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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 65/2023**

Precautionary Measure No. 440-16  
Zaheer Seepersad regarding Trinidad and Tobago  
October 15<sup>th</sup>, 2023  
Original: English

**I. SUMMARY**

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures in favor of Zaheer Seepersad regarding Trinidad and Tobago. At the time of taking the decision, the Commission observes that the beneficiary has not provided information since March 1<sup>st</sup>, 2018, despite several requests from the Commission. The Commission regrets that the State of Trinidad and Tobago has never complied with its international obligation to provide information on this matter. The IACHR recalled that the State must comply with the corresponding obligations under the American Declaration despite the lifting of these precautionary measures, particularly with regards to the rights of persons with disabilities.

**II. BACKGROUND INFORMATION**

2. On August 4<sup>th</sup>, 2017, the Inter-American Commission on Human Rights granted precautionary measures in favor of Zaheer Seepersad in Trinidad and Tobago. Mr. Seepersad's life and personal integrity were at risk due to his medical condition and the existing threat of being admitted to the "St. Ann Psychiatric Asylum," which could aggravate his medical condition<sup>1</sup>.

3. The beneficiary indicated he is an adult with disability who suffers from "dystonia" (a neurological condition that causes abnormal postures). He informed that he lives with his parents, who allegedly did not take adequate care of his medical condition. According to the beneficiary, the type of "dystonia" he has requires drugs such as "botulinum toxin" and a surgery such as deep brain stimulation and peripheral denervation. According to the applicant, he needed this surgery for his condition, but it was not available locally and he was unable to travel abroad to have it performed. He submitted various medical certificates regarding his medical situation and his condition of disability<sup>2</sup>.

4. Upon analyzing the submissions of fact and law, the Commission requested that the State of Trinidad and Tobago: a) adopt the necessary measures to protect the life and personal integrity of Zaheer Seepersad, taking into consideration the characteristics of his medical condition and his condition as a person with disability. In particular, by means of the adoption of immediate measures which would allow him to receive adequate medical treatment in accordance with the applicable international standards, including specialized medical care which provides the necessary diagnosis and medications, as well as required therapies, in conditions of affordability and accessibility; b) consult the measures to be adopted with the proposed beneficiary to ensure his agreement; and c) inform on the actions adopted to investigate the alleged lack of access to medical care which gave rise to the adoption of the present precautionary measure, so as to avoid its repetition.

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<sup>1</sup> IACHR. [Resolution 28/2017](#). PM 440-16 - Zaheer Seepersad regarding Trinidad and Tobago. August 4<sup>th</sup>, 2017.

<sup>2</sup> Ibid, paras. 4-6.

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### **III. RELEVANT INFORMATION PROVIDED DURING THE TIME THE PRECAUTIONARY MEASURES WAS IN FORCE**

5. The IACHR requested information to the parties on September 11<sup>th</sup>, October 6<sup>th</sup>, and November 8<sup>th</sup>, 2017; February 22<sup>nd</sup>, 2018; and October 25<sup>th</sup>, 2022. On February 27<sup>th</sup>, 2023, the Commission requested updated information from the beneficiary. The IACHR also contacted the beneficiary through its Case 13.452 in connection with this precautionary measure and in which he was the petitioner on May 30<sup>th</sup>, 2018, April 30<sup>th</sup>, 2020, and July 8<sup>th</sup>, 2021, without receiving any response. The Commission informed both parties of the archiving of the case on August 25<sup>th</sup>, 2022.

6. During the time the precautionary measures were in force, the Commission received information from the beneficiary periodically up until March 1<sup>st</sup>, 2018. Mr. Seepersad consistently indicated that the State was not taking any measure to implement these precautionary measures, nor had it sought to contact him. In this context, the beneficiary alleged that he continued to lack proper medical treatment. The beneficiary further claimed he did not have access to the domestic courts due to his disabilities and as a consequence he continued to be “medically neglected” under his parents’ care. According to the beneficiary, he was threatened with physical abuse and “to be unlawfully detained at St Ann’s [Psychiatric Asylum] without access to the judiciary to challenge the legality of the detention”, where he indicated he was previously arbitrarily detained.

7. Considering the beneficiary’s information and the lack of a response from the State, on November 6<sup>th</sup>, 2017, the IACHR’s Rapporteur for Trinidad and Tobago at that time, Commissioner James Cavallaro, sent a letter to the State reiterating the precautionary measure granted and the pending requests for information. The information available in the process indicates that the United Nations Working Group on Arbitrary Detention adopted an Opinion on its eightieth session, carried out from November 20-24<sup>th</sup>, 2017, in which it considered that Mr. Seepersad has been subjected to arbitrary detention in certain periods of 2015 and 2016.<sup>3</sup> The Working Group adopted its Opinion in the absence of a response from the State, indicating that it had chosen not to challenge the allegations made.<sup>4</sup>

8. On February 27<sup>th</sup>, 2023, in compliance with Article 25(9) of the IACHR Rules of Procedure, the Commission requested the beneficiary to provide updated information regarding the implementation of these precautionary measures in order to evaluate if the Article 25 requirements were still in force. The Commission has not received a reply to date.

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

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

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<sup>3</sup> UNWGAD. Opinions adopted by the Working Group on Arbitrary Detention at its eightieth session, 20–24 November 2017. [Opinion No. 68/2017 concerning Zaheer Seepersad \(Trinidad and Tobago\)](#). December 20<sup>th</sup>, 2017.

<sup>4</sup> Ibid, para. 19-20.

10. The Inter-American Commission and the Inter-American Court of Human Rights have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding their protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.<sup>5</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are under consideration by the IACHR. In the process 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, 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.

11. With respect to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that “[t]he decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) sets forth that “[t]he 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 Commission shall assess whether the serious and urgent situation and the risk of irreparable harm that caused the adoption of the precautionary measures persist. Furthermore, it shall consider whether there are new situations that may comply with the requirements set forth in Article 25 of the Rules of Procedure.

12. The Commission highlights that these precautionary measures were granted in 2017 and aimed to protect the rights to life and personal integrity of Zaheer Seepersad considering his health condition and medical needs. The beneficiary indicated, and sent medical records in support, that he was a person with disabilities, requiring specific care. In addition, he alleged he was threatened with physical abuse, neglected under the care of his parents and at risk to be unlawfully detained at a psychiatric asylum. Despite the seriousness of these allegations, while the precautionary measure was in force and in spite of several request for information from the Commission since 2017 until 2023, the State has never provided information, and according to the beneficiary, it had not taken measures to implement the precautionary measures. The representation has not submitted additional information since 2018 either. Considering the lack of response from both parties, the Commission has no updated information to assess the situation as it did in 2017.

13. The IACHR regrets the lack of response from the State and emphasizes that it prevents the Commission from learning whether the State is implementing measures to protect the beneficiary, their adequacy and sufficiency, as well as it precludes the State to present information that could question the allegations put forward by the beneficiary. Furthermore, the Commission recalls that, according to the Inter-

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<sup>5</sup> See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional measures regarding Guatemala, Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of \\_\\_\\_\\_\\_ Fernández Ortega et al.](#) Provisional Measures regarding Mexico, Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5.

American Court, failure to comply with the duties to report on all the measures adopted in the implementation of its decisions is particularly serious, given the legal nature of these measures that seek to prevent irreparable harm to persons in serious and urgent situations.<sup>6</sup> The duty to inform constitutes a dual obligation that, for its effective fulfillment, requires the formal presentation of a document in due time and the specific, true, current and detailed material reference to the subjects on which such obligation falls.<sup>7</sup>

14. In the matter at hand, the IACHR highlights States' specific obligations to protect persons with disabilities in situations of risk. In this manner, the Commission recalls that the Inter-American Court has affirmed that:

any person who is in a vulnerable situation is entitled to special protection, based on the special duties that the State must comply with to satisfy the general obligation to respect and ensure human rights. The Court calls to mind that it is not sufficient for States to refrain from violating rights, and that it is imperative to adopt affirmative measures to be determined according to the particular protection needs of the subject of rights, whether on account of their personal situation or their specific circumstances, such as disability. Moreover, States have the obligation to promote the inclusion of persons with disabilities through equality of conditions, opportunities, and participation in all spheres of society to ensure that the limitations described above are eliminated. Consequently, it is necessary for States to promote social inclusion practices and adopt affirmative measures to remove these barriers.<sup>8</sup>

15. In addition, in light of the lack of updated information provided by the parties, the Commission adverts that it is not possible to identify any situation that currently fulfills the requirements of Article 25 of the Rules of Procedure. Particularly, the IACHR lacks the elements of assessment to conclude that the beneficiary is currently in a situation of "imminent" risk in accordance with Article 25. The Commission indicates that it takes into consideration that while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard of review, keeping such measures in force requires a more rigorous evaluation.<sup>9</sup> The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, in addition to the lack of imminent risk, may lead to the lifting of international protection measures.<sup>10</sup>

16. Lastly, and as noted by the Inter-American Court in various matters,<sup>11</sup> the lifting of measures by no means implies that the State has effectively implemented the granted precautionary measures, nor does it imply that the State is relieved of its general protection obligations. In this framework, the State is especially obliged to guarantee the rights of persons at risk and must promote the necessary investigations to clarify the facts, followed by the established consequences.

17. Considering the above information, the Commission decides to lift the present precautionary measure. This decision also takes note of the lack of response from the State throughout the

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<sup>6</sup> I/A Court H.R. [Matter of Communities of Iguamiandó and Curvaradó regarding Colombia](#). Provisional Measures. Order of the Inter-American Court of Human Rights of February 7, 2006. Considerandum 16; I/A Court H.R. [Case of Luisiana Ríos et al. \(Radio Caracas Televisión – RCTV\)](#). Provisional Measures. Resolution of the Inter-American Court of Human Rights of September 12, 2005. Considerandum 17.

<sup>7</sup> Ibid.

<sup>8</sup> I/A Court H.R., *Case of Furlan and family v. Argentina*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 31, 2012. Series C No. 246, para. 134.

<sup>9</sup> I/A Court H.R., [Provisional Measures regarding Mexico](#), Order of February 7, 2017, para. 16 and 17.

<sup>10</sup> Ibid.

<sup>11</sup> See: I/A Court H.R. [Case of Velásquez Rodríguez](#). Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of January 15, 1988, Considerandum 3; I/A Court H.R. [Matter of Giraldo Cardona et al.](#) Provisional measures regarding Colombia. Order of the Inter-American Court of Human Rights of January 28, 2015, Considerandum 40.

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period in which the precautionary measures were in force and from the beneficiary for over four years despite several attempts to obtain updated information from the parties.

**V. DECISION**

18. The Commission decides to lift the precautionary measures granted in favor of Zaheer Seepersad regarding Trinidad and Tobago.

19. The Commission instructs the Executive Secretariat of the IACHR to notify the State of Trinidad and Tobago and the representatives of this Resolution.

20. Approved on October 15<sup>th</sup>, 2023, by Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Julissa Mantilla Falcón; Carlos Bernal Pulido; and José Luis Caballero Ochoa, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary