

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/06
Date: 10 October 2007

TRIAL CHAMBER I

Before: Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito
Judge René Blattmann

Registrar: Mr Bruno Cathala

**SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO
IN THE CASE OF
THE PROSECUTOR
v. THOMAS LUBANGA DYILO**

Public Document

**FORMER COUNSEL'S RESPONSE TO PROSECUTION'S OPPOSITION TO
MOTION FOR LEAVE TO FILE WRITTEN CORRIGENDA**

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Dep. Prosecutor
Mr Ekkehard Withopf, Sr. Trial Lawyer

Counsel for the Victims

Mr Luc Walley
Mr Franck Mulenda
Ms Carine Bapita Buyangandu

Counsel for the Defence

Ms Catherine Mabilie

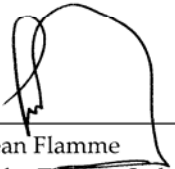
Former Counsel for the Defence

Mr. Jean Flamme

1. On 13 September 2007, Mr. Jean Flamme, former counsel for Thomas Lubanga Dyilo, formally submitted for filing a Motion containing a written corrigendum correcting a part of oral submissions made on 9 November 2006. The Motion requested that the Court:
 - a. note the correction set out in the motion, and
 - b. allow the motion to be deemed as properly filed.
2. On Monday, 24 September 2007, the Motion was actually filed by the Registry, presumably after consultations with Chambers.
3. On 3 October 2007, the prosecution filed a 'Reply' [sic] opposing the Motion.
4. As both objectives in filing the motion have already been met, former counsel seeks no further action in this matter.
5. The goal of the motion filed by former counsel was to inform the Chamber who is currently acting as the finder of fact in the Lubanga proceedings as to the erroneous statement in the pre-trial record and the true position intended, and to provide documentation of the error in the pre-trial record, which has now been transferred to the Trial Chamber.
6. A motion was not filed with the Pre-Trial Chamber because of its ruling on 5 June 2007, holding that it does not consider itself to have any residual jurisdiction in the Lubanga case. (*See* Decision on the application for additional means under regulation 83(3) of the Regulations of the Court and on the applications to intervene as amici curiae under rule 103 of the Rules of Procedure and Evidence, ICC-01/04-01/06-919).

7. Article 64 of the Rome Statute places the duty to ensure that the proceedings are fair and expeditious upon the Trial Chamber, and grants it the power to take all necessary steps to maintain order in the course of a hearing. It is respectfully submitted that taking notice of a correction of a mis-statement made during oral arguments easily falls within the scope of those powers.
8. The prosecution has not identified any prejudice which will result, nor will there be any prejudice resulting from former Counsel fulfilling his ethical obligations in this manner.
9. Should any of the above be incorrect, former counsel will gladly abide by the Trial Chamber's instructions as to the proper steps to be taken in order to fulfill his duty under the Code of Professional Conduct. However, given that the Court has now been made aware of the true position intended by Counsel, and given that no motion to strike has been filed by the Prosecution, it is respectfully submitted that no further action is required.

Respectfully submitted,



Jean Flamme
Former Counsel for Thomas Lubanga Dyilo

Dated this 10 October 2007.

At Ghent, Belgium