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Prosecutor seeks review of genocide suspect's release

Del Ponte has new facts: Rwanda sees UN court's ruling as a dangerous precedent

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UNITED NATIONS-The chief of prosecutor of a United Nations war-crimes tribunal said yesterday she will ask an appeals court to review its order calling for the release of an Rwandan genocide suspect.

Carla Del Ponte, the chief prosecutor Says she "new facts" that could reverse a decision of two weeks ago to release Jean-Bosco Barayagwiza, who had argued successfully that prosecutors of the International Criminal Tribunal for Rwanda (ICTR) had denied him a right to a speedy trial.

Louise Arbour, now a justice, with the Supreme Court of Canada, was chief prosecutor of the tribunal in February, 1998, when Mr. Barayagwiza was Finally brought before judges three months after having been placed in detention in Arusha, Tanzania, where the court sits, and 19 months after he had been arrested in Cameroon, where he is set to be released.

Ms Del Ponte's decision to file a "notice of intent to seek a review" with the appeals court, which is in the Hague, has heightened tension between Rwanda and the tribunal

Ms. Del Ponte, who took over from Judge Arbour on Sept. 15, had originally said that all parties must accept the decision of the appeals court to protect the "integrity and independence" of the tribunal.

For Rwanda, however, the ruling set a dangerous precedent that could result in further releases. As result, it declared in protest that it would cease co-operating with the tribunal unless the order was reversed.

"They have to reserve the decision." Said Joseph Mutaboba, Rwanda's ambassador to the United Nations "Other accused criminals are trying to take advantage of the same loophole to get out of prison. If all of them get out what will be the purpose of the ICTR?"

"He was referring to three of the 38 detainees who have already challenged the nature of their arrests and detention.

Notwithstanding the court's independence, Mr. Mutaboba said the prosecutor's office had been "negligent" and "incompetent", and that Rwanda cannot accept that an accused be released without even being tried."

In the face of Rwandan intransigence, Mr. Del Ponte is now setting the groundwork for having the ruling overturned by pointing out that there was no oral hearing for the decision. She also said that

Besides refusing to meet the prosecutor, the Rwandan government has also rejected her application for an entry visa even though the tribunal maintains an office in the country.

Talks between the court and the government, however continued last night, while Ms. Del Ponte is on her way to Tanzania where she will meet court officials.

" We are hopeful that we can reach a resolution to the situation by the end of the week", said Paul Riskey, Ms. Del Ponte's spokesman.

The Rwandan government tried to cut its own deal with the United Nations yesterday to bring Mr. Barayagwiza to justice.

It has asked to appear before the appeals court to request he be extradited to Rwanda or released in Tanzania.

Because the tribunal cannot impose the death penalty, the Rwandan government has pledged that Mr Barayagwiza would not be executed if convicted.

The government knows that if Mr. Barayagwiza is returned to Cameroon, he will likely remain free because the country's supreme court has already rejected an application to extradite him to Rwanda.

In Tanzania, he could be arrested on an international warrant and then extradited to Rwanda.

However, experts feel the appeals court is unlikely to grant Rwanda's request, having already decided to release him.

Mr. Barayagwiza headed the most extreme hutu party involved in the 1994 murder of at least 500.000 moderate Hutus and Tutsis in Rwanda.