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## Human Rights Council Working Group on Arbitrary Detention

### Opinions adopted by the Working Group on Arbitrary Detention at its seventy-eighth session, 19-28 April 2017

#### Opinion No. 37/2017 concerning Braulio Jatar (Bolivarian Republic of Venezuela)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The mandate of the Working Group was most recently extended for a three-year period in Council resolution 33/30 of 30 September 2016.

2. In accordance with its methods of work (A/HRC/33/66), on 7 November 2016 the Working Group transmitted to the Government of the Bolivarian Republic of Venezuela a communication concerning Braulio Jatar. The Government replied to the communication on 6 January 2017. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation,



disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

## Submissions

### *Communication from the source*

4. Braulio Jatar is a lawyer who holds dual Venezuelan and Chilean nationality. He is 58 years old and resides in the Bolivarian Republic of Venezuela, specifically on Margarita Island, in the State of Nueva Esparta. His main and most high-profile activity is as director and editor of an online news portal called *Reporte Confidencial*. The source notes that *Reporte Confidencial*, which was founded by Mr. Jatar in 2007, has become one of the main media on Margarita Island and is known for its critical analysis of government policies and independent investigations.

5. In addition to being the founder, director and editor of *Reporte Confidencial*, Mr. Jatar is a columnist for the newspaper *Reporte de la Economía* and the host of radio shows on legal topics (“Radio Continente”, “Super K La Caribeña” and “Encuentro 88.7 FM”). He combines these activities with his work as a lawyer for the firms Jatar Dotti Legal Office and Jatar & Otero Legal Consultancy. He also worked at international law firms between 1991 and 1999 and was a columnist for notable Venezuelan newspapers, including *Últimas Noticias* and *El Diario de Caracas*.

6. Regarding his activity in Venezuelan politics, Mr. Jatar was chair of the Legal Advisory Committee of the Senate Economic Commission in 1988 and adviser to the parliamentary Comptroller’s Commission and Media Commission in 1990 and lobbied for various laws.

7. According to the source, Mr. Jatar was arbitrarily detained by police officers attached to the Bolivarian National Intelligence Service (SEBIN) a few hours after Mr. Jatar’s portal, *Reporte Confidencial*, broadcast coverage of a social protest against the President. The event generated widespread public reaction and was widely disseminated in the country.

8. The source explains that on the night of Friday, 2 September 2016, the inhabitants of Villa Rosa on Margarita Island led a peaceful protest against the President following a televised event in which he had taken part. The protesters used kitchen implements, such as pots and ladles, to make noise, a common method of protest in the country better known as “cacerolazo”, and express their discontent with the national Government over the country’s health and food crisis.

9. A number of people used their mobile telephones to record the events of the protest, following which the President broke protocol and allegedly spoke to various people taking part in the peaceful demonstration. The videos were sent to Mr. Jatar through *Reporte Confidencial*, who then posted them after verifying their provenance and authenticity.

10. The source states that at 8.45 a.m. the following day, Saturday, 3 September 2016, Mr. Jatar was apprehended by SEBIN officials in Porlamar, Nueva Esparta, specifically between the Costa Azul housing development and La Arboleda, as he was driving to the radio station to host his show, which he did every Saturday at 9 a.m. He had sent a voice message saying that he was on his way, but he never arrived at his destination and there was no other contact with him. At the time he was detained, the police officers did not produce any court order justifying the measure or explain the grounds for his detention.

11. The source adds that 12 hours went by without Mr. Jatar’s family knowing where he was. Finally, sometime after 8 p.m. on 3 September 2016, seven SEBIN officers, hooded and carrying rifles, arrived at Mr. Jatar’s house and raided it without a court order. At this time, Mr. Jatar’s family were informed that he had been arrested by SEBIN officers that morning and was being held at the Island’s police headquarters.

12. The source alleges that the SEBIN officers raided Mr. Jatar’s house at night, specifying that when the officers arrived, the only person in the house was a minor. On 4 September 2016, a member of Mr. Jatar’s family was able to visit him briefly at the SEBIN premises and reported having observed an injury on Mr. Jatar’s arm received at the time of

his detention when he tried to prevent the officers from confiscating his mobile telephone. The family member also reported that, following the arrest, Mr. Jatar suffered a hypertensive crisis, for which he was seen by a doctor.

13. Mr. Jatar was brought before a supervisory judge of the Margarita criminal court on Monday, 5 September 2016. At the hearing, his defence counsel raised the fact that in the file used to incriminate Mr. Jatar there was a SEBIN report in which he was accused of being “a CIA agent” by virtue of his alleged involvement in the “organization of terrorist activities” in connection with the Summit of Non-Aligned Countries to be held on Margarita Island from 13 to 18 September 2016. His counsel challenged the public prosecutor’s claim that a briefcase, allegedly containing “between 20,000 and 25,000 dollars for the purpose of funding three opposition groups”, had been found in Mr. Jatar’s vehicle, a claim Mr. Jatar denies. The source notes that other individuals who oppose the Government have recently been accused of the same offence.

14. From 8 September 2016, Mr. Jatar was prohibited from seeing his lawyers and, at approximately 7 p.m. on 10 September 2016, without prior notice being given to his lawyers or relatives, Mr. Jatar was removed from his place of detention on Margarita Island and sent to a location unknown at the time. On 11 September 2016, SEBIN officials on the Island informed Mr. Jatar’s family that on the previous night, he had been transferred to the 26 de Julio pretrial detention centre located in San Juan de los Morros, in the State of Guárico, more than 560 km away.

15. Following the transfer to the prison in Guárico, neither Mr. Jatar’s family nor his lawyers were able to establish contact with him, in person or by telephone, until some 48 hours later. During the first telephone contact with the family at 7 p.m. on 12 September 2016, his transfer to the abovementioned prison was confirmed.

16. The source notes that, on 20 September 2016, Mr. Jatar’s defence counsel was granted permission to visit him after a period of 264 hours during which he had been without access to his lawyers. On 25 September 2016, again without prior judicial notice to either the family or lawyers, Mr. Jatar was transferred to another distant prison, the Cumana remand centre, in the state of Sucre, some 227 km away from his home and the court that was hearing his case.

17. The source alleges that Mr. Jatar experienced serious violations of his human rights, specifically his rights to personal liberty, due process, freedom of expression and freedom of association, and that the Bolivarian Republic of Venezuela has, therefore, breached international human rights treaties that it has acceded to or ratified, as well as the Constitution and basic procedural rules provided for in domestic law. The provisions it has breached include: articles 9, 11 (1), 19 and 20 of the Universal Declaration of Human Rights; articles 9 (1), 14 (2) and (3) (b) and (c), 19 and 22 of the International Covenant on Civil and Political Rights; articles 7 (1) and (2), 8 (2) (b) and (d), 13 (1) and 16 of the American Convention on Human Rights; article 11 of the Inter-American Convention on Forced Disappearance of Persons; articles 4 and 26 of the American Declaration of the Rights and Duties of Man; articles 44 (1) and (2), 49 (2), 52 and 57 of the Constitution; and articles 1, 8, 10, 127 and 119 (6) and (7) of the Criminal Procedure Code.

18. The source concludes that Mr. Jatar’s arrest is arbitrary under categories II, III and V of the Working Group’s classification.

#### *Response from the Government*

19. On 3 September 2016, at approximately 9 a.m., a police task force made up of officers from the SEBIN territorial base in Porlamar was assembled to verify information provided by the counter-intelligence service according to which Braulio Jatar was suspected of leading a financing network designed to undermine the State.

20. The officers then headed to the suspect’s home but on the way spotted a grey Toyota Corolla driven by the person of interest on José Francisco Esteban Gómez Avenue in Porlamar. The officers pulled the vehicle over in front of the Royal Crown housing development. In the presence of two witnesses, the officers inspected the vehicle and found, under the rear seat, a silver briefcase from which they seized evidence of a potential crime,

including United States dollars and some Venezuelan currency. The officers demanded to know the purpose and origin of the money. When Mr. Jatar was unable to justify or provide the origin of the seized items, he was transferred, along with the witnesses, to the SEBIN territorial base in Porlamar and the Public Prosecution Service issued the order to launch a criminal investigation.

21. It is clear from the above that Mr. Jatar was arrested in flagrante delicto on suspicion of money-laundering on 3 September 2016.

22. In the interest of proceeding with the investigation, the Fourteenth Office of the Public Prosecution Service of Nueva Esparta made an extraordinary request for a search warrant on grounds of extreme necessity and urgency under article 196 (1) of the Criminal Procedure Code.

23. The search warrant was granted by the second court of first instance responsible for the criminal court circuit of Nueva Esparta and was executed by the SEBIN officers at Mr. Jatar's home, located in the Costa Azul housing development on El Cocal Street, "Los Chichitos" residence, Porlamar, municipality of Mariño, Nueva Esparta.

24. It should be noted in this case that the search was carried out in the presence of relatives, friends and three witnesses and that evidence was seized, including a Samsung mobile telephone, a white SIM card and a black 8-gigabyte Kingston micro SD card found in the spare room located in the lower part of the building.

25. The Constitution, in chapter III on civil rights, article 44 (1), clearly establishes that: "No person may be arrested or detained without a judicial order, unless he or she is caught in flagrante delicto. In such cases, the person shall be brought before a judicial authority within no more than 48 hours from the moment of detention. He or she shall remain free during the trial, except under the circumstances provided for by law and assessed by the case judge."

26. The Criminal Procedure Code, in chapter II, article 234, on arrest in the event of flagrante delicto, provides a more precise definition of detention in such cases. The SEBIN statutes set forth its jurisdiction and powers.

27. Mr. Jatar was arrested and brought before the public prosecutor in accordance with the procedures laid down in the current legal framework governing SEBIN officials.

28. On 5 September 2016, he was brought before the second court of first instance responsible for the criminal court circuit of Nueva Esparta. On the basis of this hearing, the preliminary charge brought by the Twenty-Fourth Office of the National Public Prosecution Service and the Fourteenth Office of the Public Prosecution Service of Nueva Esparta, namely the alleged commission of the offence of money-laundering, as provided for in article 35 of the Organized Crime and Financing of Terrorism Act, was upheld.

29. It should be noted that the court ordered that the case be tried in accordance with the ordinary procedure under the Criminal Procedure Code. The SEBIN facilities in Porlamar were selected as the place for Mr. Jatar's detention.

30. On 20 October 2016, the Public Prosecution Service formally indicted Mr. Jatar of the offence with which he had been charged at the arraignment.

31. Mr. Jatar's preliminary hearing was postponed twice at the request of the defence and once because the court designated to hear the case was closed; the case is currently in the intermediate stage.

32. In the context of Mr. Jatar's transfer to the court in Nueva Esparta, the Twelfth Office of the Public Prosecution Service of Nueva Esparta responsible for sentence enforcement was designated to interview him on 23 November 2016 to ascertain his detention conditions.

33. In addition, on 24 November 2016, the Public Prosecution Service visited the detention centre where Mr. Jatar was being held and noted that he had received visits from relatives and his defence counsels on 4, 11, 18, 19 and 21 November 2016. Furthermore, he was permitted one 5-minute telephone call with relatives every two weeks.

34. Regarding Mr. Jatar's health, the State faithfully abides by the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations. On 16 September 2016, Mr. Jatar was transferred to the 26 de Julio detention centre in San Juan de los Morros, where a team from the Ombudsman's Office conducted visits to monitor observance of his human rights and inspect his detention conditions.

35. On 25 September 2016, Mr. Jatar was transferred to the Cumana remand centre in Sucre and was seen by a delegation from the Ombudsman's Office on 26 September 2016. During the interview, he said that: "I have had chronic hypertension for over 30 years. Regarding my stay here, I am doing well, I have a clean bed and the meals have been very tasty and served punctually."

36. The director of the remand centre was also interviewed and informed the team that: "Mr. Jatar's medication and treatment are administered in the centre's medical service under the authority of the doctor and nurses, and today he will have his review with the social worker."

37. In addition, the Ombudsman was requested to, either personally or through an appointee, review Mr. Jatar's file to "monitor observance of his right to due process".

38. In the light of the exhaustive information and explanations it has provided, the State requests that the present case be concluded and that the information herein be brought to the attention of the Human Rights Council.

*Additional comments from the source*

39. The source notes that it fully agrees with the Government's reply that, under Venezuelan law, the Public Prosecution Service, through its offices, is the body that holds the power to "organize and lead criminal investigations" in the Bolivarian Republic of Venezuela and that "takes criminal action on behalf of the State". However, it is precisely this power that was abused in the case of Mr. Jatar's arbitrary detention, in which connection the police officers unilaterally conducted a criminal investigation on and monitored Mr. Jatar, and then, at their own initiative, carried out a search, stop and arrest, without any prior oversight other than the discretionary power exercised by the officers who led that particular police detachment.

40. In other words, the police acted without the backing or prior instruction of the Public Prosecution Service, as required under Venezuelan law, given that the Service — and not the police — is the sole body with the power to organize and lead a criminal investigation. In such an investigation, the Service is also the only body competent to request the procedural court to authorize steps, such as the monitoring and observation of a person, the examination of his or her activities and, of course, his or her interception and detention, designed to ascertain the commission of criminal activity. None of that was done in this case.

41. Mr. Jatar and his defence counsel have argued in the trial before the domestic courts that the accusation that he was in possession of foreign and national currency at the time of his arrest is false. They have also raised this point publicly, stating that the accusation was forged in the case file. Although this is a very serious allegation, it matches other allegations in recent instances where cases of politically motivated arbitrary detention and of arbitrary detention used as punishment for the legitimate exercise of human rights have been publicly denounced.

42. Mr. Jatar and his defence counsel have further argued that the claim that there were witnesses to the arrest is also false. In this connection, they have also argued before the competent court that none of the witnesses mentioned were in that location at the time of the police operation or took part in any way in the conduct of the case in support of the seizure of money or the interception and detention of Mr. Jatar.

43. Even if United States dollars and Venezuelan bills had been confiscated from Mr. Jatar, in no way is their possession a criminal offence.

44. It is worth noting a new element which provides incontrovertible evidence that all the actions by the police leading to Mr. Jatar's detention were arbitrary in that they were

carried out without instruction from the Public Prosecution Service or prior arrest warrant. This new element is the State's own statement that it was only after Mr. Jatar was investigated on the unilateral and discretionary decision of the police, then monitored, stopped and eventually arrested and moved to police headquarters that the Public Prosecution Service ordered the launch of a criminal investigation, in blatant violation of due process. The order came after, rather than before, the entire illegal proceedings against Mr. Jatar.

45. Mr. Jatar was detained without a prior judicial order, in violation of article 44 (1) of the Constitution, which provides that "personal liberty is inviolable; consequently, no one may be arrested or detained except by judicial order." This valuable constitutional rule, which is in keeping with the provisions that safeguard the fundamental right to personal liberty, is binding on all police forces in the Bolivarian Republic of Venezuela. In addition, the rule entails two layers of oversight insofar as it ensures that before a person can be deprived of their liberty, the competent public prosecutor must, on the basis of familiarity with the investigation and the actions he or she has previously ordered, consider the measure to be necessary and, accordingly, submit a reasoned request to the court. Then, the competent procedural court must carefully review the request and reasoning and, after ascertaining that there are sufficient grounds for detention and that no other, less serious means of achieving the cited objective are available, must order the detention in a duly reasoned judicial decision.

46. Although there is an exception to this rule, i.e. when a person is caught in flagrante delicto, it could not be clearer that this exception does not apply to Mr. Jatar's case. There cannot be flagrante delicto when the police decides, of its own accord, to unilaterally initiate an investigation, collect and classify evidence, appoint a team to look for, stop and eventually detain a person. All of these actions obviously require the intervention of a public prosecutor and the competent procedural court, which is why criminal law lays down procedural rules to protect the fundamental principle of due process.

47. Thus, the police acted simultaneously as police, prosecutor and judge by usurping public powers, ordering the launch of an investigation and, based on its own actions and conclusions, unilaterally deciding to order the search for and observation of Mr. Jatar, which ultimately led to his detention. The foregoing is clear from the police's own record, as cited by the State in its reply, which is, moreover, the linchpin of the entire criminal proceedings against Mr. Jatar.

48. If it had really been a case of flagrante delicto, Mr. Jatar's detention could not have been preceded by actions to monitor, stop and arrest him. This approach, which is exactly what the State itself describes as having happened, is proof positive that the police officers undertook to find and arrest Mr. Jatar in a planned and concerted manner; therefore, it cannot possibly be claimed that Mr. Jatar was spontaneously and casually "surprised" during the commission of an offence, in other words caught in flagrante delicto. Accordingly, the detention of Mr. Jatar is arbitrary.

49. After being arrested on 3 September 2016, Mr. Jatar was initially transferred to the SEBIN headquarters in Porlamar, Margarita Island, Nueva Esparta. He remained detained there until 10 September 2016, when he was arbitrarily transferred, without prior notification of his defence counsel or relatives, to the 26 de Julio pretrial detention centre located in San Juan de los Morros, Guárico, more than 560 km away from his home and the court that was hearing his case. He remained in that prison until 25 September 2016, when he was once again illegally transferred without notice being given to his lawyers or relatives to the Cumana remand centre, Sucre, 227 km away from his home and the court that was hearing his case. On 21 November 2016, Mr. Jatar was transferred to the San Antonio remand centre on Margarita Island, supposedly for the purpose of making him available to the court for the preliminary hearing, which had initially been scheduled for 23 November 2016 but could not be held because of Mr. Jatar's health. On 23 November 2016, Mr. Jatar was once again transferred to the Cumana remand centre. In December

2016, Mr. Jatar was transferred back to the San Antonio remand centre, where he is being held to this day.<sup>1</sup>

### Discussion

50. The Working Group thanks the source for submitting the communication and the State for providing its replies regarding the detention of Mr. Jatar.

51. The Working Group is mandated to investigate all cases of deprivation of liberty imposed arbitrarily that are brought to its attention. In the discharge of its mandate, it refers to the relevant international standards set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights in accordance with its methods of work.

52. As a matter of priority, in its actions, the Working Group adheres to the rules set out in its methods of work and refers to consistent, recognized State practice for processing individual communications. Thus, for the consideration of the present case, the Working Group will analyse the facts described by the source in the communication, which have been made known to the State concerned.

53. Mr. Jatar is a 58-year-old Venezuelan and Chilean national and a resident of Margarita Island, Nueva Esparta.

54. Mr. Jatar's main occupation is as a journalist, director and editor for an online news portal called *Reporte Confidencial*, which was established in 2007 and has become one of the main media in the area where he lives through its critical analysis of the Government's policies. He is also a columnist for the newspaper *Reporte de la Economía* and hosts radio shows on legal topics ("Radio Continente", "Super K La Caribeña" and "Encuentro 88.7 FM"). He has extensive experience in legal work, journalism and politics in his country.

55. Mr. Jatar was arrested by police officers attached to the Bolivarian National Intelligence Service (SEBIN) after the *Reporte Confidencial* broadcast videos of a social protest against the health and food crisis.

56. The Working Group noted that, on the morning of Saturday, 3 September 2016, Mr. Jatar was arrested by SEBIN agents between the Costa Azul housing development and La Arboleda as he was driving to work in order to host his usual 9 a.m. radio show.

57. At the time Mr. Jatar was detained, the police officers did not produce a court order justifying the measure against him or explain the reasons for it. The Working Group noted that SEBIN had conducted a preliminary investigation regarding Mr. Jatar. The Working Group did not receive any information to confirm that the SEBIN agents had any legal grounds to inspect Mr. Jatar's car and subsequently deprive him of his liberty and therefore considers the detention as arbitrary under category I.

58. The Working Group confirmed that on Monday, 5 September 2016, two days after he was deprived of his liberty, Mr. Jatar was brought before a judge. At the hearing, the authorities noted that Mr. Jatar had been pulled over in his vehicle for inspection and had allegedly been caught in flagrante delicto with a briefcase containing thousands of dollars. It is surprising that at the same time as the Government argues that Mr. Jatar was arrested in flagrante delicto, it acknowledges to the Working Group that SEBIN had earlier initiated an investigation regarding his alleged involvement in acts potentially related to national security. The Working Group considers that detaining Mr. Jatar after he was supposedly caught in flagrante delicto and later charging him with money-laundering was motivated by his exercise of his freedom of expression, specifically through his work as a journalist for the electronic portal *Reporte Confidencial*, which posts information and opinion pieces that are critical of the Government. Therefore, it must be concluded that Mr. Jatar's deprivation of liberty stemmed from his exercise of rights and freedoms enshrined in article 19 of the Covenant. Consequently, the Working Group considers that Mr. Jatar's detention is arbitrary under category II.

<sup>1</sup> On 31 May 2017, the source informed the Working Group that Mr. Jatar was placed under house arrest on 24 May 2017. However, a preventive custodial measure remains in place.

59. The Working Group has been convinced that the authorities of the Bolivarian Republic of Venezuela failed to guarantee Mr. Jatar the right to the lawyer of his choice immediately following his arrest. Indeed, it observed that Mr. Jatar's effective legal representation was hindered by various actions attributable to the Government, the first being the multiple transfers (at least six) of Mr. Jatar to and from different detention centres without notifying his lawyers or relatives — which is contrary to normal practice — with a view to preventing the lawyers from communicating with their client for an unjustifiable length of time. It was not until 20 September 2016 that Mr. Jatar was granted access to his lawyers. This is a breach of international norms on the impartiality of trials of sufficient consequence as to make Mr. Jatar's deprivation of liberty arbitrary. Moreover, it infringes articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant, thereby making the detention arbitrary under category III.

60. In recent years, the Working Group has repeatedly ruled on the arbitrary detention of individuals in the Bolivarian Republic of Venezuela for having exercised their human rights, such as the right to freedom of opinion, expression, association and assembly and the right to political participation.

61. The Working Group has, in recent years, identified a practice whereby the Government of the Bolivarian Republic of Venezuela regularly deprives political opponents of their liberty, in violation of fundamental norms of international law, including the Universal Declaration of Human Rights and the Covenant.

62. The occurrence of multiple arbitrary detentions on the part of the Government of the Bolivarian Republic of Venezuela is reflected in the cases on which this Working Group has ruled in recent years.<sup>2</sup>

### **Disposition**

63. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Braulio Jatar, being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and of articles 9 and 14 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II and III.

64. The Working Group requests the Government of the Bolivarian Republic of Venezuela to take the steps necessary to remedy the situation of Braulio Jatar without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

65. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Braulio Jatar immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

<sup>2</sup> Opinion No. 27/2015 concerning Antonio José Ledezma Dfáz; Opinion No. 26/2015 concerning Gerardo Ernesto Carrero Delgado, Gerardo Rafael Resplandor Veracierta, Nixon Alfonso Leal Toro, Carlos Pérez and Renzo David Prieto Ramírez; Opinion No. 7/2015 concerning Rosmit Mantilla; Opinion No. 1/2015 concerning Vincenzo Scarano Spisso; Opinion No. 51/2014 concerning Maikel Giovanni Rondón Romero and 316 others; Opinion No. 26/2014 concerning Leopoldo López; Opinion No. 29/2014 concerning Juan Carlos Nieto Quintero; Opinion No. 30/2014 concerning Daniel Omar Ceballos Morales; Opinion No. 47/2013 concerning Antonio José Rivero González; Opinion No. 56/2012 concerning César Daniel Camejo Blanco; Opinion No. 28/2012 concerning Raúl Leonardo Linares; Opinion No. 62/2011 concerning Sabino Romero Izarra; Opinion No. 65/2011 concerning Hernán José Sifontes Tovar, Ernesto Enrique Rangel Aguilera and Juan Carlos Carvallo Villegas; Opinion No. 27/2011 concerning Marcos Michel Siervo Sabarsky; Opinion No. 28/2011 concerning Miguel Eduardo Osío Zamora; Opinion No. 31/2010 concerning Santiago Giraldo Florez, Luis Carlos Cossio, Cruz Elba Giraldo Florez, Isabel Giraldo Celedón, Secundino Andrés Cadavid, Dimas Oreyanos Lizcano and Omar Alexander Rey Pérez; and Opinion No. 10/2009 concerning Eligio Cedeño.



### Follow-up procedure

66. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Braulio Jatar has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Braulio Jatar;
- (c) Whether an investigation has been conducted into the violation of Braulio Jatar's rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the Government with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

67. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example, through a visit by the Working Group.

68. The Working Group requests the source and the Government to provide the above information within six months of the date of the transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

69. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.<sup>3</sup>

*[Adopted on 28 April 2017]*

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<sup>3</sup> See Human Rights Council resolution 24/7, paras. 3 and 7.