

aangever, benadeelde partij of eiser in een civiele procedure tegen de aangeklaagde is, of dat het misdrijf lijkt te zijn gepleegd tegen de getuige of tegen een familielid van dezelfde of dichtere graad dan die hem verbindt met de aangeklaagde. -----

Voordat de verklaring afgenomen wordt zal de rechter, op straffe van nietigheid, deze personen erop wijzen dat zij recht op verschoning genieten; hetgeen schriftelijk wordt vastgelegd. -----

**Artikel 244. Verschoningsplicht.** Geen verklaring betreffende geheime feiten, waarvan zij kennis hebben genomen in de uitoefening van hun beroep, mag afgelegd worden, op straffe van nietigheid, door ministers van geaccepteerde religies, advocaten, procureurs en notarissen, artsen, apothekers, verloskundigen en andere medische hulpverleners; door militairen en openbare ambtenaren betreffende staatsgeheimen. -----

Maar, deze personen mogen niet weigeren om een verklaring af te leggen indien zij vrijgesteld worden van hun beroepsgeheim door de geïnteresseerde, met uitzondering van de eerstgenoemden. -----

Indien een getuige zich onterecht beroept op deze plicht met betrekking tot een feit dat daar niet ondervalt, zal de rechter hem zonder meer verhoren. -----

**Artikel 245. Dagvaarding.** Voor het verhoor van getuigen zal de rechter een dagvaarding afgeven overeenkomstig artikel 154, met uitzondering van de gevallen voorzien in de artikelen 250 en 251. -----

Maar in urgente gevallen kunnen getuigen op iedere andere wijze opgeroepen worden, mondeling inbegrepen. -----

Een getuige kan zich tevens spontaan presenteren, hetgeen schriftelijk vastgelegd zal worden. -----

**Artikel 246. Verklaring door middel van een rechtshulpverzoek of mandaat.** In het geval dat de getuige verblijft op een plaats ver van de rechtbank of indien het transport moeilijk is, zal het afnemen van zijn verklaring afgevaardigd worden door middel van een rechtshulpverzoek

of mandaat aan de rechterlijke autoriteit van zijn verblijfplaats, tenzij de rechter het noodzakelijk oordeelt dat hij compareert vanwege de ernst van het feit dat onderzocht wordt en vanwege het belang van de getuigenverklaring. In dat geval zal hij een redelijke schadevergoeding toewijzen aan de gedagvaarde persoon. -----

**Artikel 247. Dwangmaatregel.** Indien de getuige niet verschijnt na de eerste dagvaarding, zal men handelen conform artikel 154, onverminderd zijn eventuele berechting. -----

Indien de getuige na zijn verschijning weigert een verklaring af te leggen, zal hij in gijzeling worden gehouden tot hooguit twee dagen, waarna, indien hij vasthoudt aan zijn weigering, er een strafrechtelijke procedure tegen hem ingesteld zal worden.-----

**Artikel 248. Onmiddellijke arrestatie.** De onmiddellijke aanhouding van een getuige kan verordend worden indien hij geen domicilie heeft of indien er gegronde vrees bestaat dat hij zich zal schuilhouden, vluchten of verdwijnen. Deze maatregel zal de onontbeerlijke tijd duren noodzakelijk voor het afnemen van de verklaring, welke nooit de vierentwintig uur mag overschrijden. -----

**Artikel 249. Vorm van de verklaring.** Voorafgaand aan het afnemen van de verklaring zal de getuige ingelicht worden over de straffen op meened en zal hij de eed afleggen dat hij de waarheid zal zeggen, hiervan worden uitgezonderd de ontoerekeningsvatbare minderjarigen en de veroordeelden als deelnemers aan het misdrijf dat onderzocht wordt of dat daarmee verband houdt. -----

De rechter zal iedere getuige apart verhoren, hem om zijn voor- en achternaam, burgerlijke staat, leeftijd, beroep, adres, familieband en belangen met de partijen vragen, evenals om iedere andere feit dat nuttig zou kunnen zijn om geloofwaardigheid te beoordelen. -----

Waarna hij hem over het feit zal verhoren overeenkomstig het bepaalde in artikel 118. -----

Van elke verklaring wordt een akte opgemaakt overeenkomstig de artikelen 138 en 139. -----

[Bovenaan op alle pagina's:] -----

[Een ovale stempel met de tekst:] Rechterlijke Macht van de Natie – Federale Rechtbank in  
Strafrecht nummer 5 – Hoofdstad Buenos Aires. -----

-----[Een onleesbare handtekening]-----

----- Secretaris -----

Ik, \_\_\_\_\_ beëdigd vertaalster voor de Nederlands-  
Spaanse taal, ingeschreven bij het College van Beëdigde Vertalers van de stad Buenos  
Aires onder nummer \_\_\_\_\_ verklaar bij deze dat het voorafgaande een volledige en getrouwe  
vertaling naar het Nederlands is van het aangehechte document in de Spaanse taal. Buenos  
Aires, Argentinië, 22 juni 2014.-----

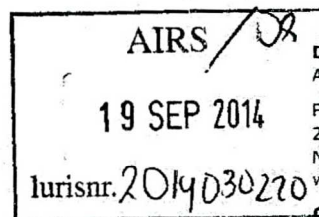
Uitsluitend voor de desbetreffende legalisatie: Exclusivamente a los efectos de la  
correspondiente legalización: Es traducción fiel al idioma neerlandés del documento adjunto  
redactado en idioma castellano, que tuve ante mí y al cual me remito. Ciudad Autónoma de  
Buenos Aires, Argentina, el 22 de junio de 2014. ----

# 11



Ministerie van Buitenlandse Zaken

Ministerie van Veiligheid en Justitie  
Directie Juridische en Operationele Aangelegenheden  
Afdeling Internationale Rechtshulp in Strafzaken (AIRS)  
Postbus 20301  
2500 EH Den Haag



**Directie Juridische Zaken**  
Afdeling DJZ/CR  
Postbus 20061  
2500 EB Den Haag  
Nederland  
www.minbuza.nl  
**Contactpersoon**

T 070  
F 070  
@minbuza.nl

Datum 16 september 2014  
Betreft Rechtshulpverzoek van Argentinië inzake Julio Alberto Poch;

**Onze referentie**  
DJZ/NR/ek-14/458

**Uw referentie**

**Bijlage(n)**  
divers

Bijgaand treft u aan een note verbale met kenmerk AE53/2014 van de Argentijnse autoriteiten, gedateerd 12 september 2014, met bijlage, betreffende bovengenoemd rechtshulpverzoek, naar de inhoud waarvan ik korthedshalve verwijs.

Met vriendelijke groet,

Beleidsmedewerker  
Directie Juridische Zaken  
Afdeling Nederlands Recht (DJZ/NR)





*Embassy  
of the  
Argentine Republic*

AE 53/2014

The Embassy of the Argentine Republic presents its compliments to the Ministry of Foreign Affairs - Civil Law Division - and has the honour to refer to the case "ESMA UNIFICADA -N° 1282 y sus acumuladas" handled by the Federal Criminal Court - No. 5, from Buenos Aires, Argentine Republic.

The Embassy kindly request the Ministry of Foreign Affairs, to deal with the above mentioned Request of Assistance in relation to obtain statements from witnesses in accordance to the framework of the Convention for the Extradition of Criminals, signed in 7 September 1893 by the Argentine Republic and the Kingdom of the Netherlands. Accordingly, the request of assistance to the competent authorities from the judiciary of Rotterdam consist to procure additional witnesses testimonies by means of a video link conference.

The Embassy of the Argentine Republic avails itself of this opportunity to renew to the Ministry of Foreign Affairs - Civil Law Division - the assurances of its highest consideration.



The Hague, September 12, 2014

Ministry of Foreign Affairs  
Civil Law Division  
P.O. Box 20061  
2500 EB The Hague

Javastraat 20 - 2585 AN - The Hague  
T: 070 - 3118411 F: 070 - 311 8410 E: epbaj@mrecic.gov.ar

Dubbel, Spaans

**TRADUCCIÓN PÚBLICA – BEËDIGDE VERTALING** -----

[Een ovale stempel met de tekst:] Rechterlijke Macht van de Natie – Federale Rechtbank in  
Strafrecht nummer 5 – Hoofdstad Buenos Aires. -----

**INTERNATIONAAL RECHTSHULPVERZOEK** -----

**IN STRAFZAKEN** -----

**VERZOEKENDE AUTORITEIT** -----

Naam en functie: -----

voorzitter) -----

Afdeling: -----

Federale Rechtbank in Strafrecht nummer 5 -----

Contactgegevens: -----

Telefoon/Fax -----

E-mail: -----

Adres: -----

**AANGEZOCHTE AUTORITEIT** -----

Naam en functie: -----

De desbetreffende rechterlijke autoriteit met jurisdictie in de stad Rotterdam, Nederland. -----

Afdeling: -----

**IDENTIFICATIE VAN HET STRAFPROCES** -----

Nummers van de rechtszaak: -----

1282, 1349, 1415, 1492, 1510, 1545, 1668, 1689 en 1714 -----

Rechtszaak: -----

"ESMA geünificeerd" [N.v.d.V: Afkorting voor "Escuela Mecánica de la Armada": Technische  
School van de Marine]. -----

**I) FEITEN DIE ONDERZOEKT WORDEN** -----

Idem aan het rechtshulpverzoek d.d. 17-06-2014. -----

II) MAATREGELEN WAAROM VERZOCHT WORDT -----

Idem aan het rechtshulpverzoek d.d. 17-06-2014.-----

III) PARTIJEN IN DE RECHTSZAAK -----

Idem aan het rechtshulpverzoek d.d. 17-06-2014.-----

IV) TOEPASSELIJKE NORMEN -----

Idem aan het rechtshulpverzoek d.d. 17-06-2014.-----

V) VERDRAG WAAROP HET VERZOEK GEBASEERD IS EN AANBOD VAN  
WEDERKERIGHEID-----

Idem aan het rechtshulpverzoek d.d. 17-06-2014.-----

VI) VERDERE TOELICHTINGEN-----

De contactgegevens van de Algemene Technologische Dienst van de Raad van de  
Magistratuur van de Rechterlijke Macht van de Natie, die belast is met het technische  
gedeelte van de videoconferenties e-mail: Telefoon:

-----

Contactgegevens van de getuigen



VII) BIJGEVOEGDE DOCUMENTEN-----

VIII) KOPIE VAN DE BESCHIKKING WAARIN HET VERZOEK VERORDEND  
WORDT-----

Buenos Aires, 19 augustus 2014. Gelet op het schrijven op blad 6510 en de verordening op blad 6517, tweede paragraaf, wordt er een rechtshulpverzoek uitgegeven als aanvulling op het verzoek van 17 juni van dit jaar, waarin om internationale samenwerking verzocht wordt aan de autoriteiten met jurisdictie in Rotterdam, Nederland, om de noodzakelijke maatregelen te treffen voor het afnemen van getuigenverklaringen via het systeem van videoconferenties van de getuigen: **29 september 2014:**

**1 oktober 2014:**

**8 oktober 2014:**

en

**16 oktober 2014**

**22 oktober 2014:**

-----

De verhoren dienen om 08.00 uur (Argentijnse tijd) en 13.00 uur (Nederlandse tijd) te beginnen. Men laat de aangezochte autoriteiten weten dat de getuigenverklaringen afgenomen zullen worden volgens de normen van het Argentijnse strafproces, in aanwezigheid van een Nederlandse rechter en officier van justitie. Tijdens het afnemen van de verklaringen mogen ook aanwezig zijn mr. \_\_\_\_\_ advocate van de getuigen

en

advocaat van de aangeklaagde Poch. Zij mogen niet aan het verhoor deelnemen en hun klanten niet adviseren gedurende het afleggen van hun verklaring. Als laatste laat men de Nederlandse autoriteiten weten dat men de volgorde van de getuigen mag veranderd indien

één van hen ~~niet~~ kan verschijnen op de voor hem vastgestelde datum. Getekend,

rechter. Voor mij:

secretaris. -----

PLAATS EN DATUM: -----

Buenos Aires, 19 augustus 2014. -----

----- [Een onleesbare handtekening] -----

-----

----- [Een onleesbare handtekening] -----

-----

----- Secretaris -----

[De achterkant van het tweede blad is onbeschreven]. -----

-----

Ik, beëdigd vertaalsster voor de Nederlands-

Spaanse taal, ingeschreven bij het College van Beëdigde Vertalers van de stad Buenos

Aires onder numme verklaar bij deze dat het voorafgaande een volledige en getrouwe

vertaling naar het Nederlands is van het aangehechte document in de Spaanse taal. Buenos

Aires, Argentinië, 20 augustus 2014. -----

Uitsluitend voor de desbetreffende legalisatie: Exclusivamente a los efectos de la

correspondiente legalización: Es traducción fiel al idioma neerlandés del documento adjunto

redactado en idioma castellano, que tuve ante mí y al cual me remito. Ciudad Autónoma de

Buenos Aires, Argentina, el 20 de agosto de 2014.----



ICLR-

SAIRS

25 SEP 2014 / 7/10

Jurisnr. 204030220

**Directie Juridische Zaken**  
Afdeling DJZ/CR

### Contactpersoon

mi. ....  
 ..  
 ..  
 ..

**Onze referentie**  
DJZ/NR/ak-14/464

**Uw referentie**  
KLR-I-

## Bijlage(n)

Met vriendelijke groet

Pagina 1 van 1



*Embassy  
of the  
Argentine Republic*

AE 54/2014

The Embassy of the Argentine Republic presents its compliments to the Ministry of Foreign Affairs - Civil Law Division - and has the honour to refer to the case "ESMA UNIFICADA -Nº 1282 y sus acumuladas" handled by the Federal Criminal Court - No. 5, from Buenos Aires, Argentine Republic.

The Embassy kindly request the Ministry of Foreign Affairs, to deal with the current Letter Rogatory in the above mentioned case in accordance to the framework of the Convention for the Extradition of Criminals, signed in 7 September 1893 by the Argentine Republic and the Kingdom of the Netherlands.

The Embassy of the Argentine Republic avails itself of this opportunity to renew to the Ministry of Foreign Affairs - Civil Law Division - the assurances of its highest consideration.



The Hague, September 19, 2014

Ministry of Foreign Affairs  
Civil Law Division  
P.O. Box 20061  
2500 EB The Hague



**TRADUCCIÓN -----**  
**REQUEST FOR MUTUAL LEGAL INTERNATIONAL ASSISTANCE IN**  
**CRIMINAL MATTERS. -----**

**REQUESTING AUTHORITY -----**

**Name and position:** ----- Prosecutor. -----

**Office:** *Unit for the Assistance in Cases Regarding Violations of Human Rights during State Terrorism. Trial Prosecutor's Office. ESMA UNIFICADA. National Public Prosecutor's Office.* -----

**Contact Details: Tel/Fax:** -----

**E-mail:** -----

**Postal address:** -----

**REQUESTED AUTHORITY: -----**

**Name and position:** To the judicial authority with competence in Rotterdam City, Netherlands. -----

**IDENTIFICATION OF THE CRIMINAL PROCEDURE: -----**

**Number of the case:** Cases Number 1282, 1349, 1415, 1492, 1510, 1545, 1668, 1689 and 1714 pending before the Oral Federal Court N° 5 of Buenos Aires city. -----

**Title:** "ESMA UNIFICADA" -----

**1) FACTS UNDER INVESTIGATION: -----**

**1) Historical Context:** The offenses which are part of this procedure were committed by the State and meant not only the reiterated violation of human rights but also, due to the significance, volume and seriousness, crimes against humanity pursuant the international law. In such sense, the crimes against humanity are offenses of international law and this arises from its content, nature and conditions of liability which are set forth by the international law, with independence from what might be set forth by the internal legislation of the states. -----

In that regard, we have collected numerous testimonies which credit for the systematic plan of repression installed in the most ferocious of the military dictatorships that took place in this country. -----

**2) *Mechanic School of the Army (Escuela de Mecánica de la Armada – E.S.M.A)*-----**

It worked as clandestine detention and extermination center of persons and was under the responsibility of the diverse instance of the chain of command of the Armed Forces, whose heads were the successive Chief Commanders who also were part of the Military Boards. The E.S.M.A was where the 3.3/2 Taskforce was located, which was formed by Naval officers and from other security forces which worked in a coordinated manner. -----

**3) 3.3/2 Taskforce-----**

The effective force of the 3.3 Taskforce was formed by staff that was part of the ESMA and Naval School of War which was reinforced by staff of other divisions which were under the scope of the Naval Operations Command Center when the situation requested it so in a transitive and rotating manner. There three sections: "intelligence", "operations" and "logistics". -----

The concentration camp also had the participation of different health care professionals who took care that the captive persons survived when being submitted to brutal sessions of torture – in order to extract information -; they assisted the pregnant captive persons in a clandestine maternity ward and applied doses of substances that made the victims sleepy and facilitated a state of being helpless in order to dispose of their lives through the mentioned "death flights" (*vuelos de la muerte*). -----

#### 4) Facts under investigation regarding Julio Poch. -----

In the mentioned context, Julio Alberto Poch in his capacity as Aeronautic Officer of the Argentine Armed Force is accused of being the pilot during 1976 to 1978 in the flights which used the elimination system of persons named "death flights". This was one of the methods used by the civil-military dictatorship that ruled the country in order to get rid of the victims that were previously illegally deprived from their liberty by the 3.3/2 Taskforce (a task force that worked at ESMA). The mentioned flights departed from different airports or military bases which had runways where the victims were entered – who were sedated through a substance known as pentothal – and where later on thrown alive into the water during the flight. -----

The facts of which Poch is accused of are: -----

#### Case Number 23: -----

\_\_\_\_\_ was illegally deprived from his liberty with violence, abuse of authority and without the formalities set forth by the law, on May 30<sup>th</sup>, 1976 at 8PM in the corner of Las Heras and Lafinur – \_\_\_\_\_ – by five members of the 3.3/2 Taskforce who were armed and dressed as civilians and who identified themselves as security guards. -----

Afterwards he was taken to the ESMA, wearing a hood; he stayed in clandestine detention under inhuman conditions (submitted to very poor feeding, hygiene and lodge conditions in the place). On January 1977 he was allegedly transferred in the "death flights". Until today he is still missing.-----

#### Case Number 24: TAPIA; -----

\_\_\_\_\_ " was illegally deprived from his liberty with violence, abuse of authority and without the formalities set forth by law on May 30<sup>th</sup>, 1976 by members of the 3.3/2 Taskforce.-----



Afterwards he was taken to the ESMA, where he stayed in clandestine detention under inhuman conditions (submitted to very poor feeding, hygiene and lodge conditions in the place). On January 1977 he was allegedly transferred in the "death flights". Until today he is still missing.-----

**Case Number 25:**-----

..... was illegally deprived from his liberty on June 7<sup>th</sup>, 1976 at night hours in the intersection of Avenida Mitre and Hipolito Yrigoyen of Florida, Vicente Lopez, by a group of persons – members of the 3.3/2 Taskforce - who got him on board a car which fled with unknown destination.-----

Afterwards he was taken to the ESMA, where he stayed in clandestine detention under inhuman conditions (submitted to very poor feeding, hygiene and lodge conditions in the place). He was finally "transferred" in December 1976. Until today he is still missing.-----

**Case Number 31:**-----

..... was illegally deprived from her liberty with violence, abuse of authority and without the formalities set forth by the law, on June 25<sup>th</sup>, 1976 by members of the 3.3/2 Taskforce.-----

Afterwards she was taken to the ESMA, where she stayed in clandestine detention under inhuman conditions (submitted to very poor feeding, hygiene and lodge conditions in the place). Finally, she was "transferred" on July 1976. Until today she is still missing.-----

**Case Number 32:**-----

..... member of the *Juventud Peronista* was illegally deprived from his liberty with violence, abuse of authority and without the formalities set forth by the law, on June 25<sup>th</sup> or 26<sup>th</sup>, 1976 at 7PM in a bar located at Patricios 500 by members of the 3.3/2 Taskforce heavily armed who said they were members of a security agency.-----

Afterwards she was taken to the ESMA, where he stayed in clandestine detention under inhuman conditions (submitted to very poor feeding, hygiene and lodge conditions in the place). Finally, he was "transferred" between July or August 1976. He is still missing.-----

**Case Number 58:**-----

..... Delegate of the Internal Commission of *La Nacion* newspaper, was illegally deprived from his liberty with violence, abuse of authority and without the formalities set forth by the law, on July 30<sup>th</sup> 1976 in the street in Buenos Aires, by members of the 3.3/2 Taskforce.-----

Afterwards he was taken to the ESMA, where he stayed in clandestine detention under inhuman conditions (submitted to very poor feeding, hygiene and lodge conditions in the place) and was submitted to torture while being interrogated. He is still missing.-----

**Case Number 59:**

..... law student, was illegally deprived from her liberty with violence, abuse of authority and without the formalities set forth by the law, on July 31<sup>st</sup>, 1976 at 9AM at her work place .....

..... by four members of the 3.3/2 Taskforce dressed as civilians who identified themselves as members of Federal Security (*Seguridad Federal*). .....

Afterwards they got her on board a green Ford Falcon and was taken to the ESMA, where she stayed in clandestine detention under inhuman conditions (submitted to very poor feeding, hygiene and lodge conditions in the place). Finally, she was "transferred" on December 1976. Until today she is still missing. ....

**Case Number 65:**

..... was illegally deprived from her liberty with violence, abuse of authority and without the formalities set forth by the law, on August 16<sup>th</sup>, 1976 at her domicile located at .....

..... by members of the 3.3/2 Taskforce. ....

Afterwards she was taken to the ESMA, where she stayed in clandestine detention under inhuman conditions (submitted to very poor feeding, hygiene and lodge conditions in the place). She is still missing. ....

**Case Number 118:**

..... was illegally deprived from his liberty with violence, abuse of authority and without the formalities set forth by the law, on October 1976 by members of the 3.3/2 Taskforce. ....

Afterwards he was taken to the ESMA, where he stayed in clandestine detention under inhuman conditions. He is still missing. ....

**Case Number 129:**

..... (case number 161) was illegally deprived from his liberty with violence, abuse of authority and without the formalities set forth by the law, on December 24<sup>th</sup>, 1976 by members of the 3.3/2 Taskforce. ....

Afterwards he was taken to the ESMA, where he stayed in clandestine detention under inhuman conditions. Afterwards he was "transferred". He is still missing. ....

**Case Number 145:**

..... was illegally deprived from his liberty with violence, abuse of authority and without the formalities set forth by the law, on November 27<sup>th</sup> 1976 when he was returning to ..... located at .....

..... between 5PM and 6PM. ....

Afterwards he was taken to the ESMA, where he stayed in clandestine detention under inhuman conditions and was brutally tortured. The first week of January 1977 he was



allegedly "transferred". He is still missing. -----

**Case Number 146:** -----

-----, was illegally deprived from her liberty with violence, abuse of authority and without the formalities set forth by the law, on December 1<sup>st</sup>, 1976 in Buenos Aires city by members of the 3.3/2 Task Force. -----  
Afterwards she was taken to the ESMA, where she stayed in clandestine detention under inhuman conditions. On December 14<sup>th</sup>, 1976 she had a telephone communication with her family. During the mentioned month she was allegedly "transferred". -----  
is still missing.-----

**Case number 167:** -----

----- was illegally deprived from her liberty with violence, abuse of authority and without the formalities set forth by the law, on December 28<sup>th</sup>, 1976 at 2.30PM when she was leaving her job at the -----  
-----, by individuals dressed as civilians and heavily armed. -----

Afterwards she was taken to the ESMA, where she stayed in clandestine detention under inhuman conditions. ----- is still missing. -----

**Case number 168:** -----

----- was illegally deprived from her liberty with violence, abuse of authority and without the formalities set forth by the law, on December 28<sup>th</sup>, 1976 at 9PM at ----- by individuals dressed as civilians with long weapons that were in the hall of the building.-----  
Afterwards she was taken to the ESMA, where she stayed in clandestine detention under inhuman conditions. ----- is still missing. -----

**Case number 173:** -----

----- was illegally deprived from her liberty with violence, abuse of authority and without the formalities set forth by the law and afterwards she was taken to the ESMA, where she stayed in clandestine detention under inhuman conditions. In the mentioned detention centre she was seen in December 1976. She is still missing. -----

**Case number 646:** -----

-----, was illegally deprived from her liberty with violence, abuse of authority and without the formalities set forth by the law, on April 19<sup>th</sup>, 1976 at her job at -----, by an armed group of the 3.3/2 Task Force. -----  
Afterwards she was taken to the ESMA, where she stayed in clandestine detention under inhuman conditions. She is still missing.-----

**Case number 2867:**

\_\_\_\_\_, i, member of the *Partido Justicialista* was known as \_\_\_\_\_  
\_\_\_\_\_ was illegally deprived from his liberty with violence,  
abuse of authority and without the formalities set forth by the law, on May 25<sup>th</sup>, 1977 at  
Buenos Aires city. \_\_\_\_\_

Afterwards he was taken to the ESMA, and he stayed there in clandestine detention and  
was tortured by the imposition of inhuman conditions. On November 9<sup>th</sup>, 1977,  
\_\_\_\_\_ was "transferred". He is still missing. \_\_\_\_\_

**Case number 405:**

\_\_\_\_\_, nickname \_\_\_\_\_ was illegally deprived from her liberty with  
violence, abuse of authority and without the formalities set forth by the law, on December  
1977 at the entrance of the cinema "San Nicolas" located at Lavalle of Buenos Aires city  
by members of the 3.3/2 Task Force. \_\_\_\_\_

Afterwards she was taken to the ESMA, where she stayed in clandestine detention under  
inhuman conditions. She was allegedly "transferred" during the first half of February 1978.  
She is currently missing. \_\_\_\_\_

**Case 407:**

**i; 408:**

r, 409:

410:

411:

412:

i; 413:

414)

i; 415:

; 416:

418:

d 419:

On December 8th, 1977 after a meeting of a group of family members of missing persons  
carried out at Santa Cruz Church in order to claim for the appearance alive of the persons  
illegally arrested by the Armed Forces, this group started leaving through the gates located  
at Estados Unidos 3150 of Buenos Aires city, approximately between 8PM and 8.30PM  
when members of the Task Force 3.3.2 appeared, they were armed and dressed as  
civilians and they said they were police officers. The first persons to leave church were

\_\_\_\_\_. Finally, the last group left church, they were \_\_\_\_\_.  
\_\_\_\_\_. When they arrived to  
one street, a person dressed as a civilian with a radio identified sister \_\_\_\_\_  
\_\_\_\_\_, and without hesitating he pointed at them and ordered their arrest. In that occasion,  
they introduced \_\_\_\_\_

\_\_\_\_\_ against  
their will in the cars (between eight and ten) which were parked in the block of the church.



The kidnappings continued in the domicile located at neighborhood; of Buenos Aires city were they illegally deprived Remo Berardo from his liberty. -----

Also, in the same date, members of the Task Force 3.3/2 kidnapped ----- and ----- using violence in the coffee shop "Comet" located at the corner of Paseo Colon and Belgrano of Buenos Aires city. -----

The criminal actions continued until 8.30AM of December 10<sup>th</sup>, 1977 when ----- was leaving her domicile located at -----

A few meters from ----- house, several persons with long weapons got off from two vehicles parked there and immediately arrested her and got her on one of the vehicles by force. -----

Hours later, between 11AM and 12.30PM approximately, members of the Task Force 3.3/2 arrived in a For Falcon with no license plate to the church San Pablo, located at Espora street 1247 of -----, Buenos Aires province. After talking with ----- they entered into her domicile and about ten minutes later, they forced her to get on the vehicle which was parked there and they left. -----

After being deprived of their liberty, all the victims were taken to the ESMA where they were hooded, chained and submitted to interrogations through the use of different torture methods which caused them a noticeable damage to their health and they were left in a very poor physical and psychological condition. The victims stayed in the clandestine detention centre between ten to fifteen days until their "transfer" was resolved, this consisted in applying an injection of pentothal in order for the personnel of the Argentine Naval Force and the Argentine Coast Guard take them – probably in two groups – in the plane from which they were thrown to the sea, in the afterwards named "death flights". The mentioned "transfers" ended with the death of the victims on December 14<sup>th</sup>, 1977.----

## II) MEASURES REQUESTED. -----

By this presence, we request to the Prosecutor ----- from the National Prosecutor's Office Team Information and Operational Coordination to submit a certified copy of the report made by the Dutch national - whose identity is classified – in which he mentions the circumstances and situations related to Julio Poch and his participation as pilot in the mentioned "death flights" which took place during the military dictatorship. ---

The measure requested is aimed at analyzing whether the statement of the witness is useful and pertinent in order to be incorporated as new evidence (in the terms of section 388 of the Argentine Criminal Procedure Code) in the oral and public discussion that is taking place in Argentina regarding crimes against humanity committed in the clandestine extermination center called "ESMA". -----

### III) PARTIES OF THE PROCEDURE. -----

Accused: Julio Alberto Poch. -----

Prosecutor's Office: Unit for the Assistance in Cases Related to Violations to Human Rights during State Terrorism. Trial Prosecutor's Office ESMA UNIFICADA: -----

Plaintiff: *Cels; Abuelas de Plaza de Mayo, Secretaria de Derechos Humanos de la Nacion; Colectivo Kaos; Colectivo Jusitica Ya.* -----

Victims:

### IV) APPLICABLE LEGISLATION<sup>1</sup>. -----

The previously mentioned actions are against Julio Alberto Poch in his capacity as necessary accessory for the offences of illegal deprivation of liberty aggravated doubly due to his condition as public officer and due to the fact that it was committed with violence, in reiterated times – 12 charges – committed against the victims of cases **407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 418 y 419**; illegal deprivation of liberty aggravated three times due to his condition as public officer, due to the fact that it was committed with violence and due to the fact that it lasted more than a month, in reiterated times - 18 charges – committed against the victims of cases **23, 24, 25, 31, 32, 58, 59, 65, 118, 129, 145, 146, 167, 168, 173, 287, 405 y 646**; tortures in order to obtain information or to break their will, aggravated due to the fact that they were committed due to political reasons in a reiterated manner – 30 charges committed against the victims of cases **23, 24, 25, 31, 32, 58, 59, 65, 118, 129, 145, 146, 167, 168, 173, 287, 405, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 418, 419 and 646**; all of them concurrent (sections 2, 45, 55, 80 subsection 2, 6 and 7, 144 third paragraphs 1 and 2; 144 bis subsection 1 and the last paragraph of the

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Argentine Criminal Code, pursuant Act 14.616)-----

The offenses mentioned are crimes against humanity since they were committed in the context of a systematic and general attack against civil population (section 1 of the "Convention regarding the lack of prescription of War Crimes and Crimes against Humanity").-----

**Argentine Criminal Code.** -----

Sections 2, 45, 55, 80 subsection 2, 6 and 7, 144 third paragraphs 1 and 2, 144 bis subsection 1 and the last paragraph of Argentine Criminal Code, pursuant Act 14.616).-----

Section 2: Should the applicable law at the time of the commission of the offence be different to the one existing upon the entering of the sentence or in the meantime, the law imposing the more lenient punishment shall be always applied. -----

If, while serving a sentence, a law imposing a more lenient punishment is passed, the punishment imposed shall be limited by the scope of that newly passed law. -----

In all the above mentioned circumstances, the effects of the new law shall be applied ipso iure. -----

Section 45: The persons who perpetrate an offence, or who give the perpetrator or perpetrators the aid or co-operation necessary for the commission of the offence, shall be punished with the penalty foreseen for the offence. The same penalty shall be applied to the accessories before the fact. -----

Section 55: Whoever commits different independent offenses, which entail the same type of penalty, shall be punishable by not less than the maximum minimum applicable penalty and not more than the penalty resulting from the accumulation of penalties applicable to the different committed offenses. This penalty resulting from said accumulation shall not exceed the statutory maximum provided for the relevant type of penalty. -----

Section 80: A penalty of imprisonment for life -with the possibility of applying the provisions of section 52- shall be imposed on anyone who kills a person: -----

2. with cruelty, treachery, poison or any other malicious means;

6. with the aforethought conspiracy of two or more people; -----

7. in order to prepare, facilitate, commit or hide another offense or to guarantee the intended outcome or to obtain impunity for himself or for others or due to failing to achieve the objective intended when attempting another offense. -----

Section 142: Whoever deprives someone else from his liberty whenever any of the following circumstances concur shall be punished with two to six years imprisonment: ----

1° if the action was committed with violence or threats with religious or revenge goals: ----

2° if the action was committed against an ancestor, a brother, a spouse or any other individual to whom one must pay special respect; -----

3° If the victim, his health or business was seriously damaged, provided that there was not any other offense for which the law demands a higher punishment; -----

4° if the action was committed pretending to be a public authority or under the order of a public authority; -----

5° if the deprivation of liberty lasted more than a month -----

Section 144 -bis: It shall be punished with a penalty of imprisonment or reclusion at hard labor for one to five years along with his special disqualification for a period twice his conviction: 1- The public servant who, abusing his position or unfulfilling formalities established by the law, deprives an individual of his freedom; 2- The servant who, while carrying out his duties, commits any ill-treatment or implements any unlawful coercion against individuals; 3- The public servant that inflicts harshness, ill-treatment or unlawful coercion to the imprisoned under his guarding If any of the circumstances enumerated within sections 1, 2, 3 and 5 of art. 142 concurs, the penalty of imprisonment or reclusion at hard labor shall be for two to six years. -----

Section 144 -third. -----

1. The public servant who, abusing his functions or without the formalities set forth by law, deprives someone from his personal liberty; -----

2. The public servant who in use of his functions commits any sexual humiliation against persons or unlawful coercion; -----

3. The public servant who inflicts to the persons arrested under his custody, violence, sexual humiliations or unlawful coercion; -----

Shall be punished with imprisonment from one to five years and special disqualification for the double time. If any of the circumstances foreseen in subsections 1, 2, 3 and five of section 142 appear the penalty shall be of imprisonment from two to six years. -----

**Argentine Code of Criminal Procedure.** -----

Section 388. "If during the debate it came it arises that there is new useful evidence or that other evidence already known becomes essential, the court may order that they be received".-----

**Applicable International Conventions** -----

"Conventions regarding the lack of prescription of war crimes and crimes against humanity". -----

Section 1. The following crimes do not prescribe, whatever the date they were committed:

a) War crimes pursuant the definition of the Bylaws of the International Military Court of Nuremberg, August 8<sup>th</sup>, 1945 and confirmed by resolutions of the United Nations General Assembly 3 (I), February 13<sup>th</sup> 1946 and 95 (I) December 11<sup>th</sup>, 1946 regarding particularly



“serious infringements” mentioned by the Geneva Convention of August 12<sup>th</sup>, 1949 for the protection of war victims; b) Crimes against humanity committed in war times and in peace times, pursuant the definition of the Bylaws of the Military Court of Nuremberg, August 8<sup>th</sup> 1945 and confirmed by resolutions of the United Nations General Assembly 3 (I) of February 13<sup>th</sup>, 1946 and 95 (I) December 11<sup>th</sup>, 1946 and also the expulsion for armed attack or occupation and inhuman actions due to the apartheid and the offence of genocide as set forth in the 1948 Convention of the Prevention and Sanction of Genocide even though the mentioned actions are not violation of the internal laws of the country in which they were committed. -----

**Regulations of the Public Prosecutor’s Office.** -----

Section 26. The member of the Public Prosecutor’s Office, at any level, shall – in order to fulfill its functions in a better way – request reports to the national, provincial, community agencies; to private agencies and to individuals if applicable and may also request the cooperation of police authorities in order to carry out investigations, subpoena persons to their offices just to give testimony. The police and security agencies shall give the cooperation requested; being governed by the guidelines set forth by the members of the Public Prosecutor’s Office and submitting personnel and means to accomplish these tasks.

The prosecutors of criminal justice, in knowledge of the perpetration of an illegal action – whether it is through a communication foreseen in section 186 of the Argentine Code of Criminal Procedure or by any other means – without prejudice of the orders given to the police or participating security force by the competent judge, shall request from these forces the fulfillment of the dispositions that rule the procedure and order to carry out all errands they deem pertinent in order to effectively develop the criminal action. In that regard, the prevention shall act under their immediate direction. -----

**V) TREATY IN WHICH IS BASED THE REQUEST OR RECIPROCITY<sup>2</sup>.**-----

This letters rogatory is based on the United Nations Convention against torture and other cruel, inhuman or degrading treatments or penalties which set forth in section 9 the judicial aid between member states; and it is also based in the International Convention for the protection of all persons against the forced disappearance of persons (section 14). -----

The judicial authority is also informed regarding the fact that, through this presence, we offer reciprocity for future similar cases. -----

**VI) TRANSCRIPTION OF THE RESOLUTION THAT ORDERS THE REQUEST.**-----

///nos, April 25<sup>th</sup>, 2014.- (...) II. In connection with the facts arising from the record issued on April 16<sup>th</sup>, 2014 in The Hague, Netherlands, via the Secretary of Cooperation and International Relationships of the Argentine Prosecutors Office be an international letters rogatory issued to the Prosecuto: from the National Prosecutor’s Office

Team Information and Operational Coordination in order for him to inform to this Prosecutor's Office as soon as possible the testimonies given by a witness of reserved identity in which he mentioned facts and circumstances related to the possible participation as pilot of the Argentine Marine of Julio Poch in the mentioned "death flights" which took place in the last civil-military dictatorship. All of this in order to analyze the applicable status or usefulness of the mentioned statement in order to be reproduced as new evidence – section 388 Argentine Code of Criminal Procedure – in the oral debate that is taking place in the case called "ESMA UNIFICADA". Signed \_\_\_\_\_, General Prosecutor.

Before me: \_\_\_\_\_, Clerk of the Chamber. -----

PLACE AND DATE: -----

Buenos Aires, August 25<sup>th</sup>, 2014.-----

(There appears a signature and a seal which reads: ) \_\_\_\_\_

GENERAL PROSECUTOR. -----

Buenos Aires, 29 de Agosto de 2014. Es traducción fiel al idioma ingles del documento en idioma español que he tenido ante mi. -----