



First Criminal Case Judgement with a Guilty Verdict on Match-Fixing in Spain



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→ Match-fixing – Corruption – Spanish
Profesional Football League (LaLiga)
– Criminal law – Criminal proceedings –
National law

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Following the alleged manipulation of two matches during the 2013-2014 season of LaLiga, eight individuals, including the former General Manager and three board members of Atletico Osasuna SAD (Osasuna) and two former Real Betis Balompie (Betis) players have been sentenced to prison.

The judgement, issued on 23 April 2020, explains that in exchange for EUR 650,000, two players of Betis agreed to manipulate the result of two matches, the first one against Real Valladolid (Valladolid) corresponding to the 37th week and against Osasuna itself on the following week (38th), being the last two weeks of the season. The players were to ensure a victory of Betis against Valladolid and a defeat against Osasuna to help the latter to keep playing in the 1st division 2014-2015 season.

Despite Betis' victory against Valladolid and Osasuna's victory against Betis, Osasuna ended up being relegated to the second division due to the other match results.

The harshest of the sentences was imposed on the former General Manager of Osasuna, who was sentenced to 8 years and 8 months imprisonment, plus 11 months special disqualification to practice as manager or similar, in a sports association and a fine of

EUR 350,000. The more lenient sentences were the ones imposed on the Betis players, being one-year imprisonment and two years disqualification from the exercise of professional football activity and a EUR 900,000 fine.

In addition, the judgement includes the obligations of all the individuals to compensate Osasuna with an amount of EUR 2,340,000 for the unjustified outflow of funds during the 2012-2013 and 2013-2014 seasons.

The judgement explains that there is more than one misconduct. Specifically, there are two separate groups of actions in the facts. On the one hand, those referring to the aspect of Osasuna's financial management, which include the crimes of misappropriation, documentary falsehood and accounting falsehood, and on the other, the crime of sports corruption.

In relation to Osasuna's management, the judgement

considers that it had been proven that the convicted persons made conscious use and abuse of the club's funds during the investigated seasons, in breach of the obligations imposed on them by the club's statutes and, furthermore, made improper use of the accounts through unjustified money withdrawals, as well as cash that was handled and that came from store sales, ticket offices and season tickets.

The total amount defrauded that was proved amounted to EUR 2,340,000: EUR 900,000 for the 2012-2013 season and EUR 1,440,000 for the 2013-2014 season. In addition, it was considered proven that the former General Manager benefited from an amount of EUR 600,000, the destination of which could not be determined, except for the amounts that were used to fix the two matches.

The forgeries of both seasons were intended to balance the accounts. In the 2012-2013 season,



the mismatch was EUR 900,000 and for this, two real estate agents were contacted and agreed to sign a receipt for that amount, pretending to have non-existent real estate activities as their object.

In the 2013-2014 season, the mismatch of the club's accounts amounted to EUR 1,440,000 and that is why a false contract with the Portuguese entity *Flefield* and three false invoices were created.

In relation to the crime of sports corruption, the judgement concludes that there was an agreement between the convicted members of the Board and the club manager with the two *Betis* players, not only to encourage their victory against *Valladolid* but to lose the last league game that *Osasuna* was going to face, therefore being a global agreement.

The judgement concludes that in the legal provision that supports the convictions, Article 286 bis, section four of the Spanish Criminal Code includes the so-called "*third party premiums*". This is the basis of an exhaustive study of the aforementioned article and of European and international standards on the subject.

It was argued that the offer of amounts or benefits to a club for winning a match seeks its own advantage but also produces a series of concatenated effects such as, among others, the damage to other teams that depend on those results from third parties and the economic damage derived from betting or to betting itself. Economic incentives from one club to another to promote a positive result, definitely influences competition.

The sentence also considers that the arguments given to consider that third-party bonuses are not criminally punishable are based on

a social permissiveness towards them that is independent of the fact that they are considered a crime. The judgement recalls that an athlete's obligation does not simply refer to 'playing to win' but to ensure that the sports result is arrived at in accordance with the previously recognized and mutually accepted norms, without external and undue influence not included in the rules that govern the corresponding sports discipline.

This exhaustive study of these so-called "*third party premiums*" put an end to the discussion about the unfairness or illegality of paying to win a match and will make this judgement of particular interest in the following years.



The Viana Pacts and a new modification of the Royal Decree-Law 5/2015



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→ COVID- 19 - Spanish Football Federation (RFEF) - Spanish Professional Football League (LaLiga) - Broadcasting rights

On 20 April 2020, the High Council of Sports (CSD), LaLiga and the Spanish FA (RFEF) reached an agreement, referred to as the "Viana Pacts".

First the return to professional football training was agreed, a fact that was subject to the evolution of the COVID-19 pandemic and to the decisions taken by the Ministry of Health, obviously giving priority to the interests of public health.² This action was critical in order to manage the complicated calendar that *LaLiga* must fulfil to complete the season and therefore accomplish the television contracts that are an important source of income for football clubs.

Second, they agreed to provide the rest of the federative sports, Olympic and Paralympic included, with audio-visual income. On the basis of this agreement, Royal Decree-Law 5/2015 has been amended by the Royal Decree-Law 15/2020 which includes many other non-sporting measures³ and which recognises football as a fundamental part of the reconstruction that will have to be carried out in Spanish sport.

Third, there was also a commitment to set up a contingency fund

worth EUR 10 million, to which the Association of Spanish Footballers (AFE) and other entities⁴ will be invited to contribute in order to help the most vulnerable athletes.

Fourth, a code of conduct for football, applicable to directors, managers and agents, was adopted in order to build an honest and sincere dialogue that may serve as a reference for other professional sports and to facilitate good relations between the different institutions within football, a dialogue which in the past has become extremely complicated.

Finally, the Viana Pacts committed to defend and strengthen Spain's reputation as a safe sport country, in line with the Iberian candidacy for the 2030 World Cup to which the Spanish Government has decided to give its full support, understanding that the relationship between both institutions is vital to achieve such an important tournament.

As explained in the second point, the first measures in line with these agreements were found

in a recent amendment to Royal Decree-Law 5/2015 of 30 April 2015 on measures related to the commercialisation of exploitation rights of audio-visual content of professional football tournaments, which was amended by Royal Decree-Law 15/2020 on urgent and complementary measures to support the economy and employment.

Among numerous issues, a foundation was created, called *Fundación España Deporte Global F.S.P.*, for the promotion, impulse and diffusion of federated sport and also Olympic and Paralympic sport. This foundation is attached to the General State Administration, through the CSD and will be the organization that manages and sells the audio-visual rights of sports federations and competitions other than football, in cases where sports federations do not wish to take over the sale of these audio-visual rights.⁵ The governing body of the foundation (the foundation's board) will include, among others, *LaLiga*, the RFEF and the other Spanish sports

¹ The name comes from the Palace of Viana where the meeting between CSD, LaLiga and RFEF took place.

² This is the reason why the CSD refers to compliance with strict health protocols.

³ A battery of regulations designed to mitigate the impact of the crisis.

⁴ On this point, it is not detailed which entities will be invited to participate.

⁵ Later in the amendments of Royal Decree-Law 5/2020 it will be specified that this is a mandatory measure.



federations as well as official and unofficial competitions.

The purpose of the Royal Decree-Law 5/2015 was amended to include all male and female state competitions, organised by the RFEF (Article 1). Article 4.4 point f was modified in order to liberalize the audio-visual market related to football⁶ that will be effective for the commercialization of the audio-visual rights that are subject to centralised sale and which were approved as from the entry into force of the Royal Decree Law 15/2020. Article 6 was partially amended, and the Compensation Fund was reduced from 3.5% to 2.5%⁷, the amount set for the RFEF was increased by 1% and a new 1.5% was added to the CSD for the promotion, encouragement and dissemination of federated sport.

It is also important to highlight the new system of distribution of audio-visual rights for the commercialization of state competitions organised by the RFEF. The new system distributes 60% of the income to the teams that participate in the National Professional Football League and the remaining 40% of the income is distributed to promote amateur football and the other teams participating in the competition.

Finally, there will also be a mandatory assignment to the foundation described above, in the event that sports federations for other modalities different from football do not wish to take over the management and sale of the audio-visual rights themselves.

These modifications have not been free of controversy and still await the validation by the Parliament of the Royal Decree-Law.

In any case, all these modifications and agreements only confirm a statement already made in the past by the President of the CSD, Ms. *Irene LOZANO*, that football is the locomotive of sport, at least, in Spain.

⁶ Audio-visual contracts may last more than 3 years, thus complying with Community regulations.

⁷ All the percentages are in proportion to the revenue from the centralised sale of audio-visual football rights.



The first Spanish women's division has its collective agreement



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→ **Women's football – Collective Bargaining Agreement (CBA) – Spanish Professional Football League (LaLiga) – Players' Union – Clubs' Union**

The date of 18 February 2020 marked a turning point in the careers of Spanish women footballers. After a long process

of negotiation and a period of strike in October 2019 during which 93% of the women footballers of the Liga Primera Iberdrola participated, the first collective agreement was finally signed to regulate their employment situation.

The collective agreement for women's football was signed by the Association of Clubs (ACFF) on the one hand, and the National Association of Spanish Football Players (AFE) and the Football Players' Union ON on the other, and aims to improve the players' conditions to enable professional women's football to survive.

This collective agreement has a retroactive effect (Article 4). Its application starts on 1 July 2019 and ends on 30 June 2020. If it is not denounced, by any of the parties, at least three months before the date of its termination, it will be successively extended for periods of one football season (Article 5, paragraph 1).

The scope of the agreement includes players from football clubs that participate in the teams of football clubs or sports corporations participating in the national championship of the Spanish first division women's league. Furthermore, female football players who are called to a minimum of twelve matches in the first division or have played ten are within scope. It

should be noted that the application of the agreement is limited to professional footballers and the clubs represented by the organisations that have signed the agreement.

Several key points can be highlighted from this agreement:

a) Minimum salary

According to Article 23, the minimum guaranteed remuneration is set at EUR 16,000 gross per year for players who have a full-time contract.

However:

- ➔ footballers who are receiving an annual salary at the entry into force of this agreement between EUR 12,000 and EUR 15,999.99, with a part-time contract of less than 75% of the ordinary working day, shall have a working day of at least 75% of the ordinary working day and receive a salary of EUR 16,000 gross per year;
- ➔ footballers who are receiving, upon the entry into force of this

agreement, an annual salary between EUR 16,000 and EUR 30,000, with a part-time contract of less than 75% of the ordinary working day, shall have a working day of at least 75% of the ordinary working day and increase their salary at EUR 2,000 gross per year.

b) Part-time contracts

Another of the most sensitive points at the time of negotiating the agreement was the implementation of part-time contracts.

Article 7 provides that "the working hours of part-time contracts may not be less than 75% of the ordinary working hours established in the agreement during its term."

This particularity of women's football can be understood as the need to provide a legal way for smaller clubs to be able to reduce the salaries of their players, which would be the only way for them to operate.



c) Trial period

Article 15 reduces the maximum duration of the trial period to 15 days instead of the three months provided for in *Real Decreto* 1006/1985 of 26 June 1985, which regulates the special employment relationship of professional athletes.

d) Working hours and rest periods

The working hours of the players must be 7 hours per day, 35 hours per week in a semester with a weekly break of a minimum of one and a half day in a continuous way, without including the periods of concentration or displacements.

As for the concentration periods, these are limited to *"the 24 hours immediately prior to the start of the match when playing on home ground. If the game is played on an away pitch, the concentration period shall not exceed 72 hours (including travel time)."*

Footballers shall be entitled to 30 calendar days' annual paid holiday, of which at least 21 days shall be taken on a continuous basis. In addition, the agreement specifies that there will be no games from 23 December until 4 January.

e) Maternity

In case of pregnancy during her last contract season, the agreement allows the player to choose for the renewal of her contract for an additional season under the same conditions as she had last season (Article 39).

f) Inability

In the event of temporary disability, this agreement recognizes 100% coverage of the player's compensation.

Likewise, in case of permanent disability, the player will receive a compensation of EUR 90,000. In case of death, her family will receive a compensation of EUR 60,000.

g) Seniority award

A seniority award will be granted to professional football players upon termination of their contractual relationship with the club or sports corporations when they have been with the same team for six or more consecutive seasons.

This historic agreement has been a major step forward in the recognition of the work of women professional footballers. This legal framework secures the contracts of women players while helping clubs, especially the smaller ones, in the best possible way.

However, this agreement quickly revealed certain shortcomings, such as compensation for preparation or training. Article 20 of this text allows clubs to request compensation from the player's new club when the contract of their players under 23 years of age expires. This article specifies that the club from which the player comes may freely fix the amount requested for each player on a list provided for this purpose. This list currently includes various amounts requested by clubs, such as the sum of EUR 500,000 requested by *Levante* for players *NAVARRO* and *BATLLE*. This is a huge obstacle for a possible transfer, as to date, no similar amount has been paid by a club to compensate a formation.

At present, this problem has not yet been resolved. To be continued.



The Spanish Futsal Cup tested a referee assistance video system



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→ Spanish Football Federation (RFEF) -
Video assistance referee (VAR) - Referee
decisions

The Spanish Futsal Cup (Copa de España de fútbol sala) served as a test for a "Technological Support" (Soporte Tecnológico) to the refereeing decisions. If FIFA deems it appropriate, this new refereeing system could also be used during the next FIFA Futsal World Cup.

The Spanish Futsal Cup (Copa de España de fútbol sala), which was held at the Martín Carpena Arena in Málaga from 5 to 8 March 2020, served as a test for a "Technological Support" to the refereeing decisions. According to Carlos Velasco Carballo, Chairman of the Technical Committee of Referees of the Spanish Football Federation (Real Federación Española de Fútbol - RFEF), "the purpose is to see if this experience is beneficial to the game", i.e. grants benefits with minimal interference.

If FIFA deems it appropriate, this new refereeing system could then be used during the ninth FIFA Futsal World Cup that is scheduled to be held in Lithuania from 12 September to 4 October 2020, unless it is postponed and rescheduled due to the coronavirus pandemic.

This new tool came from a proposal made by the RFEF and approved by FIFA. Thus, for the first time, a Futsal competition benefited from this technological resource under

the watchful eye of FIFA.

As explained by the RFEF before the competition¹, five situations could lead to the assistance of this technological support:

- ➔ the four first ones are similar to the ones provided for in football:
 - goal or no goal - in order to check that the attacking team did not commit a foul during the action that led to a goal;
 - direct red card - in order to ensure that the player who commits a foul deserves to be directly sent-off;
 - mistaken identity - in order to ensure that the right player is sanctioned; and,
 - penalty or no penalty.
- ➔ The last one, totally unknown at the moment in football, relates

to chronometer issues, i.e. to determine if the play happened before the whistle sounds.

During the game, the referee shall always make a decision regardless of the existence of the technological support. This decision would be changed only in case of a clear and obvious error after the review and the referee shall always be the one who will make the final decision.

Two different cases may lead the referee to review these five particular situations:

- ➔ First, the referee can have immediate access to a replay as long as he thinks it is appropriate. The referee must indicate that he is going to review a play by showing a TV signal with his hands (outline of a TV screen).
- ➔ Second, each coach has the right to ask for a review of a specific play once during the match. To indicate to the

¹ www.rfef.es



referee that he is requesting the review, the coach should raise his arm and turn his finger in the air. If the coach's request is successful, i.e. the referee changes the decision he made and which motivated the coach's request for review, the coach will have another opportunity to request a review. And there will be no request limits as long as these requests are successful. Mr *Carlos VELASCO CARBALLO* and *Pedro GALÁN*, Chairman of the Futsal Referees Committee of the RFEF, indicated that the number of requests available per coach should initially be fixed to one although it could be increased if the main purpose, i.e. the fluidness of the game, is not affected.

Mr *GALÁN* also said that *"This tool will mark a before and after for futsal. From now on we have to work together to keep improving [...]. We have seen an extraordinary acceptance by all the teams. We need to give value to being the first country to try this system."*

The reviewing area shall be right next to the pitch, with two monitors and a replay operator. The latter will not be a referee but someone who will only be assisting the referee for the review. When the referee makes his final decision, he shall show the TV signal again, indicate this final decision and how the game restarts.

The procedure can therefore be distinguished from the one applicable to the football VAR on several points:

- ➡ While in football there are video assistant referees who supervise the entire match, in futsal there is no referee behind the screen. The replay operator's sole duty is to technically help the referee

by providing him the relevant images.

- ➡ While in football the review can be initiated by the video referee or the referee, in futsal, this review shall be at the referee's initiative only, or the coaches's as explained above. The referee cannot be invited by the replay operator to review a situation. This difference could be explained by the fact that in football, the VAR automatically checks every situation so there is no need for coaches to request a review.

Therefore, the term *"technological support"* is used and preferred, as it constitutes a mere video assistance to the referee, without the presence of an additional referee benefiting from the video.

It is now time to wait for the final decision on a potential change to the Futsal Laws of the Game from FIFA after assessing the outcome of this life-sized test.