

Statutory interest - Slovakia

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

Default interest is a **sanction for default** on a debt. It is paid **in addition to the debt**, and is set as a percentage of the amount outstanding. By law, default on a debt changes the content of the creditor's rights and the debtor's obligations, as it establishes new rights and obligations in addition to the obligation to pay the debt, regardless of whether the debtor caused the default or not.

For statutory default interest, Slovak law distinguishes between default interest under Section 517(2) of Act No 40/1964, the Civil Code (*Občianský zákonník*), and default interest under Section 369 of the Commercial Code (*Obchodný zákonník*). Under civil law the default interest rate cannot be contractually negotiated, i.e. the contracting parties cannot agree on a rate higher than the one set by law, in contrast with **commercial law, which favours an agreement between businesses on the default interest rate**; if no rate has been agreed, the creditor is entitled to default interest at the statutory rate.

Statutory interest is therefore straightforward interest on default, the amount of which is defined by law depending on whether the case in question is covered by civil or commercial law. Under civil law default interest may be no higher than the rate specified by law (i.e. a lower rate can be agreed) and in the absence of any contractual agreement, default interest, if the creditor demands it, is automatically set at the statutory rate. Under commercial law default interest may be higher or lower than statutory interest, and statutory interest is only relevant in the absence of any contractual agreement.

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 Section 517(2) of the Civil Code, the statutory rate for default interest is defined by Regulation No 87/1995 (*nariadenie č. 87/1995 Z.z.*) such that the default interest rate is five percentage points higher than the European Central Bank's base rate on the first day of default on a debt. Five percentage points are therefore added to the ECB base rate (i.e. the rate for main refinancing operations). ECB interest rates for individual periods are available at <https://www.nbs.sk/en/statistics/financial-markets/interest-rates/interest-rates-of-the-ecb>. The default interest rate on the first day of default **applies for the duration of default**, and any subsequent adjustments to the ECB base rate have no effect on the default interest rate.

Under commercial law, statutory interest is governed by Section 369 of the Commercial Code, according to which in the event of default the creditor, if he has discharged his statutory and contractual obligations, is entitled to demand default interest at the rate agreed in the contract, with no requirement for any special notification. As stated above, in commercial relationships the default interest rate can be contractually modified. However, even when default interest has been contractually agreed, the rate must comply with the principles of fair trading. If not, the right under such an agreement cannot be protected, which means that **even if the interest rate was contractually agreed, the court cannot award interest at a rate that would violate these principles. Another**

exception concerns debts under a consumer contract where the consumer is the debtor, when the agreed default interest may be no higher than the amount specified under civil law.

Under Section 369 of the Commercial Code, if no default interest rate has been agreed, the debtor is obliged to pay default interest at the rate set by the Slovak government in Regulation No 21/2013 (*nariadenie č. 21/2013 Z.z.*). The legislation permits fixed and variable default interest. The fixed rate is equal to the ECB base rate on the first day of default plus nine percentage points; this rate applies for the duration of default on the debt, and any subsequent adjustments to the ECB base rate will have no effect on the default interest rate (which is why this default interest rate is called the fixed rate). However, instead of fixed interest the creditor can demand variable default interest from the debtor and can therefore require the debtor to pay default interest at the ECB base rate valid on the first day of the relevant calendar half-year plus eight percentage points. If the creditor chooses variable default interest, this method for calculating interest (not the rate set when default occurs, but the method for calculating the rate) applies for the duration of default on the debt. Variable default interest therefore means that the default interest rate can change in line with changes in the ECB base rate valid on the first day of the relevant calendar half-year, i.e. on 1 January and 1 July. ECB interest rates for individual periods are available at <https://www.nbs.sk/en/statistics/financial-markets/interest-rates/interest-rates-of-the-ecb>.

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

The method for calculating default interest is set out clearly and comprehensibly in the legislation. The current default interest rate is published by the Ministry of Justice of the Slovak Republic (*Ministerstvo spravodlivosti Slovenskej republiky*) (<https://www.justice.gov.sk/Stranky/Nase-sluzby/Civilne-pravo/Aktualna-sadzba-zakonnych-urokov-z-omeskania/Uvod.aspx>). It is also available informally at <http://www.najpravo.sk/>, which is often used by Slovak creditors and debtors and their lawyers. This site also allows easy calculations of default interest using a calculator designed specifically for this purpose.

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

In addition to the links above, the current wording of the relevant legislation (the Civil and Commercial Codes) and regulations (Regulations Nos 87/1995 and 21/2013) can be found on the websites <http://www.zbierka.sk/> and <https://www.slov-lex.sk/domov>.

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