

# Spain's News

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## The judge rejects Chile's claim to avoid compensation to Spanish investors of the newspaper confiscated by Pinochet

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The head of the court of first instance number 101 of Madrid, Pedro José Puerta, has issued an order in which he rejects Chile's claim to avoid compensating the Spanish

owners of the newspaper El Clarín, occupied by the Army since the very day that Pinochet led the coup d'etat against the socialist Salvador Allende, on September 11, 1973. The magistrate has opened a separate piece so that, in accordance with the Law of Civil Procedure, Chile can present arguments to the demand for execution of the award of the ICSID, the arbitration body of the World Bank, [which sets an estimated compensation of 520 million euros](#) to the owners of the newspaper, but without questioning the demand for compensation.

The arbitration of the Clarín case is the longest in the history of ICSID and Chile: it began in 1997, when the then owner, the Spanish businessman Víctor Pey, a Republican who went into exile after Franco's military victory, went to international bodies, and it was not closed until 2020, with the final decision in which the execution of the award is framed. Pey did not get to see it, since he died in 2018 at the age of 103, but before that he had transferred the property titles of the newspaper to his daughter, Coral Pey (10%), and to the Spanish Fundación Presidente Allende (90%), which through of the lawyer Joan Garcés, who was with Allende in La Moneda resisting the coup d'état, has battled in court for all these years.

The ICSID award in 2020 is final and its execution corresponds to the courts of any of the 155 countries that have ratified the treaty, including Spain and Chile. The new order from court number 101 in Madrid, dated June 16, debunks the Chilean Government's claim to leave it in a merely symbolic resolution, without financial compensation to repair the shareholders of which in the early 1970s It was the newspaper with the largest circulation and wealth in Chile until Pinochet silenced it at the point of a bayonet.

Currently, [The clarin](#) it is published only in digital format and the Army continues to occupy the facilities that once housed the progressive newspaper and its rotary presses. The country's media ecosystem is still heir to the one established during the dictatorship, which closed and liquidated the progressive media that had supported democracy.

The cause of El Clarin [has been recognized by the European Parliament](#) and defended both by the Spanish Government at the time of José María Aznar, when the ICSID procedure began, and by the main Spanish parties, including the PP and the PSOE. On the other hand, in Chile, both the right-wing governments of Sebastián Piñera and those of the Concertación have been litigating for three decades to prevent economic compensation, albeit with the public commitment, expressed even solemnly by Piñera before the European Parliament, to proceed with compensation in the event of that the ICSID award decided so, which ended up happening in 2020.

The current Chilean president, Gabriel Boric, [personally raised the demands](#) of the owners of El Clarín when he was an opposition deputy and even disgraced the successive governments that continued litigating to lengthen the procedure instead of finally addressing the reparation, which he considered fair. However, his Government, which inherited the hot potato from the execution order of the Madrid court due to the inaction of the Piñera Executive, is now publicly silent about the procedure and has avoided responding to the multiple requests that elDiario.es has transferred both to Presidency and the Foreign Ministry to pronounce itself.

In parallel, the lawyers who represent the Government of Chile in the Spanish courts have maintained with Boric exactly the same line as his predecessors in recent decades: belligerent opposition to any type of compensation.

Last December, the Chilean embassy in Madrid – still under the tutelage of the Piñera government – refused to officially receive the order that dispatched the 520 million compensation and demanded that it be communicated through diplomatic channels to Santiago. When finally the lawyers representing the Chilean Government appeared, already with Boric in the presidency of the Government, they did so to demand the file of the procedure alleging "radical nullity" of the order and "bad faith" of the executing party. These are the same arguments that Chile used in 2013, when the ICSID imposed on the shareholders of El Clarín the payment of more than three million dollars in costs, but then it finally ended up paying them by complying with the order of the same court in Madrid.

Court 101 of the Spanish capital has also dismissed the executing party's approach, which considered that the deadlines for any resource from Chile had already expired as a result of its initial refusal to receive the order in December. The opening now of the separate piece will allow Chile to present arguments against the amount of compensation.

The 520 million euros collected in the court order 101 of Madrid, which dispatches the execution, are based on the valuation prepared at the request of the plaintiffs by Accuracy, an international consulting firm based in Paris and one of the international references in arbitration: 420 million dollars of principal plus 122 in interest set by the ICSID in 2008, at a rate of 5% annually compounded until full payment of compensation; around 520 million euros at the current exchange rate.

The Madrid court in which the execution of the award has fallen has made it clear that it is not a merely symbolic recognition. In addition to issuing the order setting the compensation at 520 million euros in line with Accuracy's estimate, the court also issued a decree, last March, [addressing the French multinational Nexans](#) one of the major global players in the cable systems industry, to seize the pending payments it had with Codelco, the Chilean public copper corporation, in order to start covering the compensation decreed.

Nexans Iberia, the Spanish subsidiary of the French multinational, replied to the judge that it had no pending payment to Codelco, so the episode had no immediate practical effect on the actual payment of compensation. Investors have responded by requesting that Nexans display its accounting books. The embargo highlighted the consequences that it can have if Chile fails to comply with an award of the ICSID Arbitration Tribunal.

The Spanish Government has also not responded to the questions that elDiario.es has repeatedly asked about its position regarding the execution of the award in defense of Spanish investors.

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