

A Comparative Study of Inflation and Loss of Money Profits In Delayed Payment Damages with Common Law and France Law

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Abstract

Inside delayed payment damages institution there are two categories of detriments; Detriment of inflation and loss of money profits. The study of the laws of other countries shows that most countries pay attention to both types of losses. But in the examined systems, detriment of inflation is not independently recognized, but under a single system of interest loss, both detriments are compensated. In our country legal system, according to Article 522 of the Civil Procedure Law, the concept of detriment in delayed payment damages is based on the money inflation detriment, and the loss of money profits isn't recognized other than exceptional cases such as Riba-free Banking. Delayed damages based on inflation is not only a obstacle in breaching a contract but also acts as encouraging factor. Whereas delayed damages based on average bank profit assists to protect the contracts and increases the cost of breach so that the debtor prefers to pay the debt on time and avoid paying the latter loss. In this research, while analyzing the relationship between the two losses with the delayed payment damages, the moment of the interference of these losses is considered. In this regard, the time of the breach of obligation, the time of the demand and the time of the

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proceedings and the issuance of judgement has been expressed for the initial stage of the calculation of losses. Some legal systems apply only one of these sections, while others allow the court to choose on case issues, quality of damages and compensation, in order to reach a better compensation.

Keywords: Inflation; Loss of Profits; Delayed Payment Damages; Bank Profit Average.

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