

Joint information of the Arbeitsgemeinschaft Schuldnerberatung der Verbände (AG SBV) and the leading German banking-sector associations (Deutsche Kreditwirtschaft, DK)

Note: From January 1, 2012, garnishment protection – as well as social security and child benefit payments into accounts with debit balances – are only possible with a garnishment protection account

Conversion entitlement

All account holders are entitled to convert existing current accounts into garnishment protection accounts. Account holders (or their legal representatives) must personally apply for account conversion.

Basic payment account

Consumers who do not have a payment account, or who have only a payment account they cannot actually use, are entitled to open a basic account provided that they legally reside within the European Union. This also applies to consumers with no fixed address, as well as persons without residence permits whose expulsion is impossible. Basic accounts permit all the necessary functions of a current account¹. Applicants may request that the basic account be managed as a garnishment protection account.

Ban on multiple garnishment protection accounts

Individuals may maintain only one current account as a garnishment protection account. Maintaining multiple garnishment protection accounts is forbidden and can lead to criminal prosecution. Especially when switching accounts, account holders must ensure that any previous account is irrevocably closed and its garnishment protection lifted before a new account can be converted into a garnishment protection account. Upon request, your new bank can assist you with switching accounts.

Garnishment protection accounts cannot be joint accounts

The law only allows individual accounts to be used as garnishment protection accounts. Joint accounts (e.g. for married couples) may not be used as garnishment protection accounts. Instead, two separate current accounts must be opened and then converted into two garnishment protection accounts.

Conversion into a garnishment protection account is also possible following garnishment

Conversion into a garnishment protection account may be requested even if garnishments have previously been served for the current account. If an account is converted into a garnishment protection account within four weeks after a garnishment and transfer order is served to the bank (banks must process such orders within three business days), garnishment protection applies from the date the garnishment and transfer order is received.

Automatic garnishment protection – basic allowance

If the garnishment protection account is garnished, the account holder receives automatic garnishment protection at the basic allowance level, currently EUR 1,133.80 per calendar month. Use of the garnishment exemption amount assumes a corresponding credit balance at the time of use. For this reason, it is advisable to keep the garnishment protection account in credit. The account holder may readily use the basic allowance even after a garnishment is served (e.g. via transfers, standing orders and direct debit). The type of income (salary, social benefit payments, tax reimbursement, etc.) and the date of receipt of the payments are not decisive; the garnishment exemption amount is always valid for one calendar month

Example: single parent with one child:

- **Regular salary is EUR 1,600.00, plus EUR 194.00 child benefit.**

- **The account balance is EUR 1,794.00 on receipt of the garnishment and transfer order.**
- **EUR 1,133.80 of the EUR 1,794.00 is automatically protected against garnishment, even if the garnishment order is received towards the end of the month.**

Increased basic allowance – with certification

The basic garnishment exemption amount can be increased by further allowances above and beyond the automatic basic allowance, depending on the account holder's (debtor's) situation. This is especially the case when the account holder has statutory maintenance obligations for one or more persons, or receives specific social security payments for third parties (e.g. a partner or stepchild).

In these situations, the following basic allowances currently apply:

- EUR 1,560.51 for one maintenance obligation,
- EUR 1,798.24 for two maintenance obligations,
- EUR 2,035.97 for three maintenance obligations,
- EUR 2,273.70 for four maintenance obligations,
- EUR 2,511.43 for five/more maintenance obligations.

Specific social security benefits that compensate additional expenses due to physical injury are also garnishment-exempt (e.g. basic pensions and the severe disabilities allowance as per the Federal War Victims Relief Act (Bundesversorgungsgesetz), care allowance for independently employed carers when these are covered by compulsory long-term care insurance, or blindness allowance).

One-off social security payments (e.g. for school trip expenses, provisions for newborn babies) are exempt from garnishment – though only in the month in which they are received. Child benefit and child allowances paid into the garnishment protection account are also garnishment-exempt.

Account holders are no longer always required to refer to the court of enforcement (or, in the case of enforcement by a public creditor, to their enforcement agency) to obtain the basic exemption. Account holders may also demonstrate circumstances entitling them to an increase in their basic garnishment exemption by presenting appropriate, recent documents/certificates (e.g. benefit entitlement statements; qualified salary statements from employers detailing statutory maintenance obligations). Under statutory law, banks may only accept certification from certain bodies or persons. These include: employers, the institution making payment of the child benefits (Familienkasse), social security providers (e.g. a public employment service, 'Jobcenter'); lawyers, tax advisers and recognised credit counselling centres.

In coordination with the Federal Ministry of Justice, the Arbeitsgemeinschaft Schuldnerberatung der Verbände and Deutsche Kreditwirtschaft have developed a standard national certification form². This does not mean that only these standard certification forms are accepted, since the law does not stipulate a compulsory legal form. However, these standard certification forms can be of assistance to the certifying body or person.

If the bank has justifiable doubts about whether it can accept the evidence presented, or if no agency will issue certification locally, the bank should ideally refer the account holder in writing to the court of enforcement or the public creditor's enforcement agency

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

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



(e.g. the tax authority, the city treasury), which must then stipulate an **increased basic allowance**.

Example: single parent with one child (ctd.):

- *Regular salary is EUR 1,600.00, plus EUR 194.00 child benefit.*
- *The account balance is EUR 1,794.00 on receipt of the garnishment and transfer order.*
- *EUR 1,133.80 of the EUR 1,794.00 is automatically protected against garnishment, even if the garnishment is received towards the end of the month.*
- *If the account holder substantiates their maintenance payments using the standard certification form or a salary statement from their employer that discloses the statutory maintenance obligations, and demonstrates the receipt of child benefit into this account, EUR 1,560.51 + EUR 194.00 = EUR 1,754.51 is exempt from garnishment.*

Individual release order – upon request

If salary payments, income compensation payments (such as pensions, sick pay, unemployment benefit) or freelance income in excess of the automatically protected basic allowance or increased basic allowance are credited to the garnishment protection account, the account holder must still refer to the court of enforcement (or the public creditor's enforcement agency) in each individual case in order to have the garnished balance released (e.g. by reference to the garnishment calculator, or for Christmas allowances, expenses, overtime, etc.). The public creditors' enforcement agencies are responsible for garnishment by public creditors (e.g. tax authority, health insurance company, etc.)³. The court of enforcement can, upon the creditor's request, determine reduced garnishment exemption amounts, for instance in the event of garnishment due to maintenance claims. Under these circumstances, the bank will be bound by these garnishment exemption levels, even if they are lower than the statutory allowances.

Example: single parent with one child (ctd.):

- ...
- *If the account holder substantiates their maintenance payments using the standard certification form or a salary statement from their employer that discloses the statutory maintenance obligations, and demonstrates the receipt of child benefit into this account, EUR 1,560.51 + EUR 194.00 = EUR 1,754.51 is exempt from garnishment.*
- *According to the garnishment calculator, and with one statutory maintenance obligation, only EUR 19.75 of the EUR 1,600.00 salary would be garnishable. A release request to the court of enforcement/the enforcement agency is advisable in order to obtain exemption from enforcement for a total of EUR 1,580.25 plus EUR 194.00 child benefit (= EUR 1,774.25), for now and for the future.*

Payouts to creditors exceeding the basic allowance

At the earliest, garnishment protection account balances that exceed the monthly basic allowance are paid out to the creditors at the end of the month after the month in which the sum is credited. This ensures that credits received at the end of the month, but intended for the following month, such as, for instance, social security payments that are credited at the end of the month, can be accessed to the amount of the basic allowance for the following month.

Carrying over to the following month (allocation)

If the account holder has not used up the garnishment-exempt balance by the end of a calendar month, the remaining balance

is carried over to the following month **once**, and is available for use in addition to the protected monthly balance. This leads to a one-off increase in the protected basic allowance for the following month.

Note: Only actually existing balances can be carried over – not fictional basic allowances that have not been exhausted due to lower earnings.

Example: single parent with one child (ctd.):

- ...
- *Court of enforcement/enforcing agency exempts a total of EUR 1,580.25 per calendar month from garnishment at the debtor's request. Added to this is EUR 194.00 child benefit, which remains exempt from garnishment due to certification/child benefit statement.*
- *If the account holder only spends EUR 1,000.00 plus the child benefit by the end of the month, after garnishment, the unspent garnishment-exempt balance of EUR 580.25 is (automatically) carried over to the following month.*
- **Attention:** *The balance cannot be carried over if it falls below at least EUR 580.25 in the following month!*
- *Any unused income paid into the account in this following month can again be carried over to the next month, i.e. the subsequent month. However, balances carried over to the following month are limited in their amount. Only the amount that is credited to the account in the previous month as a new garnishment-exempt balance can be carried over.*

Garnishment protection for freelancers

The basic protection amount and the increased basic protection amount stipulated on the basis of the standard certificate or statement also apply to freelance income. Increases in the basic allowance are authorised by the court or the enforcing agency upon request by the freelance account holder. Usually, the monthly net income after deduction of operational expenses must be demonstrated.

Garnishment protection only for credit balances

The law only provides garnishment protection to the amount of the basic allowance if the account has sufficient credit. Account holders are also entitled to request the conversion of their account into a garnishment protection account if their account is in debit. A debt rescheduling agreement with the bank can be considered under these circumstances (especially for salary credits), to enable garnishment protection to take practical effect.

Debit balances/protection for social security payments

If child benefit or social security payments (evidence may be necessary, especially for basic security payments or working opportunities with additional expenses compensation) are credited to a garnishment protection account, the account holder can access these amounts within **14 days after they are credited**, even if the garnishment protection account is in debit. The bank may only charge account management fees to these credits.

Note: Potential confusion risk: The automatic 14-day access facility for social security payments lapses if the garnishment protection account is not in debit. For credit balances, only the incremental general credit protection of the garnishment protection account applies (see above).

The statutory offsetting protection lapses if the garnishment protection account is in debit and receives **earned income payments or other credit payments**. In this case, debt rescheduling arrangements are advisable so that the garnishment protection account can be maintained with a credit balance, in order to allow the account holder to benefit from garnishment protection to the amount of the monthly basic allowance or the increased basic allowance.

³ Verwaltungsgerichtshof Baden-Württemberg, Beschluss vom 17.5.2017, Aktenzeichen 2 S 894/17.

Garnishment exemption order

Upon request, the court of enforcement can order the garnishment protection account to be exempt from garnishment for up to twelve months. To do this, the account holder must demonstrate that predominantly garnishment-exempt amounts have been credited to the account in the previous six months before the request is made, and must credibly show that the same is to be expected for the following twelve months. If the court of enforcement confirms garnishment exemption (for three to twelve months), the account holder does not need to take any further action to achieve garnishment protection should further garnishments be made during this protection period.

However, in this case, the account holder must have the garnishment exemption order extended in good time.

Reporting to credit agencies

Under statutory law, credit agencies, for instance SCHUFA, may be informed of the opening, closing and revocation of garnishment protection accounts. This notification is intended to prevent the abuse of multiple garnishment protection accounts by single individuals. Upon request, the bank is only notified whether the account holder already holds a garnishment protection account with another bank if the account holder has asked for their current account to be converted into a garnishment protection account. Creditworthiness reports will not include details of whether the account holder holds a garnishment protection account.