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Fraud with Financial Resources under Article 222 of the Criminal Code of Ukraine vs. §§ 264, 265b of the Criminal Code of Germany

Betrug mit finanziellen Mitteln nach Art. 222 des Strafgesetzbuches der Ukraine im Vergleich zu §§ 264, 265b des deutschen Strafgesetzbuches

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Inhaltsverzeichnis

I. Fraud with Financial Resources under Ukrainian Criminal Law ... 72
1. The Legal Nature of Fraud with Financial Resources ... 72
2. Elements of the Criminal Offence under Article 222 of the Criminal Code of Ukraine ... 72
3. Statistical Indicators and Dynamics of Criminal Proceedings under Article 222 ... 74
4. Judicial Practice in Cases of Fraud with Financial Resources ... 75
II. Criminal Liability for Financial Fraud in Germany ... 75
1. The System of Criminal Law Protection against Financial Fraud in Germany ... 75
2. § 265b StGB - Credit Fraud (Kreditbetrug) ... 77
3. Judicial Practice and Statistical Data in Germany ... 77
III. Comparative Legal Analysis of Ukraine and Germany ... 78
1. A comparative analysis of the elements of criminal offences ... 78
2. A comparative analysis of criminal law sanctions ... 80
3. A comparative analysis of case law ... 80
4. A comparison of financial fraud statistics ... 81
5. Conclusions and recommendations for improving Ukrainian legislation ... 81

I. Fraud with Financial Resources under Ukrainian Criminal Law

1. The Legal Nature of Fraud with Financial Resources

At present, financial fraud is one of the most widespread and socially dangerous economic crimes, as it causes significant harm to the state's financial system, as well as to businesses and citizens. This problem is particularly acute in the context of the digitalisation of financial services, remote lending and the development of online banking, which creates new opportunities for abuse and the unlawful appropriation of funds. Furthermore, the rise in the number of fraudulent schemes in the areas of lending and taxation highlights the need to improve the mechanisms for the criminal law protection of financial relations.

Under Article 222 of the Criminal Code of Ukraine, fraud involving financial resources is defined as 'the provision of knowingly false information to state authorities, authorities of the Autonomous Republic of Crimea or local authorities, banks or other creditors with the aim of obtaining subsidies, grants, subsidies, loans or tax concessions in the absence of evidence of a property offence".[1]

Fraud involving financial resources, as provided for in Article 222 of the Criminal Code of Ukraine, constitutes a specific form of criminal offence that requires a clear distinction from the general offence of fraud (Article 190 of the Criminal Code of Ukraine) for correct criminal classification. The main difference lies in the specific subject matter of the criminal offence, for whilst the subject matter of general fraud is any property belonging to another person or a right to property, in the case of fraud involving financial resources, it consists of clearly defined types of financial resources: loans, grants, subventions, subsidies, other budgetary funds, as well as refunds of fees (compulsory payments). This specification of the subject matter of the criminal offence also determines the characteristics of the objective aspect, where the deception is directed specifically at obtaining the aforementioned financial resources, for example, by submitting false documents, or at their misuse. Thus, Article 222 of the Criminal Code of Ukraine takes precedence in cases where the offence concerns financial resources of a specific nature, as it details the conditions and object of the criminal offence not covered by the general provision.[2]

2. Elements of the Criminal Offence under Article 222 of the Criminal Code of Ukraine

The criminal law definition of fraud includes elements such as the object, the objective and subjective aspects, and the perpetrator of the offence, as well as aggravating factors that increase criminal liability for committing this type of offence.

As regards the primary direct object, this consists of social relations in the sphere of financial resources and tax concessions. An additional direct object is relations in the sphere of taxation and property relations. The subject of this offence is false information provided to the addressees specified in this article with the aim of obtaining subsidies, subventions, grants, loans or tax concessions. Article 222 of the Criminal Code refers to information

[1] Кримінальний кодекс України : Закон України від 05.04.2001 № 2341-III. База даних «Законодавство України». Верховна Рада України. URL: zakon.rada.gov.ua (дата звернення: 10.05.2026).

[2] Оксентюк А.М. Шахрайство з фінансовими ресурсами. *Київський часопис права*. 2025. № 3. С. 283–288. DOI: 10.32782/klj/2025.3.40.

which, in a specific case, has legal significance as a basis for making a positive decision regarding the provision of financial resources or tax concessions.[3]

Fraud involving financial resources constitutes a specific category of criminal offence, distinguished from general fraud by its specific subject matter – clearly defined types of financial resources, such as loans, grants, subventions, subsidies and other budgetary funds.[4]

The objective element of fraud involving financial resources consists of active conduct – the provision of knowingly false information to the relevant authorities.[5] Providing knowingly false information constitutes fraud against the state or creditors; this usually takes the form of a written statement and involves the use of falsified documents.[6] Consequently, the elements of this criminal offence are formal in nature, meaning that the offence is complete upon the provision of knowingly false information.[7]

Consequently, the objective aspect of this criminal offence is taking on new, more complex forms that exploit the possibilities of digitalisation to conceal criminal activity and facilitate access to funds.[8]

The provision of false information is intended to mislead state authorities, authorities of the Autonomous Republic of Crimea or local authorities, banks or other creditors, with a view to unlawfully obtaining subsidies, subventions, grants, loans or tax concessions in this manner. The actual receipt of these resources or benefits is not a necessary element of this offence.[9] What exactly do these financial resources refer to?

The term ‘subsidy’ refers to ‘funds provided free of charge from the budget’. In Ukraine, subsidies are used not only as a method of budgetary regulation when the expenditure of lower-level budgets exceeds their revenue, but also as aid provided to enterprises, in particular to cover losses arising from their economic activities.[10]

A subsidy is defined as assistance, whether in cash or in kind, provided by the state to local authorities, natural or legal persons, including business entities, and intended to finance specific measures or areas of economic and social activity.[11]

‘A loan is the provision by one party (the lender) of funds or goods to another party (the borrower) on the condition that they are repaid within a specified period and, as a general rule, accompanied by the payment of interest’.[12]

A tax relief is an exemption provided for under tax and customs legislation, whereby a taxpayer is relieved of the obligation to calculate and pay tax and duties, or is required to pay tax and duties at a reduced rate where the

[3] Науково-практичний коментар до ст. 222 КК України «Шахрайство з фінансовими ресурсами». MEGO.info. URL: https://mego.info (дата звернення: 18.05.2026).
[4] Савченко А.В. Кримінальне право України. Загальна та Особлива частини (у схематичних діаграмаг) : навч. посібник. К. : «Центр учбової літератури», 2015. С. 226.
[5] Науково-практичний коментар Кримінального кодексу України / за ред. М.І. Мельника, М.І. Хавронюка. 11-те вид., переробл. та допов. Київ : ВД «Дакор», 2019. С. 756.
[6] Науково-практичний коментар Кримінального кодексу України / за ред. М.І. Мельника, М.І. Хавронюка. 11-те вид., переробл. та допов. Київ : ВД «Дакор», 2019. С. 758.
[7] Говтянский І.М. Відмежування шахрайства і господарській діяльності від інших складів злочину. *Підприємництво, господарство і право*. 2018. № 12. С. 273–276.
[8] Постанова Пленуму Верховного Суду України у справі № 4733. ЛІГА:ЗАКОН (дата звернення: 10.05.2026).
[9] Науково-практичний коментар до ст. 222 Кримінального кодексу України. *Юристи України.* (дата звернення: 17.05.2026).
[10] Постанова Пленуму Верховного Суду України у справі № 4733. ЛІГА:ЗАКОН.
[11] Науково-практичний коментар Кримінального кодексу України / за ред. М.І. Мельника, М.І. Хавронюка. 11-те вид., переробл. та допов. Київ : ВД «Дакор», 2019. С. 757.
[12] Науково-практичний коментар до ст. 222 Кримінального кодексу України. *Юристи України* URL: https://www.jurists.org.ua/criminal-law/1873 (дата звернення: 25.05.2026).

relevant conditions are met.[13] Tax reliefs are divided into: 1) exemptions (characterised by the exclusion of specific items or objects from taxation); 2) deductions (involving a reduction in the tax base); 3) relief (in the form of a reduction in the tax rate, tax holidays, deferrals or instalment plans for tax liabilities, etc.).[14]

The subjective element of this offence is direct intent, characterised by knowledge - that is, the perpetrator's awareness that the information is false even before it is actually communicated to the recipient. Furthermore, a mandatory element is the intention to obtain subsidies, grants, subsidies, loans or tax concessions.[15] In this criminal offence, the offender's intent is to obtain credit funds on a temporary basis, with a view to possibly failing to repay them on time.[16]

The subject of the offence is specific: 1) a citizen who carries out registered business activities as a sole trader, without establishing a legal entity; 2) the founder or owner of a business entity; 3) an official of a legal entity that is a business entity. A natural person who is actually engaged in business activities without proper state registration is not a subject of the offence provided for in Article 222.[17]

3. Statistical Indicators and Dynamics of Criminal Proceedings under Article 222

During the reporting period from January to December 2025, 25 criminal offences were recorded under Article 222 of the Criminal Code of Ukraine ('Fraud involving financial resources'). An analysis of the statistical indicators shows a fairly high level of procedural activity on the part of the pre-trial investigation authorities, as in 27 cases, individuals were served with notices of suspicion. In 2025, the number of recorded criminal offences under Article 222 of the Criminal Code of Ukraine rose to 39, which is 56% more than in 2024 (25). The number of notices of suspicion also increased significantly in 2025 to 44 cases, compared with 11 in 2024. The number of indictments sent to court rose from 3 in 2024 to 31 in 2025, indicating an intensification of pre-trial investigations and judicial prosecution of such offences.[18]

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The highest number of established material losses was recorded in 2023 – 49 cases, whereas in 2025 this figure stood at 15. In 2025, the number of closed criminal proceedings increased significantly – 17, whereas in 2023 and 2024 only one proceeding was closed in each year. Fraud committed by a group of individuals also became more

[13] Податковий кодекс України від 02.12.2010 № 2755-VI. Верховна Рада України. URL: https://zakon.rada.gov.ua/laws/show/2755-17 (дата звернення: 18.05.2026).
[14] Постанова Пленуму Верховного Суду України у справі № 4733. ЛІГА:ЗАКОН.
[15] Науково-практичний коментар до ст. 222 Кримінального кодексу України. *Юристи України* URL: https://www.jurists.org.ua/criminal-law/1873 (дата звернення: 19.05.2026).
[16] Ярошенко І. М. Відмежування шахрайства від інших суміжних складів злочинів за Кримінальним Кодексом України. *Молодий вчений*. 2017. № 11. С. 1039–1042.
[17] Науково-практичний коментар до ст. 222 Кримінального кодексу України. *Юристи України*. URL: https://www.jurists.org.ua/criminal-law/1873 (дата звернення: 27.05.2026).
[18] Про зареєстровані кримінальні правопорушення та результати їх досудового розслідування. Офіс Генерального прокурора України. URL: https://gp.gov.ua/ua/posts/pro-zareyestrovani-kriminalni-pravoporushennya-ta-rezultati-yih-dosudovogo-rozsliduvannya-2 (дата звернення: 19.05.2026).
[19] Про зареєстровані кримінальні правопорушення та результати їх досудового розслідування. Офіс Генерального прокурора України. URL: https://gp.gov.ua/ua/posts/pro-zareyestrovani-kriminalni-pravoporushennya-ta-rezultati-yih-dosudovogo-rozsliduvannya-2 (дата звернення: 19.05.2026).

prevalent in 2025 (5 cases) compared to previous years. No cases of offences committed by minors or by organised groups were recorded during the period under review.

4. Judicial Practice in Cases of Fraud with Financial Resources

It is worth noting a few examples from Ukrainian case law.

In case No. 82716471, on 10 February 2018, a person, using a computer with internet access and with the intention of fraudulently obtaining a loan of 1,000 UAH from Maniveo Quick Financial Assistance LLC, knowing the mandatory conditions for obtaining it, provided the financial institution with personal details and documents belonging to another person without that person's knowledge. On the basis of Part 1 of Article 70 of the Criminal Code of Ukraine, the court imposed a penalty in the form of a fine amounting to three thousand non-taxable minimum incomes (UAH 51,000), with deprivation of the right to engage in financial and economic activities for a period of two years.[20]

Case No. 91618372: In June 2019, the defendant took out two loans from microfinance institutions by providing knowingly false information about the borrower, using another person's passport details and taxpayer identification number without that person's consent. The court found the defendant guilty of fraud involving financial resources under Part 1 of Article 222 of the Criminal Code of Ukraine and of repeated fraud involving financial resources under Part 2 of Article 222 of the Criminal Code of Ukraine, imposing a final penalty in the form of a fine of 51,000 UAH.[21]

Case No. 100830479: On 19 July 2019, the individual, acting repeatedly and with the intent to obtain a loan unlawfully, submitted knowingly false information about the borrower to FC Diner LLC via the internet, using another person's passport details and identification code without their consent. The court concluded that the defendant had committed fraud involving financial resources under Part 2 of Article 222 of the Criminal Code of Ukraine, imposing a fine as punishment.[22]

II. Criminal Liability for Financial Fraud in Germany

1. The System of Criminal Law Protection against Financial Fraud in Germany

The Saxon Development Bank (Sächsische Aufbaubank) approved and disbursed subsidies totaling approximately 3.4 million euros. It later emerged that the data on investment costs was partially false or incomplete: fictitious invoices were issued through general contractors and subcontractors without any actual services rendered in order to obtain a larger amount of funding. The defendant, who was involved in submitting the application, was convicted of subsidy fraud under § 264(1)(1) of the GCC.[23]

[20] Єдиний державний реєстр судових рішень. Судове рішення № 82716471. URL: https://reyestr.court.gov.ua/Review/82716471 (дата звернення: 25.05.2026).
[21] Єдиний державний реєстр судових рішень. Судове рішення № 91618372. URL: https://reyestr.court.gov.ua/Review/91618372 (дата звернення: 25.05.2026).
[22] Єдиний державний реєстр судових рішень. Судове рішення № 100830479. URL: https://reyestr.court.gov.ua/Review/100830479 (дата звернення: 25.05.2026).
[23] Ferner J. Subventionsbetrug: BGH zur Reichweite des Vermögensschadens nach § 264 StGB // Anwaltskanzlei Ferner Alsdorf. URL: https://www.ferner-alsdorf.de (дата звернення: 25.05.2026).

The Federal Administrative Court (BGG) partially overturned the decision, noting that the actual damage consisted only of the inflated construction costs, not the entire amount of the subsidies. In Example 2, as the head of a company, the defendant entered into a contract with a supplier of solar products worth €42 million and applied for subsidies, receiving an advance payment of approximately €5 million. The Federal Court of Justice (BGH) overturned the verdict, as negligence (*Leichtfertigkeit*), according to established case law, requires particular indifference or gross inattention and the court had not sufficiently proven this.[24]

Germany maintains one of the most comprehensive and structured systems of criminal law protection against financial fraud in the world. Rooted in the traditions of Roman law and shaped by centuries of legal development, the German criminal justice system addresses financial fraud through a multi-layered framework of substantive criminal law, procedural mechanisms, and institutional enforcement structures.[25]

§ 264 StGB Subsidy Fraud (Subventionsbetrug)

Section 264 of the German Criminal Code (Strafgesetzbuch, StGB) establishes criminal liability for subsidy fraud (Subventionsbetrug). The provision protects the integrity of public funding systems at both the national and European Union levels, safeguarding public financial resources from abuse through deception, misappropriation, and the concealment of material information.[26]

Unlike classical fraud under § 263 StGB, subsidy fraud is structured as an abstract endangerment offense (abstraktes Gefährdungsdelikt) - criminal liability attaches upon the commission of the prohibited conduct itself, without requiring proof of actual financial damage or a causal link between the deception and the granting of the subsidy.

The basic offense carries a penalty of imprisonment of up to five years or a fine and encompasses four distinct modes of criminal conduct.

The first and most frequently prosecuted variant criminalizes the making of incorrect or incomplete statements regarding facts material to a subsidy (*subventionserhebliche Tatsachen*) to a subsidy-granting authority. The offense requires, first, that the statement concern facts designated as subsidy-relevant; second, that the statement be factually false or materially incomplete; and third, that the statement be capable of producing a benefit for the perpetrator or another person.[27]

The second variant targets conduct occurring after a subsidy has been lawfully granted. It criminalizes the use of an object or monetary benefit in a manner that contravenes the applicable use restriction. This variant is distinct in that it captures misappropriation rather than deception. The third variant constitutes an omission offense (*Unterlassungsdelikt*). Criminal liability arises where the perpetrator, contrary to statutory obligations, allows the subsidy grantor to remain unaware of facts material to the subsidy.[28]

[24] Der leichtfertige Subventionsbetrug iSd § 264 StGB // Strafrecht bundesweit. URL: https://www.strafrecht-bundesweit.de (дата звернення: 25.05.2026).
[25] Bundesministerium der Justiz. Strafgesetzbuch (StGB). URL: https://www.gesetze-im-internet.de/stgb/ (Datum des Zugriffs: 02.06.2026); Satzger H., Schluckebier W., Widmaier G. Strafgesetzbuch Kommentar. 5. Aufl. Heymanns, 2021. § 264 Rn. 1–5.
[26] Strafgesetzbuch (StGB) vom 15. Mai 1871. § 264 Subventionsbetrug. URL: https://www.gesetze-im-internet.de/stgb/__264.html (Datum des Zugriffs: 02.06.2026); Haug F. Subventionsbetrug bei Fördermitteln. URL: https://haug.law (Datum des Zugriffs: 02.06.2026).
[27] Schünemann B. § 264 Subventionsbetrug // Strafgesetzbuch. Leipziger Kommentar. URL: https://datenbank.nwb.de/Dokument/136684_264/ (дата звернення: 07.06.2026).
[28] § 264 Subventionsbetrug // Strafgesetzbuch (StGB). Buzer.de. URL: https://www.buzer.de/264_StGB.htm (дата звернення: 07.06.2026).

The fourth variant criminalizes the active use in a subsidy procedure of a certificate confirming either subsidy eligibility or facts material to a subsidy, where that certificate was obtained through false or incomplete statements.[29]

2. § 265b StGB - Credit Fraud (Kreditbetrug)

§ 265b Abs. 1 StGB establishes criminal liability for credit fraud. Any person who, in connection with an application for the granting, continuation or amendment of the terms of a loan to a business or undertaking, (1) submits incorrect or incomplete documents – namely balance sheets, profit and loss accounts, statements of assets and liabilities or expert reports - or provides incorrect or incomplete written information; or (2) fails to disclose, at the time of submission, any deterioration in the financial circumstances set out in the documents which is relevant to the decision on such an application, shall be punished with imprisonment for up to three years or a fine.[30]

3. Judicial Practice and Statistical Data in Germany

The primary source of aggregate crime data in Germany is the Polizeiliche Kriminalstatistik (PKS) – the Federal Police Crime Statistics - published annually by the Federal Criminal Police Office (Bundeskriminalamt, BKA). The PKS categorizes economic crime (Wirtschaftskriminalität) as a distinct category, encompassing fraud-related offenses including subsidy fraud, credit fraud, capital investment fraud, and related financial offenses.[31]

According to PKS data, economic crime consistently accounts for a disproportionate share of total financial damage relative to its numerical incidence. While economic crime offenses typically represent only around 1–2% of all recorded criminal offenses in Germany in terms of case numbers, the financial damage attributable to them regularly constitutes 40–50% or more of total recorded criminal damage.[32]

In recent reporting periods, German police recorded between 70,000 and 85,000 cases of economic crime annually, with total damages in the range of several billion euros per year. The BKA's periodic situation reports on economic crime (see *Lagebild Wirtschaftskriminalität*) have consistently identified fraud offenses – particularly in the areas of investment, subsidy misuse, and credit – as the numerically and financially dominant subcategories.[33]

One notable court case concerned a defendant convicted by the Regional Court of Düsseldorf of multiple offenses, including document forgery (*Urkundenfälschung*), fraud (*Betrug*), credit fraud (*Kreditbetrug* under § 265b StGB), and subsidy fraud (*Subventionsbetrug* under § 264 StGB). The defendant had obtained a *KfW-Schnellkredit* – a rapid-disbursement emergency loan program introduced during the COVID-19 pandemic – by submitting falsified data in support of his application. The BGH confirmed the conviction, finding no legal error in treating these offenses as being in ideal concurrence.[34]

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29 Strafgesetzbuch (StGB) vom 15. Mai 1871. § 264 Abs. 3 i.V.m. § 263 Abs. 5 StGB. URL: https://www.gesetze-im-internet.de/stgb/__264.html (Datum des Zugriffs: 02.06.2026); Kanzlei Kujus Strafverteidigung. URL: https://kujus-strafverteidigung.de/strafrecht/subventionsbetrug/ (Datum des Zugriffs: 02.06.2026).

30 § 265b Strafgesetzbuch (StGB). Kreditbetrug. URL: https://dejure.org/gesetze/StGB/265b.html (дата звернення: 25.05.2026).

31 Bundeskriminalamt (BKA). Support of Investigation and Prevention. 2015. Available at: BKA Official Website (accessed 27 May 2026).

32 Küllmer M. Lage und Bekämpfung der Wirtschaftskriminalität aus Sicht des Bundeskriminalamtes // VEKO Online. 2015. URL: https://www.veko-online.de (accessed 27 May 2026).

33 Bundeskriminalamt (BKA). Bundeslagebild Wirtschaftskriminalität (various annual reports). URL: https://www.bka.de (accessed 27 May 2026).

34 Bundesgerichtshof (BGH). Beschluss vom 18.03.2026. Az.: 3 StR 434/25. URL: https://www.hrr-strafrecht.de/3/25/3-434-25.php, dejure.org (дата звернення: 27.05.2026).

A particularly noteworthy second case arose from the COVID-19 pandemic emergency subsidy programs (see Neustarthilfe, Neustarthilfe Plus, Neustarthilfe 2022) administered by the State of North Rhine-Westphalia. The court's explicit invocation of § 264(1)(1) StGB as a source of a heightened duty of care is doctrinally significant – it establishes an explicit interface between § 264 StGB and administrative subsidy law.[35]

III. Comparative Legal Analysis of Ukraine and Germany

1. A comparative analysis of the elements of criminal offences

Article 222 of the Criminal Code of Ukraine provides for criminal liability for fraud involving financial resources, that is, the provision of knowingly false information to public authorities, banks or other creditors with the aim of unlawfully obtaining subsidies, subventions, grants, loans or tax relief. In legal terms, this offence is similar to Sections 264 and 265b of the German Criminal Code (Strafgesetzbuch, StGB), which regulate liability for subsidy and credit fraud.[36]

Section 264 of the GCC (*Subventionsbetrug*) establishes liability for subsidy fraud. The objective element of this offence consists in providing false or incomplete information regarding facts relevant to the receipt of a subsidy, using a subsidy for purposes other than those for which it was intended, or concealing information relevant to its provision.

§ 265b StGB („Kreditbetrug») regulates liability for credit fraud. This refers to the submission of false or incomplete financial documents, balance sheets, reports or written information when applying for a business loan. Furthermore, it is a criminal offence to conceal a deterioration in financial circumstances that is of material significance to the lender's decision.[37]

Article 222 of the Criminal Code of Ukraine ('Fraud involving financial resources') is contained in Section VII of the Special Part of the Criminal Code ('Criminal offences in the sphere of economic activity') and provides for liability for providing knowingly false information to state authorities, authorities of the Autonomous Republic of Crimea or local self-government bodies, banks or other creditors with the aim of obtaining subsidies, subventions, grants, loans or tax concessions.[38]

§ 264 StGB regulating subsidy fraud and § 265b StGB (*Kreditbetrug*) are set out in Section 22 of the Special Part of the German Criminal Code. Both provisions are so-called „*betrugsähnliche abstrakte Gefährdungsdelikte*"– that is, offences similar to fraud, which constitute abstract offences involving the creation of a risk at the stage preceding the fraud (Vorfeld des Betruges). Unlike the general definition of fraud under Section 263 of the GCC, these provisions include the element of deception, whereas misleading conduct, disposal of property and financial loss are not mandatory elements.[39]

[35] Verwaltungsgericht Düsseldorf (VG Düsseldorf). Urteil vom 24.03.2026. Az.: 16 K 1890/25. URL: vg-duesseldorf.nrw.de (дата звернення: 27.05.2026).
[36] German Criminal Code (Strafgesetzbuch) – Section 264 Subsidy Fraud, 2015.
[37] Кримінальний кодекс України: ст. 222. Кодекси України. URL: https://kodeksy.com.ua/kriminal_nij_kodeks_ukraini/statja-222.htm (дата звернення: 01.06.2026).
[38] Universität Trier. Kapitalanlage und Kreditbetrug. URL: https://www.uni-trier.de/fileadmin/fb5/prof/STR001/Schwerpunkt/kapitalanlage_und_kreditbetrug.doc (дата звернення: 01.06.2026).
[39] THOLL Rechtsanwalt. Subventionsbetrug § 264 StGB. URL: https://kanzlei-tholl.de/strafrecht/subventionsbetrug.html (дата звернення: 01.06.2026).

All three provisions share a common objective – to ensure the proper functioning and protection of the financial and credit system; however, each regulates a separate segment of the relevant legal relationships. Article 222 of the Criminal Code of Ukraine is characterised by the broadest scope of legal protection, as it applies to relations connected with the receipt of subsidies, grants, loans, subventions and tax concessions. In contrast, § 264 StGB is aimed at protecting only relations in the sphere of the provision and use of state subsidies, whilst § 265b StGB covers exclusively relations arising in the course of commercial lending between business entities.[40]

From an objective point of view, the offence is characterised by active conduct – the provision by the persons in question, in any form, of knowingly false information to public authorities. In this context, the provision of knowingly false information constitutes a deception of the state or creditors, which takes written form and is accompanied by the use of forged or otherwise falsified documents.[41]

Under Part 1 of Article 222, the offence is a formal one – the offence is deemed to have been committed at the moment false information is provided with the relevant intent. Under Part 2, if the act has caused significant financial loss, fraud involving financial resources constitutes a material element of the offence and is deemed to have been committed from the moment such loss is actually caused.[42]

Section 264(1) of the GCC provides for four alternative forms of the offence: 1) providing false or incomplete information regarding facts relevant to the grant; 2) misusing the grant; 3) failing to disclose changes in circumstances relevant to the grant; 4) using false supporting documents.[43]

A key feature of Section 264 of the GCC is that the offence is complete as soon as the listed acts are committed. For alternatives 1, 3 and 4, unlike in the case of general fraud, the occurrence of a result in the form of damage is not required. Thus, Section 264 of the GCC is an offence of strict liability, which distinguishes it significantly from general fraud (Section 263 StGB) and brings it closer to Part 1 of Article 222 of the Criminal Code of Ukraine.[44]

Section 265b(1 of the GCC establishes criminal liability for three specific forms of intentional fraud in connection with an application for a ‘business loan’: the submission of false or incomplete documents (balance sheets, reports); the provision of false or incomplete information in writing by the applicant themselves; and the concealment of a significant deterioration in the economic situation.[45]

With regard to the perpetrator of the offence, Article 222 of the Criminal Code of Ukraine provides for a specific perpetrator: this may be a citizen who is the founder or a participant in a business entity, or an official of such an

40 Streifler & Kollegen Rechtsanwälte. Kreditbetrug (§ 265b StGB). URL: https://www.streifler.de/lexikon/kreditbetrug-c2-a7-265b-stgb (дата звернення: 01.06.2026).
41 Постатейний коментар до Кримінального кодексу України. URL: http://ukrkniga.org.ua/ukrkniga-text/699/223/ (дата звернення: 01.06.2026).
42 Науково-практичний коментар до ст. 222 Кримінального кодексу України. *Юристи України* (дата звернення: 17.05.2026).
43 Haug F. Subventionsbetrug bei Fördermitteln. URL: https://haug.law/glossar/subventionsbetrug-bei-foerdermitteln/ (дата звернення: 01.06.2026).
44 Strafgesetzbuch (StGB) vom 15. Mai 1871. § 264 Subventionsbetrug. URL: https://www.gesetze-im-internet.de/stgb/__264.html (дата звернення: 01.06.2026).
45 Streifler & Kollegen Rechtsanwälte. Kreditbetrug (§ 265b StGB). URL: https://www.streifler.de/lexikon/kreditbetrug-c2-a7-265b-stgb (дата звернення: 01.06.2026).

entity. Section 264 of the GCC has a general subject ('jedermann'). Section 265b of the GCC covers only loans from a business to a business.[464748]

As regards the subjective element, any fraud, including that provided for in Article 222 of the Criminal Code, is committed intentionally. As a general rule, for the basic offence under Section 264 of the GCC, intent in any form is sufficient, including indirect intent (dolus eventualis). However, § 264 StGB has a fundamental feature: in the case of offences committed in the forms set out in Nos. 1–3, negligence in the form of gross carelessness (Leichtfertigkeit) is also sufficient. Unlike § 263 StGB, the intention to enrich oneself (Bereicherungsabsicht) is not required.[4950]

Article 222 of the Criminal Code of Ukraine and § 265b of the GCC recognise only intent, whereas § 264 StGB is unique in that it also provides for a form of negligence (gross negligence). The mandatory objective of enrichment or obtaining a benefit as an element of the offence is enshrined only in Article 222 of the Criminal Code of Ukraine (the specific objective of obtaining financial resources); in §§ 264 and 265b of the StGB, it is not required.[51]

2. A comparative analysis of criminal law sanctions

Under Article 222(1) of the Criminal Code of Ukraine, the penalty is a fine of between 1,000 and 4,000 non-taxable minimum incomes, together with disqualification from holding certain positions or engaging in certain activities for a period of up to three years; under Part 2 – a fine of between 3,000 and 10,000 non-taxable minimum incomes, with a similar additional penalty.[52]

Subsidy fraud (§ 264 StGB) is generally punishable by imprisonment for up to five years or a fine. Credit fraud (§ 265b StGB) is punishable by imprisonment for up to three years or a fine. In particularly serious cases, a more severe penalty may be imposed.[53]

Another difference is that, unlike Sections 264 and 265b of the GCC, Article 222 of the Criminal Code of Ukraine does not provide for a specific mechanism for exemption from criminal liability in connection with the voluntary prevention of harm following the commission of a crime.

3. A comparative analysis of case law

Case law is one of the most important tools for clarifying criminal law provisions. A comparison of the approaches of the Supreme Court of Ukraine and the Federal Court of Germany (BGH) to the classification and proof of

46 Кримінальний кодекс України: ст. 222. Кодекси України. URL: https://kodeksy.com.ua/kriminal_nij_kodeks_ukraini/statja-222.htm (дата звернення: 01.06.2026).
47 Kujus T. Subventionsbetrug – § 264 StGB. URL: https://kujus-strafverteidigung.de/strafrecht/subventionsbetrug/ (дата звернення: 01.06.2026).
48 Strafgesetzbuch (StGB) vom 15. Mai 1871. § 265b Kreditbetrug. URL: https://www.gesetze-im-internet.de/stgb/__265b.html (дата звернення: 01.06.2026).
49 Кримінальний кодекс України від 05.04.2001 № 2341-III. URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (дата звернення: 02.06.2026).
50 THOLL Rechtsanwalt. Subventionsbetrug. URL: https://kanzlei-tholl.de/strafrecht/subventionsbetrug.html (дата звернення: 02.06.2026).
51 Streifler & Kollegen Rechtsanwälte. Kreditbetrug (§ 265b StGB). URL: https://www.streifler.de/lexikon/kreditbetrug-c2-a7-265b-stgb (дата звернення: 02.06.2026).
52 Кримінальний кодекс України від 05.04.2001 № 2341-III. URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (дата звернення: 02.06.2026).
53 Ferner J. Subventionsbetrug: BGH zur Reichweite des Vermögensschadens nach § 264 StGB. URL: https://www.ferner-alsdorf.de (дата звернення: 25.05.2026).

financial fraud reveals both common trends, resulting from the similar nature of the provisions, and fundamental differences, reflecting different legal traditions and procedural standards.[54]

The main guideline for lower courts is Resolution No. 3 of the Plenum of the Supreme Court of Ukraine of 25 April 2003 'On the practice of application by courts of legislation on liability for certain offences in the sphere of economic activity'. The Plenum of the Supreme Court of Ukraine clarified that the offence provided for in Part 1 of Article 222 of the Criminal Code is deemed to have been committed from the moment the guilty person provides knowingly false information, regardless of whether the objective is achieved.

The most challenging issue for Ukrainian courts is distinguishing between fraud involving financial resources (Article 222 of the Criminal Code) and fraud (Article 190 of the Criminal Code). The Criminal Cassation Chamber of the Supreme Court has set out the legal position: the key criteria for distinguishing between the two are the direction of intent and the point at which it arose.[55]

The Supreme Court, sitting as the Criminal Cassation Court in Case No. 509/1836/14-k, noted: that if a person did not intend to permanently appropriate the loan funds, but received them with the intention of using and subsequently repaying them, even if false information was provided, such actions should be classified under Article 222 of the Criminal Code of Ukraine.[56]

4. A comparison of financial fraud statistics

A comparative analysis of the statistics reveals significant differences between the two systems. In Ukraine, 39 criminal offences under Article 222 of the Criminal Code were recorded in 2025, which is a significantly lower figure compared to Germany, where between 70,000 and 85,000 cases of economic crime are recorded annually. This difference is explained by both the size of the economies and differences in accounting methods and law enforcement.

5. Conclusions and recommendations for improving Ukrainian legislation

We have carried out a comparative analysis of the elements of offences, case law and statistics relating to Article 222 of the Criminal Code of Ukraine and Sections 264 and 265b of the GCC, which allows us to draw the following general conclusions.

Firstly, both legal systems are based on a shared principle, namely that financial fraud in the area of obtaining loans and subsidies is so harmful to society that it is appropriate to bring criminal liability into play at the stage when the fraudulent act is committed, without waiting for actual financial consequences to materialise. Both the Ukrainian and German models are based on the formal elements of a criminal offence.

Secondly, there are significant differences between the two models, both in terms of the level at which standards are set, the system of qualifying criteria, and the approaches to the subjective element and the role of judicial

[54] Постанова Пленуму Верховного Суду України від 25.04.2003 № 3 «Про практику застосування судами законодавства про відповідальність за окремі злочини у сфері господарської діяльності». URL: https://zakon.rada.gov.ua/laws/show/va003700-03 (дата звернення: 02.06.2026).

[55] Верховний Суд України. Огляд судової практики Касаційного кримінального суду. URL: https://supreme.court.gov.ua (дата звернення: 02.06.2026).

[56] Верховний Суд у складі Касаційного кримінального суду. Постанова від 28.10.2020 у справі № 509/1836/14-к. URL: https://reyestr.court.gov.ua (дата звернення: 02.06.2026).

precedent in defining the elements of an offence. These differences provide a basis for proposals to improve both Ukrainian and German legislation.

Regarding the shortcomings of Article 222 of the Criminal Code of Ukraine: one of the problems with this provision is that the distinction between Article 222 and Article 190 of the Criminal Code is made solely by establishing the intent at the time the false information was provided.[57]

The issue with Article 222 of the Criminal Code of Ukraine is that the provision is outdated; it was adopted in 2001 and has undergone only minor amendments in 2026. Over the past 25 years, the credit and financial system, forms of state support for entrepreneurship, and financial fraud techniques have undergone radical changes**.**

The lack of differentiation between forms of fraudulent conduct presents a further problem, as the provision of Article 222 of the Criminal Code of Ukraine describes such conduct using a single, generalised phrase: 'providing knowingly false information'. The provision does not distinguish between: the active provision of false information; the provision of incomplete information that is misleading; or the concealment of circumstances which there is a duty to disclose.[58]

The experience in Germany shows that a significant proportion of subsidy-related offences take the form of gross negligence. In Ukraine, however, such offences are not subject to criminal prosecution unless intent is proven.

One of the proposals is to broaden the scope of persons liable for the offence. In particular, we believe it would be appropriate to include sole traders and authorised representatives who sign and submit the relevant applications. Such a distinction between perpetrators is in line with the model set out in Section 264 of the GCC, where the perpetrator may be any natural or legal person involved in commercial transactions.

Article 222 of the Criminal Code of Ukraine requires a systematic update, and the German experience with Sections 264 and 265b of the GCC provides a valuable conceptual basis for such reform. The key areas are: detailing the forms of fraudulent conduct and expanding the scope of persons liable for this offence. Such changes will not only enhance the effectiveness of the criminal law provision but also bring Ukrainian legislation closer to European Union standards, which is particularly relevant in the context of current European integration.

[57] Науково-практичний коментар до ст. 222 Кримінального кодексу України. *Юристи України* (дата звернення: 02.06.2026).
[58] Науково-практичний коментар до ст. 222 Кримінального кодексу України. *Юристи України* (дата звернення: 02.06.2026).

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