



José Miguel Júdice and Manuel Conthe

Bilingual panel in place for Bolivian power claim

SEBASTIAN PERRY

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Portuguese arbitrator José Miguel Júdice is to chair the ad hoc tribunal that will hear an expropriation claim by UK power company Rurelec against Bolivia.

He will hear the case alongside Spanish lawyer and economist **Manuel Conthe**, appointed by the claimants, and **Raúl Emilio Vinuesa** of Argentina, who was nominated by the state. The tribunal was formed on 8 August.

Júdice is name partner and head of the arbitration group at PLMJ - A M Pereira, Sáragga Leal, Oliveira Martins, Júdice e Associados in Lisbon. He has sat as an arbitrator in more than 25 ad hoc and ICC cases under Portuguese, Angolan or Brazilian law and has chaired five international arbitral tribunals in bilingual proceedings. A member of the ICC court since 2009, he was appointed to the ICSID panel of arbitrators in April this year. He is also the owner of the Quinta das Lagrimas hotel and restaurant in Coimbra.

Conthe, who joined Bird & Bird in Madrid as of counsel in 2009, is a former president of Spain's securities and exchange commission. He resigned from that role in 2007 after losing a vote to block the takeover of Spanish electric utility Endesa by government-backed companies Acciona and Enel in the face of a rival bid from Germany's E.On. He also served for seven years as director general of the Spanish Treasury.

Meanwhile Vinuesa is a professor of international law and human rights at the University of Buenos Aires. He has sat on a number of ICSID panels - including cases against Ecuador, Costa Rica, Venezuela and the Democratic Republic of the Congo. In addition he is an ad hoc judge at the International Court of Justice, where he is currently hearing a complaint by Ecuador against Colombia regarding the aerial spraying of herbicides.

Vinuesa is said to have been a formative influence on the current team at Argentina's Treasury Attorney's Office, the body that represents the state in ICSID matters. Several of the government's lawyers either studied or practised with him. As counsel, he represented an Argentine investor in the landmark *Maffezini v Spain* case at ICSID - which famously opened the door to the use of most-favoured nation clauses to invoke disputes mechanisms in respondent states' BITs with third countries.

Rurelec and its US subsidiary Guaracachi America filed for joint English and Spanish-language arbitration under UNCITRAL rules in November. The companies allege that Bolivia breached its bilateral investment treaties with the UK and US by expropriating their stake in a local power generation company without compensation.

The local company, Empresa Electrica Guaracachi, was one of four power utilities occupied by the Bolivian military on the orders of President Evo Morales in May last year.

Bolivia has not yet appointed external counsel for the case. Elizabeth Arismendi, Bolivia's minister of legal defence, said in an interview in February that the state planned to make a call for bids from law firms but this has reportedly been suspended. Last year the firm turned to Dechert in Paris for the *ETI Telecom* and *Oiltanking* cases (which settled) and the *Quiborax* dispute, which continues at ICSID.

Counsel to Rurelec and Guaracachi America

- Freshfields Bruckhaus Deringer

Nigel Blackaby and **Caroline Richard** in Washington, DC, and **Jeffery Commission** and **Daniel Chertudi** in New York

Counsel to Bolivia

- Procuraduría General del Estado

Attorney general **Hugo Raúl Montero Lara** and deputy attorney general of defence and legal representation of the state, **Elizabeth Arismendi Chumacero**

The state has not yet formally appointed external counsel.

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