



Second Study Commission

Civil Law and Procedure

Annual Reunion of the IAJ – Cape Town (South Africa)

Questionnaire 2024

REPLIES OF TAIWAN

Written submissions – when do they turn from a help to a hindrance?

1. Are there limits for written submissions in civil litigations in your jurisdiction in terms of the maximum length?

No, there are no limits in terms of the maximum length. For written submissions, there are just some format requirements. Failure to comply with these requirements may result in the court rejecting the submission of their written submissions.

Since 2015, the Judicial Yuan has devoted to develop e-court, and till August 2016, each court in Taiwan uses an electronic filing system and online exchange system. Plaintiff can use electronic filing system to file a lawsuit electronically. Online exchange system allows the parties and lawyers to transmit legal documents to court, or to each other. Each document can't exceed the size of 50 MB. However, even if the document size exceeds the limit, it can still be split into two files and transmit again.

2. Are there time limits for filing written submissions?

Yes, there are.

According to article 267 of Taiwan Code of Civil Procedure, the defendant



shall, if he/she considers it necessary to do so, submit his/her written submissions to the court, with a written copy or photocopy thereof sent directly to the plaintiff within ten days after receiving the complaint, and no later than five days prior to the oral-argument session if one has been designated. In preparation of the case, any written submission shall be sent to the court within five days prior to the oral-argument session if one has been designated. Furthermore, the parties shall submit to the court the preparatory pleading, if any, to dispute or respond to the matters indicated in the pleadings provided in the two preceding paragraphs with a written copy or photocopy thereof sent directly to the opposing party within five days after receiving such pleadings as provided in the two preceding paragraphs, and no later than three days prior to the oral-argument session if one has been designated.

According to article 268 of Taiwan Code of Civil Procedure, the presiding judge may, if he/she is of the opinion that the preparation for oral argument has not been completed, order the parties to submit a preparatory pleading or answer with complete indications in accordance with the provisions of Article 265 to Article 267 inclusive, within the period of time such judge designates, and may also order them to specify or state in detail the evidence which they propose to use with regard to a certain matter.

Depending on the difficulty of the case, the judge could also specify a longer period of time for the parties to submit written submissions. When the deadline for carrying out a procedural act falls on a day when the courts are closed, the deadline is transferred to the next working day.

3. Are there limits in terms of a maximum number of additional submissions in a case?



No, there are no such limits.

4. Are there rules, including penalties or cost implications, for breaches of these requirements?

According to article 268-2 of Taiwan Code of Civil Procedure, where a party either fails to submit pleadings or to state evidence in accordance with the provisions of Articles 267 and 268, and the third paragraph of the preceding article, the court may, on motion or on its own initiative, order such party to explain the reasons by pleadings. Where the party fails to explain in accordance with the provision of the preceding paragraph, the court may apply the provision of Article 276 mutatis mutandis or take such fact as part of the entire import of oral argument in forming its decision.

In short, if the parties fail to comply with the time limits provided above, the judgment may be detrimental to him. However, there are no any penalty or cost implication for breaches of these requirements.

5. Are these limits or requirements effective in terms of reducing the number and length of written submission and the time spent preparing for and determining a case?

In practice, it's not easy to expect the parties follow the time limits set by the judge or law. However, these limits or requirements provided above are still effective for reducing the time spent preparing for and determining a case. Especially when the parties know that failure to comply with these time limits may result in losing the case.



6. What is the effect of written submissions on any hearing which subsequently takes place?

In Taiwan, written submissions are widely used in civil litigation. For purposes of oral argument preparation and civil issues coordination, it is necessary for the parties and lawyers to exchange written submissions before the hearing. Therefore, written submissions in civil procedure are meant to provide for an effective hearing.

7. Comments or suggestions as to what could otherwise prove to be effective

In Taiwan, there are no limits for written submissions in terms of the maximum length. The parties or lawyers may submit a large number of written submissions; however, the key points may only be found in a few pages. The judge has to read a bunch of irrelevant pleadings. Moreover, it is not helpful for the parties to focus on civil issues.

Although there are time limits for filing written submissions, there are no any penalty for breaches of these requirements. Even these time limits are set by the judge, the parties may also disobey the rules. The result is that it may delay the litigation unreasonably.

Therefore, for introducing the limits for written submissions in terms of the maximum length, as well the penalties for breaches of time and length requirements are necessary. In this way, civil litigation procedures could be conducted more efficiently within a reasonable time.