



# Protection of vulnerable consumers in the field of loans and payment transactions

## Key points

AK calls for vulnerable consumers – meaning individuals from low-income households – to be given special protection throughout Europe. A number of protective measures should, therefore, be taken in the field of financial services at the European level:

- **Loans, overdrafts, finance lease contracts and other types of consumer credit** are of critical importance. Bank customers who are hit especially hard by the Covid-19 pandemic should benefit from a number of protective measures. It is important in this context for some consumer-friendly provisions to be included in the amendment of the EU Consumer Credit Directive (2008/48/EC).
- Many consumers appreciate being able to **use cash** to settle invoices and to pay for consumer goods. Cash is a widely used, valued means of payment in the economy. AK maintains that it is imperative for cash to be retained as a means of payment and calls for **ATM withdrawals to be free of charge or covered by existing bank account charges**. Consumers in particular should not be subject to unexpected extra fees charged by third-party ATM providers.

## Background

The coronavirus pandemic has resulted in a global economic downturn that has led to income losses for consumers/private households. Low-income groups are hit especially hard by the economic effects of the coronavirus pandemic. According to a report issued by the Austrian Ministry for Social Affairs in 2020, groups that were disproportionately at risk of poverty or marginalisation before the Covid-19 pandemic have in part been affected more severely by its (economic and social) consequences than the average population.

## Consumer loans – measures to protect vulnerable borrowers

The coronavirus pandemic has resulted in increased difficulties in the repayment of loans and overdrafts. AK therefore recommends a raft of measures to protect bank customers, including the following:

### No interest on deferred loans

AK calls for Europe-wide legislation **to put a ban on interest being charged on deferred loans** during the coronavirus pandemic. In other words, interest should not be permitted to be charged during the deferment. In addition, no fees should be incurred for deferment agreements or other loan agreement changes. In the case of payment difficulties (consumer loans, mortgages, and overdrafts), banks should waive default interest and reminder fees and should **not impose sudden loan terminations**.

### Special coronavirus interest rates for consumer loans and overdrafts

Many consumers are dependent on short-term consumer loans and overdrafts (credit/line of credit granted on the consumer's current account) to finance their day-to-day lives. AK recommends that banks should offer borrowers affected by the Covid-19 pandemic special **coronavirus interest rates on loan financing for a set period** – especially in euro countries with above-average interest rates. As shown by the interest rate statistics published by the European Central Bank (ECB), in the euro area there are considerable differences in the category of consumer loans with terms of up to a year, 1 to 5 years, and over 5 years. Several of the 19 Member States included in the statistics have interest rates **that are in part far higher than the average interest rates for consumer loans in the euro area**. Detailed figures are set out in the table on the next page.

Table: Interest rates for consumer loans in the euro area (11/2020)

	Consumer loans (with a term of under 1 year)	Consumer loans (with a term of 1 to 5 years)	Consumer loans (with a term of over 5 years)
Range of interest rates in 19 EU Member States	0.93% to 15.95%	0% to 15.25%	0% to 13.08%
Euro area average	5%	4.76%	5.67%
Member States above the EU average	8 out of 19 above the average	10 out of 19 above the average	12 out of 19 above the average

Source: Euro area statistics ([www.euro-area-statistics.org](http://www.euro-area-statistics.org)), November 2020

### No negative entries in credit rating databases

In the case of loan deferments due to the Covid-19 pandemic, no negative entries (“black lists”) should be made in the credit rating databases of credit agencies. The Covid-19 pandemic is an exceptional situation that has resulted in many borrowers having payment difficulties through no fault of their own.

### Easing of rules applying to personal bankruptcies

Due to the coronavirus crisis, many households, families and self-employed people have been plunged into a social and financial crisis. Many are at risk of insolvency. Personal bankruptcy is an important legal instrument for wiping the slate clean. Europe-wide legislation is required to create the same conditions for all those who are insolvent.

AK therefore recommends that at least one measure **should be introduced to reduce the length of personal bankruptcy proceedings to a maximum of three years** like business bankruptcy to prevent excessively long debt clearance times. **The duration of different bankruptcy proceedings within the Member States should be aligned. In Austria, personal bankruptcies currently take between 5 and 7 years, 7 years in 70% of cases.**

The high costs of debt collection are also a particular burden on financially weak consumers and often drive them into a debt trap. AK calls for **default interest and debt collection costs, especially involving debt collection agencies, to be limited and governed by mandatory rules at the European level.** In loan default cases, payments by debtors should first be credited towards the actual debt owed and only then credited towards the reminder fees and default interest. In addition, default interest should be recorded on a separate account to prevent compound interest.

### Prevention of non-performing loans (NPL) instead of the lucrative sale of such loans

In December 2020, the Commission presented a strategy (“NPL Action Plan”) to prevent the future build-up of non-performing loans (NPLs) across the European Union resulting from the coronavirus crisis.

AK welcomes the aim of endeavouring to minimise non-performing loans. However, one of the main objectives in the NPL Action Plan, namely the further development of secondary markets for distressed assets, is highly questionable. **AK therefore urges a change of priorities. Instead of creating a large secondary market for non-performing loans, all measures should have the primary aim of preventing non-performing loans from arising in the first place.** It is likely that NPL will become a lucrative business sector, with the loan contracts and borrowers behind them becoming vulnerable “commodities”. Moreover, the Commission has not presented any convincing data or arguments to show why this system should be applied to consumer loans.

AK therefore maintains that **the focus of the consumer policy measures in the NPL plan should be changed** to prevent non-performing loans from arising:

- Borrowers affected by the Covid-19 pandemic should benefit from **a raft of protective measures** to prevent loans from becoming non-performing in the first place. These protective measures include a ban on interest and fees during the deferment period, no sudden calling-in of loans and overdrafts, no negative entries in credit agency databases and special coronavirus interest rates for bank overdrafts and consumer loans.
- AK urges improvements to the Consumer Credit Directive (CCD) to benefit vulnerable consumer groups in particular. The following measures should be included **in the amendment of the EU CCD (2008/48/EC).**

- **Extension of the scope of the CCD: Special provisions for called-in consumer loans should be included. An annual account statement should be required** to give debtors a current overview.
- In addition, the **de minimis limit of EUR 200** should be removed since loans below that amount do not come under the system of the CCD under the current legislation.
- Interest-free credit schemes are widespread in the scope of “**Buy Now Pay Later**” payments (BNPL systems) (for example, in the UK and Sweden). The risk, however, is that consumers build up excessive debts over time. In addition, high fees often apply to late payments and debt collection processes. AK supports BEUC in calling for **interest-free loans to be included in the scope of the CCD**.
- **The CCD should require the European Standardised Information Sheet (ESIS) to be provided upon the very first contact** with loan applicants. In addition, the effective annual interest rate should be displayed more prominently on the Standardised Information Sheet (ESIS).
- **The right of withdrawal (14-day right of cancellation) for consumer loans should be extended to guarantors and pledgors, who also require protection.** In addition, a **right of withdrawal from loan brokerage contracts** should also be set out in law. Such a standard would also protect vulnerable consumers who contact loan brokers.
- **The rules on consumer loan advertising should be tightened in the scope of the CCD. There should be a ban on advertising** that is solely based on highlighting loan or leasing instalments. It should be a requirement for the **effective annual interest rate** to be featured most prominently in **advertising**.
- **Cash transactions at bank counters are extremely expensive and incur high fees.** This includes all forms of cash deposits (to the consumer’s own current account or to the accounts of third persons), cash withdrawals (from the consumer’s own current account or savings account) and the use of written or paper payment orders.
- Increasing numbers of ATMs are not operated by banks, but by external operators. These third-party providers charge **high additional fees for making ATM withdrawals** – in addition to the fees charged by the bank itself for maintaining the current account. The high fees for obtaining cash have a pronounced impact on low-income individuals. AK calls for consumers to be able to access the money on their account free of charge. That includes charging **no separate fees for withdrawals from ATMs**. Instead, these transactions should be covered by the standard charge for maintaining a current account. In September and October 2019, the Vienna Chamber of Labour conducted an online survey (among holidaymakers) on ATM fees in Europe and collected information about 249 fee rates in 13 European countries. The fees identified in the survey ranged from EUR 1.50 (minimum amount: Ireland) to EUR 6.50 (**maximum amount**, Germany). The survey showed that **the fees charged at ATMs in many Member States are high and are therefore an impediment to the use of cash**.
- **It is imperative for cash to be retained:** AK maintains that it is **imperative for cash to be retained**. BEUC calls for cash to be protected because of its essential role in the economy.
- **Adequate cash infrastructure:** Banks should ensure that their customers have adequate opportunities to withdraw their money from ATMs. Handing that service over to other providers (“third-party providers”) is not consumer-friendly. **Provisions on maintaining cash and the provision of adequate cash infrastructure** could be included either in the **Payment Services Directive (2015/2366)** or in the **Payment Accounts Directive (2014/92/EU)**.
- **Freedom to choose between means of payment:** AK advocates complete **freedom of choice between cash payments and cashless (electronic) payments**. In other words, consumers should be free to decide whether they wish to pay by cash or not. It is a critical question because all electronic payments leave electronic traces, enabling the steps of the person paying to be tracked and making him/her a “transparent citizen”. It should be respected if consumers do not wish to leave electronic traces.

## Payment transactions – ATM fees

The coronavirus pandemic has led to a rise in cash-free payments, e.g., using NFC. Nevertheless, cash is and remains the most widely used means of payment. In recent years, handling cash is a costly process. In Austria this is reflected in **high fees for bank counter transactions and at ATMs**.

In addition, for several years now banks have been reducing their number of branches, which has gone hand in hand with a decrease in the number of ATMs. As a result, cash has become a scarce resource in some regions. **AK believes there should be no discrimination against the use of cash, e.g., by imposing high and rising fees. It is imperative that cash is retained.** High fees for using or obtaining cash are tantamount to discrimination against cash:

## Demands

- **No interest on deferred loans:** AK calls for Europe-wide legislation **to ban interest being charged on deferred loans** during the coronavirus pandemic. In other words, interest should not be permitted to be charged during the deferment.
- **Special coronavirus interest rates for consumer loans and overdrafts:** AK recommends that banks should offer customers with a loan, affected by the COVID-19 pandemic, special coronavirus interest rates on loan financing for a certain period – especially in euro countries with an above-average interest rate.
- **Easing of rules applying to personal bankruptcies:** AK therefore recommends **reducing the duration of personal bankruptcy proceedings** and introduce at least one measure for consumers to be free of debt within a maximum of 3 years. More favourable rules in place in Member States should be retained.
- **Prevention of non-performing loans (NPL) instead of the lucrative sale of such loans.** AK urges a change of priorities. Instead of creating a large secondary market for non-performing loans, all measures should have the primary aim of preventing non-performing loans from arising in the first place.
- **In the Consumer Credit Directive (CCD), the right of withdrawal (right of cancellation) for consumer loans** should be extended to guarantors and pledgors, who also require protection. In addition, a **right of withdrawal from loan brokerage contracts** should also be set out in law. Such a standard would also protect vulnerable consumers who contact loan brokers.
- **The rules on consumer loan advertising should be tightened in the Consumer Credit Directive (CCD). There should be a ban on advertising** that is solely based on highlighting loan or leasing instalments.
- High fees for obtaining cash (ATM fees) have a pronounced impact on low-income individuals. AK calls for consumers to be able to access the money on their account free of charge. That includes **banning the charging of separate fees for withdrawals from ATMs.**
- It should be clarified that it is **imperative that cash is retained and is not discriminated** against (e.g., by imposing high fees). In addition, banks should be required to ensure they continue to maintain an adequate cash infrastructure for consumers going forward.
- AK advocates complete **freedom of choice for consumers between cash payments and cashless (electronic) payments.** In other words, consumers should be free to decide whether they wish to pay by cash or not.

## Literature

The European Consumer Organisation (BEUC, 2019): [Cash vs Cashless: Consumers need a right to use cash](#)

European Central Bank (ECB) and the national central banks (NCBs) of the Eurosystem: <https://euro-area-statistics>

Vienna Chamber of Labour (2020): [Fees for cash withdrawal with an ATM \(debit\) Card in the Euro Area](#)

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