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DI MARIA finds an agreement with the Spanish tax authorities



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→ **Image rights – Tax law – National law**

Angel DI MARIA agreed a settlement with the Spanish tax authorities regarding his prosecution for fiscal crimes. According to the prosecution, he committed fraud to avoid a EUR 1.2 million payment for image rights for the financial periods of 2012 and 2013, when he played for Real Madrid. The player succeeded in rebutting the similar accusations for 2011 but in his turn, he will be obliged to pay the rest of the money defrauded with an additional 65% fine.

His case was decided in a similar way to that of *Javier MASCHERANO*¹, who also closed his issue in the “fast way”.

In total, with just over EUR 2 million and admitting to two tax offenses, *DI MARIA* could settle the charges without a possible penalty of imprisonment.

The prosecution accused *DI MARIA* of defrauding EUR 636,820 in 2012 and EUR 662,168 in 2013 through an offshore business network.

The complaint stated that “on June 1, 2010, he signed a contract simulating the transfer of its image rights to the company *Sunpex Corporation Inc*, whose domicile is in Panama, a company of which he was the owner of 100% of the share capital under a contract dated May 1, 2010, by which he acquired all the shares of the company for a price of US \$ 1,000.”

On the very same day, *Sunpex* received the image rights of the player, but in its turn transferred them to the Irish companies *Multisport & Image Management Limited* (MIM) and *Polaris*, which from that moment began exploiting the image rights of the Argentinian player. As in accordance with the statement of the prosecution in the case at hand, *MIM* and *Polaris* were in partnership with the agent *Jorge MENDES* established in Ireland.

Initially, the tax authorities included the year 2011 in the accusation, but *DI MARIA*'s defense proved that he was in Portugal more than half of the previous year, while playing for *Benfica*. So there were doubts about where the profit was generated and where it should have been taxed.

The amount of EUR 2 million results from the initial amount defrauded as it exceeds EUR 600,000, the legally provided fine for such infraction is equal to 65% of the amount at hand if the accused person is not trying to hold up his case to the courts.

Thus, the infraction of defrauding of EUR 1,2 million has become the total fine of EUR 2 million.

¹ See *Football Legal* # 6 (November 2016), p. 208



Zozulya and Betis/Rayo Vallecano transfer

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→ Player transfer – Player loan – FIFA Regulations



During the winter registration period, two Spanish teams - namely Betis and Rayo Vallecano - concluded a transfer agreement to loan the Ukrainian player Roman ZOZULYA. However, shortly after that, the supporters of Rayo protested against that transfer and accused the player of having links with radical groups back in Ukraine. However, these accusations did not prove to be founded.

ZOZULYA was forced to return to Betis, however, the situation became complicated due to the fact that the registration period was already closed at the moment of such return and he could not have been registered with Betis. Moreover, any possible transfer to another team would also be impossible due to the fact that it would be the player's third club within the same sporting season, and according to existing FIFA Regulations he would not be able to be fielded for such third team.

After an application to the FIFA, the latter granted to the player and Betis a "special" permission to be transferred to any championship that started after 1 January 2017. However, while trying to find another Club, the player was training with Betis with whom

he had a valid employment contract that once again came into force after the termination from the side of Rayo Vallecano.

In a recent interview, the player's agent claimed to have won the procedure against Rayo Vallecano, forcing the club to pay the player the entire amount agreed for the salary under the loan agreement. This is definitely not a bad solution for a Player who is not able to play until the next registration period.

Meanwhile, the Spanish League President Javier TEBAS announced that the League would apply to the authorities to initiate a criminal prosecution against the 17 persons who insulted and made false accusation against the player.

Compliance with the World Anti-Doping Agency Code

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→ Doping – National law

Royal Decree-Law no. 3/2017,
17 February 2017



The legal provisions, which update the Organic Law no. 3/2013 on the protection of athletes' health and the fight against doping, will put Spain into a position to resolve the situation of "non-compliance" with the World Anti-Doping Agency Code.

The reform introduces new infringements, raises penalties and

increases its prescription term. At the same time, it reinforces the autonomy and independence of the Spanish Agency with the redistribution of competencies in the field of health protection.

The Council of Ministers approved a Royal Decree amending the Organic Law on the protection of athletes' health and the fight against doping in sports activities on 20 June 2013, with the objective of adapting the Spanish legislation to the provisions of the current World Anti-Doping Code.

With the approval of this standard, Spain is in a position to revert the declaration of "non-compliance" with the WADA Code issued previously. As a consequence of the aforementioned declaration, the Spanish Agency for the Protection of Health in Sport (AEPSAD) was not able to carry out anti-doping controls and the accreditation of the Madrid Doping Control Laboratory was suspended.

Complicity and forbidden association

The reform introduced by the newly approved Royal Decree focuses on the modification of the sanctioning regime in the field of doping with the introduction of two new infringements (complicity and prohibited association) that seek to increase the pressure on those individuals around athletes who can influence them to make an erroneous decision.

Complicity is defined as any activity consisting in assisting, encouraging, helping, inciting, collaborating, conspiring, concealing or any other type of "intentional complicity" in connection with an anti-doping rules violation. The prohibited association, for its part, is defined as noncompliance with the prohibition of receiving professional services from any person suspended for any type of administrative and/or criminal infraction.



Increase of the prescription term for infringements

The rule approved by the Council of Ministers also establishes the increase of the period of prescription for the doping infringement from 8 to 10 years, which also entails the increase of the period of conservation of the doping samples for its possible re-analysis.

Likewise, the duty of the athletes to report on their location is enforced and abstaining from these obligations three times within a period of 12 months (previously 18 months) is considered as a serious infraction, in addition to specifying that the term will begin to compute from the first day of the breach to be taken into account.

Sanctions

Regarding sanctions, the amendments introduced by the Royal Decree-Law increase the standard ones applicable for presence, use or possession of prohibited substances or methods, from an ineligibility period of 2 years to 4. Furthermore, athletes are no longer the only ones to be subject to sanctions under the anti-doping regulations. Additionally, doctors, clubs and managers are also concerned. Namely, this is extended to anybody subject to obligations under the anti-doping regulations.

Moreover, within scenarios resulting in a mitigation of responsibility, the immediate admission of guilt has been included. This is done in order to foster cooperation of athletes involved in doping affairs so that they are granted the possibility of remedying to the maximum extent possible the damages caused to their sport while helping in unveiling the ultimate perpetrators of the doping offence they committed.

Another interesting measure therein announced is the fact that competence in the field of anti-doping is reassigned to the *Consejo Superior de Deportes* (the Supreme Council for Sports in

Spain) aiming thereby at reinforcing the independence of the Spanish Anti-doping Agency. The latter was one of the requirements demanded to the Spanish public authorities by WADA.

The Spanish government's engagement in the fight against doping

By ensuring the adequacy of the Spanish anti-doping regulations with the 2015 edition of the WADA Code, the Spanish government has sought ways to honour international commitments entered by Spain as a signatory state of the UNESCO's International Convention against Doping in Sport.

The Royal Decree-Law approved by the Spanish Council of Ministers has been endorsed by WADA. All Spanish political parties had shown their approval of said legislative amendment.

Football school of Massanassa

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→ ***Minors – Academy/Training center–Scholarship***



The Spanish football school "Futbolcity" in Massanassa (Valencia) has expelled an 11-year-old junior player after his father threatened to hit the coach if his son did not play more during a match played the first weekend of March 2017.

The president of the football school explained in public statements that this person *"threatened to hit the coach in the face."*

After the incident, the school temporarily suspended the child, a measure that shortly after became final when they dismissed him.

The president of the school explained that this measure has been taken since *"nothing can be done to the father"* and stated that each member of the board had the same point of view on the occurred incident.

He has remarked that it was not the first time the school had issues with this particular person. However, he explained the intention of the coach, who *"does not want to report that person but does not want him to come and beat"* the coach.

After adopting this measure, the president of the school assured that the club had not received any apology but on the contrary that the player's father contacted with the coach and told him that his *"son would return to play to the school as soon as the coach will be thrown out of there."*

The director of the school has also indicated that the mother of the player has threatened to contact the lawyers and expose *"the case of abuse"* that suffered her son.

While there is nothing about the further course of action, the questions of the access to education and the protection of minors are raised in the context of the circumstances herein. It is at least strange that the school and the coach himself did not report the conduct of the father to the competent authorities, which would sound like the logical thing to do.



Spanish FA Elections



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→ Spanish Football Federation (RFEF) – Governance

*Spanish Administrative Tribunal, no. 93 & 98 2017,
8 March 2017*

On 17 February 2017, the elections to the presidency of the Spanish Football Association (FA) were finally announced. The official elections took place on 22 May 2017. However, this process was surrounded by the utmost controversy as from its very beginning. In fact, the election calendar itself was contested by one of the three official candidates. However, the Spanish Administrative Tribunal in charge of the matter related to elections held by national sports federations said that the calendar did comply with national legislation. Therefore, said official voting date had been confirmed.

A member of the electoral commission in charge of monitoring the full election process was also challenged by that same candidate. The challenge was based on the fact that said member had a close and previous relationship with the Spanish FA, whose president was indeed running for reelection. Said bias was claimed based on the fact that said member was the sole judge in the competition committee of the Spanish FA. However, once again, the Spanish administrative tribunal dismissed said challenge claiming that the incompatibility is only foreseen in the applicable regulations when it comes to members of the previous board of directors of the FA, or candidates running for the election and not in the scenario at stake.

Part of the allegations therein contained references to the fact that Mr VILLAR is not the only candidate affected by corruption scandals. Indeed, one of the contenders, Mr PÉREZ, who used to be the FA's secretary general, is also directly involved in some of the said disgraceful matters.

In sum, a most controversial election process took place in the Spanish FA surrounded by successive exchanges of lawsuits and defamatory public statements. Hopefully, the tendency in other governing bodies in the world of football will be replicated within the Spanish FA, and Spanish football will regain some composure.

Lastly, a further event that shall not remain unmentioned is the public support offered by 16 presidents of regional federations to Mr VILLAR, the president of the Spanish FA ever since 1988, *i.e.* the last 29 years. Said support was publicly disclosed by means of a letter where the other two candidates were attacked simultaneously with the president of *La Liga*.