

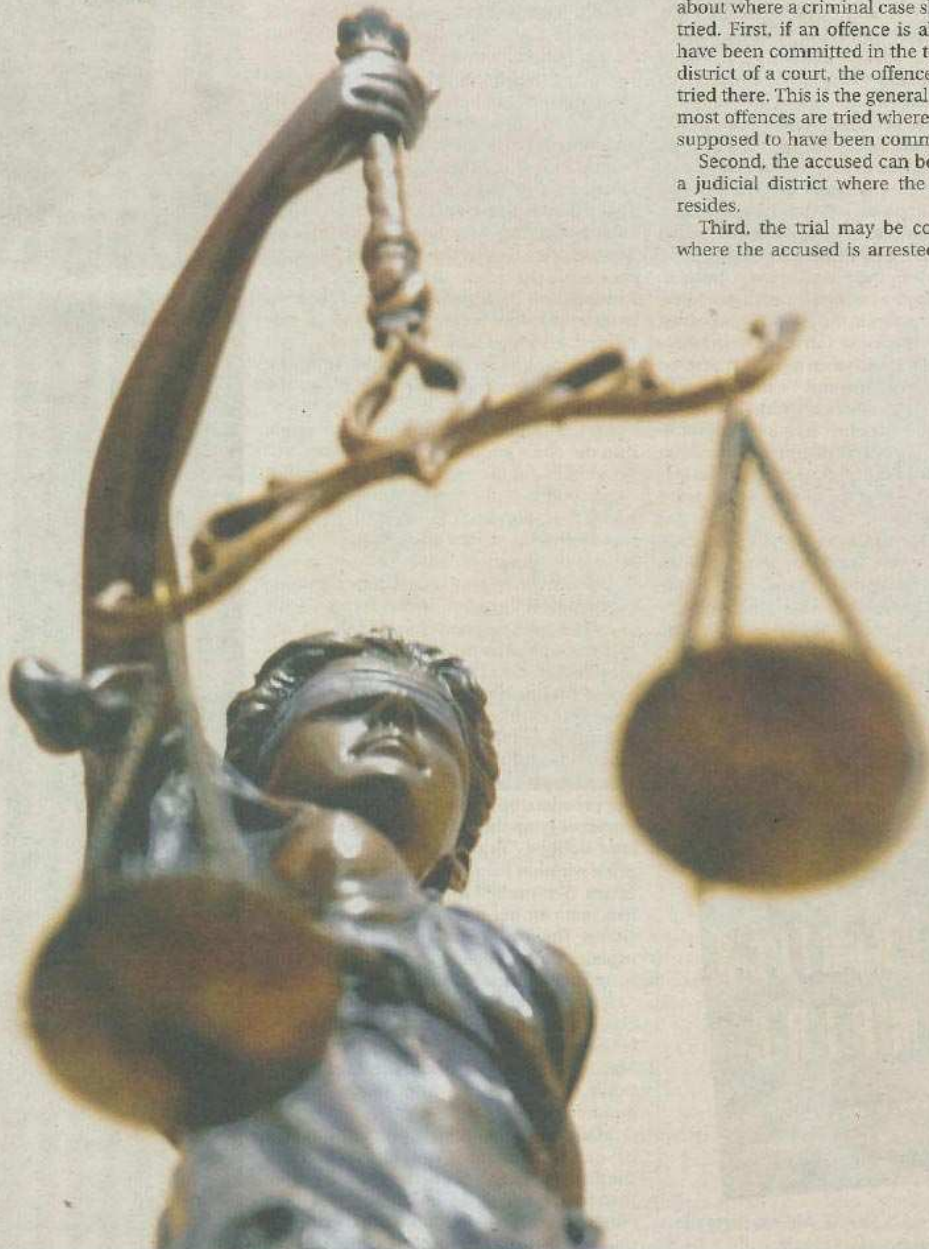


Expat Counsel

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CRIMINAL LAW IN THAILAND

Part XXXV: The criminal trial — where will you be tried?



If you're accused of a crime in Thailand, where, and in what court does the trial occur? This issue is important because you should, with your lawyer, make sure you're not being tried in the wrong place, in the wrong court or by the wrong number of judges.

Let's first talk in general about jurisdiction — the power of a court over a defendant. What we'll discuss in this column is the location of the trial. We'll discuss the specific courts that try criminal offences and the limits on their jurisdiction later.

It is the Criminal Procedure Code of Thailand that gives the general rules about where a criminal case should be tried. First, if an offence is alleged to have been committed in the territorial district of a court, the offence may be tried there. This is the general rule and most offences are tried where they are supposed to have been committed.

Second, the accused can be tried in a judicial district where the accused resides.

Third, the trial may be conducted where the accused is arrested for the

offence or where the inquiry is conducted.

Fourth, if more than one of the above three options is applicable, the place where the trial is first begun is the place where it is tried.

Fifth, if there are multiple offences by the same offender or multiple offenders acting together in an offence or series of offences, all offences may be tried in the judicial territory where the defendant or defendants are exposed to the highest maximum penalty.

Under Section 23 of the Criminal Procedure Code, if the case has been improperly started in one place, either side may apply to the court to have the case transferred to a place where it is proper. If the case is properly started in one place, the prosecutor who has started the case can apply to the court to transfer the case to another place, if that place is also proper.

Let's look at a few fictitious examples, to illustrate how the above rules work.

The simplest example is that you're arrested for stealing the assets of your employer and that both the alleged crime and the arrest took place in Bangkok. Remember that we will discuss what court within Bangkok later, but you'll be tried for this in Bangkok.

Here's another example. Let's say that when you heard you were going to be prosecuted for a crime you fled to Chiang Mai to hide out and were arrested there. You could be tried in either Bangkok or Chiang Mai for the crime. Of the two, if the criminal proceeding was started first in Chiang Mai, that's where you'd be tried, unless the prosecutor applied to the court in Chiang Mai to allow the transfer of the case to Bangkok.

As explained above, the judge in Chiang Mai might allow this because the most basic rule is you can always be tried in the place where the crime was committed.

Let's try another example to illustrate the fifth point above. What if you murdered a person in Bangkok and then went to Chiang Mai and stole the deceased's valuables from his house there? Although you could be tried separately in the two places for the two crimes, you could also be tried for both in Bangkok, because the maximum penalty for murder is greater than that for theft.

Next time we'll talk about the courts in which criminal cases are tried. ■

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