



PAYMENT ORDERS

Pursuant to Investment and Trade Court Law



Orders on Payment

A payment order is a special method drawn up by the legislator to require a designated right, established in writing and is due and payable as per judicial order and as proof of performed service. It is enforceable once fulfilled and its means of appeal exhausted, as an exception to the general rules.

Whereas the legislator esteemed that the settlement of certain debts does not require confrontation between the parties, since the debtor apparently has no objection to the creditor's claim and that documentation in writing is the basis of this estimation, thus constituting a *de jure* proof that the debt must be settled, the legislator considered that claims relating to these debts should not be subject to normal litigation procedures requiring full investigation in accordance with the principle of confrontation, for only a partial investigation should be conducted on the basis of the established document and without declaring the defendant debtor.

The payment order system provides for the speedy disposal of litigations. The legislator adopted this system and made it permissible in accordance with the provisions of Chapter 10 of the Law of Civil and Commercial Procedure. However, it was incorporated into Law No 21 of 2021 establishing the Investment and Trade Court to make it mandatory in matters appertaining to the jurisdiction of this court so that the parties to commercial transactions, who are creditors of fixed amounts documented in writing, obtain their rights in a short period of time; thus enabling them to take advantage of speed, ease and simplification of procedures.

Requirements for the issuance of a payment order:

- In-cash debt;
- Fixed amount;
- Due and payable;
- Documented in writing.

Filed petition must comprise the following:

- Name or agent of creditor and local address;
- Full name and local address of debtor;
- Facts and grounds of the petition;
- Statement of due principal, attachments and expenses;
- Designation of elected domicile for creditor.

Required petition attachments:

- Debt document;
- Proof of full fee payment.

Order issuance procedures:

- The requisition for payment order is registered in the electronic system of the court by the creditor or their representative, or by the Case Management Office if it is found the case may be subject of a payment order;
- The electronic payment order shall be issued within three (3) days of the submission of the requisition and shall indicate the due amount of the principal, attachments and expenses;
- The document shall be lodged with the Registry of the Court of First Instance until the elapse of the prescription period for the grievance against the matter subject of order issuance;
- The debtor is notified of the payment order issued against them at one of their local addresses;
- The petition and the relevant payment order are deemed null and void if they are not communicated to the debtor within three (3) months of the date of issuance of the order.

Refusal to issue an order:

If the judge refuses to issue the order, they shall, in accordance with Article 8 of the Decision of the Supreme Judiciary Council on the procedures and mechanisms for the functioning of the Case Management Office, return the petition to the Office for its administration. The Case Management Office shall thus collect the fees, documents and data necessary for the adjudication of the case and its announcement to the defendant electronically at their local address.

Judge competent to issue a payment order:

Pursuant to a decision by the President of the court to constitute circuits and allocate work thereat, competence to requisition a payment order is vested in the first instance courts composed of a single judge, and these courts may alone issue payment orders, whatever the value of the right in question, and they also have the right to adjudicate on the grievances they receive.

Grievance against a payment order:

- The debtor may file a grievance against the order within thirty (30) days of the date on which they are notified pursuant to Article 151 of the Law of Civil and Commercial Procedure;
- The filed grievance requires the summoning of the creditor before the competent first instance court, issuer of the order, and the summons shall take into account the circumstances in the relevant statement of claim;
- The grievance must be justifiable; otherwise, it is deemed null and void;
- The right to grievance against the order becomes invalid if the debtor directly challenges it on appeal;
- The complainant shall be deemed the plaintiff in the case, and the rules and procedures of the court shall be observed in the consideration of the grievance by the first instance court;
- If the complainant fails to appear at the first hearing of the grievance, the court shall decide ex proprio motu to invalidate the grievance;
- The provisions on expedient enforcement shall apply to the payment order and to the relevant ruling on the grievance as prescribed by law.

Appeal of the payment order:

The payment order or the relevant ruling may be appealed before the court of appeal. The time limit for appeal shall be fifteen (15) days from the date of notification by the concerned authorities in accordance with Article 11 of the Law on the establishment of the Investment and Trade Court.

Executive power of the payment order:

Article 153 of the Pleadings Law stipulates that the provisions on expedient enforcement, as dictated by the circumstances specified by this Law, shall apply to “the payment order and the relevant ruling on grievances,” and, accordingly, the payment order is deemed an executive document that gives the creditor the right to forced execution.

Order of precautionary seizure:

- As an exception to the provisions of Articles 401, 363 and 446 of the Pleadings Law, if the creditor wishes to place seizure on the debtor's assets in custody of third parties, and in cases where the creditor may obtain an order from the judge for precautionary seizure, the attachment order shall be issued by the judge competent to issue the payment order;
- The creditor must, within eight (8) days of the signature of the seizure document, submit the requisition for payment and the validity of the seizure procedures to the judge specified hereinabove. The seizure warrant must contain the relevant notification to the party subject to the seizure; otherwise, the seizure is deemed null and void;
- In the event of a grievance against a seizure order for reasons relating to the origin of the right, the order for payment shall not be issued, and the petition shall be returned to the Case Management Office for completion of its procedures and then referred to the competent department in accordance with Article 8 of the Decision of the Supreme Judiciary Council on the procedures and mechanisms for the functioning of the Case Management Office;
- In case of seizure in the manner indicated above, a quarter of the fee is charged to the creditor at the time of signature of the seizure requisition, and the pending amount is settled at the time of requisition of payment order and confirmation of the validity of the seizure.

It should be noted that, in the event of a requisition of an order for the payment of a debt and confirmation of the validity of the signed precautionary seizure, the judge may issue the relevant order and deny the requisition of the validity of the seizure.



محكمة الاستثمار والتجارة
Investment and Trade Court

