



Flanders  
State of the Art

INVOICES

Unpaid

UNPAID INVOICES

IN THE UAE

FLANDERS INVESTMENT & TRADE MARKET SURVEY

////////////////////////////////////  
**UNPAID INVOICES IN THE UAE**  
////////////////////////////////////

What are your options?

22.07.2020

////////////////////////////////////



# CONTENT

---

1. Introduction.....	3
2. How to avoid being confronted with unpaid invoices.....	3
2.1 Advance Payments .....	3
2.2 Cheque Payments .....	4
3. Contract jurisdiction .....	4
4. Option to deal with overdue invoices.....	5
5. Types of legal actions in the UAE .....	6
6. Amendments to the civil procedure code (CPC).....	6
7. Payment order application process.....	7
7.1 How the payment application process works.....	7
8. Law firms & arbitration information.....	8
8.1 Local Law Firms .....	8
8.2 International Law Firms .....	8
8.3 UAE Arbitration.....	9
9. Next steps.....	9



## 2.2 CHEQUE PAYMENTS

- Asking for a cheque for the total invoice amount provides a relatively high level of security.
- Although sentences for issuing non covered cheques are less severe, banks do not take the situation lightly when confronted with a bounced cheque.




Do's	Don'ts
<ul style="list-style-type: none"> <li>- Attend free legal clinics provided by law firms in the UAE.</li> <li>- Check websites of UAE law firms. They usually offer free guidelines.</li> <li>- Let a UAE lawyer company check your terms and conditions.</li> <li>- Be sure to postdate the cheque on the payment due date of the invoice</li> </ul>	<ul style="list-style-type: none"> <li>- Close to the due date, you could receive a call to ask to extend the cheque's due date. It would be unwise to give in to such requests (see below).</li> <li>- Do not allow an extension of payment terms. It's usually a way to hide financial problems. It gives the client the possibility to leave the country, change ownership, close the offices etc.</li> <li>- Do not use new deliveries for payments of outstanding invoices. This will lead to compounding outstanding debt.</li> <li>- Do not accept a cheque signed "as security."</li> </ul>

## 3. CONTRACT JURISDICTION

---

There seems to be a lot of rumours regarding the legal jurisdictions mentioned in contracts.

The following options exist:

-  - **Belgium law:** not recommended, but better than the second option.
-  - **UAE law:** not recommended, Sharia law will be applied in most cases.
-  - **Arbitration:** recommended, several formulas exist (best to get legal advice).

**Important note:** In straightforward cases (no discussion about outstanding amounts, quality or delivery issues) a local judge will NOT take the mentioned jurisdiction into account.

## 4. OPTION TO DEAL WITH OVERDUE INVOICES

Types	Advantages	Disadvantages	Recommended
<b>Debt Collection Companies</b>	Fast procedure	<ul style="list-style-type: none"> <li>- No enforcement, only pressure</li> <li>- Reputation is questionable</li> <li>- Relatively high commissions</li> </ul>	
<b>Arbitration by UAE Chamber of Commerce</b>	<ul style="list-style-type: none"> <li>- Online application possible</li> <li>- The only debtor needs to be registered, not the claiming party</li> <li>- Well respected institution</li> </ul>	No enforcement, only pressure	<ul style="list-style-type: none"> <li>- In cases involving reasonably low amounts of debt</li> <li>- As a first official warning</li> <li>- In cases where the claiming party believes the chance of recuperating the outstanding amount is relatively large</li> <li>- Note: In case this procedure is done via a lawyer, a power of attorney is required</li> </ul>
<b>Use of a Local Law Firm</b> <b>a) negotiations &amp; settlements</b> <b>b) payment order proceedings</b>	<ul style="list-style-type: none"> <li>- Comparatively less expensive procedures</li> <li>- Fast results (2-3 months)</li> <li>- Payment Order Proceedings - the application process is fast and effective</li> </ul>	Results depending on the quality of the law firm, which can vary a lot	<ul style="list-style-type: none"> <li>- In cases involving relatively low amounts</li> <li>- In cases where there is no additional underlying dispute</li> <li>- Negotiations and settlement approach:               <ul style="list-style-type: none"> <li>- Agreeing on payment schedule and terms</li> <li>- Demand further payment security</li> <li>- Entering into a settlement</li> </ul> </li> <li>- Notes: please refer to point 8 - Law Firms</li> <li>- Opting for payment order proceedings – a decision expected within a total of eight working days</li> </ul>

Types	Advantages	Disadvantages	Recommended
Use of an International Law Firm	Procedure and strategy can be discussed in detail High knowledge of European law	<ul style="list-style-type: none"> <li>- High cost</li> <li>- Only local lawyers can attend court cases</li> </ul> <p>In complex cases, the court will appoint an expert. This is a very costly and time-consuming process</p>	<p>In cases involving relatively high amounts</p> <p>In cases where there are additional underlying disputes</p> <p>Usual steps involved:</p> <ul style="list-style-type: none"> <li>- Sending legal notice outside court (via courier)</li> <li>- Sending legal advice through court bailiff</li> <li>- Filing a claim in court</li> </ul>

## 5. TYPES OF LEGAL ACTIONS IN THE UAE

---

There are, in general, three known ways of filing a legal complaint or action for debt recovery related issues:

- Criminal Case - Filing a criminal case against the company or person involved
- Civil Case - Filing a civil legal action case against the company or person involved
- Payment Order Proceedings – expedited court proceedings for payment orders and execution

## 6. AMENDMENTS TO THE CIVIL PROCEDURE CODE (CPC)

---

The UAE Judicial court underwent an amendment to the Civil Procedure Code (CPC) and confirmed the following:

- Resolution No. 57 of 2018 concerning the Executive Regulation Resolution No. 57 of 2018 concerning the Executive Regulation ("Amendment") of the Civil Procedure Law No. 11 1992 broadened the scope of expedited payment orders.
- Payment Orders are a mechanism for immediate ex-parte judgment (i.e. without notice to the debtor).
- The change includes written acknowledgement of debt (Article 62 of the Amendment) whereas previously this was restricted to financial instruments such as promissory notes and bills of exchange.
- The Amendment also provides that a claim for 'interest' can be made under the Payment Order, whereas interest could not be claimed in the past.

## 7. PAYMENT ORDER APPLICATION PROCESS

---

With the new Amendment of Article 62, in order to process a payment order application, one must meet the below criteria:

- Outstanding debt of a specific quantified amount
- Creditor's right must be confirmed by the debtor (although the Amendment does not provide specifics, generally an unconditional written admission of liability is required)
- The creditor's right must be due and payable

### 7.1 HOW THE PAYMENT APPLICATION PROCESS WORKS

- A written demand or legal notice for the outstanding debt needs to be issued to the debtor (As per Article 63)
- After five days (from the date of legal notice sent only and no less), an expedited 'Payment Order Claim' can be made for any written admission of debt (Article 63)
- The court's decision on the payment order is issued within three working days of the claim submission
- Once the payment order is issued, the debtor has only fifteen days to appeal
- The rules of 'immediate enforcement' applies to the payment order post fifteen days or in the absence of appeal from the debtor
- Cost of this payment order proceeding is six per cent (6%) of claim charges and capped at AED 40,000

//



## 8. LAW FIRMS & ARBITRATION INFORMATION

### 8.1 LOCAL LAW FIRMS

Company Name	Website	Contact Name	Email
Kanaan & Associates	<a href="https://www.kanlaw.ae/home">https://www.kanlaw.ae/home</a>	Halim Kanaan	<a href="mailto:halim.kanaan@kanlaw.ae">halim.kanaan@kanlaw.ae</a>
OGH Legal	<a href="http://www.oghlegal.com/">http://www.oghlegal.com/</a>	Mohamed ElGhatit	<a href="mailto:mohamed.elghatit@oghlegal.com">mohamed.elghatit@oghlegal.com</a>
Galadari – Advocates & Legal Consultants	<a href="http://www.galadarilaw.com">www.galadarilaw.com</a>	Abdulla Galadari	<a href="mailto:info@galadari.com">info@galadari.com</a>

**Important Note:** These firms have been recommended by a Belgian lawyer working in the UAE. They can be contacted mentioning "Geoffroy Hermanns from Herbert Smith Freehills."

### 8.2 INTERNATIONAL LAW FIRMS

Company Name	Website	Contact Name	Email
Meyer – Reumann Dubai	<a href="http://www.meyer-reumann.com/Default.aspx">http://www.meyer-reumann.com/Default.aspx</a>	Mrs Elena Schildgen – Senior Partner Lawyer	<a href="mailto:dubai@meyer-reumann.com">dubai@meyer-reumann.com</a> <a href="mailto:elena@meyer-reumann.com">elena@meyer-reumann.com</a>
Al Tamimi & Co	<a href="http://www.tamimi.com/en/office/our-offices/united-arab-emirates.html">http://www.tamimi.com/en/office/our-offices/united-arab-emirates.html</a>	DIC: Mr Samer Qudah – Partner – Head of Corporate Structuring AD: Mr Mohamed Al Marzouqi - Partner	Dubai Office: <a href="mailto:info@tamimi.com">info@tamimi.com</a> Dubai Internet City (DIC): <a href="mailto:infodic@tamimi.com">infodic@tamimi.com</a> Abu Dhabi office: <a href="mailto:infoabudhabi@tamimi.com">infoabudhabi@tamimi.com</a>
James Berry & Associates	<a href="http://jamesberrylaw.com/">http://jamesberrylaw.com/</a>		<a href="mailto:enquiries@jasesberrylaw.ae">enquiries@jasesberrylaw.ae</a>
Salloum & Partners	<a href="http://salloum.law/">http://salloum.law/</a>	Mr. Samir A Salloum Mr. Siad Salloum	Dubai: <a href="mailto:samir@salloum.law">samir@salloum.law</a> Abu Dhabi: <a href="mailto:ziad@salloum.law">ziad@salloum.law</a>



- Verify all the security documents you receive from the respondent such as postdated cheques, promissory notes or any bank guarantees

Companies can rightfully conclude that the legal options available to them are extensive. However, the following problems have to be taken into account:

- Delay tactics are often used
- Knowledge of legal experts is often insufficient
- Appeals are randomly used, but with the new Amendment we are likely to see changes soon
- Criminal or civil case execution orders remain problematic

**For more information, please contact:**

Flanders Investment & Trade Dubai  
World Trade Center, 14<sup>th</sup> floor  
Sheikh Zayed Road  
Dubai - UAE  
E [dubai@fitagency.com](mailto:dubai@fitagency.com)  
T +971 50 573 96 89

**Disclaimer**

The information in this publication is provided for background information that should enable you to get a picture of the subject treated in this document. It is collected with the greatest care based on all data and documentation available at the moment of publication. Thus this publication was never intended to be the perfect and correct answer to your specific situation. Consequently it can never be considered a legal, financial or other specialized advice. Flanders Investment & Trade (FIT) accepts no liability for any errors, omissions or incompleteness, and no warranty is given or responsibility accepted as to the standing of any individual, firm, company or other organization mentioned.

