

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.

Italy

Industries



Chemicals



Food



Machines



Minerals



Services



Textiles



Transport

Chance of collecting

50%–75% ✓

1. Amicable collections



1.1. General information

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

When there is a case of dispute, we aim to reach an amicable solution between you and your 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. Interest

We always charge debtors for interest. The percentage is reviewed every six months as set out by the Legislative Decree on 9 November 2012, n. 192. Interest is always requested during both the amicable phase and judicial phase.

From a cultural point of view, Italian debtors very rarely agree to pay late payment interest. It's often used as a negotiation tool between debtors and collectors. Often, they tolerate some delay in invoices' payment (particularly in sectors such as clothes, shoes, and food).

1.3. Debt collection costs

Due to the Contract Law, the collection convention between you and Atradius Collections must be signed, so that another person can't be linked to the tariff. The law allows us to request collection costs, but if we do so without specifying the amounts, including the legal tariff on lawyers, they aren't seen as valid. There are strong cultural obstacles to paying collection costs, and we can't claim them back in court as there is no jurisprudence for us to do so.

1.4. Prescription

The prescriptive period for credit is 10 years (Article 2946 of the Civil Code). It can be interrupted when a creditor

notifies the debtor of the interruption of the prescription and asks for payment. Once this has been received, the prescriptive period would be calculated again.

For shipping contracts or contracts of carriage, the prescriptive period is one year.

For transport contracts from non-European countries, the prescriptive period is 18 months.

1.5. Payment methods

The most common Payment methods are bank transfers and cheques. We'll also accept drafts issued directly by debtors, but not from a third party.

1.6 Types of companies

In Italy, there are two main types of companies: partnerships and capital companies.

The partnerships are:

“Società in nome collettivo” (S.n.c)

- Unlimited liability of the partners
- Has to be registered in the ordinary section of the “Registro delle Imprese”

“Società Semplice” (S.s.)

- Unlimited liability of the partners
- Has to be registered in the special section of the “Registro delle Imprese”

“Società in accomandita semplice” (S.a.s)

- Unlimited liability of only the declared unlimited partners (“socio accomandatario”)
- Has to be registered in the ordinary section of the “Registro delle Imprese”

The capital companies are:

“Società a responsabilità limitata” (S.r.l)

- The minimum capital requirement is EUR 10,000
- Has to be registered with the “Registro delle Imprese”
- Limited liability of the partners

“Società di capitali” (S.p.a)

- The subscribed minimum capital requirement is EUR 50,000
- Has to be registered with the “Registro delle Imprese”
- Limited liability of the partners

“Società in accomandita per azioni” (S.a.p.a)

- The minimum capital requirement is EUR 50,000
- Has to be registered with the “Registro delle Imprese”

- Limited liability of some of the partners (“soci accomandanti”)
- Unlimited liability of some of the partners (“soci accomandatari”)

For an individual company, the owner is the person that has unlimited liability for the debts incurred and is a minor entrepreneur, craftsman, or farmer.

1.7. Sources of information

We can evaluate the solvency of debtors and the financial situations of debtor companies. To investigate in a more accurate way, we can add some extra services for you, such as bank account research, officially booked goods research (e.g. vehicles and crafts), estate research, and estimations in public registers. All these elements can help create a clear picture of each debtor’s situation and help us advise on the best way to collect the money.

In order to trace debtors, we check the information registered with the Chambers of Commerce and we can ask for certificates at town councils. We can also entrust the local agents in our network with investigating locally. At the Chambers of Commerce, we can obtain all the information referring to a company, such as the legal form, legal address, names of the shareholders, and status of insolvency.

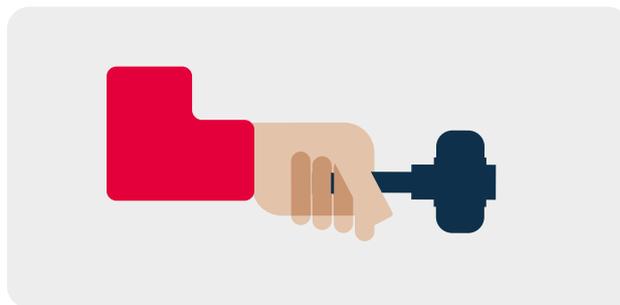
2. Safeguard measures

During the amicable phase, it’s very important that we have an acknowledgement of debt signed by the debtor. Because this allows you to obtain an injunction decree with provisional enforcement.

Another possibility is to ask the debtor to issue a title (cheque or draft) when we agree to a payment plan. If the title is protested, we can take legal action and avoid the first phase of legal action (injunction decree), thus reducing time and costs.

We can also obtain the debtor’s mortgages registered through a contract with a notary, if we have found out about the debtor’s real estate.

3. Legal collections



3.1. General information

We can supply a professional network of experienced law firms in Italy to perform judicial credit collection activities. This network covers the whole country and is able to manage legal action in all district courts.

Our lawyer will first send a warning letter (“Lettera Monitoria”) to the debtor via registered post so that there is proof of delivery, or via certified email address (“posta elettronica certificata”). If the debtor doesn’t pay or reply, thereby disputing the debt, the judicial phase will start with an injunction decree (“Decreto ingiuntivo”).

3.2. Legal systems

The Italian judicial system adheres to the civil law system. For credit collections, we refer to the Italian Civil Code (“Codice Civile”), which contains and implements all the rules of the commercial law, and the Civil Action Code (“Codice di procedura Civile”), which governs civil trials in Italy.

The judicial organisation provides several kinds of judges, according to the amount of credit involved.

- Justice of the Peace (for amounts below EUR 10,000)
- Tribunal (for amounts above EUR 10,000)

Traditionally, any legal action starts in the district court of the debtor or in the district court provided in an agreement signed by both parties.

Ordinary civil actions are rarely used to collect credit founded on written documents such as invoices. Civil actions are very long and can last for several years. They’re also expensive due to lawyers’ fees, witness examinations, and evidence analyses involved in the case. The main purpose of ordinary civil actions is to determine the existence of the credit that is due and the relationship between the parties.

If the credit is based on written documents, the law allows us to use a quicker and less expensive procedure called a

summary judgment (“Decreto ingiuntivo”), which requires only limited intervention from the judge unless the debtor opposes the petition.

These are the most common ways of collecting credit in court.

3.3. Required documents

In order to begin legal action, the documents we need are:

- Readable copies of the unpaid invoices
- Readable copies of the transport documents (CMR) signed by the debtor
- If there are no CMR documents signed by the debtor, we need an abstract of your books of accounts authenticated by a notary
- An original power of attorney, enclosed in the petition and signed by the legal representative of your company

3.4. Lawsuits

The law decree (“Decreto-legge”) n. 90/2014, converted into law n. 114/2014, determines that from 30 June 2014, it’s mandatory to begin legal action by filing all documents online, including the petition for an injunction decree (“Decreto ingiuntivo telematico”). So our lawyer will have to send the documents (copies of the unpaid invoices, copies of the delivery notes, a power of attorney signed by the legal representative of your company) to the court from a certified email address to the certified email address of the Chancery. In this way, the lawyer can send the documents at any time because there are no office opening hours online and the system is always working.

The advantages of this new procedure are:

- A reduction in the waiting time for the issuance of a decree (from four to five months to from 15 to 30 days)
- A reduction in activities undertaken by the associated law firms
- A reduction in legal costs

The judge examines the petition, and, if in agreement, they issue an injunction decree. The duration of the issuance is from 15 to 30 days. When the injunction decree is issued, it has to be notified to the debtor’s last known address within 60 days from the issuance of the decree. Upon receiving the decree, the debtor has 40 days to oppose it or to pay.

If the debtor files for opposition, a civil trial starts. The summary judgment is suspended and an ordinary civil action takes place. You have to answer the opposition with a proper statement of defence (“comparsa di costituzione e risposta”). During the first hearing, the judge will evaluate the statements of both parties and the documents. The

judge can decide to declare temporary execution of the injunction opposed (“provvisoria esecuzione”), and the summary judgment process will resume with the next steps (e.g. writ of execution and attachment), while the civil action takes place in parallel. When you receive the temporary execution from the judge, you have almost won the legal action, and the ordinary civil action will end shortly afterwards.

When no opposition is mounted, the decree becomes executive, and you can claim an attachment of goods from the debtor. An executive seal is added to the decree and the Chancery will issue a writ of execution (“Precetto”) to notify the debtor. If the debtor doesn’t pay or oppose the debt within 10 days from the notification, the lawyer will send the injunction order to pay and proof of the notification to the bailiff. If you have unpaid cheques or promissory notes, you can start directly with the writ of execution.

3.5. Appeals

An appeal against an ordinary civil action can be filed with the court in the area of the jurisdiction where the judge issuing the judgment resides, or with the Supreme Court.

In the case of notification of the judgment, it’s possible to lodge an appeal within 30 days from the notification (short term). If there is no notification of the judgment, the term is six months from the issue date of the judgment (long term).

3.6. Expected time frame

The average duration of legal action in Italy is from 10 to 12 months, whereas an ordinary civil action can take two to three years, depending on the complexity of the case.

3.7. Costs and interest in the legal phase

All costs are dependent on the outstanding principal amount and are calculated taking into account the amount kept by each party. There are different fees that can apply during the proceedings that make it difficult to predict the total cost. In addition to this, costs of witnesses and/or experts might also arise.

An injunction decree has to mention the amount of credit to be collected, the interest (calculated on the basis of the Legislative Decree on 9 October 2002, n. 231), and the legal fees (calculated on the basis of different ranges). When the petition is notified to the debtor, the debtor is ordered to pay the total amount mentioned.

During an ordinary civil action, the party who loses the judgment is condemned to pay the costs of the legal proceedings (Article 91 of the Civil Action Code).

4. Enforcement

4.1. Enforcement in debt

Enforcement in debt requires an action by you as the creditor to be signed by the bailiff, who will notify the debtor and any third party. This document has to confirm the details of your company and credit, a list of the goods or monies subject to the enforcement (the debtor can't dispose of them), and the domicile election of your company in the city of the court.

The enforcement can refer to different types of credit, such as bank accounts, goods located at a third party, and, on the basis of the limits set by law, any salaries and retirement pensions.

4.2. Enforcement in movable property

The bailiff visits the debtor's address to find out whether any property can be seized. It's provided by law that:

- The execution can't be made against certain property (unseizable goods)
- The bailiff can only visit the debtor during the time periods set by law, e.g. between 7 a.m. and 9 p.m.
- The bailiff can't proceed during the holiday periods
- The property that can be taken by the bailiff and given to the registrar (the clerk of the court) is money, jewellery, and credit. Other goods must be given to the official receiver
- The costs are fixed and depend on the value of the goods found by the bailiff

4.3. Enforcement in immovable property

Before proceeding with enforcement in immovable property, the debtor's real estate should be valued, because this procedure is very long and expensive.

The enforcement in immovable property consists of a notification and a record sent to the debtor that contains a document detailing the immovable property and the rights submitted to the execution. After the notification, the bailiff gives an original copy of the document to the land registrar for registration. After 10 days from the execution, the creditor can ask for the sale of the immovable property.

5. Insolvency proceedings



5.1. General information

On the basis of the elements required by law, insolvency proceedings can be started in the court nearest to the head office of the debtor, following a request filed by the debtor, the debtor's creditors, or a public prosecutor ("ex officio").

The main types of insolvency proceedings in Italy are judicial liquidation ("Liquidazione Giudiziale") and judicial composition with creditors ("concordato preventivo").

5.2. Proceedings

We can analyse in detail the two main types of insolvency proceedings.

Judicial liquidation (previously known as bankruptcy)

In Italy, not all debtors can be declared bankrupt. According to Italian law, small debtors such as individual shops and small-scale farmers can't be declared bankrupt. Neither can small owner-manager firms be declared bankrupt where the personal work outweighs the value of the goods involved.

You can ask for the judicial liquidation of your debtor if your credit is more than EUR 30,000 and the debtor has a minimum turnover of EUR 200,000. The debtor should also not have been removed from the Chambers of Commerce for more than one year. After all the petitions filed with the court within the term fixed are checked, the debt situation will be fixed with the judge's sentence, and a very long procedure of the liquidation of the bankrupt debtor's assets can take place.

Judicial composition with creditors

To avoid judicial liquidation, the debtor can ask the court directly to be admitted to this insolvency procedure. The debtor's petition must include how much they can pay their creditors with the respective percentages of their debts. On the basis of the law decree ("Decreto-legge") n. 83/2015, in

the case of a judicial composition with creditors (“non in continuità aziendale”), it’s provided that the debtor has to offer at least 20% to the unsecured creditors. This offer has to be approved by the majority of the creditors (considering the amount of each creditor’s credit) and should then be validated by the court. After that, the insolvency practitioner starts to liquidate the assets according to the payment plan.

5.3. Required documents

In order to lodge a bankruptcy claim, we need:

- Readable copies of the unpaid invoices
- Readable copies of the transport documents (CMR) signed by the debtor
- If there are no CMR documents signed by the debtor, then an abstract of your books of accounts authenticated by a notary is required

For a judicial composition with creditors, we have to communicate to the insolvency practitioner the amount of credit and file the copies of any documents that prove the credit (e.g. invoices).

5.4. Expected time frame

For a judicial liquidation procedure, a petition for lodging claims can be:

- On time (“tempestiva”): It’s filed with the court at least 30 days before the first hearing held by the court, and it’s checked during this hearing
- Late (“tardiva”): It’s filed with the court after the first fixed term but still within 12 months since the filing of an enforcement decree on the statement of liability

The average duration of a judicial liquidation procedure is from six to seven years.

Regarding a judicial composition with creditors, it’s necessary to first communicate the amount of credit to the insolvency practitioner. Before a hearing is held for all the creditors, each creditor has to vote (positive or negative) on the proposal after their hearing. After the validation by the court, the insolvency practitioner can start with liquidation that will usually take from two to three years.

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.

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