

International Debt Collection Handbook

Sixteenth Edition

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Introduction

Welcome

We're extremely proud to present you with the 16th edition of the International Debt Collection Handbook. This edition includes three new countries: Bosnia and Herzegovina, North Macedonia, and Serbia.

Since its launch in 2008, the International Debt Collection Handbook has quickly established itself as a critical support tool for collection decisions in foreign countries. International debt collections and country-specific legal systems create challenges that affect every business. The International Debt Collection Handbook is an invaluable and reliable tool that helps decision-makers all over the world select the right approaches to debt collections. It outlines the diversity and complexity of debt collection approaches for each country included in the handbook, often with an immense amount of details. The International Debt Collection Handbook draws from the expertise of Atradius Collections' local offices and explains the different stages of amicable settlements, regulations, legal proceedings, and insolvency procedures in each country.

No business is immune to the risks associated with international trade or poor payment behaviour. Maintaining and protecting your cash flow are absolutely crucial. Having knowledge of amicable collections and the country-specific legal phases surrounding collections is vital for survival in a global economy. By relying on our local expertise as detailed in the International Debt Collection Handbook, you can ensure that you are following a professional and successful approach.

I'm sure that you will find the International Debt Collection Handbook a highly useful, in-depth resource for all your business decisions relating to debt collections.

And if you need help with international debt collections, we are there.

Kind regards,



Rudi De Greve
Global Operations Officer, Atradius Collections

About Atradius Collections

Atradius was originally founded as NCM in the Netherlands in 1925 and was created with the goal of improving trade for companies in the Netherlands. In Germany, Atradius' roots stemmed from Gerling Credit, which was established in 1954 and operated solely out of Germany until 1962, when it opened its first international office in Switzerland. In Spain, Crédito y Caución was founded in 1929 and focused on growing steadily to become the dominant credit insurance and surety company on the Iberian Peninsula.

The heritage, knowledge, and exemplary service standards of these three companies are now combined within the Atradius Group, creating as part of its activities Atradius Collections - a global leader in business-to-business (B2B) debt collections.

With such a pedigree and global reach, we're equipped to not only leverage successful debt collections on behalf of our clients, but also set out to maintain high standards in the market. We've become a key player in the B2B collection market.

As a result of being a separate division within the Atradius Group, we hold a strong position, sharing history, knowledge, and reputation, which help ensure that we deliver when it comes to collecting outstanding debts, managing clients' accounts receivable, or guiding them along the route to growth. We provide leading B2B collection services, plus a range of solutions that cover receivables management's needs. Our integrated worldwide network and operations are unique in the market. Our online collection management system allows our clients to place and manage debt cases 24 hours a day, 365 days a year.

With a presence in 40+ countries and an extensive network worldwide, we serve over 16,000 businesses and collect more than EUR 350 million per year. As part of the Atradius Group, we look back on over 90 years of global credit management industry experience, positioning our business as a leading international trade invoice collection company.

France

Industries



Chemicals



Electronics



Food



Machines



Minerals



Services



Textiles



Transport

Chance of collecting

50%–75% ✓

1. Amicable collections



1.1. General information

We maintain a professional collection process, focusing on the relationships between you and your debtors at all times. Our team of collection specialists carry out the collection process in-house, contacting debtors both verbally and in writing while adhering to state law.

When there is a case of dispute, we aim to reach an amicable solution between you and the debtor. We do this by analysing all the contractual documents (e.g. signed contracts, orders, confirmations, invoices, delivery notes, as well as all standard terms that have been agreed to). All of our investigations are completed with the assistance and agreement of our legal team.

1.2. Local agents

If our in-house collection efforts don't lead to positive results, we will employ our agent network. They contact the debtors in order to provide us with information regarding

their financial situations and solvency. The agents we use will report on any meetings they have with the debtors and provide summaries of the debtors' business operations. The agents are also able to collect money. If the agents negotiate payment plans or final statements with the debtors, they should ask us for approval.

1.3. Interest

We always charge debtors for interest. The interest rate is set by the government and multiplied by three in accordance with French law on payment terms.

1.4. Debt collection costs

We charge a fixed fee of EUR 40 per case in accordance with European Union directives, and a penalty clause of 10% for collection costs. If you have a special contractual agreement, this can be taken into account as long as your debtor actually agreed to the terms.

From a cultural point of view, French debtors aren't used to paying debt collection costs, and often collection costs are used as a matter of negotiation between debtors and collectors.

1.5. Prescription

In commercial matters, the prescriptive period is five years, which may be interrupted by the undertaking of legal proceedings.

1.6. Payment methods

The most common Payment methods are cheque payments and bank transfers. We don't offer direct debiting from debtors' accounts.

1.7. Types of companies

“Entreprise individuelle”

- Sole proprietorship with unlimited liability of the owner with their business and private funds

EURL (“Entreprise Uniperson-nelle à Responsabilité Limitée”)

- Sole proprietorship with no minimum capital
- Liability is limited to the company's capital

SASU (“Société par Actions Simplifiées Unipersonnelle”)

- Sole proprietorship with no minimum capital
- Liability is limited to the company's capital

SARL (“Société à Responsabilité Limitée”)

- A company with two to 100 partners
- No minimum capital
- Liability is limited to the company's capital

SNC (“Société en Nom Collectif”)

- A general partnership company with a minimum of two partners
- No minimum capital
- Unlimited liability of the partners

SA (“Société Anonyme”)

- A public limited liability company with a minimum of seven partners
- The minimum capital requirement is EUR 37,000
- Liability is limited to the company's capital

SAS (“Société par Actions Simplifiée”)

- A simplified joint-stock company with no minimum capital
- Liability is limited to the company's capital

1.8. Sources of information

In France, we contract very experienced reporting agencies to assist us with the assessment of the financial situations of debtors. Depending on a debtor's legal form, we can also find further information, such as details on any property owned by the debtor, to determine the best courses of action.

We also have numerous tracing agents who employ investigators when necessary to locate debtors and their assets.

2. Retention of title

France has very comprehensive, seller-focused regulations on retention of title (ROT) clauses, which must be explicitly agreed to prior to delivery. Most importantly, the debtor must acknowledge the ROT clauses before receiving the first invoice.

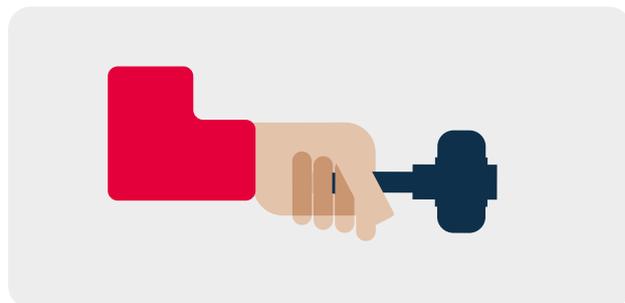
Most companies include ROT provisions in their general trading conditions. In this case, the debtor must sign these conditions in advance, or you have to advise the debtor explicitly (e.g. with a note in the order confirmation) that the general trading conditions apply before the first invoice is sent. It's vital to get proof that the trading conditions have been agreed to. Otherwise, the benefits of the more complex version of French ROT clauses can't be used to reduce the outstanding amount.

ROT clauses are used in most cases before insolvency proceedings arise. We should be able to prove the existence of the goods in the inventory of the debtor on the date of the insolvency judgment, which can prove beneficial during a judicial procedure.

3. Safeguard measures

In case your debtor isn't able to settle your claim in a speedy manner, we can request that the debtor secure the debt in favour of you – the creditor. This can be done by providing a written acknowledgement of debt or by asking a special judge to allow us to take conservative measures, such as seizure of the debtor's bank accounts.

4. Legal collections



4.1. General information

If the amicable phase fails to deliver results, we will send a letter advising the debtor of our decision to start legal proceedings. Our legal team will decide the best procedure to be undertaken, depending on the documents available for the case and the position of the debtor (e.g. acknowledgements of debt, disputes, litigation).

4.2. Legal systems

For disputes between traders or businesses, the commercial court ("Tribunal de Commerce") is used. The judges are business people elected by their peers, and evidence may be adduced by any appropriate means.

For claim amounts greater than EUR 4,000, it's possible to appeal the decision of the court of first instance.

4.3. Required documents

In order to apply a legal dunning procedure, we need copies of the contracts, invoices, and a clear statement of account indicating the payments and credit notes that have been paid for the outstanding invoices.

In the case of a regular lawsuit procedure, copies of the complete contractual documentation should be available, starting with the contracts, orders, confirmations, delivery notes, and invoices. Every part of the trading relationship between you and your debtor should be provable by documentation.

4.4. Legal dunning procedures

This type of procedure is used when the debt amount is fairly modest and not disputed. It allows us to obtain an injunction against the debtor ("injonction de payer") without the presence of the debtor before the court. It's a very simple, quick, and inexpensive procedure that doesn't require a lawyer, unless the debtor disputes the debt after the bailiff's notification. It also allows us to obtain an interim order ("référé provision") with or without the presence of the debtor before the court. If the debtor is present and disputes the case, the judge may decide to close the case and ask you to start a common procedure ("assignation au fond"). It's a very quick procedure but does require a lawyer to represent you in court.

4.5. Lawsuits

A regular lawsuit procedure is started directly after the amicable collections has failed due to dispute by the debtor, or because the debtor has ignored the payment demands.

The main goals of legal action (“*assignation au fond*”) are to determine the existence and the amount of the debt, and to define the relationship between you and your debtor. It will also decide whether the outstanding amount is owed, and whether the debtor must pay it immediately or with a payment plan. It’s usual practice to issue a pre-procedure notice.

Both the plaintiff and defendant exchange opinions and proof by letter until the judge is happy that all the relevant information needed to come to a decision has been received. A hearing will then be scheduled and both parties must be present. Postponing hearings is a common habit when the defendant’s lawyer asks for it. After multiple hearings (with no time limits), the judge sets a date to issue the final judgment. Both parties will be informed about the outcome in writing by the relevant court.

4.6. Appeals

The plaintiff or defendant can appeal the judgment if they’re unhappy with it. A party can appeal a judgment within one month from the notification of the original judgment. The judges at the court of appeal will then re-hear the case within two years.

4.7. Expected time frame

A simple commercial case will take approximately eight to 10 months to be heard, which can be doubled for complex commercial cases, technical disputes, or in the case of appeals.

Some jurisdictions, where the judicial systems have been rated below the average performance in France, may take longer to judge cases.

The expected time frame for an appeal is almost two years.

4.8. Costs and interest in the legal phase

Costs of civil law procedures are determined by court fees and lawyers’ fees, which are fixed by each lawyer. As the costs don’t depend on the outstanding principal amount but on the complexity of the case, we have negotiated preferential tariffs with our lawyer network. Cost estimations will be provided on a case-by-case basis should legal action become necessary. The cost of a legal dunning procedure is only 30% of a full court procedure.

Next to that, there are two kinds of collection costs in legal cases. The first kind is the charged-back costs that the debtor has to pay, which are often liquidated by the judge, and, in most cases, the costs derive from the judicial procedure and the notifications’ costs. The second kind is the costs that can’t be charged back to the debtor, such as lawyers’ fees. Each party has to pay their own lawyers’ fees, but the winning party could ask the judge to obtain an indemnity to compensate for their expenses. In practice, the amount approved by the court constitutes only a minor share of the expenses, and this indemnity is charged to the debtor. In addition, costs of experts might also arise.

5. Enforcement

5.1. Enforcement in debt

After the judgment is notified to the debtor, the debtor has one month to appeal. After that, the judgment becomes executive, meaning that the bailiff can start forced execution. In France, only bailiffs have the authority to handle enforcement of judicial decisions. At this stage, the debtor has no choice. They have to either pay or become bankrupt.

5.2. Enforcement in movable property

This is a standard procedure where the bailiff visits the debtor to take away movable property for liquidation in favour of you – the creditor. The bailiff can’t seize the property that is necessary for the debtor’s basic daily life or that enables them to maintain their business activities. The bailiff will always ask our opinion on seizing and selling the debtor’s property.

5.3. Enforcement in immovable property

If the debtor owns real estate, the bailiff can issue an order of attachment of real estate (“*saisie immobilière*”). In France, very few companies own any real estate, so the enforcement in immovable property is very rarely used.

5.4. Expected time frame

The enforcement time frames depend on the financial situation of the debtor.

6. Insolvency proceedings



6.1. General information

The legal definition of insolvency is when a debtor is not able to pay their due debts considering their available assets.

The two main insolvency procedures are:

- Receivership
- Bankruptcy

Receivership can be converted into bankruptcy, and, in fact, almost 90% of receivership ends up in bankruptcy.

6.2. Proceedings

Receivership allows the debtor's business activity to be saved due to a continuation plan, meaning that the creditors can expect dividends. Bankruptcy means liquidation of the debtor's assets when the situation is totally compromised, meaning that the creditors can't expect any dividends.

The delay in lodging claims is two months for the French creditors and four months for the foreign creditors from the date of the debtor's bankruptcy's publication in the BODACC (official journal). The debts may also be disputed and a convocation from the court is planned to justify the debts.

6.3. Required documents

In order to lodge a claim on your behalf, we need:

- An original power of attorney. We need to have a specific power of attorney. It must be in French, signed by your legal representative, sealed with a commercial stamp, and it must mention the name of your debtor
- Copies of the complete contractual documentation, starting with the contracts, orders, confirmations, delivery notes, and invoices

6.4. Expected time frame

The duration can be important, because it's mandatory to check the debts of all the creditors who lodge claims before making a proposition of a payment plan (in general, in 10 years by annual payment).

6.5. Limited and unlimited companies

Consequences in insolvency proceedings for limited and unlimited companies are the same as consequences in receivership and bankruptcy proceedings for both kinds of companies.

6.6. Pools of creditors

There are two creditors' pools that the court may decide to build. The first is made up of the committees of the credit institutions, and the second contains the main sellers of the goods or services. These committees are invited to comment on a draft recovery plan. The creditors' representatives inform the creditors of the opening of the proceedings, receive their declarations of claims, and ask the bankruptcy judge to accept or reject these claims. They alone are empowered to take action in the collective interest of the creditors.

6.7. Rescission

The suspect period starts on the date of the cessation of payments, and all acts of payment during this period may be declared void if the contracting parties were aware of the cessation of payments.

7. Arbitration and mediation

Arbitration and mediation are allowed by law in France, but it's very unusual for either party to request them.

Case study

HP Inc.

At a glance

HP Inc. creates technology that makes life better for everyone, everywhere.

- **Industry:** Information technology and services
- **Market:** Global
- **Challenge:** Recovering invoices from difficult, resource-intensive cases
- **Solution:** Amicable collections by Atradius Collections
- **Result:** HP Inc.'s number of recovered invoices increased significantly. The collected amount was maximised while its internal collection workload was minimised. HP Inc. has been in partnership with Atradius Collections for over 10 years

Debt collection approach

Collecting unpaid invoices from commercial customers took an unwanted heavy toll on HP Inc.'s resources. The customers remained unresponsive and the recovery rate was disappointing.

That's when HP Inc. decided to use our amicable debt collection service.

Amicable collections to recover ageing and difficult cases

"Atradius Collections has both the global and local know-how," says Alex Gasca, Global Default and Recovery Manager of HP Inc. "There were lots of cases and the success rate of Atradius Collections was very high. For some cases, we were simply unable to collect the debts. But right away, Atradius Collections achieved impressive results."

HP Inc.'s accounts receivable became more efficient then. The next step is to set up a monthly challenge where we discussed HP Inc.'s most difficult collection cases and took over from there. Because of this close cooperation, we've gained deep-seated knowledge of HP Inc. and that makes for favourable outcomes.

"Atradius Collections continues to get results – even with the toughest cases," says Gasca.

Tailored processes to increase recoveries with minimal internal efforts

These days HP Inc. has shifted focus to the most time- and effort-consuming debt cases. It has developed a hybrid approach that includes us as part of its internal strategy. "From the point we hand over cases to Atradius Collections, the work and man-hours put into them drop to close to zero. Because Atradius Collections follows up for us – from providing incentive payment plans to handling situations. We get to keep internal efforts to a minimum while also getting recoveries," says Gasca.

Result

"Atradius Collections gives us peace of mind," says Gasca. "It also gives our senior executives comfort that we are not just writing off. We are now moving cases to someone who can help with recovery."

Looking back on the long-lasting partnership, Gasca says, "We are pleased that from the outset, Atradius Collections has been open, transparent, and constructive – even on a personal level. I believe that the relationship we have is truly excellent and HP Inc. is very happy with it."

And the key to this fruitful collaboration? "We share the same mission: making HP Inc. more profitable," says Gasca. "Collecting debts – the big challenge – has worked out very well from the earliest cases to today's. I'm really impressed with Atradius Collections. Yes, I am."

If you need to recover commercial debts worldwide like HP Inc., please contact our office closest to you. Our local offices' contact details are at the end of this handbook. We will follow up with the most suitable solutions to collect your commercial debts.

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About Atradius Collections

Through a presence in 40+ countries, we provide commercial debt collection services in 96% of the countries across the world. Our wide breadth of services, ranging from accounts receivable outsourcing to third-party collections, helps companies around the globe recover unpaid invoices. Atradius Collections forms part of Grupo Catalana Occidente, one of the leading credit insurance companies in Spain and worldwide.

If you find this handbook useful, please visit our website www.atradiuscollections.com. There you will get more free publications focusing on the global economy, industry analyses, and advice on credit management and current business issues.

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