



Attachment protection account (AP account)

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General information on account attachment protection

(Joint information of the Working Group of Debt Counselling Associations and the Central Associations of the German Banking Industry [The German Banking Industry])

Right of conversion

Every account holder is entitled to have their existing current account converted into an attachment protection account (AP account). The conversion can also be applied for by a proxy. Conversion is also possible if the account is overdrawn.

Basic account

Consumers who do not have a current account or a payment account that cannot actually be used are entitled to have a basic account opened, provided they are legally resident in the European Union. This also applies to consumers without a habitual place of residence and asylum seekers, as well as persons without a residence permit who cannot be deported (persons granted leave to remain on sufferance). The basic account allows all the necessary functions of a current account.¹ When applying for the basic account, it can already be agreed that the basic account is to be maintained as an AP account.

¹ <https://www.die-dk.de/kontofuehrung/basiskonto/>

Ban on multiple attachment protection accounts

Each person may only hold one current account as an AP account. Keeping several AP accounts is prohibited and may be prosecuted. Particularly when changing accounts, it is important to make sure that the AP account function of the previous account is cancelled before the new account is converted into an AP account. If you wish, your new credit institution will support you in switching accounts.

Attachment protection for joint accounts

The law only allows AP accounts as individual accounts. A joint account (e.g. a married couple's account) cannot be maintained as an AP account. If a joint account is attached, the credit institution may only pay out amounts from the account balance to the garnishor one month after service of the garnishee order (specifically, after service of the transfer order). Each of the joint account holders can/should make use of this one-month period and set up an individual account for themselves if one does not already exist. The respective joint account holder must then have the proportional credit balance per account holder transferred to these individual accounts within this one-month period. Further credits within this one-month period can then also be transferred proportionately. Generally, the credit balance is divided per head, i.e. in the case of two joint account holders, half each, in the case of three, one third each, and so on. In special cases, the joint account holders and the garnishor may agree on a different distribution formula. For this, however, they need the consent of all garnishors who have attached the joint account. The credit institution must be notified of any other distribution in text form (e.g. by letter, fax, email).

The garnishee must maintain his/her individual account as an AP account in order to be able to dispose of the transferred credit balance (his/her share from the joint account) there within the scope of his/her attachment allowances. The non-attached joint account holder(s) do not need an AP account. Their transferred credit balance from the joint account is **no** longer subject to attachment.

After the expiry of the one-month period, the further credit transfers from the joint account to the individual accounts is **no** longer possible. The joint account holders must therefore use the one-month period and in each case arrange in good time for credits (e.g. wages, pension, social benefits) to be transferred to the respective individual account. However, you must also ensure that debits (e.g. rent, electricity, insurance premiums, etc.) are then made from one of the individual accounts. The joint account should be closed at the end of the one-month period. Then credits can neither be booked there any more nor paid out to the garnishor.

Conversion into an attachment protection account also possible after account attachment

Conversion into an AP account can also be applied for if attachments have already been served for the current account. If the conversion into an AP account is carried out within one month of service of the attachment and transfer order at the credit institution (credit institutions have three business days for processing), the protective effect of the P-account already applies from the service of the attachment and transfer order – otherwise only for the future.

Automatic attachment protection – basic allowance

If the AP account is attached, the account holder receives automatic attachment protection in the amount of a basic allowance of currently EUR **1,260.00** per calendar month. Claiming the attachment allowance on the attachment protection account requires a corresponding credit balance at that time.

The account holder can readily dispose of credit balances up to a maximum of the basic allowance (e.g. by transfer, standing order and direct debit) even after attachments have been served. The type of income (salary, social benefit, tax refund, etc.) and the time of receipt of payment are irrelevant; the attachment allowance applies to the respective calendar month.

Example of a single mother with a child:

- Current earned income amounts to EUR 1,800.00; in addition, there is EUR 219.00 child benefit.
- The account balance at the time of service of the attachment and transfer order amounts to EUR 2,019.00.
- Of this EUR 2,019.00, EUR 1,260.00 is automatically protected from attachment, even if the attachment is only received towards the end of the month.

With certificate – increased allowance

Beyond the automatically existing basic allowance, the attachment allowance for the AP account can be increased by further allowances depending on the life situation of the account holder (garnishee).

This is particularly the case if he/she provides maintenance to one or more persons on the basis of a legal obligation or receives certain social benefits or benefits under the German Asylum Seekers' Benefits Act on behalf of third parties (e.g. life partner, stepchild). Then the following increased allowances currently apply:

- EUR 1,731.44 for one maintenance obligation
- EUR 1,994.09 for two maintenance obligations
- EUR 2,256.74 for three maintenance obligations
- EUR 2,519.39 for four maintenance obligations
- EUR 2,782.04 for five/more maintenance obligations.

In addition, cash benefits from the Mother and Child Foundation as well as certain social benefits that compensate for the additional expenses resulting from a physical injury are exempt from attachment (e.g. the basic pension and the allowance for severely injured victims of war under the German War Victims Compensation Act, the care allowance for self-procured care aids as a benefit of the statutory long-term care insurance or the blind person's allowance). The same applies to certain social benefits to the debtor himself/herself that exceed the basic allowance as well as other certain unattachable benefits and back-paid benefits. Seek advice from a recognised debtor and consumer insolvency counselling centre.

One-off social benefits (e.g. costs for school trips, initial equipment after birth) are also exempt from attachment. Child benefit and child allowances that flow into the attached AP account are still exempt from attachment.

In order for the increased allowance to take effect for him/her, the account holder must present his/her credit institution with a suitable certificate (issued by the social benefits agency or a recognised debtor and consumer insolvency counselling centre, employer, family benefits office, lawyer or tax advisor) containing proof of the circumstances entitling him/her to an increase in the basic allowance.

The Working Group of Debt Counselling Associations and The German Banking Industry have developed a nationwide standardised certificate form². However, this does not mean that only this sample certificate may be accepted as proof, because the law does not stipulate a formal requirement.

However, the sample certificate may be of assistance to the certifying body or person.

² <https://www.die-dk.de/kontofuehrung/pfaendungsschutzkonto/>

If one or two (in the case of social benefits) of the above-mentioned local offices do not issue a certificate, the enforcement court or the enforcement office of the public creditor (e.g. tax office, city treasury) must decide.

Example of a single mother with a child (continued):

- Current earned income amounts to EUR 1,800.00; in addition, there is EUR 219.00 child benefit.
- The account balance at the time of service of the attachment and transfer order amounts to EUR 2,019.00.
- Of this EUR 2,019.00, EUR 1,260.00 is automatically protected from attachment, even if the attachment is only received towards the end of the month.
- If the account holder proves her maintenance payment with the help of the model certificate or a pay slip from the employer showing the statutory maintenance obligations and proves the receipt of child benefit on this account, EUR 1,731.44 + EUR 219.00 = EUR 1,950.44 is exempt from attachment.

Upon request – individual release decision

If the attached AP account is credited with earned income, wage replacement benefits (such as old-age pension, sickness benefit, unemployment benefit) or income from self-employed persons that exceeds the automatically protected basic allowance or the increased basic amount, the account holder must contact the enforcement court in order to secure the release of the attached credit balance on a case-by-case basis (e.g. by applying the attachment table or in the case of Christmas bonuses, expenses, overtime, etc.). In the case of attachments by public creditors (e.g. tax office, health insurance fund, etc.), the enforcement agencies of the public creditors are responsible.

In exceptional cases, for instance, in the case of an attachment for maintenance claims, the enforcement court may set lower attachment allowances at the creditor's request. The credit institution is then bound by these attachment allowances, even if they are lower than the allowances prescribed by law.

Example of a single mother with a child (continued):

- If the account holder proves her maintenance payment with the help of the model certificate or a pay slip from the employer showing the statutory maintenance obligations and proves the receipt of child benefit on this account, EUR 1,731.44 + EUR 219.00 = EUR 1,950.44 is exempt from attachment.
- However, according to the attachment table and in the case of a legal obligation to pay maintenance, only EUR 37.96 of the EUR 1,800.00 earned income would be attachable. Therefore, it is advisable to file a release application with the enforcement court/enforcement office in order to have a total amount of EUR 1,762.04 plus EUR 219.00 child benefit (= EUR 1,981.04) per calendar month exempted from attachment now and in the future.

Carry-forward to 3 subsequent calendar months (amount saved)

If the account holder has not used up his/her attachment-exempt credit balance by the end of the calendar month, this remaining credit balance can be transferred for a maximum of **three** months and is then available in addition to the protected monthly credit balance. This increases the protected allowance for the following months. The transferred credit balance is consumed first in the following month.

Caution: Only a credit balance that is actually available can be transferred:

Example of a single mother with a child (continued):

- At the debtor's request, the enforcement court/enforcement office exempted a total of EUR 1,762.04 per calendar month from attachment. In addition, there is the EUR 219.00 child benefit, which remains exempt from attachment by means of a certificate/child benefit notice.
- If, following the attachment, the account holder spends only EUR 1,000.00 and the child benefit – i.e. a total of EUR 1,219.00 – until the end of the month, the unused attachment-exempt credit balance of EUR 762.04 is (automatically) carried forward to the following months up to three times.
- **Caution:** If she does not have a total of at least EUR 762.04 in three consecutive months, the amount to be carried forward is forfeited! However, the credit institution will inform her if an amount is about to expire at the end of the month.
- From the credit balances that are received on the account in this following month, an unused part can then be carried over again into the following three calendar months. However, the amount that can be carried over to the following months is limited. Only as much may be transferred as was credited to the account as a new attachment-exempt amount in the previous month.

Attachment protection also for self-employed persons

The basic protection and the increased basic protection with the help of the sample certificate or the notice also apply to the income of self-employed persons. A higher allowance is approved by the court or the enforcement office at the request of the self-employed account holder. As a rule, the monthly net income after deduction of operating costs from turnover must be proven to the court.

Attachment protection account is always a credit account

The law stipulates that an AP account may only be maintained based on a credit balance and only grants attachment protection in the amount of the respective allowance if there is a credit balance in the corresponding amount. This precludes the possibility of granting overdraft facilities or allowing overdrafts on an AP account. The use of a credit card is then also no longer possible, unless it is a prepaid credit card.

Protection for accounts with debit balance

Even if an account – without attachment – has a debit balance, the account holder can demand that it be converted into an AP account. Since the AP account may only be kept in credit, the debit balance must be closed out. The credit institution may set up a second account or a sub-account for this purpose. If the account holder has requested the conversion into an AP account, the credit institution may no longer offset credits in the amount of the respective (increased) base allowance against the debit balance. This is to ensure that even people with overdrawn accounts can meet their living expenses within the attachment allowances. It is advisable to aim for repayment of the debit balance in order to become debt-free with the institution maintaining your account.

Insofar as an attachment is levied on an account held in debit, the prohibition of set-off and netting shall also apply to the credit institution.

Important: To do so, the account holder must actually request the conversion into an AP account within one month after receipt of the attachment.

Termination of the AP account function

The account holder may request the credit institution to cancel the AP account function of the account with a notice period of four business days to the end of each month. This is useful, for example, when an attachment has been executed or if the AP account is to be set up with another current account. The account will then be continued unchanged under the previous conditions. Generally, the use of the credit card or an overdraft facility can then be applied for again.

Order of unattachability

At the request of the account holder, the enforcement court may order that the attachment protection account is not subject to attachment for a period of up to twelve months. For this purpose, the account holder must prove that in the last six months before the application was filed, the account was predominantly credited only with unattachable amounts, and he/she must credibly demonstrate that the same is to be expected for the following six months. If the enforcement court orders unattachability (for up to twelve months), he/she would not need to take any further steps to preserve his/her account attachment protection if another account attachment occurs during this protection period.

However, he/she must **reapply** for the unattachability order **in time**.

Reporting to credit agencies

The law provides that the establishment, deletion and revocation of an attachment protection account may be communicated by the credit institution to credit agencies, e.g. SCHUFA. This information is intended to prevent the misuse of several attachment protection accounts by one person. Upon request, the credit institution will only receive information from the credit agency as to whether an attachment protection account is already being maintained for the account holder at another credit institution if the account holder wishes to have his/her current account converted into an attachment protection account. A report on the creditworthiness of the account holder will not include the fact that the account holder holds an attachment protection account.

