

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

Statutory interest is regulated in the Republic of Bulgaria, but the term is not currently defined in law.

According to legal theory, 'statutory interest' is interest that is not agreed (in such case it would constitute a penalty), but is provided for by law. Statutory interest for late payment (default, late-payment interest) is due for late payment of a monetary obligation. In the event of default on a monetary debt, the creditor is always entitled to compensation at the statutory interest rate from the date of delay (see first sentence of Article 86(1) of the Obligations and Contracts Act (ZZD)). The Supreme Court of Cassation (Varhoven kasatsionen sad) (VKS) has developed uniform case-law whereby any default on a monetary obligation constitutes late payment and entitles the creditor to claim default compensation, which, under the general rule laid down by Article 86(1) of the ZZD, is statutory interest from the date of the delay. In a fixed-term obligation, the debtor is in default after the end of the period for payment, and where there is no fixed day for performance, the debtor is in default when given a notice by the creditor, in conformity with the rule of Article 84(2) of the ZZD. A claim for statutory interest, therefore, arises from a set of circumstances including the following elements: a principal sum is owed, this debt has become due, and the obligation to pay has not been performed, the subject of this claim being compensation for the damage which the non-performance objectively and logically inflicts. The interest claim is ancillary but, to a certain extent, is autonomous vis-à-vis the principal claim, and the essential elements that entitle the creditor to lay such a claim include reliance on non-performance, i.e. a lack of due conduct with regard to the principal sum owed.

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?

Under Article 86(1) of the Obligations and Contracts Act, a debtor defaulting on a monetary obligation is liable for compensation at the statutory interest rate from the date of delay. The rate of statutory interest is established by the Council of Ministers.

On the basis of Article 86(2) of the ZZD and with a view to transposing Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (OJ L 48/1 of 23 February 2011), the Council of Ministers adopted Decree No 100 of 29 May 2012 setting the rate of statutory interest on arrears in leva and in foreign currency (in force as from 1 July 2012, repealed) and Decree No 426 of 18 December 2014 setting the rate of statutory interest on arrears (in force as from 1 January 2015), which set the rate of statutory interest at the base interest rate set by the Bulgarian National Bank for the period after the due date plus 10 percentage points. The annual rate of statutory interest on overdue payments is the Bulgarian National Bank base rate applicable from 1 January or 1 July of the current year plus 10 percentage points. The daily rate of statutory interest on overdue payments is 1/360 of the annual rate. The interest rate in force from 1 January of the current year applies for the first half of the year and that in force from 1 July for the second half.

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

The Bulgarian National Bank publishes the base rate for the relevant period using a methodology established by the Management Board and publishes it in the State Gazette. The base rate and changes thereto are published on the website of the Bulgarian National Bank: <http://www.bnb.bg/>. That website also contains the methodology for establishing the base rate.

Article 10(3) of the Obligations and Contracts Act provides that interest on overdue interest (compound interest) is payable under Bulgarian National Bank rules. However, no such rules have been published.

Under Article 294(2) of the Commerce Act (Targovski zakon), where a commercial transaction is concluded, interest may be due on interest if the parties have expressly agreed to that.

Where an action for a statutory interest claim is brought in a commercial dispute, the statement of action must be accompanied by a statement containing the calculations necessary to determine the amount of interest claimed. This statement, provided for in Article 366 of the Civil Procedure Code (Grazhdanski protsesualen kodeks), is a condition for the conformity of the statement of action and, if not submitted, the plaintiff will be instructed to remedy the non-conformity within one week of receipt of the communication. If these instructions are not complied with, the court will have grounds to revert the statement of action in respect of the action for a statutory interest claim.

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

Information about the base rate and changes thereto is available in English and Bulgarian on the Bulgarian National Bank website: <http://www.bnb.bg/>.

The Obligations and Contracts Act, the Commerce Act and other legal acts mentioned above are available in Bulgarian on the website: <https://lex.bg>.

The Obligations and Contracts Act, the Commerce Act and Council of Ministers Decree No 426 of 18 December 2014 establishing the statutory rate of interest on overdue payments are also available in Bulgarian on the website: <https://www.tita.bg/>.

The amount of statutory interest can be calculated free of charge by entering the amount of the overdue principal and the period after the due date in one of the following electronic online calculators: https://www.calculator.bg/1/lihvi_zadaljenia.html or <http://balans.bg>.

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