



COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMISSION STAFF WORKING PAPER

Annexes to the

REPORT FROM THE COMMISSION

**Second report based on Article 14 of the Council Framework Decision of 28 May 2001
combating fraud and counterfeiting of non-cash means of payment**

{COM(2006) 65 final}

Annex I to the

REPORT FROM THE COMMISSION

Second report based on Article 14 of the Council Framework Decision of 28 May 2001 combating fraud and counterfeiting of non-cash means of payment ¹

Table 1: Survey of contributions from Member States²

Austria	04/08/2004
Belgium	18/08/2004
Cyprus	29/03/2005 + 26/07/2005
Denmark	18/03/2005 + 01/04/2005
Estonia	No answer
Greece	03/03/2005
Hungary	No answer
Latvia	10/01/2005
Lithuania	21/03/2005
Luxemburg	24/01/2005
Malta	No answer
The Netherlands	06/07/2004
Poland	31/11/2004
Portugal	13/10/2004
Czech Republic	16/03/2005
Slovakia	18/03/2005
Slovenia	No answer
Sweden	30/09/2004

¹ OJ L149, 2.06.2001, p. 1

² This second report is focused only on those Member States that were not previously taken considered (AT, DK, GR, LU, NL and PT) and in addition on those whose treatment in the first report required completion or amendments (BE and SE). in this second case the report is more consolidated in relation to these two MS. It was agreed also to include MS which have acceded on 1 May 2004, given that they had clearly not been

Annex II to the

REPORT FROM THE COMMISSION

Second report based on Article 14 of the Council Framework Decision of 28 May 2001 combating fraud and counterfeiting of non-cash means of payment³

TABLES 2-6

Table 2 Offences related to payment instruments (Article 2)

Article of the Framework Decision	Article 2 (a) (theft or other unlawful appropriation of a payment instrument)	Article 2 (b) (counterfeiting or falsification of a payment instrument in order for it to be used fraudulently)	Article 2 (c) (receiving, obtaining, transporting sale or transfer to another person or possession of stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument.)	Article 2 (d) (fraudulent use of a stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument)
Austria	Section 241e of the StGB. (theft, illegal handling of lost property and embezzlement)	Section 241a StGB (falsification of documents)	Sections 241b StGB and 241f StGB (attempt and participation)	Sections 127 and 146 of the StGB
Belgium	Title IX of Criminal Code	Articles 194 ss of Criminal Code	Art.505 of Criminal Code	Art.210bis of Criminal Code-
Cyprus	No detail has been provided.	Art. 331, 332, 333, 334, 335 of Criminal Code (counterfeiting of documents)	Art. 335 of Criminal Code (put into circulation of a counterfeited document), Art.334 of Criminal Code (possession of counterfeited	Art.341 of Criminal Code (fraudulent use of counterfeited document)

³ OJ L149, 2.06.2001, p. 1

Article of the Framework Decision	Article 2 (a) (theft or other unlawful appropriation of a payment instrument)	Article 2 (b) (counterfeiting or falsification of a payment instrument in order for it to be used fraudulently)	Article 2 (c) (receiving, obtaining, transporting sale or transfer to another person or possession of stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument.)	Article 2 (d) (fraudulent use of a stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument)
			document), art.335 of Criminal Code 5sale of counterfeited document)	
Czech Republic	Section 249b (unauthorised appropriation of payment card identified by name or a number) Draft legislation (unauthorised handling of a means of payment)	Section 140 (2) (counterfeiting and falsification of money) Section 143 (common provisions for foreign means of payment)	Section 249 (b) (unauthorised possession of payment card) Draft legislation (unauthorised handling of payment card)	Section 140 (counterfeiting and falsification of money)
Denmark	Sections 276 (theft), 277 (illegal handling of lost property) and 278 (1)(1) (embezzlement) of the Criminal Code.	Sections 171 (falsification of documents), 279 (fraud), cf.21 (attempt) and possibly 23 (participation).	Sections 171 (falsification of documents), 276 (theft), 290 (handling stolen goods) of the Criminal Code and possibly cf.21 (attempt), possibly cf.23 (participation)	-Sections 171 (document falsification), 276 (theft), 279 (fraud) of the Criminal Code
Estonia	No reply			
Greece	Draft legislation.	-	-	-
Hungary	No Reply			

Article of the Framework Decision	Article 2 (a) (theft or other unlawful appropriation of a payment instrument)	Article 2 (b) (counterfeiting or falsification of a payment instrument in order for it to be used fraudulently)	Article 2 (c) (receiving, obtaining, transporting sale or transfer to another person or possession of stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument.)	Article 2 (d) (fraudulent use of a stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument)
Latvia	Section 193 of the Criminal Law (unlawful activities with financial instruments and means of payment)	Section 193 of the Criminal Law	Section 193 of the Criminal Law	Section 193 of the Criminal Law
Lithuania (Lithuania continued)	Art.215 of the Criminal Code (unlawful use of a payment instrument or the data it contains) Art.182 of the Criminal Code (Fraud) Art.186 of the Criminal Code (infliction of financial loss by deception)	Art.214 of the Criminal Code (making and unlawful use of fake non-cash payment instruments)	Art.214 of the Criminal Code (making and unlawful use of fake non-cash payment instruments) Art.215 of the Criminal Code (unlawful use of a payment instrument or the data it contains) Art.182 of the Criminal Code (Fraud) Art.186 of the Criminal Code (infliction of financial loss by deception)	Art.214 of the Criminal Code (making and unlawful use of fake non-cash payment instruments) Art.215 of the Criminal Code (unlawful use of a payment instrument or the data it contains) Art.182 of the Criminal Code (Fraud) Art.186 of the Criminal Code (infliction of financial loss by deception)
Luxembourg	Artt.461 to 476 of the Criminal Code (theft) contain the general prohibition of theft, this includes payment instruments without specifically mentioning it.	Draft Legislation is still pending in the Parliament	Draft Legislation is still pending in the Parliament	Draft Legislation is still pending in the Parliament

Article of the Framework Decision	Article 2 (a) (theft or other unlawful appropriation of a payment instrument)	Article 2 (b) (counterfeiting or falsification of a payment instrument in order for it to be used fraudulently)	Article 2 (c) (receiving, obtaining, transporting sale or transfer to another person or possession of stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument.)	Article 2 (d) (fraudulent use of a stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument)
Malta	No reply			
Netherlands ⁴	Article 310 and 321 of the penal code contain the general prohibition of theft and obscuration, this includes payment instruments without specifically mentioning it.	Article 232 §1 and 226 § 1, 5° of the penal code (falsification).	Article 232 §2 and 226 § 2 (use of falsified payment system)	Article 310 326, 226 §2, 232 §2 penal code.
Poland	Art. 279 (theft), 278 (illegal handling of lost property), 280 (theft with the use of violence) 281 (illegal handling of theft property), 284 (embezzlement) of the Criminal Code.	Art.270 (falsification of documents), 271 (issue of false document) 272 (issue of false certificate) 273 (use of false documents) 310 (forged money) 312 (use of forged money)	Art. 279 (theft), 278 (illegal handling of lost property), 280 (theft with the use of violence) 281 (illegal handling of theft property), 284 (embezzlement) of the Criminal Code. Art.270 (falsification of documents), 271 (issue of false document) 272 (issue of false certificate) 273 (use of false documents) 310 (forged money) 312 (use of forged money)	Art. 279 (theft), 278 (illegal handling of lost property), 280 (theft with the use of violence) 281 (illegal handling of theft property), 284 (embezzlement) of the Criminal Code. Art.270 (falsification of documents), 271 (issue of false document) 272 (issue of false certificate) 273 (use of false documents) 310 (forged money) 312 (use of forged money)

⁴ The Netherlands have adopted the legislation completing the Penal Code (Wet van 17 mei 2001 tot wijziging van het Wetboek van Strafrecht met betrekking tot valsheid in muntspeciën en munt- en bankbiljetten (eurovalsemunterij)) and have adopted a specific Bill (Wet van 11 november 1999 etc.) to transpose Article 5 (a).

Article of the Framework Decision	Article 2 (a) (theft or other unlawful appropriation of a payment instrument)	Article 2 (b) (counterfeiting or falsification of a payment instrument in order for it to be used fraudulently)	Article 2 (c) (receiving, obtaining, transporting sale or transfer to another person or possession of stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument.)	Article 2 (d) (fraudulent use of a stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument)
Portugal	Art.203 and 204 (theft), 205 (embezzlement), 259 (embezzlement of document related to credit cards, cheque and other means of payment) of the Criminal Code.	Art 262, 263 and 267 (forged money); Art.267 (false signature);	Art. 225 use of stolen or unlawfully appropriated means of payment); Art.217 (fraud); Art. 218 (aggravated fraud); Art.256 use of forged cheque and bearer instruments) -	Art. 225 use of stolen or unlawfully appropriated means of payment); Art.217 (fraud); Art. 218 (aggravated fraud); Art.256 use of forged cheque and bearer instruments) -
Slovakia	Section 249c § 1of Slovak Criminal Code Section 250d (unlawful enrichment)	Section 249c of Slovak Criminal Code Section 250d (unlawful enrichment)	Section 249c of Slovak Criminal Code Section 250d (unlawful enrichment)	Section 249c of Slovak Criminal Code Section 250d (unlawful enrichment)
Slovenia	No reply			
Sweden	Chapter 8, section 1 (theft), section 8 (other unlawful appropriation) penal code. No specific reference to payment instrument.	Chapter 14, section 1 (falsification of a document) (counterfeiting currency).	Chapter 9, section 6 (receiving). Chapter 14 section 10 (illegal distribution of currency imitation)	Chapter 9(1) of the Criminal Code (inducement to commit fraud) Chapter 14 section 9 (fraudulent use of documents and currency)

Table 3 Offences related to computers (Article 3) & offences related to specifically adapted devices (Article 4)

Articles of the Framework Decision	Article 3 (introducing, altering, deleting or suppressing computer data without right)	Article 3 (interfering with the functioning of a computer programme or system without right)	Article 4
Austria	-Sections 146, 147 abs 1 Z 1 and 148 a StGB	Sections 146, 147 abs 1 Z 1 and 148 a StGB -	Sections 126c and 241c StGB
Belgium	-Art.504quater of Criminal Code	Art.504quater of Criminal Code	-Articles 550bis (5) and 550ter(4) of criminal code -
Cyprus	No detail has been provided	No detail has been provided	No detail has been provided
Czech Republic	Draft legislation (unauthorised access to a computer programme or system in connection with the transfer of money.	Section 204 of Criminal Code; Draft legislation (unauthorised access to a computer programme or system in connection with the transfer of money.	Section 142 of Criminal Code, 250(1) of Criminal Code (fraud)
Denmark	Sections 279a of the Criminal Code (computer fraud) and 301 of the Criminal Code	Sections 279a of the Criminal Code (computer fraud) and 301 of the Criminal Code	Sections 171 (falsification of the documents), 279 (fraud) and 279a (computer fraud) of the Criminal Code, 301 cf.21 (attempt) and possibly 23 (participation)
Estonia	No reply		
Greece	Draft legislation		
Hungary	No reply		
Latvia	Section 243 of Criminal Law (damaging of computer software)	Section 241 of Criminal Law (arbitrarily accessing computer systems)	Section 193 of Criminal Law (obtaining, manufacture, distribution, utilisation and storage of data, software and equipment for unlawful acts with financial instruments and means of payment)

Articles of the Framework Decision	Article 3 (introducing, altering, deleting or suppressing computer data without right)	Article 3 (interfering with the functioning of a computer programme or system without right)	Article 4
Lithuania	Art.196 of the Criminal Code (destruction or alteration of computer information)	Art.197 of the Criminal Code (Destruction or alteration of computer programmes and interference with the operation of computer networks, databases or information systems. Art.198 of the Criminal Code (Unlawful connection to a computer or computer network)	Art.21 of the Criminal Code (preparation to commit a crime) Art.198 of the Criminal law (participation)
Luxembourg	Draft Legislation is still pending in the Parliament	Draft Legislation is still pending in the Parliament	Draft Legislation is still pending in the Parliament
Malta	No reply		
Netherlands	Articles 138(a), 225, 321, 322, 326 350 (a) of the criminal code	Articles 138(a), 225, 321, 322, 326 350 (a) of the criminal code	Article 234 of the Criminal Code
Poland	Art.267 and 287 of Criminal Code	Art.269 of the Criminal Code	Art.16 (preparatory unlawful act); Art.270 (forged documents); Art 310 (counterfeiting or falsification of payment system)
Portugal	Art.221 of the Penal Code	Art.221 of the Penal Code	Art.4(a) is covered by Art.271 of the Penal Code Art.4 (b) is not covered by the current legislation. It will be transposed in the reform of the Penal Code that is still pending.
Slovakia	Section 249c §21 of Slovak Criminal Code Section257a (damaging or misusing an entry on a data carrier)	Section 249c §21 of Slovak Criminal Code Section257a (damaging or misusing an entry on a data carrier)	Section 249c §21 of Slovak Criminal Code Section257a (damaging or misusing an entry on a data carrier)

Articles of the Framework Decision	Article 3 (introducing, altering, deleting or suppressing computer data without right)	Article 3 (interfering with the functioning of a computer programme or system without right)	Article 4
Slovenia	No reply		
Sweden	Chapter 9 (1) of the criminal code	Chapter 9 (1) of the criminal code	Chapter 23 of the criminal code (attempt, preparation conspiracy and complicity)

Table 4 Penalties (Article 6)

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
Austria	<p>Section 241a StGB (falsification of non-cash means of payment) Imprisonment of up to 3 years.</p> <p>Section 241c StGB (preparation for falsification of non-cash means of payment) Imprisonment of up to 1 year.</p> <p>Section 241e (1) StGB(disposing of non cash means of payment) Imprisonment of up to 2 years.</p> <p>Section 241e (2) StGB(doing acts in par. (1) as a member of a criminal gang) Imprisonment for a term of between six months and five years.</p> <p>Section 241e (3) StGB(unlawful destruction of non-cash means of payment). Imprisonment of up to 1</p>	<p>Section 126c StGB(abuse of computer programs or access data and fraudulent misuse of computer data) Imprisonment of up to six months or a fine of up to 360 daily units.</p>		<p>Section 241b StGB(acceptance, utterance or possession of false or falsified non cash means of payment) Imprisonment of up to 1 year.</p> <p>Section 241f StGB(acceptance, utterance or possession of embezzled non-cash means of payment). Imprisonment of up to 2 years.</p>

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
	<p>year.</p> <p>Section 127 StGB(theft and fraud) Imprisonment of up to six months or a fine of up to 360 daily units.</p> <p>Section 147 StGB(aggravated fraud) Imprisonment of up to 3 years</p>			
<p>Belgium</p> <p>(Belgium continued)</p>	<p>Title IX of Criminal Code (theft and extortion) Imprisonment between 2 months to 3-5 years according to some circumstance and a fine.</p> <p>Title IX of Criminal Code (aggravating circumstances for committing offences in par.1 by a civil servant) Imprisonment between 5 years and 10 years.</p> <p>Title IX of Criminal Code (aggravating circumstances for committing offences in par.1 by violence) Imprisonment between 5 years and 10 years.</p> <p>Title IX of Criminal Code (aggravating circumstances for committing offences in par.1 by violence under specific conditions) Imprisonment between 10 years and 15 years.</p> <p>Title IX of Criminal Code (aggravating circumstances for committing offences in par.1 by violence under specific conditions) Imprisonment between 15 years and</p>	<p>Art.210 bis of Criminal Code (misusing of record on a data-carrier). Imprisonment between 6 months and 5 years and a fine.</p> <p>Art.210bis of Criminal Code (aggravating circumstances in case of recidivism of offence in par.1 within 5 years) Imprisonment between 1,5 year and 15 years.</p> <p>Art.504 quarter of Criminal Code (fraud) Imprisonment between 6 months and 5 years and a fine.</p> <p>Art.504quater of Criminal Code (aggravating circumstances in case of recidivism of offence in par.2 within 5 years) Imprisonment between 1,5 year and 15 years.</p>	<p>Artt. 550bis and ter Imprisonment between 6 months and 3 years</p>	<p>Title IX of Criminal Code (theft attempt) Imprisonment between 8 days and 3 years and a fine.</p> <p>Art.210 bis of Criminal Code (attempt of misusing of record on a data-carrier) Imprisonment between 6 months and 3 years and a fine.</p> <p>Art.504 quarter of Criminal Code (fraud related to computer) Imprisonment between 6 months and 3 years or a fine.</p>

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
	20 years. Title IX of Criminal Code (aggravating circumstances for committing offences in par.1 by violence for the purpose to cause somebody else's death) Live imprisonment and forced labour.			
Cyprus	Art.336 of Criminal Code (counterfeiting of means of payment) Imprisonment of up to 14 years. Art.339 (circulating of counterfeiting documents), Art 344 (use and possession), art.345 (unlawful acquisition) Imprisonment of up to 7 years	No detail has been provided	No detail has been provided	No detail has been provided
Czech Republic	Section 140 of Criminal Code (illegal handling of counterfeited or falsified money) Imprisonment for 2 to 8 years Section 140 of Criminal Code (counterfeiting and falsification of money) Imprisonment for 5 to 8 years. Section 249 (b) of Criminal Code (unauthorised possession of payment card) Imprisonment of up to 2 years or a pecuniary penalty of forfeiture of property Section 250 (1) of Criminal Code (fraud) Imprisonment of up to 2 years or a pecuniary penalty of forfeiture of property	Section 257a (1) of Criminal Code (damaging and misusing a record on a data-carrier) Imprisonment of up to 1 year, an operating ban, a pecuniary penalty or forfeiture of property. If a member of an organised group Imprisonment from six months to three years. Section 257a (2) In committing offence referred to par.1 the perpetrator causes large-scale damage or obtain large scale benefits for himself or other the imprisonment is from 1 year to 5 years. Section 250 (1) of Criminal Code (fraud) Imprisonment of up to 2 years, an operating ban, a pecuniary penalty or forfeiture of	Section 142 of Criminal Code (production and possession of counterfeiting equipment) Imprisonment of up to 2 years. Section 142 of Criminal Code (aggravating circumstances for committing the offence in par.1 in the performance of his profession) Imprisonment between 1 year and 5 years. Section 210 of Criminal Code (production and possession of counterfeiting equipment) Imprisonment of up to 2 years, forfeiture of property or an operating ban. Section 210 of Criminal Code (aggravating circumstances for	Section 8 of Criminal Code (attempted offences) An attempted offence shall be punishable in accordance with the tariff of penalties laid down for a completed offence.

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
Czech Republic (continued)		<p>property.</p> <p>Section 204 of Criminal Code (unauthorised access to a computer system by breaching security measures) Imprisonment of up to 1 year, forfeiture of property or an operating ban.</p> <p>Section 204 of Criminal Code (unauthorised access to a computer system and use, deletion, distraction, damaging, counterfeiting, loading data) Imprisonment of up to 2 years, forfeiture of property or an operating ban.</p> <p>Section 204 of Criminal Code (aggravating circumstances for committing the offence in par.1 with the intention of causing other person damage or of restricting the computer operability) Imprisonment of 6 months to 3 years, forfeiture of property or an operating ban.</p> <p>Section 204 of criminal Code (aggravating circumstances for committing the offence in par.1 as a member of an organised group or causing serious damage) Imprisonment between 1 year and 5 years or a pecuniary penalty.</p> <p>Section 204 of criminal Code (aggravating circumstances for committing the offence in par.1</p>	<p>committing the offence in par.1 in the performance of his profession) Imprisonment between 1 year and 5 years.</p>	

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
		causing large-scale damage) Imprisonment between 3 years and 8 years or a pecuniary penalty.		
Denmark Denmark (continued)	<p>Section 171, of the criminal code (document falsification) Imprisonment of up to 2 years.</p> <p>Section 171 of the criminal code (document falsification of a particularly serious nature) Imprisonment of up to 6 years.</p> <p>Section 276 of the criminal code, (theft) Imprisonment of up to 18 months.</p> <p>Section 276 of the criminal code (theft of a particularly serious nature) Imprisonment of up to 6 years</p> <p>Section 277 of the criminal code (illegal handling of lost property) Imprisonment of up to 18 months</p> <p>Section 278 of the criminal code (embezzlement) Imprisonment of up to 18 months</p> <p>Section 278 of the criminal code (embezzlement of a particularly serious nature) Imprisonment of up to 8 years</p> <p>Section 279 of the criminal code (fraud) Imprisonment of up to 18</p>	<p>Section 279a of the criminal code (computer fraud) Imprisonment of up to 18 months</p> <p>Section 279a of the criminal code (computer fraud of particularly serious nature) Imprisonment of up to 8 years.</p>		Section 301 of criminal code (and 21 attempt and 23 participation) For attempt and participation respectively, the same penalty limits apply as apply for carrying out the offence.

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
Denmark (continued)	<p>months</p> <p>Section 279 of the criminal code (fraud of particularly serious nature) Imprisonment of up to 8 years.</p> <p>Section 290 of the criminal code (handling stolen goods) Imprisonment of up to 18 months</p> <p>Section 290 of the criminal code (handling of stolen goods of particularly serious nature) Imprisonment of up to 6 years.</p> <p>Section 301 of the criminal code (unlawful use of details identifying a payment instrument) Imprisonment of up to 18 months</p> <p>Section 301 of the criminal code (unlawful use of details identifying a payment instrument in particularly aggravating circumstances) Imprisonment of up to 6 years</p>			
Estonia	No reply		.	
Greece	Draft legislation-	-	-	
Hungary	No reply			

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
<p>Latvia</p> <p>Latvia (continued)</p>	<p>Section 193 of Criminal Law (illegal acquisition or alienation of financial instruments on the basis of inside information, manipulation of the market with financial instruments) (theft, destruction, damage or unlawful utilisation of financial instruments or means of payment of another person) Imprisonment of up to 10 years with or without confiscation of property.</p> <p>Section 193 of Criminal Law (counterfeiting, circulating, or utilising counterfeits of financial instruments or means of payment) Imprisonment between 3 years and 10 years with confiscation of property.</p> <p>Section 193 of Criminal Law (aggravating circumstances for committing the offence in par.1 and 2 as a member of an organised group or repeating it on large scale) Imprisonment between 5 year and 15 years with confiscation of property.</p>	<p>Section 193 of Criminal Law (obtaining, distribution, utilisation and storage of data, software and equipment for unlawful acts with financial instruments and means of payment) Imprisonment of up to 6 years with or without confiscation of property.</p> <p>Section 193 of Criminal Code (manufacture or adaptation of software or equipment). Imprisonment between 3 years and 8 years with or without confiscation of property.</p>	<p>Section 193 of Criminal Law (obtaining, distribution, utilisation and storage of data, software and equipment for unlawful acts with financial instruments and means of payment) Imprisonment of up to 6 years with or without confiscation of property.</p> <p>Section 193 of Criminal Code (manufacture or adaptation of software or equipment). Imprisonment between 3 years and 8 years with or without confiscation of property.</p>	<p>Section 15 of Criminal Law (completed and uncompleted criminal offences) A person shall not be held criminally liable for an attempt to commit a criminal violation.</p>
<p>Lithuania</p>	<p>Art.215 of the Criminal Code (unlawful use of a payment instrument or the data it contains). Imprisonment of up to 6 years and a fine.</p> <p>Art.182 of the Criminal Code</p>	<p>Art.196 of the Criminal Code. (Destruction or alteration of computer information) Imprisonment of up to 3, community works and fine.</p>	<p>Art.197 of the Criminal Code. (Destruction or alteration of computer programmes and interface with operation of computer networks, databases or information systems) Imprisonment of up to 3, fine.</p>	<p>Art.22 of the Criminal Code (attempt to commit a criminal act) The punishment of such a person maybe reduced pursuant to Article 62 of the Criminal Code.</p> <p>Art.24 of the Criminal Code (complicity and types of accomplices). The accomplices shall</p>

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
Lithuania (continued)	<p>(Fraud). Imprisonment of up to 3 years, community work, fine.</p> <p>Art.182 of the Criminal Code (Serious Fraud). Imprisonment of up to 8 years, community work, fine.</p> <p>Art.182 of the Criminal Code (Minor Fraud). Restriction freedom or arrest, community work, fine.</p> <p>Art.186 of the Criminal Code (infliction of financial loss by deception). Restriction freedom or arrest, community work, fine.</p>		Art.198 of the Criminal Code. (Unlawful connection to a computer or computer network) Imprisonment of up to 1, fine, community work.	be liable solely for criminal acts committed by the perpetrator.
Luxembourg	Artt.461 to 476 of the Criminal Code (theft). Imprisonment between 1 month and 5 years	Draft Legislation is still pending in the Parliament -	Draft Legislation is still pending in the Parliament -	<p>Art.52 of the Criminal Code (theft attempt)-Imprisonment between 8 days and 3 years.</p> <p>Art.66 and 67 of the Criminal Code (participation and complicity) The accomplices shall be liable solely for criminal acts committed by the perpetrator.</p>
Malta	No reply			

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
<p>Netherlands⁵</p> <p>Netherlands (continued)</p>	<p>Article 234 of the Criminal Code (detention of means to commit forgery) Imprisonment of up to 6 months or a fine</p> <p>Article 310 of the Criminal Code (theft and obstruction, including payment instruments). Imprisonment of up to 4 years or a fine of the fourth category</p> <p>Article 321 of the Criminal Code (embezzlement) Imprisonment of up to 3 years or a fine of the fifth category.</p> <p>Article 232 of the Criminal Code (counterfeiting of instrument of payment) Imprisonment of up to 6 years or a fine</p> <p>Article 226 of the Criminal Code (forgery) Imprisonment of up to 7 years or a fine of the fifth category;</p> <p>Article 326 of the Criminal Code Imprisonment of up to 4 years or a fine of the fifth category.</p>	<p>Article 350 of the Criminal Code. Imprisonment of up to 4 years or a fine of the fourth or fifth category, depending on the situation.</p> <p>Article 326 of the Criminal Code Imprisonment of up to 4 years or a fine of the fifth category.</p>	<p>Article 234 of the Criminal Code (detention of means to commit forgery) Imprisonment of up to 6 months or a fine</p>	<p>Art. 45 and 47 of Criminal Code (general provisions regarding to participation and attempt, the Dutch report doesn't mention instigation). 1/3 of the main penalty</p>

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
<p>Poland</p> <p>Poland (continued)</p>	<p>Art.270 (falsification of documents), 271 (issue of false document) Imprisonment between 3months and 5 years and fine, 272 (issue of false certificate) Imprisonment of up to 3 years; 273 (use of false documents) Imprisonment of up to 2 years; 310 (forged money) 312 (use of forged money); 278 (illegal handling of lost property) Imprisonment between 3 months and 5 years; Art. 279 (theft) Imprisonment between 1 to 10 years; 280 (theft with the use of violence) Imprisonment between 2 and 12 years; 281 (illegal handling of theft property) Imprisonment between 1 and 10 years; 284 (embezzlement) of the Criminal Code Imprisonment of up to 3 years.</p>	<p>Art 267 (obtaining, utilisation and storage of data, software and equipment for unlawful acts) Imprisonment of up to 2 years; Art.267 (unlawful distribution of data) Imprisonment between 1 to 2 years; Art.269bis (Destruction or alteration of computer information) Imprisonment between 3 months and 5 years;</p>	<p>Art.270, (attempt of falsification of documents) Imprisonment of up to 2 years and fine;</p> <p>Art.310 (production of counterfeited means of payment) Imprisonment between 5 and 25 years;</p> <p>Art.310 (2) (possession of counterfeited means of payment) Imprisonment between 1 to 10 years.</p>	<p>271 (issue of false document) aggravating circumstances for personal advantage Imprisonment between § months and 8 years; Art.287 (269bis (Destruction or alteration of computer information – aggravating circumstances for personal advantage) Imprisonment between 3 months and 5 years.</p> <p>Art.310 (attempt to commit offence) Imprisonment between 3 months and 5 years</p>
<p>Portugal</p>	<p>Art.203 (theft) and 205 (embezzlement) Imprisonment of up to 3 years and a fine; Art. 204 (serious theft) and 205 (serious embezzlement) Imprisonment of up to 5 years and a fine – (aggravated circumstances) Imprisonment between 2 and 8 years; 259 (embezzlement of document related to credit cards, cheque and other means of payment) of the Criminal Code.</p>	<p>Art.221 (a) (offences related to the use of computer) of the Penal Code Imprisonment of up to 3 years and a fine; - Art.221 (e)) (serious offences related to the use of computer) of the Penal Code Imprisonment between 2 and 8 years.</p>	<p>Art.271(a) (preparatory acts to commit crimes referred in art. 267) Imprisonment of up to 1 year or a fine;</p>	<p>Art.23 (Attempt to commit a crime) All tentative is punishable if it is referred to crimes punishable by imprisonment of more than 3 years.</p>

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
Portugal (continued)	<p>Imprisonment of up to 3 years and a fine;</p> <p>Art 262 (forged money) Imprisonment between 3 and 12 years. Art.263 (forged money to increase their value) Imprisonment between 2 and 8 years. Art. 264 (Abetment in traffic in forged money) Imprisonment between 3 and 12 years or Imprisonment between 2 and 8 years); Art.265 (a) (Traffic in forged money) Imprisonment of up to 5 years; Art. 265 (b) (c) Imprisonment of up to 1 year or a fine; Art.266(a) (Acquisition of forged money) Imprisonment of up to 3 years or a fine; Art 266 (b) (c) Imprisonment of up to 6 months or a fine;</p> <p>Art.217 (fraud) Imprisonment of up to 3 years or a fine; Art. 218 (aggravated fraud) Imprisonment of up to 5 years of a fine; Art.256 use of forged cheque and bearer instruments) Imprisonment between 6 months and 5 years or a fine – Aggravating circumstances Imprisonment between 1 and 5 years.</p>			

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
Slovakia	<p>Section 249c § 1 of Slovak Criminal Code; Imprisonment between 1 and 5 years or a fine to whosoever, without tight, produces, alters, counterfeits, falsifies or procures an electronic means of payment or other payment card or object capable of serving such a function, with the intention of using it as genuine, or receives, conveys, uses or gives it to another for the same purpose.</p> <p>Section 250d (unlawful enrichment) Imprisonment of up to 2 years, an operating ban or a pecuniary penalty. If the harm is not negligible Imprisonment between 6 months and 3 years - If the harm is major Imprisonment between 1 and 5 years -If the perpetrator commits the offence as part of organised group Imprisonment between 2 and 8 years -If the harm is large-scale Imprisonment between 5 and 12 years.</p>	<p>Section 249c § 2 of Slovak Criminal Code; Imprisonment of up to 3 years and a fine.</p> <p>Section 257a (damaging or misusing an entry on a data carrier) Imprisonment between 6 months and 3 years.</p>	<p>Section 249c § 2 of Slovak Criminal Code; Imprisonment of up to 3 years and a fine.</p> <p>Section 257a (damaging or misusing an entry on a data carrier) Imprisonment between 6 months and 3 years.</p>	<p>Section 10 of the Criminal Code (Participation in the commission or attempted commission of the offence as an accessory shall be deemed to be an accessory to the completed or attempted offence).</p> <p>Section 164 of the Criminal Code (Instigation) Imprisonment of up to 2 years or a fine</p> <p>Section 8 of the Criminal Code (Attempt) It will be punishable in accordance with the tariff of penalties laid down for the completed offence.</p>

Penalties: Articles of the Framework Decision	Article 2: offences related to payment instruments	Article 3: offences related to computers	Article 4: offences related to specifically adapted devices	Article 5 : participation, instigation and attempt
	<p>serious crime;</p> <p>chapter 14 section 1 (falsification of a document) (counterfeiting currency) Chapter 14 section 9 (fraudulent use of documents and currency) of the penal code:</p> <p>-up to 2 years imprisonment</p> <p>- a fine or imprisonment up to 6 months if a petty crime</p> <p>-from 6 months to 6 years imprisonment for serious crime;</p> <p>Chapter 9, section 1 (inducement) section 6 (receiving) and 6a (money-related receiving) of the penal code:</p> <p>-up to 2 years imprisonment</p> <p>-a fine or imprisonment up to 6 months if a petty crime</p> <p>-from 6 months to 6 years imprisonment for serious crime.</p> <p>Chapter 14 section 10 (illegal distribution of currency imitation). Fine</p>			<p>penal code:</p> <p>-punishment as provided for an act provided in the penal code shall be imposed not only to the person who committed the act but also on anyone who furthered it by advice or deed.</p>

Table 5 Jurisdiction (Article 9)

Article of the Framework Decision	Article 9(a)	Article 9(b)	Article 9(c)
Austria	Sections 62, 65 and 67 of the StGB (the territorial principle)-	-	Austria has declared that will not apply with Article 9 (1)(c).
Belgium	Art.3 of Criminal Code (the territorial principle)	ART.7 of Criminal Procedural Code-	Art.5 Law 4 May 1999
Cyprus	No detail has been provided	No detail has been provided	No detail has been provided
Czech Republic	Section 17 of Criminal Code	Section 18 of Criminal Code	Section 20(2) of criminal Code
Denmark	-Sections 6-9 of the Criminal Code (the territorial principle)	Idem	Denmark has declared that will not apply with Article 9 (1)(C).
Estonia	No reply		
Greece	Draft legislation	-	-
Hungary	No reply		
Latvia	Section 2 of Criminal Law (application of the Criminal Law in the Territory)	Section 4 of criminal Law (applicability of the criminal law outside the territory of Latvia)	Section 4 of criminal Law (applicability of the criminal law outside the territory of Latvia)
Lithuania	Art.4 of the Criminal Code	Art.5 of the Criminal Code	Lithuania has declared that will not apply with Article 9 (1) (c).
Lithuania (continued)			
Luxembourg	Draft Legislation is still pending in the Parliament -	Draft Legislation is still pending in the Parliament -	Draft Legislation is still pending in the Parliament -
Malta	No reply		

Article of the Framework Decision	Article 9(a)	Article 9(b)	Article 9(c)
Netherlands	Article 2 of the penal code (principle of territoriality).	Article 5, § 2 of the penal code (jurisdiction for Dutch people outside The Netherlands under the condition of double criminality).	Article 5, § 1, part 2 of the penal code (a Dutch legal person is considered to be a Dutch person in the sense of Article 5 of the penal code).
Poland	Art.5 of the Criminal Code (territorial principle)	Art.109 of the Criminal Code (jurisdiction for Polish people outside Poland) Art.110 of the Criminal Code (jurisdiction on foreigners on Polish territory committing unlawful acts outside Poland)	Art.5 and 110. Criminal liability of corporation is under condition on prior valid conviction of a physical person acting within a realm of legal capacities or on behalf of a corporation
Portugal	Art.4 of the Criminal Code (territorial principle)-	Article 5, § 1 (a) of the penal code (jurisdiction for Portuguese people outside Portugal under the condition of double criminality).-	Article 5, § 1 (b) of the penal code (jurisdiction of Portuguese Tribunal on crimes committed abroad by residents).-
Slovakia	Chapter III of the Criminal Code (territorial principle)-	Chapter III of the penal code (jurisdiction for Slovak people outside Slovakia under the condition of double criminality).-	Chapter III of the penal code (jurisdiction of Slovak Tribunal on crimes committed abroad by residents).-
Slovenia	No reply		
Sweden	Chapter 2, section 1 of the penal code.	Chapter 2, section 2 of the penal code ⁶	Sweden has declared that will not apply with Article 9 (1)(C).

Table 6 Liability of legal persons (Article 7) & sanctions for legal persons (Article 8)

Article of the Framework Decision	Article 7 (1) liability legal person	Article 7 (2) liability legal person in case of lack of supervision	Article 8 (1) sanctions legal persons	Article 8 (2) Sanctions legal persons in case of lack of supervision
Austria	Draft legislation is still pending in the Parliament	-	-	-
Belgium	Art.5 of Criminal Code All legal persons are criminal liable of offences related to their tasks.-	Art.5 of Criminal Code All legal persons are criminal liable of offences related to their tasks.-	Art.7bis of Criminal Code. A legal person can be punished by a fine, confiscation, winding up, prohibition to undertake an activity relating to its task, closure of establishments.-	Art.7bis of Criminal Code. A legal person can be punished by a fine, confiscation, winding up, prohibition to undertake an activity relating to its task, closure of establishments.--
Cyprus	No detail has been provided	No detail has been provided	No detail has been provided	No detail has been provided
Czech Republic	Draft legislation			
Denmark	-Sections 25-27 and 306 (legal liability of legal persons) of the Criminal Code. The liability of a legal person requires that an offence has been committed in the legal person's company and that this can be imputed to one or more persons associated with the legal person or the legal person as such.	-Sections 25-27 and 306 (legal liability of legal persons) of the Criminal Code. The liability of a legal person requires that an offence has been committed in the legal person's company and that this can be imputed to one or more persons associated with the legal person or the legal person as such.	Sections 25-27 and 306 (legal liability of legal persons) of the Criminal Code. A legal person can be punished by a fine where this is determined by law or pursuant to law.	Sections 25-27 and 306 (legal liability of legal persons) of the Criminal Code. A legal person can be punished by a fine where this is determined by law or pursuant to law.
Estonia	No reply			
Greece	Draft legislation-	-	-	-
Hungary	No reply			

Article of the Framework Decision	Article 7 (1) liability legal person	Article 7 (2) liability legal person in case of lack of supervision	Article 8 (1) sanctions legal persons	Article 8 (2) Sanctions legal persons in case of lack of supervision
Latvia	Latvia has previously informed on occasions of the Council of the European Union meetings that currently Latvian legislation in force does not provide legal accountability of legal person, thus art.7 and 8 of the Framework Decision are not implemented into national legislation. To eliminate the above mentioned discrepancy the Latvian Parliament has accepted in second reading the draft law on Amendments to Criminal Law of the Republic of Latvia which will provide criminal liability of legal person			
Lithuania	Art.20 of the Criminal Code (criminal liability of a legal person)	Art.20 of the Criminal Code (criminal liability of a legal person)	Art.43 of the Criminal Code (types of penalties for legal persons) The following penalties may be applied to a legal person which has committed a criminal act: fine, restriction of the legal person's activities, liquidation of the legal person,	Art.43 of the Criminal Code (types of penalties for legal persons) The following penalties may be applied to a legal person which has committed a criminal act: fine, restriction of the legal person's activities, liquidation of the legal person,
Luxembourg	Draft Legislation is still pending in the Parliament -	Draft Legislation is still pending in the Parliament --	Draft Legislation is still pending in the Parliament --	Draft Legislation is still pending in the Parliament --
Malta	No reply			

Article of the Framework Decision	Article 7 (1) liability legal person	Article 7 (2) liability legal person in case of lack of supervision	Article 8 (1) sanctions legal persons	Article 8 (2) Sanctions legal persons in case of lack of supervision
Netherlands	Article 51 of the penal code.	Article 51 of the penal code.	-fine of the fifth or -if appropriate-sixth category Article 23 (7) of the penal code	-fine of the fifth or -if appropriate-sixth category Article 23 (7) of the penal code.
Poland	Art.3 of Law 28/10/2002 of the Criminal Code (criminal liability of a legal person)	Art.3 of Law 28/10/2002 of the Criminal Code (criminal liability of a legal person)	Art.7 of Law 28/12/2002 Fine 10% of the exploitation products or 10% of expenditure of the legal person and confiscation of assets related to unlawful act. Art.9 of Law 28/12/2002 Prohibition of advertisement, use of public funds, use of international organisations funds, participation to call for tenders, undertake related trade activity	Art.7 of Law 28/12/2002 Fine 10% of the exploitation products or 10% of expenditure of the legal person and confiscation of assets related to unlawful act. Art.9 of Law 28/12/2002 Prohibition of advertisement, use of public funds, use of international organisations funds, participation to call for tenders, undertake related trade activity
Portugal	Draft Legislation is still pending in the Parliament -	Draft Legislation is still pending in the Parliament --	Draft Legislation is still pending in the Parliament --	Draft Legislation is still pending in the Parliament --
Slovakia	Draft Legislation is still pending in the Parliament -	Draft Legislation is still pending in the Parliament --	Draft Legislation is still pending in the Parliament --	Draft Legislation is still pending in the Parliament --
Slovenia	No reply			
Sweden	Chapter 36 Section 7 Penal Code	Chapter 36 Section 7 Penal Code	- at least 10.000, at most 3 Mio Swedish crowns (€ 1.066,09 - € 319.829,42); Chapter 36 Section 8 juncto Sections 9 & 10	- at least 10.000, at most 3 Mio Swedish crowns (€ 1.066,09 - € 319.829,42); Chapter 36 Section 8 juncto Sections 9 & 10