

**Security Council**

Distr.: General
29 July 2003

Original: English

Letter dated 28 July 2003 from the Secretary-General addressed to the President of the Security Council

By its resolution 1259 (1999) of 11 August 1999, the Security Council appointed Carla Del Ponte as Prosecutor of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda. In accordance with the statutes of the two Tribunals, the term of office of Ms. Del Ponte will come to an end on 14 September 2003. She is eligible for reappointment.

In accordance with article 16, paragraph 4, of the statute of the International Tribunal for the Former Yugoslavia, the Prosecutor of the International Tribunal for the Former Yugoslavia is appointed by the Security Council on nomination by the Secretary-General.

In accordance with article 15, paragraph 3, of the statute of the International Tribunal for Rwanda, the Prosecutor of the International Tribunal for the Former Yugoslavia also serves as the Prosecutor of the International Tribunal for Rwanda.

Pursuant to the responsibilities conferred upon me by those provisions of the statutes of the two Tribunals, I have consulted with the members of the Security Council regarding the appointment of the Prosecutor. In the light of those consultations, I have formed the view that it is now time to split the positions of Prosecutor of the International Tribunal for the Former Yugoslavia and the Prosecutor of the International Tribunal for Rwanda, so that they are occupied by different people. As the two Tribunals move towards implementing their respective completion strategies, it would seem to me essential, in the interests of efficiency and effectiveness, that each Tribunal have its own Prosecutor, who is able to devote his or her entire energies and attention to the organization, oversight, management and conduct of the outstanding investigations and prosecutions before that Tribunal.

Adoption of this measure would require the amendment by the Security Council of the statute of the International Tribunal for Rwanda. The amendments which I would propose to this end are set out in an annex to this letter. In the event that these amendments were adopted, the General Assembly would then be requested to approve the related increase that would be required in the budget of the International Tribunal for Rwanda.

Assuming that the Security Council were to adopt the amendments to the statute of the International Tribunal for Rwanda that I have proposed, it would then be my intention to submit to the Security Council the name of Carla Del Ponte as my nominee for the position of Prosecutor of the International Tribunal for the

Former Yugoslavia. In due course I would submit to the Security Council the name of another nominee for the position of Prosecutor of the International Tribunal for Rwanda. In the interim, it would be my intention to propose to the Security Council that it decide that, once Ms. Del Ponte's term of office has come to an end, the current Deputy Prosecutor of the International Tribunal for Rwanda, Bongani Christopher Majola, should act as the Prosecutor of that Tribunal, pending the appointment of another person to that post.

(Signed) Kofi A. **Annan**

Annex

Article 15

The Prosecutor

1. The Prosecutor shall be responsible for the investigation and prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994.
 2. The Prosecutor shall act independently as a separate organ of the International Tribunal for Rwanda. He or she shall not seek or receive instructions from any Government or from any other source.
 3. **The Office of the Prosecutor shall be composed of a Prosecutor and such other qualified staff as may be required.**
 4. **The Prosecutor shall be appointed by the Security Council on nomination by the Secretary-General. He or she shall be of high moral character and possess the highest level of competence and experience in the conduct of investigations and prosecutions of criminal cases. The Prosecutor shall serve for a four-year term and be eligible for reappointment. The terms and conditions of service of the Prosecutor shall be those of an Under-Secretary-General of the United Nations.**
 5. **The staff of the Office of the Prosecutor shall be appointed by the Secretary-General on the recommendation of the Prosecutor.**
-