii) the proper interpretation of wording in contracts, statutes or other documents, (iii) the existence of facts, or (iv) a principle of law? If so, when may such relief be sought and what factors are relevant to whether such relief is granted? In particular, may such relief be granted where the party seeking the declaration has no subsisting cause of action, and/or no party has suffered loss, and/or there has been no breach of contract/duty?

Thai civil courts are empowered to deal with the above matters (i.e. (i)–(iv)) in rendering judgments insofar as those matters do not exceed the scope of relevant complaints. A civil litigation may only be commenced by a person whose rights or duties under the civil law are concerned, and a judgment binds only the parties to such litigation case. Thai courts are not empowered to make such a declaration or grant such a relief where there is no cause of action, no party having suffered loss, or no breach of contract/duty.

9.3 What powers do your local courts have to make rulings on damages/interests/costs of the litigation?

Thai courts have powers to make rulings on:

- (i) Damages – to be determined according to the circumstances and the gravity of tort or contract breach, or the breach as per the proven facts and in line with the relief applied for. Punitive damages are prescribed in several pieces of legislation, e.g. the Trade Secret Act, Empowerment of Persons with Disabilities Act, Product Liability Act, Consumer Protection Act, and Gender Equality Act.
- (ii) Default interest – as accrued from the date of committing a wrongful act, or the due date of such debt. Currently, the applicable rate of such default interest is 5% *p.a.*, unless a different rate is stipulated by a lawful contract or piece of legislation.
- (iii) Litigation costs – see question 1.5 above.

9.4 How can a domestic/foreign judgment be recognised and enforced?

A Thai civil court's judgment can be enforced through attaining a writ of execution issued by the said court for seizure of property, attachment of claims, or other execution measures. Under such writ, a legal execution officer is appointed to carry out the execution measures, as applied for by the judgment creditor and approved by the court.

Thailand is not a party to any convention or treaty for recognition or enforcement of any judgment attained outside of Thailand. A party can initiate new court proceedings and enter a foreign court's judgment as persuasive evidence to support a claim.

9.5 What are the rules of appeal against a judgment of a civil court of your jurisdiction?

Any appeal against a Court of First Instance's judgment or order must be made in writing and filed with the Court of Appeals within one month from the date of pronouncement of the said judgment or order. Court fees on entry of an appeal are payable at the same rate as stated in question 1.5. No appeal will be accepted if it relies on questions of facts and involves an amount of THB 50,000 or less, unless with reasonable grounds for appeal as certified by the first court's judge, or with permission granted by the first court's Chief Judge or the Region's Chief Judge. A question of fact or law must be stated clearly in an appeal to the Court of Appeals.

A judgment of the Court of Appeals is deemed final. Further appeal to the Supreme Court may be pursued only if permission is granted by the Supreme Court. An application for permission to appeal is made in the form of a motion and submitted along with a statement of appeal to the competent Court of First Instance within one month from the date of pronouncement of the Court of Appeals' judgment. The Supreme Court may grant permission to appeal when it is of the opinion that the issues raised in the intended appeal are significant and worthy of being adjudicated.

10 Settlement

10.1 Are there any formal mechanisms in your jurisdiction by which parties are encouraged to settle claims or which facilitate the settlement process?

The CPC contains provisions empowering the court to reconcile the parties to bring about an agreement for amicable settlement

at any stage of the proceedings. Before starting a civil litigation case, any potential party to a dispute may submit a motion requesting a court-supervised mediation to be carried out by a court-appointed conciliator. Subsequently, the parties may jointly request the court to render a judgment endorsing any such agreement for amicable settlement concluded between them. There are no court fees for such pre-action mediation procedures.

11 Alternative Dispute Resolution

11.1 What methods of alternative dispute resolution are available and frequently used in your jurisdiction? Arbitration/Mediation/Expert Determination/Tribunals (or other specialist courts)/Ombudsman? (Please provide a brief overview of each available method.)

Alternative dispute resolution under the CPC includes in-court arbitration and court-supervised mediation (as stated in questions 5.3 and 10.1, respectively), while the latter is used more frequently. Out-of-court arbitration, governed by the Arbitration Act B.E. 2545 (2002), is also available. Expert determination may be carried out in the form of mutually agreed procedures.

11.2 What are the laws or rules governing the different methods of alternative dispute resolution?

The CPC and Dispute Mediation Act B.E. 2562 (2019) govern such in-court arbitration and court-supervised mediation, as mentioned above. The Arbitration Act B.E. 2545 (2002), which has been enacted in line with the UNCITRAL Model Law, provides the applicable arbitration rules in Thailand.

11.3 Are there any areas of law in your jurisdiction that cannot use Arbitration/Mediation/Expert Determination/Tribunals/Ombudsman as a means of alternative dispute resolution?

Arbitration can only be used for disputes that can be settled between the parties. Disputes related to public order, juvenile and family matters, an individual's capacity, and insolvency cannot be settled by arbitration.

11.4 Can local courts provide any assistance to parties that wish to invoke the available methods of alternative dispute resolution? For example, will a court – pre or post the constitution of an arbitral tribunal – issue interim or provisional measures of protection (i.e. holding orders pending the final outcome) in support of arbitration proceedings, force parties to arbitrate when they have so agreed, or order parties to mediate or seek expert determination? Is there anything that is particular to your jurisdiction in this context?

At any stage of the civil court's proceedings, the parties may agree to in-court arbitration, i.e., referring any or all issues to arbitration in order to have any such arbitral award enforced by the court's order or judgment. During in-court arbitration proceedings, a party's appointment of an arbitrator may not be revoked unless with the opposing party's consent.

The parties to arbitration or the arbitrators may also seek the court's assistance in having the arbitral tribunal instituted, issuing a court order directing protective measures in the interest of a party, issuing a subpoena or an order directing submission of any documents or materials, and challenging or enforcing an arbitral award.

11.5 How binding are the available methods of alternative dispute resolution in nature? For example, are there any rights of appeal from arbitration awards and expert determination decisions, are there any sanctions for refusing to mediate, and do settlement agreements reached at mediation need to be sanctioned by the court? Is there anything that is particular to your jurisdiction in this context?

A consent judgment endorsing an agreement for amicable settlement is binding and not appealable except on the grounds of fraud allegedly committed by any party, alleged infringement of any law involving public order, or a discrepancy between the judgment and the compromise agreement. A compromise agreement concluded without endorsement of a court's judgment may be enforced through a civil litigation.

A court order refusing to give judgment in accordance with an in-court arbitral award or a judgment given in accordance with such award is not appealable, except on the grounds of: (i) dishonesty on the part of any party or arbitrator; (ii) the order or the judgment being contrary to any law involving public order; and (iii) a discrepancy between the judgment and the arbitral award.

An out-of-court arbitral award is binding and can be enforced through civil litigation. The court may refuse enforcement of an arbitral award if a party against whom the award will be enforced proves that: (i) a party to the arbitration agreement was under some incapacity under the law applicable to that party; (ii) the arbitration agreement is not binding under the laws of the country agreed to by the parties; (iii) a party was not given proper advance notice of the appointment of the arbitral tribunal or of the arbitral proceedings, or was otherwise unable to defend the case in the arbitral proceedings; (iv) the award deals with a dispute not falling within the scope of the arbitration agreement, or contains a decision on matters beyond the scope of the arbitration agreement; (v) the composition of the arbitral tribunal or the arbitral proceedings were not in accordance with the agreement of the parties; or (vi) the arbitral award has not yet become binding.

11.6 What are the major alternative dispute resolution institutions in your jurisdiction?

The major Thai arbitration institutions are the:

- (i) Thai Arbitration Institute ("TAI");
- (ii) Office of the Arbitration Tribunal of the Board of Trade of Thailand;
- (iii) Thailand Arbitration Centre ("THAC"); and
- (iv) Arbitration Institute of the Office of Insurance Commission (for insurance disputes).



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