



## French judge to appoint president in Pey Casado case at PCA

[Douglas Thomson](#)

14 August 2017

AddThis Sharing Buttons

Share to LinkedInShare to TwitterShare to FacebookShare to Email App



Victor Pey Casado turns 102 later this month

A French judge will name the president of the Permanent Court of Arbitration tribunal hearing the latest iteration of 101-year-old Spanish newspaper publisher Victor Pey Casado's two-decade-long claim against Chile.

On 11 August, PCA secretary-general **Hugo Siblesz** named French judge **Dominique Hascher** as appointing authority for the dispute.

The PCA claim, being heard under the 1976 UNCITRAL rules, is the latest stage in Pey's long quest to win compensation for the confiscation of his newspaper publishing business by the regime of Augusto Pinochet, in the aftermath of the military dictator's 1973 coup.

In April, Pey finally [gave up](#) on pursuing his claim at ICSID, where he has been involved in various different proceedings since 1998. Instead, he turned to the PCA, filing a new claim through the President Allende Foundation which he set up in memory of his friend, the former president of Chile Salvador Allende, who died during the 1973 coup.

Unlike at ICSID, Pey is not seeking compensation for the confiscation itself in the PCA proceeding. Instead, his "conceptually distinct" claim relates to the 2008 ruling of a court in Santiago that the decree confiscating his publishing business was a 'nullity in public law' and that he and his foundation remained the rightful owners.

Pey alleges that "agents of the Chilean state" hid the existence of the ruling from him for two-and-a-half years and have prevented him from exercising his rights since. He says the state's behaviour breaches the fair and equitable treatment, denial of justice and expropriation provisions of the Chile-Spain bilateral investment treaty.

The PCA has already had to grapple with the constitution of the tribunal in the case in the same way as ICSID did (over 19 years, 17 different individuals were appointed to the various panels handling the dispute). For the latest iteration of the case, both sides have chosen the same arbitrators they selected for an ICSID panel tasked with interpreting a 2008 award in the case. Pey has nominated **Hélène Ruiz Fabri** of France and Chile **Stephen Drymer** of Canada.

Initially, Pey's foundation renewed objections to Drymer's appointment that it first aired at ICSID. The PCA should nominate an arbitrator on Chile's behalf, the foundation insisted.

However, the objection was dropped on 1 July and the foundation relented to Drymer's appointment.

Ruiz Fabri and Drymer then failed to appoint a tribunal president within the 30-day deadline under the UNCITRAL rules, forcing the PCA to step in to name an appointing authority.

Hascher is a judge of France's court of cassation who has appeared on nine ICSID ad hoc annulment committees since 2003.

*In the UNCITRAL claim*

*President Allende Foundation, Victor Pey Casado, Coral Pey Grebe v Chile*

#### Appointing Authority

- **Dominique Hascher** (France) (appointed by the PCA secretary-general)

#### Tribunal

- President not yet appointed
- **Hélène Ruiz Fabri** (France) (nominated by the claimants)

- **Stephen Drymer** (Canada) (nominated by Chile)

Counsel to claimants

- Garcés y Prada

Partner **Juan Garcés** in Madrid

- **Robert Howse** and **Hernan Garcés** at the New York University School of Law in New York

Counsel to Chile

- Committee of Foreign Investments, Chilean Ministry of Economy

**Federico Gajardo, Liliana Machiavello, Cecilia Arroyo and Victoria Fernández-Armesto** in Santiago

- Arnold & Porter Kaye Scholer

Partners **Paolo Di Rosa** and **Gaela Gehring Flores** with associates **Mallory Silberman** and **Katelyn Horne** in Washington, DC

- Carey

Partners **Jorge Carey** and **Gonzalo Fernández** with associate **Juan Carlos Riesco** in Santiago

*Victor Pey Casado and Foundation Presidente Allende v Chile* (ICSID Case No. ARB98/2)

*In the resubmission proceedings*

Tribunal

- **Franklin Berman QC** (UK) (Chair)
- **VV Veeder QC** (UK) (replaced **Philippe Sands** in 2014)
- **Alexis Mourre** (France)

Counsel to Victor Pey Casado and Foundation Presidente Allende

- Garcés y Prada

Partner **Juan Garcés** in Madrid

- Gide Loyrette Nouel

Partner **Carole Malinvaud** and counsel **Alexandra Munoz** in Paris

- Buckley Sandler

Partner **Samuel Buffone** in Washington, DC

Counsel to Chile

- Arnold & Porter

Partners **Paolo Di Rosa** and **Gaela Gehring Flores** and associate **Mallory Silberman** in Washington, DC

- Carey & Cia

Partners **Jorge Carey** and **Gonzalo Fernández** and associate **Juan Carlos Riesco** in Santiago de Chile

*In the annulment proceeding*

Ad hoc annulment committee

- **Yves Fortier QC** (Canada)
- **Piero Bernardini** (Italy)
- **Ahmed El Kosheri** (Egypt)

Counsel to Victor Pey Casado and Foundation Presidente Allende

- Garcés y Prada Abogados in Madrid

Partner **Juan Garcés** in Madrid

- Gide Loyrette Nouel

Partner **Carole Malinvaud** and associate **Alexandra Muñoz** in Paris

- Buckley Sander

Partner **Samuel Buffone** in Washington, DC

Counsel to Chile

- Foreign Investments Committee

**Matías Mori Arellano** and **Carlos Dettleff** in Santiago

- Arnold & Porter Kaye Scholer

Partners **Paolo Di Rosa**, **Jean Kalicki\*** and associates **Samuel Witten** and **Mallory Silberman** in Washington, DC

\*no longer with the firm

- Carey & Cia

Partners **Jorge Carey** and **Gonzalo Fernández Ruiz** in Santiago

*In the original arbitration*

Arbitral tribunal

- **Pierre Lalive** (President) (Switzerland) - appointed following the resignation of **Francisco Rezek** (Brazil)
- **Mohammed Chemloul** (Algeria) - appointed following the disqualification of **Mohammed Bedjaoui** (Algeria)
- **Emmanuel Gaillard** (France) - appointed by ICSID following the resignation of **Jorge Witker** (Mexico) and **Galo Leoro Franco** (Ecuador)

Counsel to Victor Pey Casado and Allende Foundation

- Cabinet Garcés y Prada Abogados

Partner **Juan Garcés** in Madrid

- Gide Loyrette Nouel

Partner **Carole Malinvaud** and associate **Alexandra Muñoz** in Paris

- Ropes & Gray

Partner **Samuel Buffone** in Washington, DC

- Boston University School of Law

**William W Park**

Counsel to Chile

- Chief of justice, ministry of the economy, development and reconstruction, **Eduardo Escalona Vázquez**
- Department for defence of arbitrations relating to foreign investments, Ministry of Economy, Development and Reconstruction **Eduardo Bobadilla Brinkmann, Nicolás Muñoz Montes** and **Diego Rioseco Antezana**
- Carey & Cía

Partners **Jorge Carey** and **Gonzalo Fernández Ruiz** in Santiago

- Arnold & Porter (from 2007)

Partner **Paolo Di Rosa** in Washington, DC

- [Winston & Strawn \(from 2004 to 2007\)](#)

Partner **Paolo Di Rosa** in Washington, DC

- [White & Case \(from 1997 to 2004\)](#)
- [News, Investment Arbitration](#)

Comments [Add your comment](#)

[Sign up to GAR alerts](#)

Stay informed. Make the right decisions.

## Most read

- [Delhi court calls off Vodafone claim against India](#)
- [UK reveals plans for dispute resolution with EU post-Brexit](#)
- [Who is sitting at ICSID?](#)
- [Fight over Kyrgyz mobile operator heads to Stockholm](#)
- [UK releases Brexit paper on judicial cooperation, with little on arbitration](#)
- [DIFC judge cuts through Kurdistan sovereignty defence](#)
- [Ecuador's claim for Amazon pollution to continue](#)

## More

- [Pey Casado loses barristers set challenge](#)
- [Past haunts Chile in latest Pey Casado challenge?](#)
- [After two decades, 101 year-old claimant receives second knockback at ICSID](#)
- [From ICSID to UNCITRAL: Pey Casado saga to continue in different guise](#)
- [Berman challenged again in Pey Casado saga](#)