



# **Guidelines for Maintaining the Police Crime Statistics Catalogue of Definitions**

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## Catalogue of definitions of the 2014 Police Crime Statistics (Criminological terms and their classification in the crime statistics)

### Preliminary remarks:

The translation of facts of life relevant under criminal law into criminological categories and their linking to statistical key numbers is not always easy, it is in part handled in different ways and can ultimately lead to false statistical recording.

Partly, the reasons for false or insufficiently precise subsumptions can be found in the constantly varying forms of offences, new modi operandi and the changing situations and conditions of the business world.

By compiling DEFINITIONS and EXPLANATIONS for a large number of criminological terms and linking them to the corresponding key numbers, a manual is presented here which will prove valuable for every (criminal) police case officer, in addition to the obvious relevance it has for the police crime statistics.

The initiative to collect definitions of criminological terms came from the Permanent Police Crime Statistics Commission ("Ständige Kommission Polizeiliche Kriminalstatistik"). The definitions of the individual terms have been agreed with the respective federal bodies of the criminal police or are based on previously taken binding decisions. The editorial compilation was undertaken by the sub-working group 2 (UAG 2, responsible for counting/recording rules, definitions) and presented to the Police Crime Statistics Commission (PCS C) at their 39th work meeting as agenda item 8.2. The catalogue of definitions valid at national level will be further administered by the Bundeskriminalamt (Section KI 12).

**Note for the reader:**

<b>Sources (specifically):</b>	
(1)	Bayerisches Landeskriminalamt - TOP 13, 25. AT PKS
(2)	LKA Baden-Württemberg – TOP 13, 25. AT PKS
(3)	Anlage 6, TOP 3.1/91 aus Leitertagung WIKRI
(4)	BKA OA 45, TOP 7 aus Leitertagung WIKRI im Oktober 1994
(5)	BKA KI 12, Schreiben vom 22.06.95, zu TOP 9.6/36. AT Richtlinien für die Führung der Polizeilichen Kriminalstatistik vom 01.01.83 (Stand
(6)	LKA Niedersachsen (AG „Taschendiebstahl“); 38. AT K PKS, TOP 3.4.4
(7)	LKA Berlin (LKA 1232)
(8)	LKA Baden-Württemberg (Fax der Abt. 6, 611, vom 17.11.95 und 20.11.95)
(9)	Beschluss der IMK, 167. Sitzung, am 10.05.01, TOP 10.1
(10)	38. AT der K PKS, TOP 3.4.4
(11)	K-Wikri gem. FS BKA KI 12 vom 19.07.96
(12)	BKA OA 34, Schr. v. 28.10.96 an BKA KI 12
(13)	Schreiben der GF der K-Wikri vom 5.7.96 Ziffer 4 (Der Zusatz „Ton“ <u>hinter</u> „Sprache“ wurde von der K PKS auf der 40. AT, TOP 5.2 eingebracht.)
(14)	41. AT der K PKS, TOP 4
(15)	43. AT der K PKS, TOP 2
(16)	45. AT der K PKS, TOP 2.3.3
(17)	46. AT der K PKS, TOP 1.4
(18)	Umlaufbeschluss der K PKS vom 23.07.01, 149. Tagung der AG Kripo, TOP 8.5 und Um- laufbeschluss des AK II vom 29.08.01
(19)	47. AT der K PKS, TOP 2.2, 2. Protokollnotiz
(20)	47. AT der K PKS, TOP 2.4.1
(21)	47. AT der K PKS, TOP 2.5 und 4.2.2
(22)	47. AT der K PKS, TOP 3.6
(23)	48. AT der K PKS, TOP 3.1.5
(24)	49. AT der K PKS, TOP 3.5.1
(25)	49. AT der K PKS, TOP 4.2.6
(26)	50. AT der K PKS, TOP 3.1.3 A
(27)	50. AT der K PKS, TOP 3.1.3 B
(28)	50. AT der K PKS, TOP 3.4.3, 2. Beschlusspunkt
(29)	50. AT der K PKS, TOP 3.4.4
(30)	50. AT der K PKS, TOP 3.6 und Umlaufverfahren in der K PKS
(31)	52. AT der K PKS, TOP 2.1.1
(32)	52. AT der K PKS, TOP 2.3.1
(33)	52. AT der K PKS, TOP 2.2.10
(34)	55. AT der K PKS, TOP 2.3.2
(35)	55. AT der K PKS, TOP 2.2
(36)	57. AT der K PKS, TOP 3.13

(37)	59. AT der K PKS, TOP 3.15 und TOP 3.21
(38)	60. AT der K PKS, TOP 3.4
(39)	UM der KPKS vom 12.11.13

Superscript 1 in the headings:

If a criminological term is marked by the superscript 1, the respective definition can already be found in the uniform national guidelines part of the Police Crime Statistics.

The ordinal numbers in brackets at the end of the definitions refer to a specific source.

Note regarding the key numbers:

If the catalogue of offences of the Police Crime Statistics lists a key number for the respective term, this number is given in the heading after the term. Key numbers of the "Länder" (federal states) have not been included. Hereinafter, the term "key", when used alone, also refers to "key number".

Instead of the last two digits of the 6-digit key, placeholders (\*\*) are used because the definitions might also refer to existing or future key sub-categories.

<b>False accounting in the healthcare sector</b>	
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- Key number 5181\*\* includes all forms of false accounting -

An offence of false accounting in the healthcare sector is committed if members of the medical or pharmaceutical profession or employees of hospitals or sanatoriums fraudulently obtain payments from self-pay patients, health insurance companies and government aid agencies. (11) (28)

<b>Investment fraud (sect. 263 PC)</b>	<b>key number: "5132**"</b>
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Promising the victims high returns on investment, sharp rises in prices or other attractive potential profits, the offender induces the victims (usually through an investment brokerage firm) to hand over money but uses all or part of this money for other purposes or otherwise deceives the victims about significant aspects of the investment (e.g. risk, surcharges, commissions to be paid etc.). (3)(4)

<b>Job placement fraud</b>	<b>key number: "5173**"</b>
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- see also *placement/procurement fraud* -

The offender makes the victim believe that he is able to procure jobs or other possibilities to earn money with the aim of obtaining advance payments or fees. (3) (5)

<b>Theft of/from cash-operated machines</b>	<b>key number: „3/4**7**“</b>
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Apart from the actual stealing of cash-operated machines, this term covers, in particular, the manipulation of (the mechanism of) machines with a view to obtaining cash and/or goods. If force is applied or (breaking) tools are used, the offence is, as a rule, regarded as committed under aggravating circumstances. "Cheating" the machine, e.g. by inserting round blanks or using the so called "coating trick", is to be regarded as theft committed under aggravating circumstances. These offences must be distinguished from acts committed with a view to obtaining cash or avoiding the spending of money at cash-operated machines, if these acts are covered by special provisions such as:

- fraudulent obtaining of services = mechanical or other tampering with a machine providing services (such as a jukebox, gaming machine, weighing machine, pay phone), e.g. by using a computer programme
- computer fraud = unauthorised manipulation of a processing operation controlled or secured by data processing technology (e.g. of a cash dispenser)

(8)

<b>Fraud involving buildings</b>	<b>key number: "5120**"</b>
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- see also *fraud involving land* -

The offender fraudulently promises to execute construction work correctly but either does not carry out the work at all or provides work of poor/inferior quality. (1) (3) (5)

Nearly all conceivable possibilities of manipulation covered by the penal code, including the provisions of company law, are found in the building and housing sector.

The following cases are described by way of example:

- The offender launches a construction project with external funds although it is not fully financed, accepting the risk that the construction work comes to a standstill and the property has to be sold by court-ordered auction.
- Although a project is not fully financed, contributions to construction costs are collected in the hope that the contributors will provide additional contributions to avoid losing the payments they have already made.
- Contributions to construction costs are collected and flats of a "planned" house are rented out although the offenders are neither willing nor able to carry out the construction project. The funds are intended to be used for the offender's own purposes.
- Contributions to construction costs are collected and flats of the planned house are rented out; after completion of the house, however, the flats are allocated to other persons than those who made the contributions.
- The same flats are rented out twice or several times in return for contributions to the construction costs.
- Contributions to construction costs are requested and collected in amounts exceeding the contribution amount agreed upon between the property developer and the estate agent.
- Excessive brokerage fees are charged although customary fees have been agreed.
- A company whose alleged purpose is the building of privately owned flats is fraudulently founded and managed with a view to the founders', managers' or other persons' personal enrichment.

<b>Contribution fraud to the detriment of social security institutions</b>	<b>key number: "5177**"</b>
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Complete or partial failure to pay contributions to the social security institutions by concealing the actual circumstances giving rise to the payment obligation, unless sect. 266a PC is deemed to have priority. (3)

Please note:

Sect. 266a PC (withholding and misappropriation of wages or salaries) is recorded under key number "5220\*\*".

<b>Taking a bribe (sect. 332 PC)</b>	<b>key number: "6512**"</b>
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A public official (see the persons mentioned in sect. 332 subsect. 1 and 2 PC) demands, allows himself to be promised or accepts a benefit in return for an official act he performed or will in future perform, thereby violating his official duties. (4) (25)

<b>Offering a bribe (sect. 334 PC)</b>	<b>key number: "6522**"</b>
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The offender offers, promises or grants a benefit to the public officials mentioned in sect. 334 subsect. 1 to 3 PC in return for an official act they performed or will in future perform in violation of their official duties. (4) (25)

<b>Fraud involving holdings</b>	<b>key number: "5134**"</b>
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In return for investing in a business, partners are accepted into a company that is either non-existing, yet to be founded or "bad", under the false pretence of high profits or some other lucrative participation. (3) (5)

<b>Fraud (other types of)</b>	<b>key number: "5189**"</b>
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If none of the specific modi operandi listed here is used for committing the fraud, violations of sect. 263 PC are recorded under the aforementioned key number. (3) (5)

<b>Fraud involving stock exchange speculation</b>	<b>key number: "5133**"</b>
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By falsely promising sharp rises in stock prices and concealing the risk of loss, the offender induces the victims (usually through a capital investment or brokerage firm) to hand over money and, if necessary, make additional payments for the purpose of investing in regular securities exchanges or in currency, commodity or futures exchanges.

The money handed over is not or only partly invested or used up by demanding excessive fees benefiting the offender.

*But:* Offences in connection with the trade in OTC securities and penny stocks should be recorded under key number "5132\*\*" (investment fraud pursuant to sect. 263 PC). (4)

<b>Internet fraud</b>
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In the case of fraud via the Internet, a mere contractual act (simply posting material on the Internet) is not sufficient; what is necessary, is a personal contract negotiation (individually responding to a person; the medium used is irrelevant in this connection). (19)

<b>Fraud using unlawfully obtained cheques</b>	<b>key number: "5161**"</b>
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The offender pretends to be willing to pay by presenting a stolen or misappropriated cheque. The distinction which used to be made between eurocheques (with EC card and a guaranteed amount of DEM 400) and other cheques was dropped because the guarantee obligation of the financial institutions was cancelled at the end of 2001.

Frauds by means of lawfully obtained cheques should be subsumed under the fraud types monetary credit fraud (key: 5140\*\*), merchandise credit fraud (keys: 5111\*\* or 5112\*\*) or fraud by obtaining services on credit (key: 5172\*\*). (2) (18)

<b>Fraud to the detriment of public sector entities</b>
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All fraudulent acts committed to the detriment of state institutions, unless they are cases of

- subsidy fraud - sect. 264 PC - (key 5142\*\*)
- fraud to the detriment of social security systems and institutions (key 5177\*\*)
- fraudulent claiming of social insurance and social security benefits  
- *other forms of social security fraud - (unless to be recorded under key 5177\*\*)(key 5178\*\*)*
- withholding and misappropriation of wages or salaries - sect. 266a PC - (key 5220\*\*)  
- *see also corresponding definition - (2 and letter by Baden-Württemberg Land Criminal Police Office dated 06/12/1996 [only to the BKA])*

<b>Fraudulent acts to the detriment of the Deutsche Rentenversicherung (German statutory pension insurance scheme) of the Federation and the Länder, of health insurance companies and employment offices in connection with pension, health and accident insurance and unemployment benefits (ALG I)</b>	<b>key number: "5177**"</b>
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*see also fraudulent obtaining of other social benefits such as child allowance, housing allowance, unemployment benefits (ALG II) and state assistance for students (pursuant to the Federal Training Assistance Act or "BaföG")*

Fraudulent obtaining of money or non-cash benefits from social security institutions

Please note:

Non-payment of contributions to the social security systems despite payment obligation is recorded under key number "5220\*\*". (4)

<b>Fraud to the detriment of insurance companies and insurance abuse (sects. 263, 265 PC)</b>	<b>key number: "5174**"</b>
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*see also fraudulent obtaining of insurance benefits*

Each unjustified claiming of insurance benefits (unless covered by keys 5177\*\* or 5178\*\*). (14)

<b>Fraudulent obtaining of motor vehicles</b>	<b>key number: "5111**"</b>
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This key number should be used to record fraudulent acts aimed at obtaining motor vehicles. (2) (3) (5)

<b>Fraudulent obtaining of insurance benefits</b>	<b>key number: "5174**"</b>
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*see also fraud to the detriment of insurance companies and fraudulently claiming compensation*

This term covers all cases of unjustified claiming of insurance benefits.

Example:

The offender damages his vehicle's expensive additional headlights, reports them as stolen to his insurance company and obtains the sum required for purchasing new headlights from his partial coverage insurance.



<b>Obtaining the conclusion of contracts by fraud</b>
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With fraudulent intent and with the aim of obtaining cash or non-cash benefits, the offender pretends to be able to conclude contracts under especially favourable conditions.

Example:

By using cleverly chosen words and diverting the interested party, the canvasser points out services actually not included in the contract as particularly favourable and comprehensive so that the other party signs the contract without further checking. Frequently, such an occasion is also used to foist magazine subscription orders on the victim. (2)

<b>Fraudulent obtaining of other social benefits such as child allowance, housing allowance, unemployment benefits (ALG II) and state assistance for students (pursuant to the Federal Training Assistance Act or "BaföG")</b>	<b>key number: "5178**"</b>
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*see also fraudulent acts to the detriment of the Deutsche Rentenversicherung (German statutory pension insurance scheme) of the Federation and the Länder, of health insurance companies and employment offices in connection with pension, health and accident insurance and unemployment benefits (ALG I)*

All cash or non-cash benefits from social security institutions (*unless covered by key 5177\*\**), social welfare authorities or other public bodies issuing benefits on socio-political grounds (e.g. housing allowance, child allowance) which are fraudulently obtained by deceiving the public authorities issuing them. (3) (5)

<b>Computer fraud</b>	<b>key number: "5175**"</b>
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Under this number, all cases are recorded which are considered as constituting offences pursuant to sect. 263a PC, with the exception of fraud using unlawfully obtained debit cards with PIN (these cases are recorded under key number 5163\*\*) or fraud involving access authorisation to communication services (recorded under key number 5179\*\*).

Please note:

The misuse of cheque and credit cards by withdrawing cash from cash dispensers of a credit institution other than the institution issuing the card (sect. 266b PC) does not constitute a case of computer fraud (these cases are recorded under key number 5230\*\*). (3) (5) (18) (32)

<b>Computer crime <sup>1</sup></b>	<b>key number "8970**"</b>
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<b>Data of ⇒ Payment cards</b>
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(Fraud using unlawfully obtained payment card data)

<b>Debit cards (Fraud using unlawfully obtained ...)</b>	<b>key numbers 5162**, 5163**</b>
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According to these guidelines, debit cards are considered to be all payment cards whose use results in the purchase being charged to/debited against the respective account immediately after the card is presented (in contrast to a credit card). Debit cards can be used without a PIN (direct debiting, key 5162\*\*) or with a PIN (key 5163\*\*). (18)

<b>Offences directly aimed at procuring drugs <sup>1</sup></b>	<b>key number "8911**"</b>
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<b>Lodging fraud</b>	<b>key number: "5182**"</b>
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This term covers both fraud committed to the detriment of accommodation facilities and fraud committed to the detriment of private individuals. The fraudster pretends to be willing and able to pay the rent agreed, including extra charges, for being allowed to use rooms. (2) (14)

<b>Ensnarement</b>
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*see also merchandise fraud*

This is a form of merchandise fraud which is committed in a gang-type manner and is therefore considered especially dangerous.

The "gang members" pretend to the carefully chosen victim that they are doing business with each other, making high profits. One gang member acts as a middleman and induces the victim to participate in the "business" as an "intermediate purchaser" because then the profit margin would allegedly increase considerably from the moderate "brokerage commission". The victim is "ensnared" and thus integrated in the fraudulent transactions.

As soon as the "intermediate purchaser" (the victim) has paid the seller (a gang member) for the goods delivered, the purchaser (another gang member) refuses to accept the goods, improperly resorting to - legal - civil and commercial reasons for refusal. The fraudulent intent can hardly be recognised.

The intermediate purchaser (victim) again contacts the seller (gang member). The latter refuses to take the goods back, stating that they had been "properly sold".

The middleman (gang member) tells the intermediate purchaser (victim) that he will sue the purchaser (gang member) for this, thereby significantly helping to conceal the fraud.

The desperate intermediate purchaser (victim) is glad to accept the seller's (gang member's) "obliging" offer to sell the goods on commission.

It is not unusual that the same goods are used to commit another fraud of the same type. (2)

<b>Receipt authorisation swindle</b>
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The offender pretends to be authorised to receive (collect) outstanding debts on behalf of third parties, also issuing forged receipts, if required.

Example:

The household help pays the alleged postman the amount due for a cash-on-delivery parcel which has not been ordered by her employer. (2)

<b>Obtaining a hospital stay/medical treatment by deception</b>
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Actual or non-existing physical disabilities are taken as a pretext to obtain services by deception.

Example:

A starving tramp is lying on the street in the evening. He pretends to have been pushed to the ground by an unknown person, simulating a severe headache. He is admitted to hospital, where he receives accommodation and board while he is under observation there. (2)

<b>Non-payment of fare (place of offence)</b>	<b>key number: "5150**"</b>
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*see also place of offence*

In the case of failure to pay fare on public transportation, the place where the offence is discovered is generally considered to be the place of the offence (valid since 01/01/2001) (16).

<b>False ⇒ payment cards (Use of ...)</b>	<b>key number: "5531**"</b>
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<b>Garden house</b>
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*see also living space*

Garden houses are to be regarded as a dwelling only if they are permanently and predominantly used for residential purposes (centre of life). (20)

<b>Dangerous interference with road traffic</b>	<b>key number 670025</b>
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As a rule, section 315b of the penal code only covers non-traffic related interference, i.e. ways of conduct that are not part of traffic activities themselves. In individual cases, this may also include cases of interference which are committed within traffic processes and whose external form does not differ from traffic activities.

Dangerous interference with moving traffic is only recorded in the PCS if a vehicle that is deliberately used contrary to its purpose and with the aim of violating traffic regulations is used at least with conditional intent to cause harm (vehicle as a weapon or instrument of doing harm).

Dangerous interference is also possible (in individual cases) where a person's behaviour is technically in accordance with traffic regulations but where the intention behind the person's driving - albeit correct by itself - is to exploit the inattention or misjudgement of other road users in order to cause an accident. (36)

<b>Monetary credit fraud</b>	<b>key numbers: "5141** to 5145**"</b>
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*see also credit fraud*

Obtaining loans by fraud.

Example:

By providing incorrect information, the offender obtains credit services; the loan must actually be paid out. (12) (21)

**Swindle involving exchange of currency**

Pretending that a currency devaluation is imminent, the offender promises especially elderly and naive persons to exchange their money for banknotes of a currency of lasting value. He takes the money that is "losing its value" with him and disappears. (2)

**Cash couriers (Robbery of ...)****key number: "2131\*\*"**

All transports whose primary or exclusive purpose is the transportation of money or objects of value for business or professional purposes are considered to be cash/valuables transports by cash carrying persons (key number 2131\*\*). This applies to employees as well as to owners or managers of businesses, the corresponding commercial transports of money or valuables, and also postal personnel who deliver cash. The key number 2132\*\* applies exclusively to those transports of cash and valuables which are carried out using specialised transport vehicles, i.e. vehicles that are constructed in such a way (armouring, special tyres etc.) as to allow the protected transportation of those goods. (14)

**Violent crime <sup>1</sup>****key number: "8920\*\*"****Fraud involving land****key number: "5120\*\*"**

- see also *fraud involving buildings* -

Fraudulent activities in connection with the sale or lease of land to the detriment of the person interested in buying or leasing it, in particular the offering of premises - also and especially abroad - in attention-grabbing advertisements stating that the property could be profitably sold in a few years, although this is known to be impossible for various reasons. (3) (5)

**Swindle in connection with passing on regards**

Swindlers committing this type of fraud falsely pretend to have been asked by acquaintances to pass on regards or to be themselves former acquaintances of their victims or members of their family and in this way obtain money or loans or other non-cash benefits by deception. (2)

**Marriage fraud**

Marriage fraudsters - including both men and women - usually approach wealthy unmarried persons with fraudulent intent. They seek to create a "basis of trust" favourable for their purposes. When planning their further life together with the victim, they fraudulently obtain financial means. Contact is sought through marriage bureaus or advertisements placed by the offenders themselves or by other persons but also during journeys, holidays etc. (2)

**Imposture**

The offender generally uses false, high-sounding names to which impressive academic degrees, titles of nobility or decorations are added. After having thus surreptitiously gained the confidence of the future victim, he commits offences such as fraud involving holdings, lodging fraud, money fraud, monetary credit fraud, marriage fraud, long firm fraud and merchandise credit fraud.

Please note:

Only the typical impostor is to be classified under this heading. Otherwise, another classification must be made. (2)

**Fraud involving mortgages**

Here the focus is on obtaining mortgages by fraud. (2)

**Internet: see Instrument of crime: Internet**

**Security-deposit fraud****key number: "5135\*\*"**

The offender pretends to be running a sound business or to be realising a profitable idea. The victims are recruited as representatives, employees or associates and induced to hand over a "security" (deposit). (2) (3) (5)

**Kiosk****key number: "3/425\*00"**

A kiosk is defined as small, closed-off business premises where customers are served at a counter that prevents them from entering. (14)

**Communication services<sup>1</sup>****key number: "5179\*\*"**

"Communication services" covers all transmissions of speech/sound, text and images, regardless of the means of transmission. Access authorisation can be in the form of a card (a prepaid telephone card, a telephone card used as a credit card, another access authorisation card/chip) and/or another means of access (e.g. a password). (13).

Please note:

If there is an overlap, key number "5179\*\*" (fraud involving access authorisation to communication services) takes priority over merchandise fraud/merchandise credit fraud (key group 5110\*\*).

<b>Account opening fraud</b>	<b>key number: "5183**"</b>
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Presenting a forged identity document and pretending to be willing to pay, the offender opens an account with a credit institution in order to obtain non-cash payment instruments and account documents, which he plans to use as means of payment with fraudulent intent. The (intended) use must cause financial loss or a disposal of assets equivalent to financial loss to the detriment of the bank.

False information: The offender must provide false personal details or the like. Opening an account by providing correct information with the intent of using the account data themselves or the non-cash means of payment received to commit, for instance, fraud by obtaining service on credit (key number 5172\*\*) or merchandise credit fraud (key number 5111\*\* or 5112\*\*) is not a case of account opening fraud. (2) (14) (26) (31)

Please note:

When the non-cash means of payment obtained by account opening fraud are subsequently used fraudulently, only in cases where these are used in an OFFLINE procedure (direct debiting) is it necessary to additionally record 'n' cases under key number 5162\*\* "fraud using unlawfully obtained debit cards without PIN (direct debiting)", with 'n' representing the number of victims (cases involving different prejudiced branch offices of the same company have to be counted as one case each).

<b>Motor vehicle</b>
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Definition from the Road Traffic Act (sect. 1 subsect. 2 Road Traffic Act):

"For the purposes of this Act, motor vehicles are land vehicles which are moved by engine power and are not bound to railway tracks." (22)

<b>Credit fraud (sect. 265b PC)</b>	<b>key number: "5141**"</b>
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*see also monetary credit fraud*

The offender provides incorrect or incomplete information in connection with an application for a credit.

This offence precedes an offence pursuant to sect. 263 PC and is completed with presenting the incorrect or incomplete information.

Only businesses and companies are possible lenders and borrowers.

Section 265b PC is subordinate to a completed or attempted offence pursuant to section 263 PC.

Such cases should be recorded under key number 514300.

(12)(38)

<b>Loan procurement fraud</b>	<b>key number: "5188**"</b>
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An offence is classified as a loan procurement fraud if the offender offers the procurement of credits with fraudulent intent, unlawfully requesting fees, commissions or other advance payments, without being willing or able to actually procure the loans promised. (23)

**Credit card (Fraud using unlawfully obtained ...)****key number: "5164\*\*"**

According to these guidelines, credit cards are considered to be all payment cards whose use results in a delay in charging the purchase to/debiting it against the respective account (in contrast to a debit card). (18)

**Quackery**

Here, with fraudulent intent to enrich themselves, offenders pretend to have sufficient knowledge of conventional medicine or natural healing and thus to be able, in combination with their other "skills", to effect cures both in the physical and mental areas. In this context, useless cures and remedies are offered. (2)

**Shoplifting****key number: "3/4260\*\*"**

All thefts of goods on display committed by customers during business hours are categorised as shoplifting.

**Fraud by failing to provide service as agreed****key number: "5171\*\*"**

*see also merchandise fraud*

The offender obtains a payment or a down payment by fraudulently pretending that he will perform a service or by claiming that he performed a service. In reality, he either provides or provided no service at all, or the service provided does not meet minimum quality requirements. (2) (3) (5) (24)

**Fraudulent obtaining of services****key number: "5150\*\*"**

In the case of failure to pay fare on public transportation, the place where the offence is discovered is generally considered to be the place of the offence (valid since 01/01/2001) (16).

**Fraud by obtaining service on credit****key number: "5172\*\*"**

*see also monetary credit fraud*

The offender fraudulently obtains/arranges for services or work but does not pay or provide services in return or only makes a down payment. (3) (5)

**Swindle involving advance of wages**

With fraudulent intent, the offender has an employer hire him for the purpose of obtaining a wage advance; immediately after receiving the advance, he gives up his work. (2)

<b>Politically motivated crime</b>
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Offences are attributed to the field of politically motivated crime if an assessment of the circumstances of the offence and/or the views of the offender provides evidence indicating that

- these offences have been committed in order to exert influence on the democratic opinion-formation process, serve to achieve or impede political objectives, or are directed against the implementation of political decisions,
- they are directed against the free democratic basic order or against one of its essential characteristics, or against the existence and the security of the Federation as a whole or one of its states (Länder), or are intended to unlawfully impair the performance of duties of members of the constitutional bodies of the Federation or a state (Land),
- they endanger external interests of the Federal Republic of Germany by the use of force or acts preparing the use of force,
- they are directed at persons on the grounds of their political views, nationality, ethnicity, race, colour, religion, ideology, origin or outward appearance, handicap, sexual orientation or social status, and there is thus a causal connection between the criminal act and these factors and/or the criminal act is directed against an institution or an object in this connection.

In addition, offences pursuant to sections 80-83, 84-86a, 87-91, 94-100a, 102-104a, 105-108e, 109-109h, 129a, 234a or 241a PC are not recorded because they are offences against state security, even if political motivation cannot be identified in the individual case. (9)

<b>Prospectus fraud (investment fraud, sect. 264a PC)</b>	<b>key number: "5131**"</b>
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Merely those cases are recorded here which are considered as offences pursuant to section 264a PC only (abstract endangerment offence).

With regard to the protection of investors, in connection with offering and marketing securities and other capital investments, it is a punishable act pursuant to section 264a PC to provide incorrect favourable information or to conceal unfavourable facts e.g. in prospectuses or other documents or overviews of the financial situation. If a loss has been caused, only section 263 PC applies (key numbers 513200 [investment fraud], 513300 [fraud involving stock exchange speculation] or 513400 [fraud involving holdings]). (3) (10)

<b>Fraud involving commissions</b>	<b>key number: "5176**"</b>
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This offence is committed to the detriment of the employer by an employee who fraudulently obtains commissions for forged orders, for maliciously obtained signatures on orders that have to be cancelled later or for maliciously placing orders with insolvent customers. (1) (3) (5)

<b>Drug-related crime <sup>1</sup></b>	<b>key number "8910**"</b>
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<b>Fraud involving racing bets</b>
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Presenting invalid or forged tickets or betting slips to authorised betting companies, or passing on "safe" bets to interested persons, or fraudulent manipulations by organisers or other parties involved, e.g. race-fixing by jockeys. (2)



**Fraud involving collections**

The offender untruthfully pretends to be collecting money or things for charitable purposes. In reality, he uses the collected money or things for his own purposes. (2)

**Rail vehicle**

*see motor vehicle*

A rail vehicle is not regarded as a motor vehicle. (22)

**Software piracy**

**key number: "7151\*\*"/"7152\*\*"**

The usually organised offenders make illegal copies of commercial software, selling them on a commercial basis. (4): 7152\*\*. In case of mere private use (e.g. computer game): 7151\*\*.

**Other forms and further types of offences pursuant to PC**

**key number: "670079"**

This key number should only be used for the short-term and temporary recording of a new penal provision/category worth considering (only for the year of introduction at the most).

**Offences against state security<sup>1</sup>****Long firm fraud**

*see also merchandise credit fraud (other forms of)*

Trusting in the customers' willingness and ability to pay, suppliers are induced to supply goods on credit, mostly on a bill of exchange. The goods delivered are immediately sold off at give-away prices so that the goods are no longer available or the company has ceased to exist and the organisers have absconded when payment is due.

Example:

The offender "smoothly" conducts small business deals with the supplier in order to pretend being creditworthy. He then orders a considerably larger amount of goods, dumps them and absconds. (2)

**Offences against provisions designed to protect young persons<sup>1</sup>**

**key number "8960\*\*"**

**Street crime<sup>1</sup>**

**key number "8990\*\*"**

The offences to be classified under "street crime" are exclusively or mainly committed on public roads or in public places - including public transport - and their number can be reduced by preventive measures. (33) (39)

<b>Subsidy fraud (sect. 264 PC)</b>	<b>key number: "5142***"</b>
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Only those cases are recorded here which are considered as offences pursuant to section 264 of the penal code: Payments from public funds, which at least in part are granted without market-related consideration and are aimed at promoting the economy, are obtained by private or public businesses or enterprises by deceiving about facts relevant for granting the subsidies. (3) (5)

<b>Daytime burglary of a residence</b>	<b>key number: "436***"</b>
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An offence is regarded as a daytime burglary of a residence if it was committed between 6:00 am and 9:00 pm. If the time of the offence cannot be identified as lying within this time span, the offence is not counted as a daytime burglary of a residence. (3)

<b>Pickpocketing</b>	<b>key number: "*90***"</b>
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Thefts where the offender secretly steals money or other things (including non-cash means of payment) **directly** from the clothes worn by the victim **on the body** or from objects carried by the victim close to the body, i.e. in **direct bodily custody**.

Theft from bags of all kinds which have been put down or from clothes which have been removed is therefore **not** regarded as pickpocketing. (6)

<b>Instrument of crime: Internet - special category-</b>	<b>Table 05</b>
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The special category "Instrument of crime: Internet" is not meant to refer to special skills and capabilities of the offender or to the modus operandi. Instead, what matters is whether the **Internet** was used as an **instrument of crime**.

From a technical point of view, the Internet includes the following facilities, among others:

- WWW (sources of information presented graphically and in an attractive manner – so-called websites)
- e-mail (electronic mail)
- news ("bulletin boards" on the Internet)
- FTP (data exchange)
- chat (real-time communications via keyboard)

As a rule, all offences are recorded here which are committed by using the medium Internet as an instrument of crime - the use of a PC or notebook etc. alone is not sufficient. This includes both offences where the mere posting of information on the Internet constitutes an offence and offences where the Internet is used as a medium of communication in committing the actual offence.

The following non-exhaustive list is meant as a guideline:

- distribution, procurement of pornographic material
- offences of fraud, such as merchandise fraud, merchandise credit fraud, fraud by failing to provide service as agreed or fraud by obtaining service on credit in connection with online auctions and/or online shops
- distribution of works protected under copyright law through file-sharing sites on the Internet
- insult, threat via e-mail
- offences related to ICT crime

From a phenomenological point of view, the following examples can be provided here:

- distribution of malicious programmes (malware, such as viruses, worms or Trojan horses)
- alteration of data/computer sabotage by means of so-called DDoS attacks
- data espionage by hacking attacks
- misuse of another person's computers for the purpose of software piracy
- misuse of another person's access data for the purpose of using Internet services
- distribution of illegal Internet dial-up programmes (diallers)

Cases which fulfil the condition "economic crime = yes" *and* "Instrument of crime: Internet = yes", are to be recorded under *both* special categories.

If the Internet plays a *minor role only* with regard to *committing the actual offence*, e.g. if contacts between the offender and the victim or attempts at making contact precede the actual offence, the special category "Instrument of crime Internet" should *not* be used. (30)

In particular with respect to the following key numbers, "Instrument of crime: Internet" would not seem to be expected in the first place and should therefore be checked on the basis of the respective circumstances of the case:

- 0000\*\* offences against life
- 2100\*\* robbery, extortion resembling robbery, and assault on motorists with intent to rob
- 2250\*\* negligent bodily injury
- 2330\*\* extortionate kidnapping
- 2340\*\* hostage taking
- \*\*\*\*\* theft offences- total
- 6400\*\* arson and causing a danger of fire
- 6750\*\* crimes involving explosives or nuclear radiation
- 6760\*\* offences against the environment
- 6770\*\* poisoning dangerous to the public
- 7300\*\* drug offences (unless recorded under a different key number)
- 7400\*\* offences against supplementary criminal legislation in the environmental sector (in addition to key 7160\*\*)

<b>Place of offence in cases of non-payment of fare<sup>1</sup></b>	<b>key number: "5150**"</b>
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(16).

<b>Place of offence in cases of violation of maintenance obligations</b>	<b>key number: "6710**"</b>
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**Fraud by trickery**

is fraud committed by using special cunning and artfulness or – new – special methods.

Please note:

In each individual case, it has to be checked in advance if this is not a case of merchandise fraud, merchandise credit fraud, money exchange fraud or a similar offence. (2)

Distinction from **theft by trickery**:

If the offender pretends to be a public official with executive tasks (police, customs, bailiff etc.) and in this way achieves handover of the desired goods, this is not a case of voluntary disposal of property but an act of taking away (theft by trickery) because the victim is in a predicament. (14)

**Theft by trickery**

is defined as an offence where the offender,

- by deceiving/misleading the victim (e.g. by pretending to be a service provider or a public official), establishes a (short-term) relationship of trust with the victim,
- by using distraction methods (e.g. bumping into the victim or soiling the victim's clothes), exploits the victim's reduced ability to notice and react for the purpose of obtaining property not his own (without being noticed at first). (14)

**Debt-conversion fraud**

In a case of debt-conversion fraud, all existing liabilities are replaced in such a way that only one liability remains towards one company that uses an excessive interest rate, always calculates the interests on the basis of the original total credit amount, charges excessive credit costs (advance fees) and - depending on the duration - merely pays out a certain percentage of the credit, usually less than 95%.

Example:

The offender contacts the victim via advertisements or lists of debtors. The conditions of pooling the debts are not explained in sufficient detail by the offender and not understood by the victim. The victim must pay the fees and rates agreed until the necessary agreement between the offender and the creditors of the victim is reached. In the majority of cases, it becomes clear only then that a pooling of debts is impossible due to the missing consent of the creditors and the exorbitant costs. (2) (3) (5)

**Environmental crime<sup>1</sup>**

**key number: "8980\*\*"**

**Obtaining support by deceit**

see also "*fraud to the detriment of social security systems and institutions*" (2)

Physical disabilities or distress and misery are feigned with the aim of arousing pity and obtaining benefits/donations.

<b>Breach of trust involving investment transactions</b>	<b>key number: "5211**"</b>
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The offender uses money entrusted to him for carrying out investment transactions (e.g. purchase of real estate, asset management, investment in securities and holdings) contrary to the designated purpose, thus causing a financial loss to the investor. (4)

<b>Transfer fraud</b>	<b><u>in</u> key number: "5183**"</b>
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is fraud by using forged or falsified transfer slips or payment orders suitable to induce banks to carry out transfers.

As a preparatory act, the offence of document forgery is not recorded (this is a case of "natural unity of acts" in the sense of the PCS Guidelines - see example 41 of the Collection of examples; Encl. 5 of the PCS Guidelines) (27)

<b>Traffic offences<sup>1</sup></b>
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<b>Placement/Procurement fraud</b>
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- see also *job placement fraud* -

Acting with fraudulent intent, offenders active in this field untruthfully pretend to be able to procure the desired thing although they are neither willing nor able to do so but merely intend to collect fictitious fees and advance payments.

This may involve the fraudulent procurement of:

- titles and decorations,
- rental flats,
- real estate,
- mortgages,
- goods,
- contracts or licences,
- marriages,
- loans etc.

Example:

The offender pretends that he is able to arrange marriages with young, good-looking Asian women but needs an adequate down payment for the expenses incurred (phone calls, flight ticket etc.). In reality, he is neither willing nor able to proceed as pretended. Instead, he is only interested in collecting the money. (2)

<b>Betrayal of trade or business secrets</b> <b>(sect. 17 (1) Act Against Unfair Competition)</b>	<b>key number: "7153**"</b>
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Without being authorised to do so, an employee of a business discloses to another person a trade or business secret with which he has been entrusted or to which he has access owing to his employment for personal gain, for reasons of competition, for the benefit of a third party or with the intent of causing damage to the business. (4)

<b>Betrayal of trade or business secrets (sect. 17 (2) Act Against Unfair Competition)</b>	<b>key number: "7154**"</b>
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Without being authorised to do so, the offender acquires or secures a trade or business secret from an employee or by using special means and methods for reasons of competition, for personal gain, for the benefit of a third party or with the intent of causing damage to the business, or uses or discloses it to another person without being authorised to do so. (4)

<b>Insurance fraud</b>	<b>key number: "5174**"</b>
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- see *abuse of insurance and also fraud to the detriment of insurance companies* -

Until 1997 sect. 265 PC: With fraudulent intent, an object or property insured against fire is set on fire, or an insured ship is caused to sink or run aground. (3) (5) Since 1998 sect. 265 PC "abuse of insurance" with enhanced scope. (14)

<b>Abuse of insurance</b>	<b>key number: "5174**"</b>
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- see *insurance fraud and also fraud to the detriment of insurance companies* -

Since 1998 sect. 265 PC "abuse of insurance" with enhanced scope, previously called insurance fraud (14)

<b>Acceptance of a benefit</b>	<b>key number: "6511**"</b>
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A public official (cf. the persons mentioned in sect. 331 subsects. 1 to 3 PC) demands, allows himself to be promised or accepts a benefit in return for an official act he performed or will perform in the future. (4)

<b>Granting a benefit</b>	<b>key number: "521**"</b>
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The offender offers, promises or grants a benefit to the public officials mentioned in sect. 333 subsects. 1 and 2 PC in return for an official act within their discretion which they will perform in the future. (4)

<b>Merchandise fraud</b>	<b>key number: "5113**"</b>
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*see also ensnarement and fraud by failing to provide service as agreed*

In a case of merchandise fraud, the offender promises to supply goods; he, however, fails to do so or supplies goods of inferior quality only, or claims to have supplied goods although this was not the case.

The goods are, so to speak, the means of committing the fraud while the aim of the fraudster is to obtain the payment. (2) (3) (5) (24)

Please note:

If a work or service is concerned, the offence is to be recorded as fraud by failing to provide service as agreed (key number: 5171\*\*).

**Merchandise credit fraud (other forms of)****key number: "5112\*\*"**

*see also long firm fraud*

In a case of merchandise credit fraud, the focus is on obtaining goods by fraud without payment or in return for a down payment. If the item obtained is a motor vehicle, the offence is to be recorded under key number "5111\*\*". (3) (5)

**Fraud involving the procurement of goods**

*see also placement/procurement fraud*

**Fraud involving bills of exchange****key number: "518900"**

In this case of fraud, worthless, uncollectible, forged or falsified acceptances (bills) are given to the taker of the bill (payee), under the false pretence of being able and willing to pay at maturity, in order to induce him to make a disposition damaging his property in favour of the drawee (acceptor) or the drawer or an endorser.

The respective bearer of the bill (payee) can take recourse against the bill debtors (drawer, guarantor, endorser).

Example:

A company owner, who is in payment difficulties, raises capital from the payee by accepting bills although he knows that he will not be able on the due date to pay the amount of the bill. The bill of exchange is protested. (2) (3) (5)

**Money exchange fraud**

Offenders committing this type of fraud cheat during changing money; they have the victims hand over the amount to be changed as well as the change by distracting them by tricks or with the help of an accomplice.

Please note:

If the offender takes the money himself, the offence is to be regarded as a case of theft by trickery. (2)

<b>Fraudulently claiming compensation</b>
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Traveller's cheques are cashed by the person authorised to do so. This person later pretends to have lost the traveller's cheques. The person claims compensation, which has to be granted because traveller's cheques are insured against loss (compensation for lost value).

Please note:

Traveller's cheques show the authorised person's signature in the upper left corner. When cashing a cheque, the person has to sign the cheque in the bottom left area. Thus the person taking the cheque can compare the signatures. Usually, an official identity document of the person presenting the cheque is checked in order to compare all three signatures.

Example:

When cashing the traveller's cheques, the authorised person disguises his signature in order to be able to claim compensation credibly at a later date. (2)

<b>Securities fraud</b>	<b>key number: "5145**"</b>
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When committing securities fraud, either forged or falsified securities are used, or a certain, incorrect value is attributed to genuine but worthless papers (unless covered by key number 5130\*\*). (3)  
(5)

<b>Economic crime<sup>1</sup></b>	<b>key number: "8930**"</b>
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<b>Dwelling</b>
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*see living space*

<b>Living space in connection with</b>	<b>key number: "3/435***" and "3/436***"</b>
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"Living space" means any immovable property that is equipped for a longer stay. The term "living space" (in German: "Wohnraum") was used until and including 1998.

Since 1999, the term "dwelling" (in German: "Wohnung") is used instead, cf. sect. 244 subsect. 1 no. 3 PC. (14, 16). Until a supreme court decision is taken, the following applies:

"The term 'dwelling' used in sect. 244 subsect. 1 no. 3 PC has to be interpreted more narrowly than the one used in sect. 123 subsect. 1 PC (breach of the peace of the home): In the sense of sect. 244, 'accessory premises', such as corridors, stairs, cellars, laundry and attic rooms, are only included if they are directly accessible from the actual dwelling rooms, as is usually the case in single-family houses. But if the respective attic or cellar room etc. can only be reached by leaving the flat and using an entrance going off the staircase or the hallway, it is no longer regarded as part of the 'dwelling' in the sense of sect. 244 (and is therefore to be recorded under sect. 243, if appropriate). In this case, it is irrelevant whether the separating door is usually kept unlocked or locked."



<b>Payment cards</b>
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Generic term for ⇒credit cards and ⇒debit cards

Fraud using unlawfully obtained payment card data:	key number 5165**
Use of false payment cards:	key number 5531**
Counterfeiting, falsifying, procuring, offering for sale or making available false payment cards:	key number 5532**

(18)

Non-payment of pub/restaurant bill	key number: "5184**"
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With fraudulent intent, the offender orders food and drink, thereby pretending to be willing and able to pay. (14)

**List of modifications**

<b>Date</b>	<b>Chapter</b>	<b>Reason for the modification/Source</b>
01/09/15		first presentation in English language