



FAQ ON INJUNCTION ORDERS FOR CIVIL DISPUTES: DFDL THAILAND

JANUARY 2023

NO.	KEY QUESTIONS	ANSWERS
1.	<p>How is an injunction defined, and what are the different categories and characteristics of the available injunctions?</p>	<p>Under the Civil Procedure Code of Thailand (the “CPC”), injunction is defined as an order of the court that provides various measures to protect benefits of parties during the court’s proceedings. The injunction includes measures to protect benefits of (a) the Defendant, (b) the Plaintiff or (c) both Parties.</p> <p><u>Injunctions to protect benefits of the Defendant</u></p> <p>Injunctions for the Defendant mainly aim to ensure that the Plaintiff will be able to pay for court fees and expenses incurred during the proceedings if the Plaintiff loses the case. Measures to protect benefits of the Defendant include:</p> <ul style="list-style-type: none"> • An order for the Plaintiff to deposit money to the court; and • An order for the Plaintiff to find bail for the payment of fees and expenses. <p><u>Injunctions to protect benefits of the Plaintiff</u></p> <p>Injunctions for the Plaintiff aim to ensure that if the Plaintiff wins the case, the Plaintiff will be able to receive the payment according to the court’s judgement. Measures to protect benefits of the Plaintiff include:</p> <ul style="list-style-type: none"> • Seizure of property (including monies and property owed to the Plaintiff); • An order to suspend actions, relieve damages, prohibit the transfer of property or prevent damage of property; • An order to suspend registration or an amendment of official documents or to revoke registration of property; and • Temporarily arrest or detain the Defendant. <p><u>Injunctions to protect benefits of the Parties</u></p> <p>Injunction for both Parties aim to protect the parties’ properties, rights and benefits on disputed properties that may arise during the proceedings. It is an order that prescribes methods to protect the benefits of the party, for example:</p> <ul style="list-style-type: none"> • to deposit the disputed property or money with the court or a third person; • to appoint a manager or custodian of the business in dispute; or • to arrange an incompetent person to be under the parenting of a third person.

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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 responses by the form of the injunction.</p>	<p>There are circumstances that allow a party to apply for an injunction called “cause for submitting an injunction.” Some reasons for submitting an injunction are based on the party submitting an injunction, such as:</p> <p><u>Cause for submitting an injunction by the Defendant</u></p> <ul style="list-style-type: none"> • The Plaintiff does not have a domicile or office in Thailand and has no property that can be subjected to an execution in Thailand; or • It can be believed that when the Plaintiff loses the case, he will avoid paying court fees and expenses. <p><u>Cause for submitting an injunction by the Plaintiff</u></p> <p>As the injunctions that can be executed by the court to protect the Plaintiff’s benefit have various measures, each measure has different causes for submitting an injunction as follows:</p> <ul style="list-style-type: none"> • Seizure of property (including monies and property owed to the Plaintiff) <ul style="list-style-type: none"> ○ The Defendant intends to remove all or part of the disputed property or his own property from the jurisdiction of the court, or to transfer, sell or dispose of such property in order to delay or obstruct the enforcement of any order that may be issued to the defendant or to put the plaintiff at a disadvantage; or ○ Any other necessary grounds the court may consider just and appropriate. • An order to suspend actions, relieve damages, prohibit the transfer of property or prevent damage of property <ul style="list-style-type: none"> ○ The Defendant intends to remove all or part of the disputed property or his own property from the jurisdiction of the court, or to transfer, sell or dispose of such property in order to delay or obstruct the enforcement of any order which may be issued to the defendant or to put the plaintiff at a disadvantage; ○ The Defendant intends to repeat or continue the tort, breach of contract or disputed action; ○ The Plaintiff will suffer further damage due to the actions of the Defendant; ○ The disputed property or the Defendant's property will be wasted or damaged or transferred to others; or ○ Any other necessary grounds the court may consider just and appropriate.

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		<ul style="list-style-type: none"> • An order to suspend registration or an amendment of official documents or to revoke the registration of property <ul style="list-style-type: none"> ○ There is a possibility that the Defendant will proceed with the registration, amend the registration or revoke the registration of the disputed property or the Defendant's property or the property relating to disputed action that will cause damages to the Plaintiff; or ○ The Plaintiff will suffer further damage due to the actions of the Defendant. • Temporarily arrest or detain the Defendant <ul style="list-style-type: none"> ○ The Defendant hid himself in order not to receive a summons or a court order; ○ The Defendant has moved out of the court's jurisdiction or concealed (a) any document that could be evidence against the Defendant (b) the disputed property (c) property of the Defendant, or the Defendant would dispose or destroy such documents or properties; or ○ It appears through the behavior of the Defendant works that he would escape from the court's jurisdiction. <p><u>Cause for submitting an injunction by the Parties</u></p> <p>There is no specific cause for submitting an injunction by the Parties. However, the CPC indicates broadly that the Parties can request the court to issue any measures that are deemed appropriate to help protect their properties, rights, or any benefits relating to the dispute during the proceedings.</p>
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>Petition for injunction to protect benefits of the Defendant</u></p> <p>A petition for injunction to protect benefits of the Defendant shall be filed before the court renders its judgment. This rule applies to all levels of the court.</p> <p><u>Petition for injunction to protect benefits of the Plaintiff</u></p> <p>A petition for injunction to protect benefits of the Plaintiff shall be filed while submitting the complaint or before the court renders the judgment. This rule applies to all levels of the court.</p> <p><u>Petition for injunction to protect benefits of the Parties</u></p>

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		<p>Generally, a petition for injunction to protect benefits of the Parties can be filed while the court proceedings are still going on. This means that if the case is dismissed or the court has already rendered the judgement for that case, then the Parties cannot file any additional petitions.</p> <p>There is no circumstance in which an injunction can be filed without the complaint going before court under the CPC.</p> <p>However, there are some laws and specific matters that permit a party to request the court order for an injunction prior to filing the complaint.</p> <ul style="list-style-type: none"> • The Arrest of Ships Act, B.E. 2534 (1991) requires that before submitting a claim to the court, the claimant who has a domicile in Thailand may request the court to order the arrest of a ship owned or possessed by the debtor with the view to sufficiently securing the performance of the obligations subject to the maritime claim in respect of the ship. • The Arbitration Act, B.E. 2545(2002) requires that a party to an arbitration agreement may file a motion requesting the competent court to issue an order imposing provisional measures to protect his/her interests before the arbitral proceedings.
4.	<p>What objective indicators are needed to understand my eligibility for an injunction?</p>	<p><u>Injunctions to protect benefits of the Defendant</u></p> <p>The court decides that the cause to apply for an injunction is justifiable or convincing.</p> <p><u>Injunctions to protect benefits of the Plaintiff</u></p> <p>The court considers the complaint to be well grounded and the cause to apply for an injunction is reasonable enough for the court to enforce an injunction.</p> <p><u>Injunctions to protect benefits of the Parties</u></p> <p>This depends on the court's discretion.</p>

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5.	What is the procedure for initiating an injunctive proceeding?	<p>The party who wants to initiate an injunctive proceeding shall submit a motion to the court stating the following details:</p> <ul style="list-style-type: none"> • the requesting injunction/measure; • cause of such injunction/measure; and • reason and necessity to request such an injunction.
6.	What would be an appropriate forum in your jurisdiction to present a petition for the granting of injunctions?	<p>The motion to apply for an injunction can be presented in every forum, including the court of first instance and high court, before such court renders its judgement.</p>
7.	How much does the judge's discretion influence allowing or disallowing a grant of injunction?	<p>Although the CPC provides the conditions and circumstances under which the Parties can cite a cause to apply for an injunction, the judge still reserves full discretion to allow or not allow an injunction. First, the court must find that the cause to apply for an injunction meets the criteria provided by the CPC. In addition, the court must decide that such a request is reasonable and convincing enough to grant an injunction.</p>
8.	How are injunctions enforced, and what are the consequences for not complying with an injunction order?	<p><u>Injunctions to protect benefits of the Defendant</u></p> <p><i>Enforcement</i></p> <p>The court will render an order for the Plaintiff to deposit money or find bail for the court within the specified period. In addition, the court may prescribe any conditions as it deems appropriate.</p> <p><i>Consequences for not complying with an injunction order</i></p> <p>The court shall dispose the case unless the Defendant requests to continue the proceedings or there is an appeal against the injunction order.</p> <p><u>Injunctions to protect benefits of the Plaintiff and injunctions to protect benefits of both Parties</u></p>

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		<p><i>Enforcement</i></p> <p>The court will enforce an injunction differently based on the nature of each injunction.</p> <p>In the case that the court issues an order to suspend actions, relieve damages, prohibit the transfer of property or prevent damage of property, the court shall notify the Defendant of such an order.</p> <p>In the case that the court issues an order preventing the Defendant from transferring, selling, or disposing of the disputed property or the Defendant's property as it involves the registration process. The court shall notify the registrar or competent officer regarding such an order. Then, the officer shall record the court's order.</p> <p><i>Consequences for not complying with an injunction order</i></p> <p>If the injunction relates to preventing the transfer, sale, or disposal of property, the court will directly notify the registrar or competent officer of the injunction order. Therefore, it is quite rare that such injunction will not be permitted.</p> <p>For other injunctions, such as an order to suspend actions or to relieve damages, if the party does not comply with an injunction order, the court will act based on the nature of such an injunction and in accordance with the execution laws. For example, in a case that there is non-compliance with an order to suspend actions, the court may arrest or detain such a person instead.</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>A party who is unsatisfied with an injunction order can appeal the order within one month of the date that the order was issued.</p> <p>In case of an injunction to protect the benefits of the Plaintiff, a person who shall comply to the warrant issued by virtue of an injunction, such as warrant of arrest or writ of seizure, may request the court to withdraw such warrant.</p> <p>If there is a request as mentioned above, the court may issue any other order it deems appropriate for the benefit of justice.</p>
10.	<p>Is injunctive relief by the courts in private arbitration available in your jurisdiction?</p>	<p>Yes. Section 16 of the Arbitration Act B.E. 2545 (2002) (As Amended) provides that a party to an arbitration agreement may file a motion requesting the competent court to issue an order imposing provisional measures to protect his/her interest before or during the arbitral proceedings. If the court decides that had such proceedings been conducted in court, the court would have been able to issue such order, the court may proceed as requested.</p>

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