



**NCP Outbreak: What Enterprises Need to Know About Litigation and Arbitration Adjustments During NCP**

The news that Novel Coronavirus Pneumonia (“NCP”) epidemic continue to spread across the country has prompted the PRC courts and arbitration commissions to adopt adjustments to prevent and reduce the gatherings and mobility of people. The situation is fluid and rapidly changing, and this legal update highlights the following points for your kind reference based on the polices issued through February 20, 2020.

**I. Suspension of litigation services and reception of visitors**

On January 30, 2020, the Supreme People’s Court (“SPC”) temporarily close the headquarters of the SPC, the first, the second, the third, the fourth, the fifth and the sixth circuit courts, and the intellectual property court. The on-site litigation services are suspended accordingly. Further, the reception places for people’s visits are closed to visitors. The resumption time will be determined on the situation of NCP.

During the suspension, firstly, parties may file application materials for retrial, complaint letters or apply for other litigation services online (SPC litigation service website <http://ssfww.court.gov.cn/ssfww/>) or by mail.<sup>1</sup>

The second is to standardize online filing, requiring courts to examine and verify online filing applications within seven days after receiving them. If the case complies with the provisions of the law, the case shall be registered in time.<sup>2</sup>

On February 13, 2020, SPC ordered courts at all levels to guide litigants to file cases or mediate disputes online.<sup>3</sup> Actually, before the order of SPC, courts located in many cities and provinces have set online litigation service platforms for litigants to file litigation materials and suspended on-site litigation services and reception of visitors. For example:

Date of notification	Courts	Litigation service platform
January 31, 2020	Beijing courts at all levels <sup>4</sup>	<a href="http://www.bjcourt.gov.cn">http://www.bjcourt.gov.cn</a>
January 31, 2020	Zhejiang courts at all levels <sup>5</sup>	<a href="http://www.zjsfgkw.cn">http://www.zjsfgkw.cn</a>
January 30, 2020	Hubei courts at all levels <sup>6</sup>	<a href="http://www.hbfcy.org/">http://www.hbfcy.org/</a>
February 1, 2020	Tianjin courts at all levels <sup>7</sup>	<a href="http://www.tjcourt.gov.cn/tjfyss/">http://www.tjcourt.gov.cn/tjfyss/</a>
February 2, 2020	Heilongjiang courts at all levels <sup>8</sup>	<a href="http://www.hljcourt.gov.cn/ssfww/">www.hljcourt.gov.cn/ssfww/</a>
February 2, 2020	Xiamen Maritime Court <sup>9</sup>	<a href="http://ssfww.fjcourt.gov.cn">http://ssfww.fjcourt.gov.cn</a>

**II. Online court sessions**

SPC encouraged judges of courts at all levels to increase functions of online platforms, such as “trial in the cloud,” video system, and hear cases online during NCP.<sup>10</sup> Online cases handling by courts run as a regular mechanism.

Upon our telephone consultation,<sup>11</sup> the judges have to consider factors such as technological realities, case conditions and the wishes of the parties to determine:

- Postponing the case;
- Promptly hear on-site with precautionary measures; or
- Promptly hear online

To be specific, complicated disputes and those that demand litigants to offer abundant evidence still need to be postponed under the epidemic. Courts located in areas with high-risk tend to use online system.

For example, on February 4, a judge with Beijing No. 1 Intermediate People’s Court heard a private loan dispute through the platform with a video communication system. In this case, the lawyer for one of the litigants was in the Ningxia Hui autonomous region, if he was back in Beijing to attend the trial, he would have first had to be quarantined for at least 14 days, which means our hearing might not have begun on time. Therefore, the judge decided to adopt online system to handle this case. The judge first got the litigants’ approval to use the platform and taught them to install software on a laptop or download a smartphone application. The online session went smoothly, litigants and the judge talk with each other quickly and the case was properly decided.

A statistic released by the high court on Wednesday also showed that courts across the city have used the online platform to hear cases 78 times since Feb 3, helping reduce visits and gatherings in courts.<sup>12</sup>

**III. The PRC laws as concern remedies for litigation participants during NCP**

**1. Adjourning or suspending trials during NCP**

Where the courts do not decide to postpone the trial (neither adopt online system to carry out the hearing), and parties cannot attend the on-site trials scheduled because they are under quarantine due to infection of NCP or suspect infection, or because of transportation control during NCP, etc., they have two solutions as following:

Solution	Description
Adjourning trials	<ul style="list-style-type: none"> <li>• The parties may apply to adjourn trials where litigation participants who must appear in courts cannot show up for the reasons related to NCP.<sup>13</sup></li> <li>• The parties also may apply to adjourn trials where the lawyers entrusted by parties cannot show up in the courts for the reasons related to NCP.<sup>14</sup></li> </ul>
Suspending trials	<ul style="list-style-type: none"> <li>• The parties may apply to suspend trials where litigation participants cannot appear in court for the reasons related to NCP. The rationale for the remedy under the PRC laws is force majeure—the NCP is unforeseeable, unavoidable and insurmountable and unavailability of attention is due to an event of force majeure.<sup>15</sup></li> </ul>

Parties’ choice between two solutions rely on whether they can expect the date of rescheduled trial.

- If they can make sure when they are available for court hearing, they may apply to adjourn trials and select the rescheduled date with judges (or clerks) and the opposite parties.
- If they cannot make sure when circumstances are available for court session, they may apply to suspend trials and apply to restore the court session when the circumstances allow it.

**2. Suspending statute of Limitation**

During NCP, enterprises and persons that are involved in the epidemic control and prevention may not be able to take legal action before the expiry of the statute of limitation. Specially for the disputes subject to statute of limitation expiry, some parties may not be able to complete the case-filing (most courts require filing online or by mail) before the expiry of statute of limitation. Under the PRC laws, the statute of limitation of action shall be suspended during the last six months of the limitation if the right of claim cannot be exercised because of force majeure. The statute of limitation shall expire after six months from the date when the obstacles causing the suspension are eliminated.<sup>16</sup> Although there is no official announcement that NCP epidemic is identified as force majeure event that can hinder the parties from exercising their rights; nevertheless, the PRC laws have clarified that the suspension on the statute of limitation shall be applied where the litigation or arbitration is unable to continue due to the adoption of any emergency response measure.<sup>17</sup>

**IV. Arbitration adjustments**

Currently, many arbitration commissions have rolled out policies to adjust the arrangements for arbitration. We hereby summarized some adjustments in the below table.<sup>18</sup>

Arbitration Commission	Adjustments
Shanghai Arbitration Commission	<ul style="list-style-type: none"> <li>• suspending the arbitrations scheduled to be held from January 31 to February 2;</li> <li>• encouraging parties to submit materials online;</li> <li>• suggesting parties to apply to postpone the arbitration if cannot show up due to NCP<sup>19</sup></li> </ul>
Shanghai International Economic and Trade Arbitration Commission	<ul style="list-style-type: none"> <li>• suspending the arbitrations scheduled to be held from January 31 to February 9;</li> <li>• encouraging parties to submit materials by mail;</li> <li>• suggesting parties to apply to postpone the arbitration if cannot show up due to NCP<sup>20</sup></li> </ul>
Beijing Arbitration Commission	<ul style="list-style-type: none"> <li>• suspending the arbitrations scheduled to be held from February 15 to February 20<sup>21</sup></li> </ul>
China International Economic and Trade Arbitration Commission	<ul style="list-style-type: none"> <li>• suspending the arbitrations scheduled to be held on the date before February 15, except for the online arbitrations<sup>22</sup></li> </ul>
Shenzhen Court of International Arbitration	<ul style="list-style-type: none"> <li>• adopting online arbitrations proceedings;</li> <li>• suggesting parties to file cases online<sup>23</sup></li> </ul>
Guangzhou Arbitration Commission	<ul style="list-style-type: none"> <li>• suspending the arbitrations scheduled to be held from February 2 to February 9;</li> <li>• encouraging parties to submit materials online;</li> <li>• suggesting parties to apply to postpone the arbitration if cannot show up due to NCP<sup>24</sup></li> </ul>

Foreign enterprises are advised to contact the local courts and arbitration commissions for a better understanding on the adjustments. Should you need to have more details of the rules in your case, please feel free to contact us at [asiallians@asiallians.com](mailto:asiallians@asiallians.com).

**NCP Outbreak: Exemptions for Beijing 14-day Self-Quarantine Rule**

As introduced in our last legal update, on February 14, 2020, Beijing implemented the mandatory 14-day self-quarantine rule to be applied to all of returnees to Beijing<sup>25</sup>. Within a week, the Beijing Municipal Government announced at a press conference on February 21, 2020 that seven categories of people returning to Beijing would be exempted from self-quarantine for 14 days, but applied different measures, which are:

Categories	Measures
1. People who didn’t stay in China within the past 14 days and arrive in Beijing through Beijing Capital International Airport or Daxing International Airport.	(1) Submit a health declaration form when entering (2) Receive body temperature test (3) Wear a mask (4) Keep distance with others
2. Short-term travelers who enter Beijing from either areas except Hubei Province (e.g. tourism, business visitor, investigation, and transit, etc.	(1) Cooperate with hotels to receive body temperature test (2) Register the contact in Beijing and submit the purpose of entering Beijing (3) Cooperate with NCP prevention and control rules of the receiving unit (if any) (4) Turn to medical help and report to the hotels or receiving unit in a timely manner
3. People who enter Beijing from other regions except Hubei Province to resume work in a centralized condition (other people shall still follow the 14-day quarantine rule).	The working environment is under a managed closed area
4. People who live in northern three counties of Langfang, Hebei Province and other suburbs of Beijing to commute daily to Beijing	Accept routine examination when entering Beijing
5. Civil aviation and railway staffs	Live together in centralized places
6. Central governmental officials who are going back and forth from severe infected areas	Live and work in centralized and quarantined places
7. Pregnant women, sick people, etc.	Go to hospitals pursuant to medical instructions

Recently, the officially released number of confirmed NCP infectious patients rose to 893 in South Korea (with 8 deaths), 850 in Japan (with 3 deaths) and 229 in Italy (with 7 deaths) respectively. Due to the ever-changing situation, the Beijing government’s exemption policy may change from time to time, and we will keep a close eye on it. Should you need to have more details, please feel free to contact us at [asiallians@asiallians.com](mailto:asiallians@asiallians.com).

1. See: <http://www.court.gov.cn/zixun-xiangqing-218771.html>  
 2. See: <http://www.court.gov.cn/fabu-xiangqing-220071.html>  
 3. See: [http://english.court.gov.cn/2020-02/13/content\\_37533572.htm](http://english.court.gov.cn/2020-02/13/content_37533572.htm)  
 4. All levels\* include district, intermediate, and high PRC courts.  
 Litigation service platform: <http://www.bjcourt.gov.cn>  
 5. See: [https://www.thepaper.cn/newsDetail\\_forward\\_5701647](https://www.thepaper.cn/newsDetail_forward_5701647)  
 Litigation service platform: <http://www.zjsfgkw.cn>  
 6. See: <http://www.hbfcy.gov.cn/DocManage/ViewDoc?docId=d0663910-4613-4525-9c90-46005195695e>  
 Litigation service platform: <http://www.hbfcy.org/>  
 7. See: <https://news.sina.com.cn/c/2020-02-01/doc-ijmxxste8058035.shtml>  
 Litigation service platform: <http://www.tjcourt.gov.cn/tjfyss/>  
 8. See: <http://hlj.sina.com.cn/news/jjyw/2020-02-02/detail-ijmxxste8170774.shtml>  
 Litigation service platform: [www.hljcourt.gov.cn/ssfww/](http://www.hljcourt.gov.cn/ssfww/)  
 9. See: <http://www.xmhsfy.gov.cn/ShowList.aspx?id=4177&nid=13>  
 Litigation service platform: <http://ssfww.fjcourt.gov.cn>  
 10. See: [http://english.court.gov.cn/2020-02/19/content\\_37533789.htm](http://english.court.gov.cn/2020-02/19/content_37533789.htm)  
 11. We consulted with district courts in Beijing, Shanghai, Suzhou, Tianjin, and Hangzhou by telephone.  
 12. See: [http://english.court.gov.cn/2020-02/13/content\\_37533572.htm](http://english.court.gov.cn/2020-02/13/content_37533572.htm)  
 13. Article 146 of PRC Civil Procedure Law  
 14. Article 25 of Provisions on Safeguarding the Right of Lawyers to Practice in Accordance with the Law  
 15. Article 150 of PRC Civil Procedure Law  
 16. Article 194 of PRC General Rules of the Civil Law  
 17. Article 13 of Emergency Response Law of the People’s Republic of China  
 18. Please be noted that the policies are subject to update since the NCP situation is evolving. For the upcoming update, please pay attention to our following legal updates.  
 19. See: [https://www.thepaper.cn/newsDetail\\_forward\\_5722105](https://www.thepaper.cn/newsDetail_forward_5722105)  
 20. See: [http://www.shiac.org/SHIAC/news\\_detail.aspx?id=873](http://www.shiac.org/SHIAC/news_detail.aspx?id=873)  
 21. See: <http://www.bjac.org.cn/news/view?id=3660>  
 22. See: [http://www.moj.gov.cn/Department/content/2020-02/04/612\\_3240856.html](http://www.moj.gov.cn/Department/content/2020-02/04/612_3240856.html)  
 23. See: <http://www.sciencetac.org/web/news/detail/1920.html>  
 24. See: [https://www.gzac.org/WFB\\_CN/NewsInfo.aspx?KeyId=87454719-c4ea-47bf-934d-b82e7af5bb3d](https://www.gzac.org/WFB_CN/NewsInfo.aspx?KeyId=87454719-c4ea-47bf-934d-b82e7af5bb3d)  
 25. See: <http://asiallians.com/china-legal-update-ncp-outbreak-know-preferential-policies-support-enterprises-china-quarantine-requirements/>

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