

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

Government Order No 13/2011 on remunerative and penalty statutory interest on payment obligations and regulating certain financial and fiscal measures in the banking sector lays down the legal arrangements for:

- remunerative statutory interest (representing the interest owed by the debtor on the amount he/she is obliged to pay by a given deadline, calculated for the period preceding the due date for the amount owed) and
- penalty statutory interest (representing the interest owed by the debtor on the amount he/she is obliged to pay for failure to meet that obligation by the due date).

Under Article 2 of Government Order No 13/2011, where a payment obligation is subject, in accordance with the legal provisions or the contractual terms, to remunerative and/or penalty interest, as the case may be, and in the absence of an express provision agreed by the parties on the rate of such interest, the rate to be paid is the statutory rate corresponding to each of them.

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 provisions underpinning the legal arrangements for remunerative/penalty statutory/conventional interest are Articles 3 to 5 of Government Order No 13/2011 on remunerative and penalty statutory interest on payment obligations and regulating certain financial and fiscal measures in the banking sector:

Article 3 - (1) The rate of the remunerative statutory interest shall be the reference interest rate of the National Bank of Romania (*Banca Națională a României*), which is the monetary policy interest rate established by decision of the Board of Directors of the National Bank of Romania.

(2) The rate of the penalty statutory interest rate shall be the reference interest rate plus 4 percentage points.

(21) In transactions between professionals and between professionals and contracting authorities, the rate of the penalty statutory interest shall be the reference interest rate plus 8 percentage points.

(3) In legal relations not arising from the operation of a for-profit undertaking, within the meaning of Article 3(3) of Law No 287/2009 on the Civil Code, republished, the rate of the statutory interest shall be determined in accordance with paragraphs (1) and (2), reduced by 20 %.

(4) The reference interest rate of the National Bank of Romania shall be published in Official Gazette of Romania, Part I, by the National Bank of Romania, whenever the monetary policy interest rate changes.

Article 4 – In legal relations with cross-border implications, where Romanian law is applicable and payment is to be made in foreign currency, the statutory interest shall be 6 % per year.

Article 5 – (1) In legal relations not arising from the operation of a for-profit undertaking, within the meaning of Article 3(3) of Law No 287/2009 on the Civil Code, republished, the interest rate may not exceed the statutory interest by more than 50 % per year.

(2) Any clause breaching the provisions of paragraph (1) shall be null and void. In this case, the creditor shall forfeit the right to claim statutory interest.

(3) The validity of the conventional interest rate shall be determined by reference to the statutory interest in force on the date of stipulation."

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

Article 3(1) of Government Order No 13/2011 on the remunerative and penalty statutory interest on payment obligations and regulating certain financial and fiscal measures in the banking sector provides that the rate of the statutory interest is the reference interest rate of the National Bank of Romania, which is the monetary policy interest rate established by decision of the Board of Directors of the National Bank of Romania. It is published on the website of the National Bank of Romania at <http://www.bnr.ro/Monetary-Policy--3318.aspx>

For the method of calculating the rate of the statutory interest for different cases, see the answer above.

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

Yes, in Romanian for Government Order No 13/2011 on the remunerative and penalty statutory interest on payment obligations and regulating certain financial and fiscal measures in the banking sector. See the website of the National Bank of Romania at

<http://www.bnr.ro/apage.aspx?pid=404&actId=324573>

Yes, in English for the reference interest rate of the National Bank of Romania (BNR). See the website of the National Bank of Romania at

<http://www.bnr.ro/Monetary-Policy--3318.aspx>

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