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International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Follow-up progress report on individual communications*

A. Introduction

1. The present report was prepared pursuant to rule 79 of the rules of procedure of the Committee on Enforced Disappearances, which states that the Rapporteur or working group tasked with ascertaining the measures taken by States parties to give effect to the Committee's Views must regularly report to the Committee on follow-up activities.

2. The present report sets out the information received by the Committee on the follow-up to its Views and the decisions that, using the following assessment criteria, it has taken:

Assessment criteria	
Compliance	
A	Measures taken are largely satisfactory
Action partially satisfactory	
B	Substantive measure(s) taken, but additional information and/or measures required
Non-compliance	
C	Reply received but measures taken do not implement the Views/recommendations
No reply	
D	No reply to one or more recommendations or parts of recommendations after reminder(s)

B. Follow-up information received and processed until 1 April 2022

Communication No. 1/2013, *Yrusta and Del Valle Yrusta v. Argentina*

Date of adoption of Views:	*11 March 2016*
Conclusions reached in the Views:	Violation of articles 1, 2, 12 (1), 17, 18, 20 and 24 (1), (2) and (3) of the Convention in relation to Roberto Agustín Yrusta and of articles 12 (1), 18, 20 and 24 (1), (2) and (3) in relation to the authors.
Reparation measures requested	(a) Recognize the authors' status as victims, thereby allowing them to play an effective

* Adopted by the Committee at its twenty-second session (28 March–8 April 2022).

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part in the investigations into the death and enforced disappearance of their brother;

(b) Ensure that the investigation is not confined to the causes of Mr. Yrusta's death but instead also entails a thorough and impartial investigation of his disappearance;

(c) Prosecute, try and punish the persons responsible;

(d) Provide the authors with rehabilitation and prompt, fair and adequate compensation;

(e) Adopt all necessary measures to enforce the guarantees of non-repetition, including compiling and maintaining registers that meet the requirements of the Convention, and to ensure that the relevant information is accessible to all persons with a legitimate interest, as set out in articles 17 and 18 of the Convention;

(f) Make the Views public and disseminate them widely, in particular, though not solely, among members of the security forces and prison personnel who are in charge of persons deprived of their liberty.

Committee's decisions of 22 September, 24 October and 15 December 2016

3. The Committee granted two extensions. With the second extension, the State party was informed that, if the follow-up report was not received by the required date, the Committee would proceed, on the basis of the information at its disposal, to the assessment of the action taken to implement its recommendations. On 15 December 2016, the State party reiterated its request for an extension. The Committee rejected this request and stated that it would proceed on the basis of available information, as indicated in its note of 24 October 2016.

Authors' comments of 18 December 2016

4. The authors reiterated that no action had been taken to give effect to the Committee's Views. They provided information on the actions taken by the victim's relatives to follow up on the Committee's recommendations and to secure their implementation.

Committee's follow-up letter of 25 April 2017

5. In the follow-up letter sent by the Rapporteur to the State party on behalf of the Committee, the State party was reminded that it had been requested, in paragraph 14 of the Committee's Views, to report on the action that it had taken to implement the recommendations contained in the Views within six months of the date of transmission of the Views.

6. The Committee noted that:

(a) More than a year after the Views in question had been transmitted, the State party had still not submitted the required follow-up information;

(b) The information available on the steps taken in follow-up to the Views made it clear that the State party had taken no action to give effect to the Views, and, as a result, the violation of the authors' rights was ongoing and had been exacerbated;

7. The Committee therefore informed the State party that it had decided to indicate in its report to the General Assembly that the State party's implementation of the Committee's recommendations was still unsatisfactory and to re-examine the follow-up to the Views in question at its next session.

Date of adoption of Views:	*11 March 2016*

Authors' additional comments of 13 June and 17 July 2017

8. The authors requested information on the status of the follow-up process and reported that the Committee's Views had still not been implemented.

9. They also reported that they had had a meeting with the National Secretariat for Human Rights in Buenos Aires following the Committee's decision. On that occasion, the authorities had committed to moving forward with the implementation of the decision, in particular to advance the investigation and ensure that it was reassigned to the federal court competent in matters of enforced disappearance. They had also pledged to take measures to offer reparation to the victims. However, no action had yet been taken to that effect.

10. The authors also reported that they had been in constant contact with the international litigation department of the National Secretariat for Human Rights but that the unresponsiveness of the provincial government had impeded any progress.

State party's response of 8 September 2017

11. The State party commented on the action taken in respect of each of the Committee's recommendations.

Recommendation in paragraph 12 (a) of the Views

12. The State party indicated that Mr. Yrusta's sisters did not have legal standing to act as plaintiffs in the criminal proceedings in which the cause of Mr. Yrusta's death was being investigated because, under article 93 of the Code of Criminal Procedure of the Province of Santa Fe, only persons claiming to be the victims of a publicly prosecutable offence or their compulsory heirs could join the proceedings as plaintiffs. Accordingly, on 24 June 2015, the Criminal Court of Appeal of Santa Fe judicial district No. 1 rejected the constitutional challenge and upheld the decision of the investigating judge to reject the application of Mr. Yrusta's sisters to act as plaintiffs.

13. According to the State party, the authors did not have legal standing to act as plaintiffs in the investigation being conducted at the federal level either.

14. However, in their capacity as victims, the authors had the option to participate in the investigations under the terms of article 80 of the Code of Criminal Procedure of the Province of Santa Fe, and they were in fact doing so through their representative, on whose request evidence had been gathered.

Recommendation in paragraph 12 (b) of the Views

15. The State party noted that two investigations into the case of Mr. Yrusta were under way: the investigation into his death, being carried out by the ordinary courts of the Province of Santa Fe, and the investigation into his enforced disappearance, being conducted by the federal courts following the referral of the case ordered by the Supreme Court of Santa Fe on 18 October 2016. The State party described the investigative measures that had been taken during the proceedings and noted that, according to the Supreme Court of Santa Fe, the offence of enforced disappearance had ceased prior to the time of Mr. Yrusta's death, since he had resumed contact with members of his family, and they knew of his whereabouts. The federal court had requested the cooperation of the Office of the Prosecutor for Institutional Violence in the Attorney General's Office, which has competence to bring criminal proceedings and oversee the investigation and prosecution of offences involving institutional violence, the principal victims of which are persons in situations of vulnerability.

Recommendation in paragraph 12 (c) of the Views

16. The relevant criminal cases were under way. The State party also asserted that, on 18 March 2014, the office of the court administrator of the Supreme Court of Santa Fe had ordered an administrative inquiry into the conduct of the first judge and the prosecutor in charge of the investigation into Mr. Yrusta's death. In a decision of September 2016, Chamber IV of the Criminal Court of Appeal of Santa Fe concluded that irregularities had been committed by both the judge and the prosecutor in the course of the investigation. On 16 May 2017, the judge and the prosecutor under investigation were asked to make

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any exculpatory statements that they considered relevant in relation to the charges against them. The pretrial proceedings were under way.

Recommendation in paragraph 12 (d) of the Views

17. A dialogue had been opened with the authors with a view to reaching agreement on what would constitute adequate reparation.

Recommendation in paragraph 12 (e) of the Views

18. The State party noted that there were two federal registers of cases of institutional violence: the register maintained by the unit responsible for recording, processing and following up on information regarding acts of torture and other forms of institutional violence, which operated under the executive authorities and reported to the National Directorate of Policies to Combat Institutional Violence; and that maintained under the Programme to Combat Institutional Violence of the Chief Public Defender's Office, a functionally autonomous independent body.

Recommendation in paragraph 13 of the Views

19. The State party reported that efforts were being made with the provincial authorities with a view to complying with this recommendation.

Authors' comments of 17 September 2017

20. The authors were of the view that the interpretation made of article 93 of the Code of Criminal Procedure of Santa Fe was arbitrary and that limiting participation to compulsory heirs did not reflect a balanced interpretation of the law. The wording did not relate to the active participation of the victim's family members in establishing the truth. In addition, they reported that Mr. Yrusta's mother, his sole heir, was cared for by his sisters and had been in poor health for some time. This fact was reported to the authorities of the State party but was not taken into consideration.

21. They were also of the view that the law gave family members legal authority to act as plaintiffs; therefore, when compulsory heirs joined criminal proceedings as plaintiffs, they did so in their own right, not as successors to a right held by the victim. In the case at hand, the provisions on succession that were used as a basis for denying the authors the right to act as plaintiffs established an order of preference for the transfer of rights and obligations derived from the deceased's estate. The legal authority granted under procedural law by which individuals could act as plaintiffs in cases involving publicly prosecutable offences was unrelated to inheritance issues. Accordingly, the authors believed that, even though they did not have inheritance rights, they should be allowed to act as plaintiffs in order to exercise their right to the truth.

22. The authors argued that victim status, as understood under the Santa Fe system of criminal procedure, involved limitations and restrictions. The victim could not take steps to gather evidence or initiate proceedings. They pointed out that none of the evidentiary measures that they had requested had been taken. The victims were not able to check the statements that were made in the course of the investigation because they did not have any information on the conduct of the investigation. Accordingly, the authors reiterated their request to be recognized as parties to the investigative proceedings that were under way in their brother's case.

Committee's decision of 18 April 2019

23. Compliance: B (action partially satisfactory). The State party had taken additional measures to bring itself into compliance, but more information and further measures were required. The Committee decided to send a follow-up note to the State party.

Action taken by the Committee on 10 May 2019

24. While thanking the State party for the follow-up reports of 15 February and 7 March 2018, the Committee sent a note to the State party informing it of its conclusions and recommendations for follow-up.

25. The Committee emphasized that the measures taken by the State party did not amount to a satisfactory implementation of the recommendations contained in its Views and reiterated in the follow-up procedure of 6 October 2017.

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Plaintiff status for Mr. Yrusta's two sisters (Views, para. 12 (a))

26. The Committee was concerned that:

(a) Mr. Yrusta's two sisters had still not obtained standing as plaintiffs, which would have allowed them to participate fully in investigations, in accordance with article 24 of the Convention. The Committee noted that, according to the State party, the authors had not exhausted the domestic remedies available to overturn the decision rejecting their application to be recognized as plaintiffs. In particular, the State party argued that the authors should have submitted an extraordinary federal appeal against the judgment of the Supreme Court of Santa Fe given the federal scope of the question of their right to act as plaintiffs. It also argued that their lack of legal standing under the provincial regulations conflicted with constitutional rights and international instruments. The Committee also noted that, according to the State party, under the Act of 13 July 2017 on the Rights and Guarantees of Crime Victims, the authors, as sisters of the direct victim of a crime that resulted in death, could become plaintiffs and, in that capacity, could take legal action;

(b) In a letter dated 31 October 2017, Córdoba Federal Prosecutor's Office No. 1 petitioned Córdoba Federal Court No. 1 to recognize the two sisters as plaintiffs. The Committee also noted, however, that, a year and a half later, this request had still not been addressed;

(c) Despite Mr. Yrusta's status as victim in the Santa Fe procedural system, four of the most important investigative measures requested by his sisters in the investigation into his death had not been taken by the competent authorities (exhumation of the body, a fresh autopsy by an actor not associated with the provincial security forces, a re-examination of the objects found in Mr. Yrusta's anus and stomach and presentation of information on the X-ray results);

(d) Other investigative measures requested by Mr. Yrusta's sisters had been taken by the State party, but they had not been apprised of the results (analysis of the provincial prison log for the days preceding the death of Mr. Yrusta, analysis of the clinical history and of the record of staff arrivals and departures, and the content of nursing staff's witness statements);

(e) The authors had not been told whether the other investigative measures that they had requested (such as taking witness statements from the prison staff) had been ordered by the State party;

(f) The authors had not been informed that the complaint relating to the death of Mr. Yrusta had been dismissed and had not had access to the case file, as they were not plaintiffs, notwithstanding their rights as victims under the Code of Criminal Procedure.

27. In view of the above, the Committee referred again to paragraph 12 (a) of its Views of 11 March 2016 and again requested that the State party grant the status of plaintiff to Mr. Yrusta's two sisters and allow them, in accordance with their rights as victims and plaintiffs, to initiate proceedings and effectively participate in the investigations into their brother's enforced disappearance and death.

Thorough and impartial investigations into the disappearance and death of Mr. Yrusta (Views, para. 12 (b))

28. The Committee noted that, in the investigation into the alleged enforced disappearance of Mr. Yrusta, witness statements had been taken from the authors, evidentiary measures had been ordered, such as requests for administrative documents from the Córdoba Prison Service and for information and files on sentence enforcement from the criminal enforcement court responsible for Mr. Yrusta, while information and records concerning Mr. Yrusta had been requested from the judge in Coronda, Santa Fe. However, the Committee regretted that the investigation into the disappearance was still but a preliminary investigation.

29. The Committee also noted that, in the administrative inquiry launched in March 2014 into irregular conduct by the prosecutor and the first judge in charge of the investigation into the causes of the death of Mr. Yrusta, the Attorney General had apparently ordered that the prosecutor and the first judge be suspended for five days, given that they had no previous disciplinary record.

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30. The Committee also noted that, in an appeal dated 27 October 2017 contesting the dismissal decision of 20 October 2017 of Bench No. 7 of the lower criminal court, prosecutor No. 7 of Public Prosecutor's Office No. 5 requested the reopening of the investigation into Mr. Yrusta's death and that the case had been referred in December 2017 to the Santa Fe Appeals Court. The Committee also noted that, on 26 December 2017, the Attorney General of the Santa Fe Supreme Court had asked Santa Fe Appeals Court Prosecutor No. 1 to assess the need for a fresh autopsy "at the Prosecutor's technical discretion", or for verification of the telephone calls made by Mr. Yrusta to his family before his death.

31. In its note, the Committee welcomed these initiatives, called on the State party to provide additional information on the steps taken to reopen the investigation into the death of Mr. Yrusta and asked it to conduct thorough and impartial investigations into his disappearance, in accordance with paragraph 12 (b) of its Views of 11 March 2016.

Prosecute, try and punish the persons responsible for the disappearance and death of Mr. Yrusta (Views, para. 12 (c))

32. The Committee noted that, since the date of the State party's last report on implementation of the Committee's Views of 11 March 2016, there had been no progress in the implementation of paragraph 12 (c) of the Views. As a result, the Committee again asked the State party to prosecute, try and punish the persons responsible for the disappearance and death of Mr. Yrusta.

Reparation and prompt, fair and adequate compensation to the authors of the communication (Views, para. 12 (d))

33. The Committee noted that, although the State party had stated in its follow-up report of 8 September 2017 that an agreement had been reached with the authors with regard to reparation and compensation, the latest information provided showed the opposite to be true.

34. The Committee also noted that, according to the State party, the authors and their mother would be able to bring civil proceedings to obtain financial compensation for the harm they had suffered. Yet the available information indicated that the right to compensation depended on the outcome of the criminal proceedings, and only in the event of a conviction could the authors claim their rights to reparation in a civil court. The Committee also noted that, according to the information available, the estimate of financial damages submitted by the authors at the request of the authorities had had no effect, since the authors have not had access to any form of reparation or compensation.

35. Therefore, in accordance with paragraph 12 (d) of its Views of 11 March 2016, the Committee again requested the State party to grant the authors reparation and prompt, fair and adequate compensation.

Compiling and maintaining registers of persons deprived of their liberty that are accessible to all persons with a legitimate interest, as set out in articles 17 and 18 of the Convention (Views, para. 12 (e))

36. The Committee noted that, according to information provided by the State party, the Federal Prison Service had a digital database that contained the unique personal file of every person admitted and that, although there was not yet a consolidated national register of persons deprived of their liberty, in April 2017, a bill to create a central register of detainees had been put forward in the Chamber of Deputies. However, the Committee regretted that, more than three years after the issuance of its Views, the provinces still did not have registers of detainees.

37. As a result, and in accordance with paragraph 12 (e) of its Views, the Committee reiterated its recommendation that the State party take all necessary measures for the prompt creation of registers of persons deprived of their liberty, accessible to all persons with a legitimate interest.

Publication and dissemination of the Views

38. The Committee took note of the information provided by the State party, to the effect that the Views were referred by the Directorate for Monitoring Cases Involving Institutional Violence and Crimes of Federal Interest of the Ministry of Security to the federal security forces for dissemination and information. The Committee also noted that

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in 2018 the case had been studied in two courses run by the virtual campus of the Secretariat for Human Rights and Cultural Pluralism, one of them open to the public and the other for the police and prison services.

39. The Committee welcomed those measures but was of the view that they amounted to no more than a partial implementation of paragraph 13 of its Views. The Committee therefore again requested the State party to publish its Views and disseminate them widely.

State party's reply of 10 September 2019

40. The State party commented on the action taken in respect of three of the Committee's recommendations.

41. With regard to the recommendation to recognize the authors' status as victims and as plaintiffs, thereby allowing them to play an effective part in the investigations into the death and enforced disappearance of their brother, the State party reported that steps had been taken to grant the authors' request to be recognized as parties to the proceedings instituted to investigate the causes of Mr. Yrusta's death.

42. With regard to the recommendation to ensure that the investigation into the case of Mr. Yrusta is not confined to the causes of his death but instead also entails a thorough and impartial investigation of his disappearance at the time of his transfer from Córdoba to Santa Fe, the State party reported that, on 16 August 2018, Córdoba Federal Prosecutor's Office No. 1 requested the dismissal of the proceedings on the ground that enforced disappearance could not be proved, since the constituent elements of a lack of information or a refusal to disclose the whereabouts of the disappeared person had not been found to apply. In particular, the Federal Prosecutor's Office confirmed that Mr. Yrusta had been transferred from Córdoba to Santa Fe with the full knowledge of the prison services of both Provinces and with the authorization of the competent criminal enforcement judge, and that, shortly after being placed in the custody of the Santa Fe Prison Service, he had been allowed to communicate with his family – he was in contact with his sisters within 24 hours of his arrival at the prison in Coronda on 16 January 2013 and on 22, 24 and 29 January and 4 February 2013. The State party therefore submitted that it was not a clandestine transfer as claimed by the authors.

43. With regard to the investigation into the causes of Mr. Yrusta's death, the State party also reported that an order had been issued for the authors to be summoned to appear on 31 July 2019 but that they had not appeared because it had been impossible to locate them. A hearing had also been scheduled for 1 August 2019 so that two other inmates from the same wing as Mr. Yrusta could testify. On 7 August 2019, in addition, the scene of Mr. Yrusta's death was reconstructed in Coronda Prison No. 1 in an attempt to determine the height of the cell window and how far up the length of cloth found at the scene had been tied. During the reconstruction, however, the window from which the photograph had been taken was not positioned as far away as it had been in the photograph taken on the day of the incident, and as a result the scene shown in the photograph was reconstructed a second time, taking into account the length of the piece of cloth. The State party concluded that the investigation was under way.

44. With regard to the administrative inquiry into the irregularities committed by the judicial officials involved, the State party reported that, on 26 June 2019, the Attorney General's Office at the Supreme Court of Justice of Santa Fe decided to suspend the Santa Fe criminal judge for five days by way of punishment.

45. Lastly, with regard to the recommendation to publish the Committee's Views and to disseminate them widely, the State party reported that a copy of the Views had been sent to the federal security forces for them to be made available and disseminated and that the National Directorate of Civic Culture in Human Rights of the Secretariat for Human Rights and Cultural Pluralism had included the case as a case study in the courses "Institutional violence, social discourse and human rights" and "Human rights perspective and public security".

Authors' comments of 24 September 2019

46. The authors were of the view that the State party's assertions were vague and inaccurate and that the Committee's recommendations had still not been fully implemented.

47. The authors made specific mention of the fact that the State party had still not disseminated the Views among the general public and continued to disseminate them only to the federal security agencies, which was insufficient because those directly responsible were provincial, not federal, officials and because Views in which the international responsibility of the State was recognized had to be disseminated widely. The authors therefore requested the State party to disseminate the Views through national and provincial media.

48. The authors also stated that they were still unable to join the proceedings in order to ensure that the facts were properly investigated. While they noted that the Prosecutor's Office was making efforts to gather information on the causes of Mr. Yrusta's death, they also stated that an overview of responsibilities had not yet been provided and that the investigation remained lacking. They also indicated that the Prosecutor's Office had ruled out the possibility of enforced disappearance without their having been allowed to become parties to the proceedings.

49. In addition, the authors argued that the State party's assertion that Mr. Yrusta communicated with them within the 24-hour period following his clandestine transfer to Coronda was untrue and that it did not matter whether they learned of the location 24, 48 or 120 hours later.

50. Lastly, the authors asserted that the State party had still not provided them with reparation or drawn up adequate and accessible registers of persons deprived of their liberty.

Committee's decision of 18 September 2020

51. Compliance: B (action partially satisfactory). The State party had taken additional measures, but further measures and more information were needed. The Committee decided to send a follow-up note to the State party.

52. While thanking the State party for its follow-up report of 10 September 2019, the Committee concluded that the measures taken by the State party did not amount to satisfactory implementation of the recommendations contained in its Views and reiterated in the follow-up procedure of 6 October 2017 and in its note of 19 May 2019.

53. In particular, the Committee was of the view that:

(a) With respect to paragraph 12 (a) of the Views, the State party had taken additional measures, but further measures and more information were needed;

(b) With respect to paragraph 12 (c) of the Views, no reply had been received to one or more recommendations or parts of recommendations after reminder(s);

(c) With respect to paragraph 12 (d) of the Views, no reply had been received to one or more recommendations or parts of recommendations after reminder(s);

(d) With respect to paragraph 12 (e) of the Views, substantive measures had been taken, but additional information and/or measures were required.

54. The Committee therefore decided to keep the follow-up procedure on the Views open and to send a further follow-up note to the State party.

State party's reply of 25 November 2021

55. The State party commented on the action taken in respect of the Committee's recommendations.

Authors' participation as victims in the investigation into the death and disappearance of Mr. Yrusta

56. The State party notes that, although the authors could not act as plaintiffs at the time of the events because the Santa Fe Code of Criminal Procedure allowed only the aggrieved party and his or her compulsory heirs to assume that role, the Code had been amended pursuant to Act No. 13.746 in 2018, thereby making it possible for the authors to act as plaintiffs. Although the authors' request to act as plaintiffs was initially rejected by the investigating judge on the basis of the laws in force at the time of the events, the

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authors have had a real opportunity to participate, as victims, in the investigations into their brother's death and disappearance, as they have made a number of requests for the presentation and consideration of evidence that have been supported by the relevant public prosecutor's office and ordered by the judge hearing the case, including requests for the objects found in Mr. Yrusta's body to be re-examined and for the nurses who were on duty at the prison to be summoned to provide witness statements.

57. On 1 July 2019, the prosecutor handling the case told the authors' representative that she had been assigned to the case and asked to be put in contact with the authors so that she could provide them with information on various procedural alternatives with a view to their becoming parties to the proceedings as plaintiffs. In her report, the prosecutor expressly stated that she believed that Mr. Yrusta's sisters were entitled to be plaintiffs but that, in order for them have such standing, they needed to confirm that they wished to be represented by Mr. Ganón, who was no longer the chief public defender of the Province of Santa Fe and would now be acting as local counsel. In addition, the prosecutor indicated that a new legal domicile would have to be established for the authors to be notified of any relevant proceedings. However, there is no record of the authors' having provided that information in writing. A member of the College of Trial Court Judges issued a procedural order on 17 June 2019 setting out various measures, including a summons for the authors to appear at a hearing to be held on 31 July 2019 with a view to enabling the authors to become parties to the proceedings. However, the Public Prosecution Service reported that the authors neither appeared at the scheduled hearing nor submitted a written explanation of their absence.

Thorough investigation into Mr. Yrusta's disappearance

58. The State party notes that the Supreme Court of Santa Fe ordered an investigation into the disappearance of Mr. Yrusta on 18 October 2016. As already reported to the Committee, Prosecutor's Office No. 1 concluded that Mr. Yrusta had been transferred from Córdoba to Santa Fe with the knowledge of the prison services of both Provinces and with the authorization of the competent criminal enforcement judge. As had also been noted, it had been found that Mr. Yrusta had been in contact with his sisters within 24 hours of his arrival at the prison in Coronda and that they had been in touch on several occasions during his detention in that prison. Consequently, on 16 August 2018, the Public Prosecution Service asked that the proceedings be dismissed because, on the basis of the measures carried out, it could not be proved that an enforced disappearance had been committed.

59. On 14 January 2021, the Federal Prosecutor's Office again submitted a request for dismissal on the basis of several pieces of evidence that had been gathered, including the authorizations and other documentation relating to the transfer, information about the care provided by the Coronda prison medical staff on 16 January 2013 and copies of evidence of the telephone calls with the authors on 16, 22, 24 and 29 January and 4 February 2013.

60. The State party notes that, on the date that the Committee adopted its Views, the investigation being conducted by the Prosecutor's Office into the alleged enforced disappearance of Mr. Yrusta had been under way for less than a month, which means that, when the Committee adopted its Views, it did not have access to the latest information to have been gathered.

Prosecution and punishment of the persons responsible

61. The State party reiterates that the case bearing Single Judicial Identification Code No. 21-06995476-3, under which the torture and ensuing death of Mr. Yrusta are being investigated in accordance with article 144 ter of the Argentine Criminal Code, is currently being handled by Special Prosecutor's Unit (Complex Offences) No. 135 of Santa Fe. The report submitted by Regional Prosecutor's Office No. 1 of Santa Fe, dated 9 April 2021, sets out in detail the measures that have been taken and the changes in the judges involved. On 28 October 2020, the judge investigating the case ordered that the suspects give their statements on 26 November 2020. However, the College of Trial Court Judges ordered that those hearings be suspended because the judge, who on 9 December 2020 died as a result of the coronavirus disease (COVID-19), was on sick leave. The new judge assigned to the case ordered that the statements of the suspects be taken on 27 April 2021. Their attorney filed a motion to invalidate the order, which was denied on 15

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October 2021. The file was recently referred to Special Prosecutor's Unit (Complex Offences) No. 135 for it to assess the possibility of filing charges.

62. The Attorney General's Office at the Supreme Court of Justice of Santa Fe promptly circulated the decision adopted by the Supreme Court of Justice of Santa Fe on 26 June 2019 (document No. 24, point 10) to impose a disciplinary penalty of five days' suspension on the Santa Fe criminal court judge.

Reparation and compensation for the authors

63. The State party reports that, on 27 September 2021, the authors' representative submitted a request for financial compensation of an estimated total of 12.6 million Argentine pesos (approximately US$ 122,000), plus professional fees and contributions equalling about 20 per cent of the compensation amount. An administrative file was therefore opened, and the provincial Secretariat for Human Rights is currently working with the relevant departments of the executive branch of the provincial government to prepare a reasonable proposal that is in line with the current standards of the universal human rights protection system. The State party undertakes to report promptly on the implementation of this measure of reparation.

Guarantees of non-repetition

64. According to a note from the Office of the Undersecretary for Prison Affairs, specific measures, applicable to the Federal Prison Service, were taken to strengthen the legal mechanisms for immediate notification of transfers. Similarly, a protocol on transfers of persons in the custody of the Federal Prison Service was adopted on 8 February 2021. The protocol provides that, to the extent possible, persons deprived of their liberty should be detained in facilities close to their families, communities and lawyers and the competent judicial authorities so that they can have as much contact as possible with the outside world. Furthermore, it requires that the social assistance division or department at each facility keep an updated record of the names and contact details of the relatives or loved ones who, as indicated by persons deprived of their liberty, should be informed about any decisions to transfer them. It also ensures the right of persons deprived of their liberty to be heard and to object to transfers, through their lawyers, and provides for prior judicial review of such measures. Lastly, it provides for specific measures to ensure that persons transferred to distant facilities have the right to communicate, without intermediaries, with their families and representatives.

65. The State party also reports that, under the policy initiative launched by the Province of Santa Fe in December 2019, it was decided that the Prison Service would be transferred from the Ministry of Security to the Ministry of the Interior, Justice and Human Rights.

Publication and dissemination of the Views

66. The State party notes that the Prison Service Training Department was created under a decision of 28 July 2020 and that, in 2021, the National Secretariat for Human Rights worked with the Training Department to disseminate the Committee's Views.

Authors' comments of 8 December 2021

67. On 8 December 2021, the authors informed the Committee that the State party had still not complied with the recommendations contained in the Views of the Committee on Enforced Disappearances and the Committee against Torture:

(a) The investigation to clarify the facts of the case and punish the persons responsible for torturing and killing Mr. Yrusta in prison remained at a standstill. Those responsible for Mr. Yrusta's death could easily be identified and punished because they were the individuals on duty the day that he was killed. However, none of them had been prosecuted. The judicial officials who had validated the cover-up of the killing as a suicide had also not been punished;

(b) The victim's relatives were still unable to participate directly in the investigations and the State party had still not amended the laws that failed to ensure free representation for the relatives of victims of crimes committed by the State;

(c) The State party had also failed to make progress in the publication and dissemination of the two Committees' Views relating to the events that had led to Mr.

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Yrusta's death. Information about the case had not been publicly disseminated at either the provincial or national level;

(d) The State had, in addition, failed to make progress towards providing financial compensation.

Committee's decision of 1 April 2022

68. Compliance: B (action partially satisfactory). The Committee decided to ask both parties for more information. Specifically, it decided to ask the State party for additional information on the financial compensation for the authors, and it decided to ask the authors for additional information on the reasons for their failure to appear at the hearing that had been scheduled for 31 July 2019 in order for them to join as plaintiffs and on the absence of a written statement noted in the report of the prosecutor assigned to the case.