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Spanish

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Interest rates

Spain

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, if the debtor is in default. It is provided for in Article 1108 of the Civil Code (*Código Civil*), which requires the unpaid debt to be in cash or to have been converted into cash.

There is no explicit definition of statutory interest.

There are, however, different types of statutory interest. The most common type is that mentioned above, 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:

- with respect to mortgages, Law 1/2013 of 14 May 2013 amends Article 114 of the Mortgage Law (*Ley Hipotecaria*) and sets the limit of interest rate for late payment in the case of loans for the purchase of the principal residence when the mortgage is on the dwelling itself, at three times the statutory interest, that is, currently 11.5 %;
- Article 20.4 of Law 16/2011 on *Credit Agreements for Consumers (Contratos de Crédito al Consumo)* sets an upper limit of 2.5 times the statutory interest for such operations;
- Article 7 of Law 3/2004 on *combating late payment in commercial transactions (Lucha contra la morosidad en las operaciones mercantiles)* adds a differential of 8 points (7 points until 2013) to the interest rate applied by the European Central Bank to its most recent main refinancing operation carried out before the first day of the current calendar quarter (currently 0.250 %);
- with respect to *insurance contracts*, Article 20.4 of Law 50/1980 of 8 October 1980 on Insurance Contracts (*Ley 50/1980, de 8 de octubre, de Contrato de Seguro*) penalises unjustified delays by insurance companies in the payment of compensation to those affected by claims covered by insurance contracts signed by them, with payment of an annual interest rate equal to the statutory interest in force at the time when payment becomes due, increased by 50 %, although the judge cannot impose annual interest of less than 20 % on the insurer once two years have elapsed after the claim arises without the compensation being paid.
- The post-judgement 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 judgement or decision has been handed down at first instance ordering a cash payment, annual interest becomes due to the creditor at the statutory interest rate increased by two points, or the interest rate agreed on by the parties, or 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 provided for in the budget laws for each year.

For 2016, the rate is provided for in Additional Provision No 34 of Law 48/2015 of 29 October on the General State Budget (*Presupuestos Generales del Estado*) for 2016:

- 3.00 percent until 31 December 2016.

The evolution of interest rates can be seen at the following address published by the Bank of Spain:

http://www.bde.es/clientebanca/es/areas/Tipos_de_Interes/Tipos_de_interes/Otros_tipos_de_i/otros-tipos/Tabla_tipos_de_interes_legal.html

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 types of statutory interest apply. These include:

- with respect to mortgages, Law 1/2013 of 14 May 2013 amends Article 114 of the Mortgage Law and sets the limit of interest rate for late payment in the case of loans for the purchase of the principal residence when the mortgage is on the dwelling itself at three times the statutory interest, that is, currently 11.5 %;
- Article 20.4 of Law 16/2011 on *Credit Agreements for Consumers (Contratos de Crédito al Consumo)* sets an upper limit of 2.5 times the statutory interest for such operations;
- Article 7 of Law 3/2004 on *combating late payment in commercial transactions (Lucha contra la morosidad en las operaciones mercantiles)* adds a differential of 8 points (7 points until 2013) to the interest rate applied by the European Central Bank to its most recent main refinancing operation carried out before the first day of the current calendar quarter (currently 0.250 %);
- with respect to *insurance contracts*, Article 20.4 of Law 50/1980 of 8 October 1980 on Insurance Contracts (*Ley 50/1980, de 8 de octubre, de Contrato de Seguro*) penalises unjustified delays by insurance companies in the payment of compensation to those affected by claims covered by insurance contracts signed by them, with payment of an annual interest rate equal to the statutory interest in force at the time when payment becomes due, increased by 50 %, although the judge cannot impose annual interest of less than 20 % on the insurer once two years have elapsed after the claim arises without the compensation being paid;
- The post-judgement 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 judgement or decision has been handed down at first instance ordering a cash payment, annual interest becomes due to the creditor at the statutory interest rate increased by two points, or the interest rate agreed on by the parties, or the rate provided for by special legal provision.

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

The evolution of interest rates can be seen on the website indicated in the previous answer.

http://www.bde.es/clientebanca/es/areas/Tipos_de_Interes/Tipos_de_interes/Otros_tipos_de_i/otros-tipos/Tabla_tipos_de_interes_legal.html

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

Yes, at the following website:

http://www.bde.es/clientebanca/es/areas/Tipos_de_Interes/

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