Interest rates

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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?

Italian law on obligations makes a distinction between ordinary, default and compensatory interest. Ordinary interest has a remunerative function, in exchange for the benefit deriving for the individual (required to pay the interest) from the money made available by others. Default interest is compensatory in nature and is incurred for late payment, as established by serving an official notice for payment on the debtor. Compensatory interest must be paid where the creditor is late in obtaining payment of the amounts owing by the debtor, in view of the advantage accorded to the debtor of not paying immediately. Such interest constitutes equitable relief and accrues even though the claim is not of a fixed amount and due. Statutory interest, however, is laid down by the law for pecuniary obligations; from the date of the day after the sum falls due, the debtor is required to pay the creditor statutory interest even if no interest was previously owed and even if the creditor has not established that they have suffered any damages (Article 1224(I) of the Civil Code (*Codice Civile*)).
Specifically, according to Article 1224 of the Civil Code (damages in pecuniary obligations) '*for obligations concerning a sum of money, statutory interest is due from the date of the day after payment is due by, even if no interest was previously owed and even if the creditor has not established that they have suffered any damages.* Where interest was owed before the date of late payment which was higher than statutory interest, default interest of the same amount shall be due'. Any creditors that establish that they have suffered greater damage will receive further compensation (damage caused by monetary devaluation). This will not be paid if an amount of default interest has been agreed.
Article 1282 of the Civil Code states that interest shall automatically be payable on claims on known amounts of monies due, unless otherwise provided for by law or the claim concerned.

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 amount of **statutory interest** is decided by the Italian Treasury (now the Ministry of Economic Affairs and Finance) on an annual basis by way of a decree issued by 15 December each year. If the parties have agreed on an interest rate, the rate is the one decided by them. However, the rate must have been agreed on in writing and must not be higher than the maximum rate allowed under the anti-usury law (Law No 108 of 7 March 1996), otherwise the interest will be considered usurious and therefore null. In such cases, no interest will be owed (Article 1815 of the Civil Code). If the parties have reached an agreement to apply a contractual interest rate but have not established the level of such interest, the statutory rate is applied. In the Italian legal system, the situation regarding **default interest** differs in part from that of statutory interest. Default interest is intended as a penalty (for the debtor) and compensation (for the creditor). It is linked to non-fulfilment of a financial obligation following the late or nonpayment for the service concerned within the period envisaged by law or on the basis of the agreements reached by the parties. For the creditor to be able to claim default interest the debtor must be in arrears. 'Arrears' refers to a delay by the debtor in fulfilling their obligations. For arrears to apply, the due date must have passed and the debtor must have been given notice to pay: a formal document with which the creditor asks the debtor to make the payment due. Under the Civil Code, default interest is due at the statutory rate or at a rate determined by law. However, if interest higher than the statutory rate was due before the debtor was given notice to pay, then the default interest will be of the same amount (Article 1224 of the Civil Code).
Under Article 1284 of the Civil Code the rate of statutory interest is determined on an annual basis by the Minister for Economic Affairs and Finance. Through a decree published in the Official Gazette of the Italian Republic (*Gazzetta Ufficiale della Repubblica Italiana*), the Minister changes the rate on the basis of the average annual yield of government bonds with a maximum term to maturity of 12 months, taking into account the inflation rate recorded over the year. This amount is set no later than 15 December of the year preceding the one to which the rate applies. If, by 15 December, the new rate has not been set, the existing one will remain unchanged for the following year.
Since 1 January 2021 the statutory interest rate has been 0.01%.

TABLE OF STATUTORY INTEREST RATES			
From	**To**	**Rate**	**Law**
01/01/1999	31/12/2000	2.50%	Ministerial Decree (Treasury) of 10/12/1998
01/01/2001	31/12/2001	3.50%	Ministerial Decree (Treasury) of 11/12/2000
01/01/2002	31/12/2003	3.00%	Ministerial Decree (Economy) of 11/12/2001
01/01/2004	31/12/2007	2.50%	Ministerial Decree (Economy) of 01/12/2003
01/01/2008	31/12/2009	3.00%	Ministerial Decree (Economy) of 12/12/2007
01/01/2010	31/12/2010	1.00%	Ministerial Decree (Economy) of 04/12/2009
01/01/2011	31/12/2011	1.50%	Ministerial Decree (Economy) of 07/12/2010
01/01/2012	31/12/2013	2.50%	Ministerial Decree (Economy) of 12/12/2011
01/01/2014	31/12/2014	1.00%	Ministerial Decree (Economy) of 12/12/2013
01/01/2015	31/12/2015	0.50%	Ministerial Decree (Economy) of 11/12/2014
01/01/2016	31/12/2016	0.20%	Ministerial Decree (Economy) of 11/12/2015
01/01/2017	31/12/2017	0.10%	Ministerial Decree (Economy) of 07/12/2016
01/01/2018	31/12/2018	0.30%	Ministerial Decree (Economy) of 13/12/2017
01/01/2019	31/12/2019	0.80%	Ministerial Decree (Economy) of 12/12/2018
01/01/2020	31/12/2020	0.05%	Ministerial Decree (Economy) of 12/12/2019
01/01/2021	31/12/2021	0.01%	Ministerial Decree (Economy) of 11/12/2020

Any interest charged at a higher rate must be stipulated in writing; otherwise the legally prescribed rate is applicable.
For delays in commercial transactions, an *ad hoc* EU rule applies, set out in national law in Legislative Decree No 231 of 9 October 2002, as amended by Legislative Decree No 192 of 9 November 2012, for the full transposition of Directive 2011/7/EU, in accordance with Article 10(1) of Law No 180 of

11 November 2011. **If the parties have not decided on a rate, from the time that the document instituting proceedings is submitted the statutory interest rate will be equal to the rate envisaged by the special law concerning late payment in commercial transactions** (See below). This rule also applies to the act initiating arbitration proceedings.

Special legislation relating to late payment in commercial transactions. To implement Directive 2000/35/EC on combating late payment in commercial transactions, Italy issued Legislative Decree No 231/2002, as amended. This expressly envisages, as interest for late payment in commercial transactions, a higher interest rate than the statutory rate. Under Legislative Decree No 231/2002, commercial transactions means 'contracts of any description between undertakings or between undertakings and public authorities which involve, solely or predominantly, the delivery of goods or the performance of services against the payment of a fee'. The Decree provides that, in the context of a commercial transaction, 'anyone who is unjustly subjected to a delay in the payment of the fee is entitled to automatic payment of the interest on late payment which takes effect, without need of a formal notice to pay, from the day following the expiry of the deadline for payment', unless the debtor is able to show that the nonpayment was the result of causes not imputable to him or her. Under this law, interest on late payments in commercial transactions is based on the rate set each year by the Ministry of Economic Affairs and Finance and summarised in the table below, specifying: (a) for the first half of the year to which the delay refers, the rate used is the one in force on 1 January of that year; (b) for the second half of the year to which the delay refers, the rate used is the one in force on 1 July of that year.

Table showing the changes in the interest rate for late payments over time, from 2002:

TABLE of INTEREST RATES FOR LATE PAYMENTS under Legislative Decree No 231/2002				
From	To	ECB Rate	Rate of Increase	Total
01/07/2002	31/12/2002	3.35%	7.00%	10.35%
01/01/2003	30/06/2003	2.85%	7.00%	9.85%
01/07/2003	31/12/2003	2.10%	7.00%	9.10%
01/01/2004	30/06/2004	2.02%	7.00%	9.02%
01/07/2004	31/12/2004	2.01%	7.00%	9.01%
01/01/2005	30/06/2005	2.09%	7.00%	9.09%
01/07/2005	31/12/2005	2.05%	7.00%	9.05%
01/01/2006	30/06/2006	2.25%	7.00%	9.25%
01/07/2006	31/12/2006	2.83%	7.00%	9.83%
01/01/2007	30/06/2007	3.58%	7.00%	10.58%
01/07/2007	31/12/2007	4.07%	7.00%	11.07%
01/01/2008	30/06/2008	4.20%	7.00%	11.20%
01/07/2008	31/12/2008	4.10%	7.00%	11.10%
01/01/2009	30/06/2009	2.50%	7.00%	9.50%
01/07/2009	31/12/2009	1.00%	7.00%	8.00%
01/01/2010	30/06/2010	1.00%	7.00%	8.00%
01/07/2010	31/12/2010	1.00%	7.00%	8.00%
01/01/2011	30/06/2011	1.00%	7.00%	8.00%
01/07/2011	31/12/2011	1.25%	7.00%	8.25%
01/01/2012	30/06/2012	1.00%	7.00%	8.00%
01/07/2012	31/12/2012	1.00%	7.00%	8.00%
01/01/2013	30/06/2013	0.75%	8.00%	8.75%
01/07/2013	31/12/2013	0.50%	8.00%	8.50%
01/01/2014	30/06/2014	0.25%	8.00%	8.25%
01/07/2014	31/12/2014	0.15%	8.00%	8.15%
01/01/2015	30/06/2015	0.05%	8.00%	8.05%
01/07/2015	31/12/2015	0.05%	8.00%	8.05%
01/01/2016	30/06/2016	0.05%	8.00%	8.05%
01/07/2016	31/12/2016	0.00%	8.00%	8.00%
01/01/2017	30/06/2017	0.00%	8.00%	8.00%
01/07/2017	31/12/2017	0.00%	8.00%	8.00%
01/01/2018	30/06/2018	0.00%	8.00%	8.00%
01/07/2018	**31/12/2018**	**0.00%**	**8.00%**	**8.00%**
01/01/2019	30/06/2019	0.00%	8.00%	8.00%
01/07/2019	31/12/2019	0.00%	8.00%	8.00%
01/01/2020	30/06/2020	0.00%	8.00%	8.00%
01/07/2020	31/12/2020	0.00%	8.00%	8.00%

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

Website of the Ministry of Economic Affairs and Finance: https://www.mef.gov.it

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

There are numerous websites providing free software to calculate statutory and default interest.

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