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Interest rates



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European Judicial Network
(in civil and commercial
matters)

1 Is "statutory interest" provided for in the Member State? If so, how is "statutory interest" defined in this Member State?

Under Italian law relating to debts, a distinction is made between ordinary, default and compensatory interest. Ordinary interest provides remuneration in exchange for the benefit accruing to an individual (who is required to pay that interest) from money made available by others. Default interest is compensatory in nature and is incurred for late payment as established by means of an official notice for payment served on the debtor. Compensatory interest must be paid where the creditor is denied prompt payment of the amounts owed by the debtor, who secures an advantage by not paying immediately. Such interest constitutes equitable relief and accrues even if the loan is not repayable in the short term. Statutory interest is, however, laid down by law in respect of debts: beyond the date on which the sum falls due, the debtor is required to pay the creditor statutory interest even if no interest was previously owed and even if the creditor has not demonstrated that he/she has suffered any loss (Article 1224(I) of the Civil Code [*Codice Civile*]). Specifically, Article 1224 of the Civil Code (losses relating to debts) provides that *'for debts relating to a sum of money, statutory interest is payable from the due date, even if no interest was previously owed and even if the creditor has not demonstrated that he/she has suffered any loss. Where interest in excess of the statutory interest was owed before the due date, default interest of the same amount shall be due'*. Any creditors who demonstrate that they have suffered significant loss will receive further compensation (loss stemming from monetary devaluation). This will not be paid if an amount of default interest has been agreed.

Article 1282 of the Civil Code states that interest shall automatically be payable on debts falling due in the short term, unless otherwise provided for by law or in connection with the claim in question.

2 If yes, what is the amount/rate and legal basis for it? If different rates of statutory interest are provided for, what circumstances and conditions apply?

In general, the amount of statutory interest is determined each year by the Italian Treasury (now the Ministry of Economic Affairs and Finance) by means of a decree issued by 15 December. If the parties have set a contractual interest rate, it must have been agreed in writing and may not exceed the maximum rate allowed under the anti-usury law (Law No 108 of 7 March 1996), otherwise the interest will be deemed usurious and hence null. In such cases, no interest will be owed (Article 1815 of the Civil Code). If the parties have agreed to apply a contractual interest rate but have not established the level thereof, the statutory rate is applied. Under Italian law the situation regarding default interest differs in part from that of statutory interest. Default interest is intended as a penalty (for the debtor) and compensation (for the creditor); it is linked to non-payment of a debt following late or non-payment for the service concerned within the period laid down by law or on the basis of agreements between the parties. For the creditor to be able to claim default interest, the debtor must be in arrears. 'Arrears' refers to a delay by the debtor in the payment of debts. For arrears to apply, the due date must have passed and the debtor must have been given notice to pay: a formal document by means of which the creditor asks the debtor to make the payment due. Under the Civil Code, default interest is due at the statutory

rate or at a rate determined by law. However, if interest higher than the statutory rate was due before the debtor was given notice to pay, the default interest will be of the same amount (Article 1224 of the Civil Code).

Under Article 1284 of the Civil Code the rate of statutory interest is determined on an annual basis by the Minister for Economic Affairs and Finance. By means of a decree published in the Official Gazette of the Italian Republic (*Gazzetta Ufficiale della Repubblica Italiana*), the Minister adjusts the rate on the basis of the average annual gross yield on government bonds due to mature within 12 months, taking into account the inflation rate recorded over the year. The rate is set no later than 15 December of the year preceding the one to which it applies. If the new rate has not been set by 15 December, the existing one will remain unchanged for the following year.

TABLE OF STATUTORY INTEREST RATES

From	To	Rate	Legal basis
01/01/1999	31/12/2000	2.50%	Ministerial Decree (Treasury) of 10/12/1998
01/01/2001	31/12/2001	3.50%	Ministerial Decree (Treasury) of 11/12/2000
01/01/2002	31/12/2003	3.00%	Ministerial Decree (Economic Affairs) of 11/12/2001
01/01/2004	31/12/2007	2.50%	Ministerial Decree (Economic Affairs) of 01/12/2003
01/01/2008	31/12/2009	3.00%	Ministerial Decree (Economic Affairs) of 12/12/2007
01/01/2010	31/12/2010	1.00%	Ministerial Decree (Economic Affairs) of 04/12/2009
01/01/2011	31/12/2011	1.50%	Ministerial Decree (Economic Affairs) of 07/12/2010
01/01/2012	31/12/2013	2.50%	Ministerial Decree (Economic Affairs) of 12/12/2011
01/01/2014	31/12/2014	1.00%	Ministerial Decree (Economic Affairs) of 12/12/2013
01/01/2015	31/12/2015	0.50%	Ministerial Decree (Economic Affairs) of 11/12/2014
01/01/2016	31/12/2016	0.20%	Ministerial Decree (Economic Affairs) of 11/12/2015
01/01/2017	31/12/2017	0.10%	Ministerial Decree (Economic Affairs) of 07/12/2016
01/01/2018	31/12/2018	0.30%	Ministerial Decree (Economic Affairs) of 13/12/2017
01/01/2019	31/12/2019	0.80%	Ministerial Decree (Economic Affairs) of 12/12/2018
01/01/2020	31/12/2020	0.05%	Ministerial Decree (Economic Affairs) of 12/12/2019
01/01/2021	31/12/2021	0.01%	Ministerial Decree (Economic Affairs) of 11/12/2020
01.01.2022	31.12.2022	1.25%	Ministerial Decree (Economic Affairs) of 13/12/2021
01/01/2023	31/12/2023	5.00%	Ministerial Decree (Economic Affairs) of 13/12/2022
01/01/2024	31.12.2024	2.50%	Ministerial Decree (Economic Affairs) of 29/11/2023

Any interest charged at a rate higher than the statutory one must be stipulated in writing, failing which the statutory rate will apply.

For delays in commercial transactions an ad hoc EU rule applies: Italy's Legislative Decree No 231 of 9 October 2002 (as amended by Legislative Decree No 192 of 9 November 2012) fully transposes Directive 2011/7/EU pursuant to Article 10(1) of Law No 180 of 11 November 2011. If the parties have not decided on a rate, the statutory interest rate will - from the time when a document instituting proceedings is submitted - be equal to the rate laid down in the special law concerning late payment in commercial transactions (see below). This rule also applies to an act initiating arbitration proceedings.

Special legislation relating to late payment in commercial transactions. Pursuant to Directive 2000/35/EC on *combating late payment in commercial transactions*, Italy's lawmakers issued Legislative Decree 231/2002 (as subsequently amended), which specifically provides for default interest relating to commercial transactions to be charged at a rate higher than that for statutory interest. Under that Decree, commercial transactions means 'contracts of any description between undertakings or between undertakings and public authorities which involve, solely or predominantly, the supply of goods or the provision of services for a consideration'. The Decree also provides that, in the context of a commercial transaction, 'anyone who is unjustly subjected to a delay in the payment of a consideration is entitled to automatic payment of default interest, which starts to accrue, without any requirement for a formal notice to pay, from the day following the expiry of the deadline for payment', unless the debtor is able to demonstrate that the non-payment was the result of factors beyond his/her control. Under that law, default interest in commercial transactions is based on the rate set each year by the Ministry of Economic Affairs and Finance and shown in the table below, whereby: (a) for the first half of the year to which the delay refers, the rate used is the one in force on 1 January of that year; (b) for the second half of the year to which the delay refers, the rate used is the one in force on 1 July of that year.

Table showing the variations since 2002 in the default-interest rate:

TABLE of DEFAULT INTEREST RATES under Legislative Decree 231/2002

From	To	ECB Rate	Rate of Increase	Total
01/07/2002	31/12/2002	3.35%	7.00%	10.35%
01/01/2003	30/06/2003	2.85%	7.00%	9.85%
01/07/2003	31/12/2003	2.10%	7.00%	9.10%
01/01/2004	30/06/2004	2.02%	7.00%	9.02%
01/07/2004	31/12/2004	2.01%	7.00%	9.01%
01/01/2005	30/06/2005	2.09%	7.00%	9.09%
01/07/2005	31/12/2005	2.05%	7.00%	9.05%
01/01/2006	30/06/2006	2.25%	7.00%	9.25%
01/07/2006	31/12/2006	2.83%	7.00%	9.83%
01/01/2007	30/06/2007	3.58%	7.00%	10.58%
01/07/2007	31/12/2007	4.07%	7.00%	11.07%
01/01/2008	30/06/2008	4.20%	7.00%	11.20%
01/07/2008	31/12/2008	4.10%	7.00%	11.10%
01/01/2009	30/06/2009	2.50%	7.00%	9.50%
01/07/2009	31/12/2009	1.00%	7.00%	8.00%
01/01/2010	30/06/2010	1.00%	7.00%	8.00%
01/07/2010	31/12/2010	1.00%	7.00%	8.00%
01/01/2011	30/06/2011	1.00%	7.00%	8.00%
01/07/2011	31/12/2011	1.25%	7.00%	8.25%
01/01/2012	30/06/2012	1.00%	7.00%	8.00%
01/07/2012	31/12/2012	1.00%	7.00%	8.00%
01/01/2013	30/06/2013	0.75%	8.00%	8.75%
01/07/2013	31/12/2013	0.50%	8.00%	8.50%
01/01/2014	30/06/2014	0.25%	8.00%	8.25%
01/07/2014	31/12/2014	0.15%	8.00%	8.15%
01/01/2015	30/06/2015	0.05%	8.00%	8.05%
01/07/2015	31/12/2015	0.05%	8.00%	8.05%
01/01/2016	30/06/2016	0.05%	8.00%	8.05%
01/07/2016	31/12/2016	0.00%	8.00%	8.00%
01/01/2017	30/06/2017	0.00%	8.00%	8.00%
01/07/2017	31/12/2017	0.00%	8.00%	8.00%
01/01/2018	30/06/2018	0.00%	8.00%	8.00%
01/07/2018	31/12/2018	0.00%	8.00%	8.00%
01/01/2019	30/06/2019	0.00%	8.00%	8.00%
01/07/2019	31/12/2019	0.00%	8.00%	8.00%
01/01/2020	30/06/2020	0.00%	8.00%	8.00%
01/07/2020	31/12/2020	0.00%	8.00%	8.00%
01/07/2021	31/12/2021	0.00%	8.00%	8.00%
01/01/2021	30/06/2021	0.00%	8.00%	8.00%
01/01/2022	30/06/2022	0.00%	8.00%	8.00%
01/07/2022	31/12/2022	0.00%	8.00%	8.00%
01/01/2023	30/06/2023	2.50%	8.00%	10.50%
01/07/2023	31/12/2023	4.00%	8.00%	12.00%
01/01/2024	30/06/2024	4.50%	8.00%	12.50%

3 If necessary, is there further information available on how to calculate

statutory interest?

Website of the Ministry of Economic Affairs and Finance: <https://www.mef.gov.it/>

4 Is there free online access available to the legal basis mentioned above?

There are numerous websites providing free software for the purpose of calculating statutory and default interest.

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