

ANNEX A
Public Redacted

	ERN #	DEFENCE REPOSE
1.	CAR-OTP-0013-0052: <i>Les Nyayamulenges sevisent à Bossembele, Yaloke et Damara</i>	The Defence opposes the admission of this document, which the Prosecution asserts is a “press article” from Le Citoyen. It is in fact, at best, a one-page extract. Such incomplete extracts are inadmissible under the Chamber’s own jurisprudence.¹ Being an extract, it has insufficient reliability and probative value to warrant admission, particularly given that this article has no listed author, rendering it virtually impossible to verify its contents. The Prosecution has never produced an author, publisher or anyone associated with this newspaper to vouch for the reliability or provenance of these documents, nor produced any originals, despite their extensive reliance on this publication at trial. The witness to whom it was shown (Witness CHM-01) did not authenticate the extract. He is not its author, nor was he asked if he had seen the document previously, or even if read the publication contemporaneously. In asserting that this document has sufficient reliability, the Prosecution asserts that this document is “publicly available”. However, the Prosecution’s own chain of custody lists this document as having come from the French Embassy in Bangui.² It was not obtained from the archives of the newspaper itself, but rather from a third party with a vested interest in the relevant events and outcome of the case. This further undermines its reliability. In addition, the Defence reiterates its previous submissions on the admission of media and press articles,³ and continues to adopt the position adopted by Trial Chamber I and Trial Chamber II of the ICC, and the ad hoc criminal tribunals that media reports are generally not

¹ ICC-01/05-01/08-2299-Red, para. 116.

² [REDACTED]

³ ICC-01/05-01/08-2168, paras. 36-37, citing Decision on the Prosecutor's Bar Table Motions, 17 December 2010; ICC-01/04-01/07-2635, paras. 29-33, and *The Prosecutor v. Kupreskic et al.* Decision, 3 September, 1999, para. 7.

		considered a source of reliable evidence and their admission should generally be rejected for lack of probative value. ⁴
2.	CAR-OTP-0013-0090: <i>Echos de nos provinces</i>	The Defence opposes the admission of this “press article”, which again is an extract from an alleged newspaper. Such incomplete extracts are inadmissible under the Chamber’s own jurisprudence.⁵ Being an extract, it has insufficient reliability and probative value to warrant admission. The Prosecution has never produced an author, publisher or anyone associated with this newspaper to vouch for the reliability or provenance of these documents, nor produced any originals, despite their extensive reliance on this publication at trial. In asserting that this document has sufficient reliability, the Prosecution asserts that this document is “publicly available”. However, the Prosecution’s own chain of custody lists this document as having come from the French Embassy in Bangui.⁶ It was not obtained from the archives of the newspaper itself, but rather from a third party with a vested interest in the relevant events and outcome of the case. This further undermines its reliability. The witness to whom it was shown (Witness CHM-01) did not authenticate the extract. He is not its author, nor was he asked if he had seen the document previously, or even if read the publication contemporaneously. In addition, the Defence reiterates its previous submissions on the admission of media and press articles,⁷ and continues to adopt the position adopted by Trial Chamber I and Trial Chamber II of the ICC, and the ad hoc criminal tribunals that media reports are generally not

⁴ ICC-01/05-01/08-2168, para. 11.

⁵ ICC-01/05-01/08-2299-Red, para. 116.

⁶ [REDACTED]

⁷ ICC-01/05-01/08-2168, paras. 36-37, citing Decision on the Prosecutor's Bar Table Motions, 17 December 2010; ICC-01/04-01/07-2635, paras. 29-33, and *The Prosecutor v. Kupreskic et al.* Decision, 3 September, 1999, para. 7.

		considered a source of reliable evidence and their admission should generally be rejected for lack of probative value. ⁸
3.	CAR-OTP-0013-0113: <i>CENTRE-VILLE: Nyamamulengués «Moyibi» emportent d'importantes cargaisons de butins vers Zongo</i>	The Defence opposes the admission of this document, which the Prosecution asserts is a “press article” from Le Citoyen. It is in fact, at best, a one-page extract. Such incomplete extracts are inadmissible under the Chamber’s own jurisprudence.⁹ Being an extract, it has insufficient reliability and probative value to warrant admission. The Prosecution has never produced an author, publisher or anyone associated with this newspaper to vouch for the reliability or provenance of these documents, nor produced any originals, despite their extensive reliance on this publication at trial. In asserting that this document has sufficient reliability, the Prosecution asserts that this document is “publicly available”. However, the Prosecution’s own chain of custody lists this document as having come from the French Embassy in Bangui.¹⁰ It was not obtained from the archives of the newspaper itself, but rather from a third party with a vested interest in the relevant events and outcome of the case. This further undermines its reliability. The witness to whom it was shown (Witness CHM-01) did not authenticate the extract. He is not its author, nor was he asked if he had seen the document previously, or even if read the publication contemporaneously. In addition, the Defence reiterates its previous submissions on the admission of media and press articles,¹¹ and continues to adopt the position adopted by Trial Chamber I and Trial

⁸ ICC-01/05-01/08-2168, para. 11.

⁹ ICC-01/05-01/08-2299-Red, para. 116.

¹⁰ [REDACTED]

¹¹ ICC-01/05-01/08-2168, paras. 36-37, citing Decision on the Prosecutor’s Bar Table Motions, 17 December 2010; ICC-01/04-01/07-2635, paras. 29-33, and *The Prosecutor v. Kupreskic et al.* Decision, 3 September, 1999, para. 7.

		Chamber II of the ICC, and the ad hoc criminal tribunals that media reports are generally not considered a source of reliable evidence and their admission should generally be rejected for lack of probative value. ¹²
4.	CAR-OTP-0013-0115: <i>Mongoumba mise à sac par les Nyamamulengués.</i>	The Defence opposes the admission of this “press article”, which again is an extract from an alleged newspaper. Such incomplete extracts are inadmissible under the Chamber’s own jurisprudence.¹³ Being an extract, it has insufficient reliability and probative value to warrant admission, particularly given that this article has no listed author, rendering it virtually impossible to verify its contents. The Prosecution has never produced an author, publisher or anyone associated with this newspaper to vouch for the reliability or provenance of these documents, nor produced any originals, despite their extensive reliance on this publication at trial. The witness to whom it was shown (Witness CHM-01) did not authenticate the extract. He is not its author, nor was he asked if he had seen the document previously, or even if read the publication contemporaneously. In asserting that this document has sufficient reliability, the Prosecution asserts that this document is “publicly available”. However, the Prosecution’s own chain of custody lists this document as having come from the French Embassy in Bangui.¹⁴ It was not obtained from the archives of the newspaper itself, but rather from a third party with a vested interest in the relevant events and outcome of the case. This further undermines its reliability. In addition, the Defence reiterates its previous submissions on the admission of media and

¹² ICC-01/05-01/08-2168, para. 11.

¹³ ICC-01/05-01/08-2299-Red, para. 116.

¹⁴ [REDACTED]

		press articles, ¹⁵ and continues to adopt the position adopted by Trial Chamber I and Trial Chamber II of the ICC, and the ad hoc criminal tribunals that media reports are generally not considered a source of reliable evidence and their admission should generally be rejected for lack of probative value. ¹⁶
5.	CAR-ICC-0001-0102: Map	The Defence takes no position on the admission of this document.
6.	CAR-ICC-0001-0103: Map	The Defence takes no position on the admission of this document.

¹⁵ ICC-01/05-01/08-2168, paras. 36-37, citing Decision on the Prosecutor's Bar Table Motions, 17 December 2010; ICC-01/04-01/07-2635, paras. 29-33, and *The Prosecutor v. Kupreskic et al.* Decision, 3 September, 1999, para. 7.

¹⁶ ICC-01/05-01/08-2168, para. 11.