

Dispute Resolution

The Supreme Court Enacts Regulation on Online Court Case Administration

After implementing the Case Tracking Information System (*Sistem Informasi Penelusuran Perkara*) as a form of transparency and accountability for our judicial system, the Supreme Court on 4 April 2018 enacted Regulation No. 3 of 2018 regarding Online Case Administration in Courts ("**Regulation 3/2018**"). Regulation 3/2018 is a significant technological advance for lawyers and individuals. Upon the enactment of Regulation 3/2018, parties litigating in courts will be granted online access to undertake the following processes:

1. Case registration;
2. Court summons; and
3. Issuance of Court Decision/Stipulation.

To be granted access, lawyers must first register themselves online through the Court Information System (*Sistem Informasi Pengadilan*) provided by Supreme Court. To complete the registration process, lawyers need to submit their i) identity card; ii) lawyer membership card; and iii) oath certificate issued by the High Court. The Supreme Court will verify the registration and has the authority to change data, suspend, or revoke access. Case administration services for individuals are further regulated by the Supreme Court.

Case Registration

A registered lawyer will be able to register a case online through the Court Information System of the relevant court and make an electronic payment. The court registrar will commence case registration after the verification process is complete.

Court Summons

Upon a Judges' order, a court bailiff will issue a court summons to:

1. a plaintiff who has registered online and provided written consent to be summoned electronically;
2. a defendant or other party who has provided written consent to be summoned electronically;
3. the counsel who received a written consent from the principal to litigate through an electronic mechanism.

In the event a court summons is undertaken outside the court's domicile, the court will deliver such summons online to parties, copying the court where the parties are domiciled. The procedures for summoning a foreign party are set out by the Supreme Court Secretary in accordance with the Memorandum of Understanding between the Ministry of Foreign Affairs and Supreme Court regarding the Handling or Request for Technical Legal Assistance in Civil Case (see AHP March client update: <http://www.ahp.co.id/client-update-21-march-2018>).

Issuance of Court Decision/Stipulation

An electronically published court decision/stipulation will also be delivered to the disputing parties within 14 working days of its pronouncement (and for bankruptcy cases, within 7 days of its pronouncement).

In order to finalize Regulation 3/2018, the Supreme Court Secretary and Directorate General of Judiciary Bodies (*Direktorat Jenderal Badan Peradilan*) will issue relevant implementing regulations or make necessary changes to the regulation within six months of enactment.

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AHP Commentary:

Regulation 3/2018 aims to simplify the process of court case administration. Online case administration in courts, also known as e-courts, has been implemented by several other countries, including India, Dubai, and Malaysia.

Although the new regulation is a welcome development following the establishment of the Case Tracking Information System (*Sistem Informasi Penelusuran Perkara*), some questions remain.

Regulation 3/2018 only provides for the online administration of civil cases, Islamic civil cases, state administration cases and military administration cases (including submission of statement of claim, response, reply (*replik*), rejoinder (*duplik*) and written concluding arguments (*kesimpulan*)). The proceedings for criminal cases are notably absent from the list of cases available for online administration. Criminal case proceedings will still be conducted manually.

Additionally, Regulation 3/2018 is silent on i) the mechanism for parties to submit the court documents and ii) the delivery mechanism for electronic court decisions/stipulations. For example, it is unclear as to whether the decision/stipulation will only be delivered to the disputing parties electronically and/or also manually handed over to the disputing parties as evidenced by receipt of the electronic court decision/stipulation. This uncertainty of delivery mechanism of electronic court decision/stipulation might affect the period for the party(s) who will take legal action to contest the decision/stipulation concerned.

Another loophole concerns the implementation of the electronic domicile; the parties' domicile determined by email address and/or mobile phone number which has been verified.

The aforementioned questions concerning i) the mechanism for submitting court documents online; ii) the verification procedures, including for electronic domicile; and iii) the delivery mechanism of electronic court decision/stipulation should be regulated in the upcoming implementing regulation.

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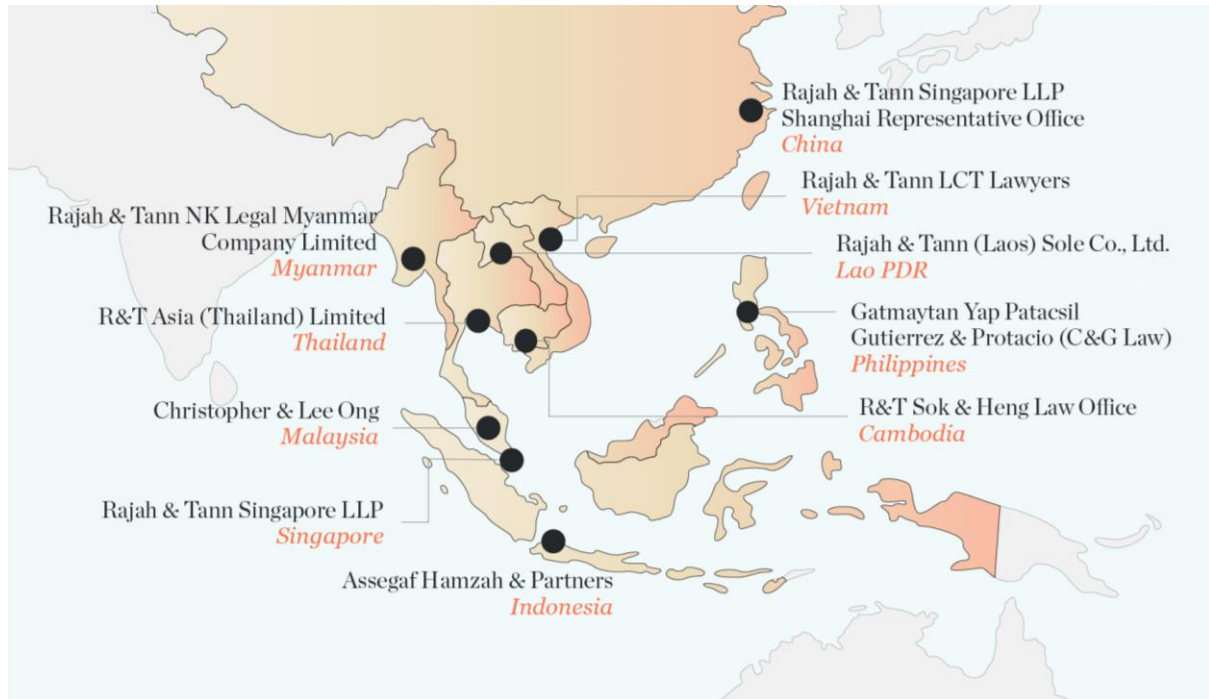
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