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

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

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

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 6.8 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)

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

*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)

Company X

(Foreign country)

Agent Co. Y

Image rights

Adidas

Coca-Cola

€
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 \((\text{extraneus})\)
  – 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?