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PUBLIC STATEMENT

International Criminal Tribunal for Rwanda: Jean-Bosco Barayagwiza must not escape justice

Amnesty International is concerned that on 3 November 1999 the Appeals Chamber of the International Criminal Tribunal for Rwanda ordered the immediate release of Jean-Bosco Barayagwiza without any assurance that the charges then pending against him of having participated in the Rwanda genocide of 1994 will be considered by a national court. This decision may also have serious implications for other cases pending before the Tribunal.

Amnesty International regrets that there have been violations of the procedural rights of fair trial of Jean-Bosco Barayagwiza, who was indicted by the International Criminal Tribunal for Rwanda for serious crimes including genocide and crimes against humanity. The human rights organization had expressed its concerns in April 1998 about the delays in considering the *habeas corpus* application filed by Jean-Bosco Barayagwiza and in bringing him before a judge after his transfer to the seat of the Court in Arusha, Tanzania.

Nevertheless, the organization believes that if the prosecutor files a request for a review of the decision to release Jean-Bosco Barayagwiza, then the Appeal Chamber would have an opportunity to consider an alternative course of action. In particular, the Appeal Chamber could hand him over to national courts which have jurisdiction over the crimes he is alleged to have committed. Amnesty International stresses that any state may exercise universal jurisdiction over a person suspected of genocide or crimes against humanity.

The organization understands that Jean-Bosco Barayagwiza remains in the Tribunal's detention facility and is seeking clarification of his legal status.

Amnesty International would oppose the return of Jean-Bosco Barayagwiza to any country where he may not be afforded all the internationally recognized guarantees of fair trial and where he could face the death penalty.

Background

Jean-Bosco Barayagwiza and several others suspected of having participated in the genocide in Rwanda in 1994 were arrested in Cameroon on 15 April 1996 at the request of the Rwandese government.

Jean-Bosco Barayagwiza was a founding member of the *Coalition pour la defense de la République* (CDR), Coalition for the Defence of the Republic – a Hutu political party which held and expressed extremist views in the period leading up to the genocide in Rwanda and whose supporter participated actively in the massacres in 1994. Jean-Bosco Barayagwiza served as its president in the Gisenyi *prefecture*. He was a policy director in the government's Ministry of Foreign Affairs during the genocide and was also a founding member of the *Radio Television Libre des Mille Collines* or RTLM, a radio station that incited Hutus to take up arms against Tutsis.

In February 1997 the Cameroonian courts refused Rwanda's extradition request and ordered the release of Jean-Bosco Barayagwiza. At the request of the Prosecutor of the International Criminal Tribunal for Rwanda he was re-arrested and taken into custody by the Cameroonian authorities. He was transferred to the detention facility of the Tribunal in Arusha, Tanzania, on 19 November 1997 after being indicted on seven counts including genocide, complicity to commit genocide and crimes against humanity.

Jean-Bosco Barayagwiza challenged the charges against him on the basis that his rights to a prompt and fair trial had been violated and requested the Tribunal to declare his arrest and detention unlawful. Trial Chamber II of the Tribunal dismissed his request on 17 November 1998 and he appealed to the Appeals Chamber of the Tribunal. In its decision of 3 November 1999, the Appeals Chamber found that Jean-Bosco Barayagwiza's fundamental rights were repeatedly violated and therefore dismissed the charges against him and ordered his immediate release.

According to the agreement between Tanzania and the United Nations, any person released from the UN detention facility in Arusha is entitled to immunity from re-arrest by the Tanzanian authorities for a period of 15 days. If Jean-Bosco Barayagwiza is released in Tanzania, the Belgian authorities may file a request for his extradition with the Tanzanian government.

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