

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

Statutory interest is provided for in Spain as a subsidiary remedy to set compensation for damages in the absence of an agreement between the parties, where the debtor is in default. This is laid down in Article 1108 of the Civil Code, which requires the unpaid debt to be in cash or to have been converted into cash.

There is no express definition of statutory interest.

However, there are different rates of statutory interest. The most common rate is that referred to in the Civil Code. However, in other matters, the law establishes specific interest rates, which in many cases result from the application of a certain percentage to the statutory interest. In cases where these interest rates are applicable, they may also be considered statutory interest in the sense that they are set by law. These include:

- The Law on Mortgage Loan Contracts (*Ley Reguladora de los Contratos de Crédito Inmobiliario*) amended the text of Article 114 which, in its new version, came into force on 16 June 2019. It sets late-payment interest as the rate of ordinary interest plus three percentage points over the period for which the payment is outstanding, for loans or credits entered into by natural persons secured by a mortgage on immovable property for residential use. Late-payment interest cannot be capitalised under any circumstances. Agreements to the contrary regarding this rule on late-payment interest are inadmissible.
- Article 20(4) of Law 16/2011 on Credit Agreements for Consumers (*Ley de Contratos de Crédito al Consumo*) sets an upper limit of 2.5 times the statutory interest rate for this type of operation;
- unless otherwise agreed, Article 7 of Law 3/2004 on combating late payment in commercial transactions (*Ley de lucha contra la morosidad en las operaciones mercantiles*) establishes the statutory rate of late-payment interest which the debtor is required to pay as the sum of the interest rate applied by the European Central Bank to its most recent principal refinancing operation carried out before the first day of the current half of the calendar year, plus eight percentage points.

The interest rate applied by the European Central Bank to its principal refinancing operations will be understood to be the interest rate applied when those operations are fixed-rate auctions. If a principal refinancing operation were to be carried out as a variable-rate auction, that interest rate will refer to the marginal rate of interest resulting from that auction.

The statutory rate of late-payment interest, determined in accordance with the provisions of this paragraph, will be applied for 6 months from the day on which it is set.

The Ministry of Economic Affairs and Finance will publish the interest rate resulting from the application of the above rule in the Official State Gazette every 6 months.

-With respect to *insurance contracts*, Article 20(4) of Law 50/1980 of 8 October 1980 on insurance contracts (*Ley del Contrato de Seguro*) penalises unjustified delays by insurance companies in the payment of compensation to those affected by claims covered by insurance contracts taken out with the insurers, applying an annual interest rate equal to the statutory interest rate in force when payment becomes due, plus 50%. If compensation is not paid within 2 years of the claim, the judge must impose an annual interest rate of no less than 20% on the insurer.

- The 'post-judgment interest' (*interés procesal*) referred to by Article 576 of Law 1/2000 of 7 January 2000 on civil procedure (*Ley de Enjuiciamiento Civil*), which states that once a judgment or decision has been delivered at first instance ordering a cash payment, annual interest becomes due to the creditor either at the statutory interest rate plus two percentage points, at the interest rate agreed on by the parties, or at the rate provided for by special legal provision.

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?

The interest rate is laid down in the budget laws for each year.

For 2023, the rate is provided for in Additional Provision No 46 of Law 31/2022 of 23 December 2022 on the general state budget (*Ley de Presupuestos Generales del Estado*), which establishes it as:

Statutory interest.

One. 3.25% until 31 December 2023 in accordance with Article 1 of Law 24/1984 of 29 June 1984 on the amendment of the statutory interest rate (*Ley sobre modificación del tipo de interés legal del dinero*).

Two. Over the same period, the late-payment interest referred to in Article 26(6) of General Law 58/2003 of 17 December 2003 on taxation (*Ley General Tributaria*) will be 4.0625%.

Three. Over the same period, the late-payment interest referred to in Article 38(2) of General Law 38/2003 of 17 November 2003 on subsidies (*Ley General de Subvenciones*) will be 4.0625%.

The interest rates can be seen at the following address, as published by the Bank of Spain: [here](#)

As stated in the answer to the previous question, in addition to the statutory interest provided for in Article 1108 of the Civil Code for setting the compensation for unpaid pecuniary claims, various rates of statutory interest apply. These include:

- The Law on Mortgage Loan Contracts amended the text of Article 114 which, in its new wording, came into force on 16 June 2019. It establishes late-payment interest as the rate of ordinary interest plus three percentage points over the period for which the payment is outstanding. It applies to loans taken out by individuals secured against mortgages on residential property. Late-payment interest cannot be capitalised under any circumstances. Agreements to the contrary regarding this rule on late-payment interest are inadmissible.
- Article 20(4) of Law 16/2011 on Credit Agreements for Consumers sets an upper limit of 2.5 times the statutory interest rate for this type of operation;
- Article 7 of Law 3/2004 on combating late payment in commercial transactions establishes the statutory rate of late-payment interest that the debtor is obliged to pay as the sum of the interest rate applied by the European Central Bank to its most recent principal refinancing operation carried out before the first day of the current half of the calendar year, plus eight percentage points.

The interest rate applied by the European Central Bank to its principal refinancing operations will be understood to be the interest rate applied when those operations are fixed-rate auctions. If a principal refinancing operation were to be carried out as a variable-rate auction, that interest rate will refer to the marginal rate of interest resulting from that auction.

The statutory rate of late-payment interest, determined in accordance with the provisions of this paragraph, will be applied for 6 months from the day on which it is set.

- With respect to *insurance contracts*, Article 20(4) of Law 50/1980 of 8 October 1980 on insurance contracts penalises unjustified delays by insurance companies in the payment of compensation to those affected by claims covered by insurance contracts taken out with the insurers, applying an annual interest rate equal to the statutory interest rate in force when payment becomes due, plus 50%. If compensation is not paid within 2 years of the claim, the judge must impose an annual interest rate of no less than 20% on the insurer.

- The 'post-judgment interest' referred to in Article 576 of Law 1/2000 of 7 January 2000 on civil procedure, which states that once a judgment or decision has been handed down at first instance ordering a cash payment, annual interest becomes due to the creditor either at the statutory interest rate plus two percentage points, at the interest rate agreed on by the parties, or at the rate provided for by special legal provision.

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

The interest rates can be seen on the website indicated in the previous answer: [here](#)

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

Yes, at the following address: [Tipos_de_Interes](#)

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