

Pérez-Llorca

Prosecution of Tax Fraud – Famous Football Cases in Spain

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FRAUDE FISCAL EN EL FÚTBOL >

El Supremo ratifica la condena de 21 meses de cárcel a Messi por fraude fiscal

El Supremo considera al jugador del Barcelona autor de tres delitos fiscales por defraudar 4,1 millones



REYES RINCÓN

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Messi, el pasado domingo en el Camp Nou. FOTO ALBERT GEA REUTERS | VIDEO ATLAS

El Tribunal Supremo considera a **Lionel Messi** autor de tres delitos fiscales. El alto tribunal ha confirmado la condena de 21 meses de cárcel que impuso en julio pasado la Audiencia de Barcelona al delantero del FC Barcelona por defraudar

MÁS INFORMACIÓN



INVESTIGADO POR FRAUDE FISCAL

La tensa declaración de Cristiano Ronaldo que no convence a la jueza

Se filtra la comparecencia ante el magistrado mientras el caso coge fuerza con la imputación de varios asesores del portugués



Cristiano Ronaldo, en su declaración (Otras fuentes)



ATLETICO MADRID

Monaco striker Radamel Falcao to admit to tax fraud in Spain

Radamel Falcao, who played for Atletico Madrid between 2011 and 2013, will plead guilty to tax fraud in Spain and pay a fine of 6.9 million euros in order to avoid a trial, a source on his legal team said on Saturday.

Prosecution of Tax Fraud – Famous Football Cases in Spain (I)

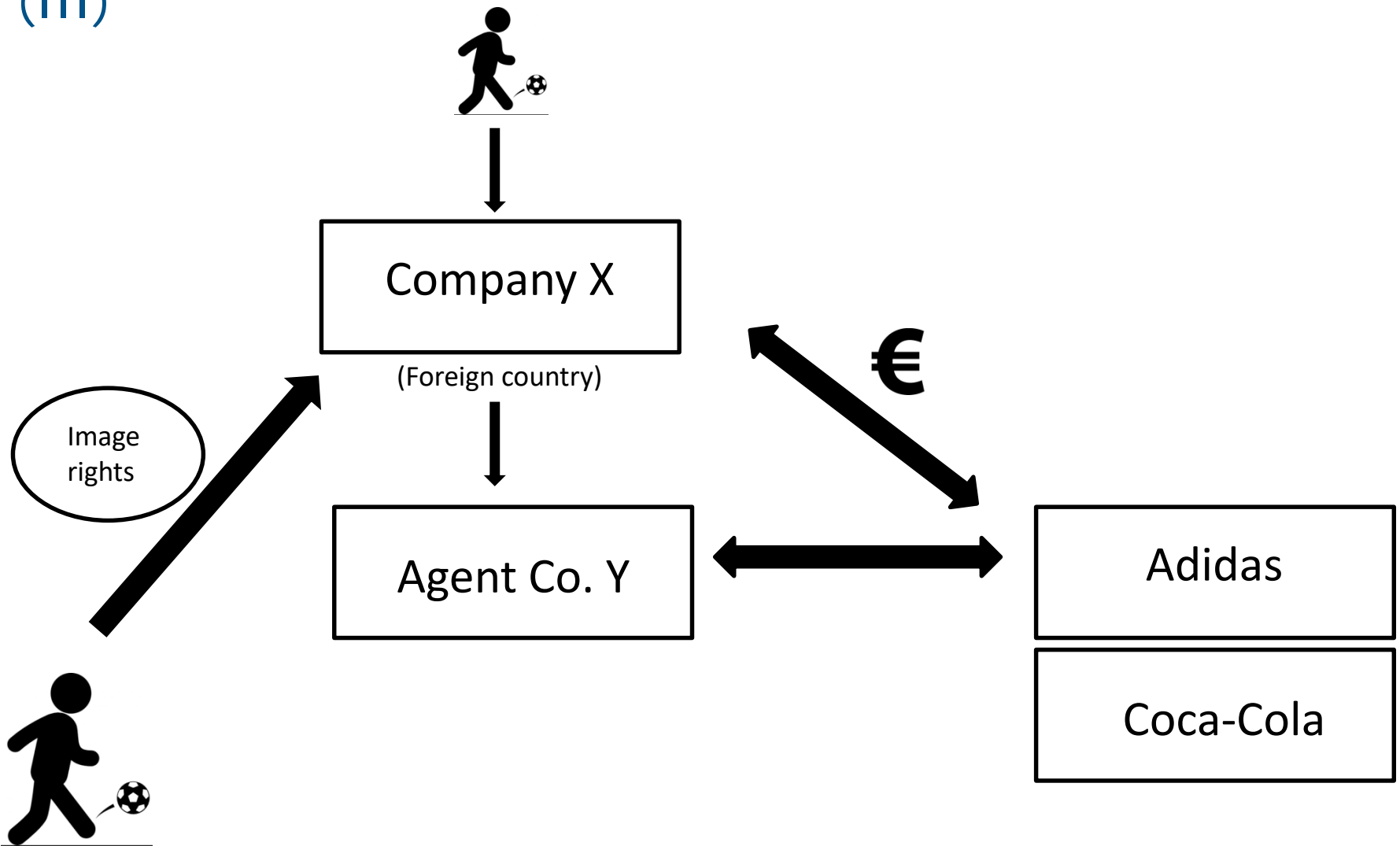
Player	Quota (€)	Years	Procedural status
C. Ronaldo	14.768.897	2011-14	Investigative stage
R. Falcao	5.660.000	2012-13	Settlement?
L. Messi	4.100.000	2007-09	Conviction confirmed by SSC
S. Eto'o	3.400.000	2006-09	Pending trial
X. Alonso	2.000.000	2010-12	Investigative stage
J. Mascherano	1.500.000	2011-12	Settlement
A. Di María	1.300.000	2012-13	Investigative stage
F. Coentrao	1.290.000	2012-14	Investigative stage
Adriano C.	646.000	2011-12	Investigative stage
R. Carvalho	545.981	2011-12	Investigative stage
J. Mourinho	462.323	2011-12	Investigative stage

Source: media coverage

Prosecution of Tax Fraud – Famous Football Cases in Spain (II)

- Common aspects:
 - Personal Income Tax
 - Image rights
 - Companies located outside of Spain (tax havens and others) belonging to players
 - High incomes
 - Individuals with null tax knowledge
 - High media exposure

Prosecution of Tax Fraud – Famous Football Cases in Spain (III)



Prosecution of Tax Fraud – Famous Football Cases in Spain (IV)

- Tax fraud under Spanish law – article 305 SCC
 - Tax debtor
 - Breach of tax duties:
 - 1 tax
 - 1 fiscal year
 - complemented by tax law
 - Deceptive artifice
 - “fraud”
 - Economic loss exceeding 120,000€ for Spanish tax authorities
 - *Mens rea*
 - Causation

Prosecution of Tax Fraud – Famous Football Cases in Spain (V)

- Public Prosecution (arts. 124 SC and 105 SCPA)
 - Bound by principle of legality
- Private Prosecution (arts. 124 SC, 109bis and 110 SCPA)
 - Victims of a criminal offence
 - Criminal action
 - Civil action
 - Tax fraud
 - Victim: Spanish tax system
 - State attorney (arts. 551 LSJ and Law 52/1997)

Prosecution of Tax Fraud – Famous Football Cases in Spain (VI)

- Simulated cession of image rights
 - Price of cession
 - Opacity (tax havens or not)
- Delegation of duties
 - Tax advisers (*extraneus*)
 - Father/relative/agent
- Wilful intent vs. error
 - Need to understand the tax scheme?
 - Need to know the amounts paid? a breakdown?
- Defence based on substantive tax law?

