



**FAQ ON INJUNCTION ORDERS
FOR CIVIL DISPUTES:
DFDL LAOS**

JANUARY 2023

NO.	KEY QUESTIONS	ANSWERS
1.	<p>How is an injunction defined, and what are the various categories and characteristics of the available injunctions?</p>	<p>Injunction although not a specifically defined term under the Lao PDR laws is prevalent in practice in the form of an <i>order</i> issued by courts. Article 3(9) of the Law on Civil Procedure (№ 13/NA, 4 July 2012) (the “Civil Procedure Law”) defines <i>orders</i> as decisions issued in relation to the proceedings.</p> <p>Article 134 to Article 139 of the Civil Procedure Law set out the following categories of injunctions:</p> <ul style="list-style-type: none"> i. injunction for the management of disputed perishable assets; ii. injunction for the seizure or confiscation of assets after the dissolution of a legal entity; iii. injunction for the treatment of an incompetent person; iv. in divorce cases, injunction attaching the salary or personal income or seizing or sequestering assets of one spouse to support the other spouse or their children under 18 years of age who are in the custody of such other spouse; v. injunction for the guardianship of a child under 18; and vi. injunction for the management of disputed assets during court proceedings. <p>In addition, Article 121 of the Civil Procedure Law states that the courts can in order to guarantee that any dispute is judged on its merits, issue the following categories of injunctions:</p> <ul style="list-style-type: none"> i. injunction for seizing or sequestering assets; ii. injunction for disallowing litigants from carrying out any activity relevant to the case; iii. injunction for disallowing litigants from executing any obligations; and iv. injunction for guaranteeing the procedure of court proceedings.
2.	<p>Under what circumstances may a party apply for an injunction? Please factor in all types of injunctions and, if necessary, sub-divide the</p>	<p>Other than providing that the applicant must provide the court with information and evidence to support its application per Articles 128 and 129 of the Civil Procedure Law, there are no specific circumstances or conditions for a party to apply for an injunction under the Lao PDR laws.</p>

NO.	KEY QUESTIONS	ANSWERS
	responses by the form of the injunction.	
3.	<p>At which stage of a proceeding may a petition for injunction be filed, and can an injunction be an independent proceeding without the need to file a suit as sine qua non?</p>	<p><u>When can a petition for injunction be filed?</u> Article 122 to Article 126 of the Civil Procedure Law state that, a petition for injunction can be filed at any stage of the dispute resolution process (arbitration or litigation), including after the judgement is handed down, to deal with the enforcement of the judgement. However, an injunction cannot be sought before dispute resolution proceedings have begun.</p> <p><u>Can a petition for injunction be filed independently without filing a suit?</u> An injunction cannot be filed as an independent proceeding without the need to file a suit. Per Article 122 to Article 126 of the Civil Procedure Law, an application for injunctions can be passed by the courts only as a measure to guarantee the performance of an obligation or prohibition from the performance of an obligation in relation to a suit which is either pending or been decided upon.</p>
4.	<p>What objective indicators are needed to understand my eligibility for an injunction?</p>	<p>Per Article 128 and Article 129 of the Civil Procedure Law, the applicant must provide the court with information and evidence to support its application and the court after deliberating on it and at its discretion decides either to issue the injunction or reject the application.</p>
5.	<p>What is the procedure for initiating an injunctive proceeding?</p>	<p>The applicant is required to submit a written application to the court which must include the following details as set out under Article 128 of the Civil Procedure Law:</p> <ul style="list-style-type: none"> i. name of the court where the application is to be submitted; ii. full name, address and other basic details of the applicant; iii. detailed information about the matter, full name, address and other basic details of the entities involved; iv. a summary of the case and the purpose of the application; v. documents related to the application;

NO.	KEY QUESTIONS	ANSWERS
		<ul style="list-style-type: none"> vi. date of submission of the application; vii. signature of the applicant and certification from the relevant village administration authority. <p>In addition to this, Article 129 of the Civil Procedure Law states that the application must be accompanied by supporting evidence in favour of the applicant's claims which should be certified by a village administrative authority and the court where the application is submitted will have the authority to consider such application and will make its decision based on the information provided by the applicant.</p> <p>In case the injunction is in relation to physical assets, the court may, in accordance with Article 129 of the Civil Procedure Law, conduct a site visit to the location of the assets or require third parties to provide further information about the assets.</p>
6.	<p>What would be an appropriate forum in your jurisdiction to present a petition for the granting of injunctions?</p>	<p>Depending on the nature of the matter as well as the parties involved the following are the appropriate forums for presenting a petition seeking injunction:</p> <ul style="list-style-type: none"> i. For a civil matter – The civil chamber of a court, per Article 31 to Article 33 of the Civil Procedure Law; ii. For a labor matter – The labor chamber of a court, per Article 34 of the Civil Procedure Law; iii. For a commercial matter – The commercial chamber of a court, per Article 37 and Article 38 of the Civil Procedure Law; iv. For a family dispute – The family chamber of a court, per Article 44 and Article 45 of the Civil Procedure Law; and v. For a juvenile matter – The juvenile chamber of a court, per Article 51 and Article 52 of the Civil Procedure Law.
7.	<p>How much does the judge's discretion influence allowing or disallowing a grant of injunction?</p>	<p>Article 129 of the Civil Procedure Law grants the responsibility to grant injunctions to the relevant court hearing the respective case in question. In the absence of defined conditions for being granted injunctions, the court has a high level of discretionary influence in allowing or disallowing injunctions.</p>

NO.	KEY QUESTIONS	ANSWERS
8.	<p>How are injunctions enforced, and what are the consequences for not complying with an injunction order?</p>	<p><u>Enforcements of Injunction</u> Per Article 129 of the Civil Procedure Law, the court will summon the parties to inform them of the acceptance or rejection of the application for issuing an injunction and a notification of the issued injunction will be fixed at the location of the relevant assets and/or the relevant parties, local courts and other concerned government departments.</p> <p><u>Consequences for non-compliance</u> Under Article 389 of the Penal Code (№ 26/NA, 17 May 2017) (“Penal Code”) individuals, organizations or enterprises who violate any aspect of an order issued by a court shall be liable for any damages caused. In case of violation of terms injunction by the parties involved or by third parties, such violations shall be considered as an offence under the Penal Code and shall be punishable by loss of liberty for a term of three months to two years and with a fine of LAK 1,000,000 (around USD 60) to LAK 5,000,000 (around USD 295). If the violating party is a legal entity, Article 90 of the Penal Code, states that the court will impose twice the amount of the prescribed sum of monetary penalty.</p> <p>Further, Article 90 of the Penal Code, states that in addition to the monetary penalty, the court can also consider revocation of the business license of a legal entity or restricting certain business operations, imposing restrictions on its business activities, seizing assets and imposing other financial restrictions like restricting fundraising and the use of financial instruments.</p>
9.	<p>What processes can be followed to assail an unsatisfactory injunction order? Is there a statute of limitations to take up such a process?</p>	<p><u>Process</u> Article 131 of the Civil Procedure Law provides the aggrieved party and third parties with the right to appeal against an injunction by applying to a court which should be superior to the court that issued the injunction.</p> <p>In addition, the Head of the Public Prosecution Office has the right to object to the issue of an injunction by applying to a superior court to the one that issued the injunction.</p> <p><u>Statute of Limitation</u></p>

NO.	KEY QUESTIONS	ANSWERS
		<p>Per Article 131 of the Civil Procedure Law, the appeal against and/or objection to an injunction should be done within seven days from the date of receiving the instruction for enforcement of the injunction.</p>
10.	<p>Is injunctive relief by the courts in private arbitration available in your jurisdiction?</p>	<p>Yes, injunctive relief by the courts in private arbitration is available in Lao PDR. Article 41 of the Law on Economic Dispute Resolution (№ 55/NA, 22 June 2018) states that during arbitral proceedings conducted with the Economic Dispute Resolution Organization (EDRO), any party to the dispute may ask the EDRO to request the court to issue an injunction and the court is required to consider the request and consider issuing the injunction within five days from the date of receiving the request.</p> <p>Additionally, in practice EDRO on its own and depending on the nature and facts of a particular case can on its own also approach and request the court to issue an injunction.</p>

EXCELLENCE · CREATIVITY · TRUST

Since 1994

BANGLADESH | CAMBODIA* | INDONESIA* | LAO PDR | MYANMAR | PHILIPPINES* | SINGAPORE | THAILAND | VIETNAM

[†] DFDL collaborating firms