

# Crimes committed by electronic means

The increase in the use of credit cards and online trading has led in turn to an increase of crimes using electronic media.

Currently, it is possible to shop online by simply typing in the credit card information, i.e., full name, card number, expiration date and security code, without any control over the identity of the person actually making the transaction.



For those who are willing to commit crimes in electronic media, it is enough to copy the card data, or simply take a photograph, in order to commit the crime.

Providing the card information via email or telephone to a hotel, handing the card to a waiter in a restaurant, to a gas station attendant, or to a salesperson in a store, for them to swipe the card through an out-of-sight POS, are, among others, situations favorable for data misappropriation and misuse.

## The case

One customer noticed, upon receiving his credit card statement, that it had been used to make dozens of purchases that had not been made by him/her. Immediate actions were taken:

**1. Before the bank:** it was filed a report of unauthorized purchases before the bank that provided the card.

**2. Criminal complaint for fraud and misappropriation.**

Investigation: prior to the criminal complaint, it was performed an investigation,

consisting of inquiring about the purchases made with the card in the businesses involved, in order to determine the modus operandi of the scheme and obtain information about the person.

It was found that all the transactions had been made through different web pages. Enjoying the impunity that this means provides, the offender made purchases in electronics, clothing, auto parts, cellular phones, supermarkets, food stores, among others, and requested the shipment by parcel, using a fictitious name, trying to evade his/her real identity.

It was possible to find out the identity of the offender by means of a telephone number provided by the same, and as a result, his/ her address and personal information about his/ her inner circle, work, and others.

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## Criminal complaint

Based on the evidence obtained, the corresponding complaint was filed with the Division of Investigations of Zone II in Montevideo, who referred the case to the Maldonado Police Headquarters, competent for the investigation of the case. Once the case was reported to the corresponding Prosecutor's Office, a formal investigation was initiated in order to gather the evidence and determine the actions to be taken.

Once the police investigation was concluded, a search and arrest warrant were issued for the offender.

At the Police Headquarters and then at the Prosecutor's Office, the infringing party, who had a previous record for the same crime, acknowledged the facts and was willing to reimburse to the victim the amount of money unduly spent. Which was implemented by means of an agreement based on articles 394 and 395 of the Criminal Procedure Code.

Notwithstanding the agreement, an initial hearing was set in which the Prosecutor's Office requested the

### Criminal Code

#### Article 351 (Misappropriation):

*"Whoever takes ownership, for his/her own benefit or that of a third party, of money or any other movable asset, which has been entrusted to him/her or given to him/her by any deed that entails the obligation to return it or to make a specific use of it, shall be punished with three months of imprisonment to four years of penitentiary arrest."*

**Article 394:** *"The reparatory agreement shall proceed in the following cases:*

*a) non -intentional crimes; b) crimes punishable with a fine; c) crimes involving personal injury and crimes of serious injury when they result in a disability to perform ordinary activities for a term of more than twenty days and do not endanger the life of the offended person; d) crimes involving property; e) crimes prosecutable at the request of a party, except crimes against sexual freedom..."*

**Article 395:** *"The Public Prosecutor's Office shall instruct the parties involved in the crime on the possibility of reaching a reparatory agreement, when in the specific case the conditions were given to allow it. The parties may reach a material or symbolic reparatory agreement through mediation or conciliation. Once the agreement has been reached, the court will control in a hearing that the victim and the defendant have given their consent freely and on a voluntary basis and that they have been duly instructed on the scope of the institute and the obligations it implies. If the judge understands that the above requirements or the assumptions of the previous article are not met, may deny, ex officio or at the request of the Public Prosecutor's Office, the homologation of the agreement. This resolution shall be appealable with suspensive effect."*

indictment of the infringer for the commission of a crime of misappropriation, which is being processed before the competent Court.

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## Conclusions

Whereas these types of cases arise on a daily basis, not all of them have a desirable ending for the victim. This may be due to a variety of reasons, because the amount is not significant and the victim is not willing to report and pursue a prosecution, or because the police lack the investigative capacity to deal with minor crimes, or because it is not possible to obtain all the evidence to initiate criminal proceedings.

The fact is that credit card users are permanently exposed to this type of risks and it might be necessary to study and implement some additional measures to control online transactions. It is usual for some suppliers to decline purchases in certain countries, or to call the owner of the card before authorizing a transaction for a large amount of money, but low or medium amount purchases are not covered, which, when made frequently, may result in great detriment to the users.

## RECOMMENDATIONS

- ▶ Do not disclose or share information about credit card data. Be careful with transactions made out of the cardholder's sight.
- ▶ Report the loss of the card or suspicion of misappropriation of the information contained therein to the Bank immediately upon discovery of the loss of the card or suspicion of misappropriation.
- ▶ Investigation in the places where the suspected purchases were made in order to gather information.
- ▶ Criminal complaint.

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