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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 43/2021**

Precautionary Measure No. 750-16  
Braulio Jatar regarding Venezuela<sup>1</sup>  
May 14, 2021  
Original: Spanish

**I. SUMMARY**

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures in favor of Braulio Jatar in Venezuela. According to the available information, Mr. Jatar's situation has changed substantially given that he is no longer deprived of his liberty. Following the State's request to lift precautionary measures, the Commission has not received any information or observations from the beneficiary's representation. Therefore, the IACHR deems it appropriate to lift these precautionary measures.

**II. BACKGROUND INFORMATION**

2. On December 22, 2016, the IACHR decided to request the adoption of precautionary measures in favor of Braulio Jatar<sup>2</sup> in Venezuela. The request for precautionary measures alleged that the proposed beneficiary, deprived of his liberty in Cumaná Judicial Confinement Center (*Internado Judicial de Cumaná*), was at risk due to a series of illnesses and lack of adequate medical care.

3. Having analyzed the submissions of fact and law, the Commission considered that the information showed, *prima facie*, that Braulio Jatar faced a serious and urgent situation, since his life and personal integrity were at serious risk. Consequently, in accordance with Article 25 of the IACHR's Rules of Procedure, the Commission requested that Venezuela: a) adopt the necessary measures to guarantee the life and personal integrity of Mr. Braulio Jatar. In particular, the State must provide adequate medical care for his illnesses; b) guarantee that the detention conditions of Mr. Braulio Jatar are in line with international standards, taking into consideration his current health condition; and c) consult and agree upon the measures to be adopted with the beneficiary and his representatives.<sup>3</sup>

**III. INFORMATION PROVIDED DURING THE TIME THE PRECAUTIONARY MEASURE WAS IN FORCE**

4. Upon granting the precautionary measure, the Commission continued to monitor the matter through requests for information to the parties. Moreover, working meetings were held during IACHR Sessions which the parties attended. Specifically, the State requested that these measures be lifted on July 18, 2017.<sup>4</sup> That request was forwarded to the representatives for comments on September 21, 2017 and reiterated on March 1, 2019. To this date, the Commission has received no response from the representatives.

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<sup>1</sup> Pursuant to Article 17(2)(a) of the Commission's Rules of Procedure, Commissioner Antonia Urrejola, a Chilean national, did not participate in the debate nor in the decision of this resolution.

<sup>2</sup> Of Chilean and Venezuelan nationality.

<sup>3</sup> IACHR, Resolution 67/2016. PM 750/16 – Braulio Jatar, Venezuela, December 22, 2016. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2016/MC750-16-ES.pdf>

<sup>4</sup> Following requests for information in 2017 and 2019, the State has not provided additional information on this matter upon filing its request to lift precautionary measures.

5. The information received from the parties during the time the proceeding was in force is stated below.

**A. Information provided by the representatives**

6. On March 10, 2017, the representatives reported that the beneficiary has been admitted to the Caribbean Clinical Center, in Porlamar, Nueva Esparta state, since February 15, 2017. The representatives claimed they requested “release on parole for humanitarian reasons” before the national courts. The representatives sent several medical reports, one of which, dated February 24, 2017, stated that the beneficiary is in hospital due to stage 2 Arterial Hypertension of difficult control, in the context of post-operative care for inguinal and umbilical hernias.<sup>5</sup> Consequently, absolute rest at home was recommended upon discharge of the beneficiary from hospital.<sup>6</sup>

7. According to the representatives, during a meeting held on April 28, 2017, the Working Group on Arbitrary Detention (WGAD) of the United Nations Human Rights Council established that Mr. Braulio Jatar Alonso’s deprivation of liberty is arbitrary and, to that effect, required his immediate release. The representatives consider that the beneficiary should be granted absolute freedom. On June 26, 2017, the representatives reported that, after the beneficiary had been in prison for 8 months, the competent Court, for the purpose of guaranteeing his right to health, agreed to continue with this imprisonment measure, but as “house arrest.” The representatives acknowledged the actions led by the representative agent of the State of Venezuela, which have allowed a transparent and constructive dialogue to improve the situation of the beneficiary.

**B. Information provided by the State**

8. The State of Venezuela attended the working meetings and provided information on the measures adopted in the context of the precautionary measure. In particular, in the working meeting held on March 20, 2017, the State informed of the detention conditions of the beneficiary, the visits of the Chilean Consulate during 2016 and 2017, the visit of the Ombudsman’s Office in 2017, as well as the medical assistance provided to date.

9. On July 18, 2017, the State requested that these precautionary measures be lifted. The State reported that a working meeting was held on January 9, 2017 with the beneficiary’s representatives at the headquarters of the Ministry of Popular Power for Foreign Affairs. At that moment, there was progress on the determination of specific actions to be implemented pursuant to the IACHR’s resolution. Afterwards, a working meeting was held during the period of sessions of the IACHR, in which the State undertook to assess the request for substitution of the measure involving deprivation of liberty filed by the beneficiary’s representatives with the judicial bodies in the country. On February 14, 2017, the competent Court ordered that the beneficiary be transferred to the Caribbean Medical Center in order to undergo specialized medical treatment to take care for his health conditions. That transfer was carried out, and the beneficiary remained hospitalized.

10. On May 23, 2017, it was claimed that the competent Court had agreed to substitute judicial deprivation of liberty with a house arrest measure, according to which substitution the beneficiary’s immediate transfer to his family residence was agreed. Upon that event, the beneficiary is allegedly at his residence receiving specialized medical care from his personal physician, as reportedly acknowledged in

<sup>5</sup> The beneficiary was diagnosed with incipient hypertensive nephropathy, damage to the myocardium caused by severe arterial hypertension, high risk of major cardiovascular event: myocardial infarction, stroke or kidney failure caused by high and continuous hypertensive levels.

<sup>6</sup> With control of his daily tension levels, strict control of medication intake, no negative emotional burden, room temperature controlled at around 23°C, daily psychological support by loved ones, cardiological monitoring by internist every 7 days until stabilized, cardiorenal protective nutrition, safe drinking water with controlled sodium level.

a working meeting during the 163<sup>rd</sup> period of sessions of the IACHR. The State indicated that the measure of house arrest does not imply any additional restrictions to the beneficiary, so he can allegedly exercise his right to freedom of expression, as he has indeed reportedly done through social media. Finally, the State reported that the criminal proceeding against the beneficiary was initiated due to his alleged liability in the perpetration of the crime of Money-laundering, upon being caught *in flagrante delicto* by officers of the State security unit.

#### **IV. ANALYSIS OF THE REQUIREMENTS OF SERIOUSNESS, URGENCY AND IRREPARABLE HARM**

11. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with human rights obligations established in the Charter of the Organization of the American States and, in the case of Member States that have not yet ratified the American Convention, in the Declaration of the Rights and Duties of Man. These general oversight functions are set forth in Article 18 of the Statute of the Commission, while the precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the IACHR. Pursuant to this article, the Commission grants precautionary measures in serious and urgent situations, and when these measures are necessary to prevent an irreparable harm.

12. The Inter-American Commission and the Inter-American Court on Human Rights have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving legal situations that are under the consideration of the IACHR. For the purpose of reaching a decision, according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a) "serious situation" refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the Inter-American System;
- b) "urgent situation" refers to risk or threat that is imminent and can materialize according to the information provided, thus requiring immediate preventive or protective action; and
- c) "irreparable harm" refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

13. Furthermore, Article 25(7) of the Commission's Rules of Procedure establishes that "the decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions." Article 25(9) establishes that "the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force." In this regard, the IACHR shall assess whether the serious and urgent situation and risk of irreparable harm that led to the adoption of the precautionary measures, persist. The Commission shall further consider any new situations that might have arisen and that meet the requirements set forth in Article 25 of the Rules of Procedure.

14. Similarly, the IACHR recalls that while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more rigorous evaluation.<sup>7</sup> In this sense, the burden of proof and argument increases over time when no imminent risk is identified.<sup>8</sup> Furthermore, the Inter-American Court has indicated that the

<sup>7</sup> I/A Court H.R. Provisional measures regarding Mexico. Order of February 7, 2017, paras. 16 and 17. Available [in Spanish] at [http://www.corteidh.or.cr/docs/medidas/fernandez\\_se\\_08.pdf](http://www.corteidh.or.cr/docs/medidas/fernandez_se_08.pdf)

<sup>8</sup> Ibid.

lack of threats or intimidation over a reasonable period of time, added to the lack of imminent risk, may lead to the lifting of international protection measures.<sup>9</sup>

15. Furthermore, the Commission notes that when a State requests the lifting of a precautionary measure, it must provide sufficient proof and arguments to support its request.<sup>10</sup> Similarly, the representatives of the beneficiaries who would like for the precautionary measures to remain in force must provide proof of their reasons.<sup>11</sup> Equally, paragraph 11 of Article 25 of the Rules of Procedure sets forth that the Commission may lift or review a precautionary measure when the beneficiaries or their representatives unjustifiably refrain from giving a satisfactory response to the IACHR about the requirements brought by the State for the implementation of the measures.

16. The IACHR recalls that the precautionary measures were granted in 2016 as a consequence of the risk faced by the beneficiary due to his medical condition and in the context of his detention conditions while he was deprived of his liberty. For such reason, the IACHR requested that the State of Venezuela “adopt the necessary measures to guarantee the life and personal integrity of Mr. Braulio Jatar.” In this respect, the Commission notes that the State reported several actions adopted to implement these precautionary measures, especially regarding his health care and consultations with the representatives (see *supra* paras. 7-9). In the same way, the Commission notes that, in due course, the representatives acknowledged the actions taken by the agent representing the State of Venezuela in the framework of these measures.

17. Although the representatives challenged the criminal proceeding in which the beneficiary is allegedly involved by referring to the statement made by the United Nations Working Group on Arbitrary Detention, the analysis carried out by the IACHR in the framework of the precautionary measure relates exclusively to the elements of seriousness, urgency and risk of irreparable harm set forth in Article 25 of its Rules of Procedure, which can be settled without any assessment on the merits. In this sense, the mechanism of precautionary measures is not suitable to analyze whether the beneficiary’s human rights have been violated based on the alleged facts.

18. The IACHR remarks that the conditions assessed at the time of granting these precautionary measures have changed, as the beneficiary is no longer deprived of his liberty in a prison but is under house arrest, where he can receive special medical care as required. In this sense, on July 10, 2017, the IACHR welcomed the decision to grant the beneficiary house arrest in substitution for pretrial detention in compliance with the implementation of this precautionary measure.<sup>12</sup> According to the latest public information, in 2019 the Supreme Court of Justice of Venezuela reviewed the alternative measures to prison for Mr. Braulio Jatar,<sup>13</sup> and he is reportedly required to appear in court on a regular basis.<sup>14</sup>

19. Taking into account the change in circumstances and the request to lift precautionary measures filed by the State on July 18, 2017, the IACHR notes that the beneficiary’s representatives have not offered any comments nor provided any additional information, while approximately 4 years have elapsed without a response on their behalf, even though the IACHR has requested information and reiterated the request in 2017 and 2019. In light of the analysis carried out and given that approximately 4 years have

<sup>9</sup> Ibid.

<sup>10</sup> Ibidem

<sup>11</sup> Ibidem

<sup>12</sup> IACHR, IACHR Welcomes Compliance with Precautionary Measures for Leopoldo López and Braulio Jatar, July 10, 2017. Available at [http://www.oas.org/en/iachr/media\\_center/PReleases/2017/094.asp](http://www.oas.org/en/iachr/media_center/PReleases/2017/094.asp)

<sup>13</sup> CNN, Bachelet announces the release of prisoners in Venezuela, among them Braulio Jatar, July 5, 2019. Available [in Spanish] at <https://cnnespanol.cnn.com/2019/07/05/presos-politicos-liberan-venezuela-detenidos-jatar-bachelet-onu/>

<sup>14</sup> EL NACIONAL, Braulio Jatar to appear in court every 15 days, July 8, 2019. Available [in Spanish] at [https://www.elnacional.com/venezuela/politica/braulio-jatar-debera-presentarse-cada-dias-tribunal\\_287824/](https://www.elnacional.com/venezuela/politica/braulio-jatar-debera-presentarse-cada-dias-tribunal_287824/)

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gone by without information of potential harm against the beneficiary or comments on the State's request to lift precautionary measures, the IACHR lacks the elements to conclude that the beneficiary is currently at risk pursuant to Article 25 of its Rules of Procedure. In that respect and considering the temporary and exceptional nature of precautionary measures,<sup>15</sup> the IACHR deems it suitable to lift these measures.

**V. DECISION**

20. The IACHR decides to lift the precautionary measures granted to Braulio Jatar in Venezuela.

21. The IACHR wishes to emphasize that, regardless of the decision to lift these measures, the State of Venezuela has the duty to respect and guarantee the rights to life and personal integrity of Braulio Jatar.

22. This Commission instructs its Executive Secretariat to notify the State of Venezuela and the beneficiary's representatives of this resolution.

23. Approved on May 14, 2021, by Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarete May Macaulay; Esmeralda Arosemena de Troitiño; Edgar Stuardo Ralón Orellana; and Joel Hernández García, members of the IACHR.

María Claudia Pulido  
Acting Executive Secretary

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<sup>15</sup> I/A Court H.R., Matter Adrián Meléndez Quijano *et al.* Provisional Measures regarding El Salvador. Order of the Court of August 21, 2013, para. 22, and Matter Galdámez Álvarez *et al.* Provisional Measures regarding Honduras. Resolution of the Inter-American Court of Human Rights of November 23, 2016, para. 24