

A year after the first arrests were made the Prosecution Department has called for **details of the Estepona corruption case to be made public**

'Astapa', a year at snail's pace

M. J. CRUZADO /
MONTSE MARTÍN

On June 17th 2008 Estepona made the national headlines. Locals had woken up that morning to find the municipal buildings cordoned off while some 200 officers were inside searching for evidence of an alleged web of planning corruption that affected the town's political, financial and social fabric. The police had given all this chaos the name 'Astapa'. (They had mistakenly thought that this was the town's Phoenician name, really Astabbuna.)

Wednesday has seen the first anniversary of the police operation that led to 63 individuals being accused of embezzlement, bribery, corrupt practice, money laundering and influence peddling. Among them is the then Socialist mayor, Antonio Barrientos.

Information

A year later the details of the investigation are still under lock and key. This month the

Public Prosecution Department aims to call for at least some of the details to be made public. Detectives have indicated that this could apply to the content of the suspects' recorded telephone conversations.

The fact that the court responsible for the investigation has been without a judge to direct the case for the last six months has not helped. The detectives admit that they haven't got very far. Of the 150 files full of documents confiscated in the initial raids, only 20 have been analysed to reveal around 50 suspicious planning deals.

Initial investigations point to the alleged intentional undervaluing of property, irregular 'donations' to developers and money laundering.

When current mayor, David Valadez, took office on July 16th 2008 he found himself at the helm of a minority local government, held together by a fragile PSOE, IU, PA and Estepona 2007 coalition, and a 164 million euro hole in the municipal coffers

that would not be easy to patch up. 'Astapa' had left a corporation with a third of its members (eight in total) facing corruption-related charges.

After the initial questioning of the suspects the case quietened down until September when as many as 40 witnesses were called to make a statement. Later the politicians who had been held in prison since the first day of arrests were released on bail: Barrientos; his former right hand man, José Flores; and PES councillors José Ignacio Crespo and Manuel Reina, among others.

Meanwhile the lawyers representing the 63 suspects inundated the court with appeals, all claiming their clients had been deprived of proper defence as they were not informed of what crimes they were accused and the court orders were filled in with 'xxx' in certain spaces so as not to reveal details that were being kept confidential.

Change of judge

The recipients of these appeals were first Isabel Conejo, the judge who was in charge of the case from the offset, and then her substitute Virtudes Molina. Isabel Conejo put in for a transfer and was moved to Estepona's new Number 5 court in December. Molina is only temporarily in charge of the court until a permanent judge is brought in. Only one magistrate applied for the position, but she was turned down. Now the future of 'Astapa' will be left in the hands of one of the new judges due to graduate from judicial school next month.

While the 'Astapa' case has been put practically on hold, the present local government is trying to get the Town Hall out of its sticky financial situation. What the case has revealed so far is uncontrolled planning activity combined with unhealthy municipal coffers, all in the middle of a global financial crisis.



JUNE 2008. National Police cordoned off Estepona Town Hall.

Draft legislation contemplates a **deduction of expenses for firms**

Good taxation news for non-residents in Spain

BERNARD FAY VIOTA

Historically the taxation of non residents has always been different to that of Spanish residents and this has been widely criticised by professionals and taxpayers particularly by those resident in other EU member states. Discrimination of EU citizens or companies is prohibited under EU Law since its inception and the signing of the European Union treaty and all subsequent EU Legislation and all European countries have had to adapt their internal legislation to be in compliance with this very basic but fundamental principle. Spain is not an exception, and the European Commission is constantly on the watch for instances of lack of compliance.

Only three years ago, capital gains tax for non residents was still 35% whilst at the same time residents of Spain were only paying 15%, that was drastically reduced to the present rate of 18% in January 2007 in order to bring it into line with the taxation of Spanish residents, and only last year wealth tax was abolished for all residents and non-residents of Spain.

Equal treatment

The Spanish Tax Authorities have finally agreed to further changes in the taxation of non-residents after months of discussions with the EU Commission which was requesting that companies and individuals resident in other EU member states receive equal treatment to residents of Spain under Spanish income tax law.

The draft legislation prepared by the Directorate General of Taxation for the Spanish Government, which should be passed imminently, improves the taxation of non-residents of Spain consider-

ably, but under the present draft, it seems, it will only be applicable to residents of other EU member states.

Under present legislation, non-resident individuals and companies without a permanent establishment in Spain have to pay tax on gross income, not on net income, thus not being allowed any expenses with some exceptions. The changes contained in the draft legislation prepared by the Spanish Tax Authorities contemplate a restrictive deduction of expenses in the sense that the onus will be on the taxpayer to prove that the expense is directly related to the income generated. Unless the final legislation clarifies more what is to be understood by expenses directly associated or related with the generation of income, it may be too open for interpretation by the Tax Authorities and it could create arguments with taxpayers and their professional advisors.

All these recent changes - leaving capital gains tax at only 18%, no wealth tax and now this announced improvement to the taxation of income for non-residents - are steps in the right direction and they will make Spain even more competitive as a destination for investment and residential tourism. Home owners from abroad will see in Spain not only a modern European country with excellent infrastructure, outstanding health-care facilities, marvellous weather and very hospitable and friendly people, but a more and more attractive tax system which is an important consideration when looking for investment opportunities.

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