

Annex A

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APPEAL BRIEF, PART II – INTRODUCTION**GROUND 2: MR. NTAGANDA’S RIGHT TO A FAIR TRIAL WAS VIOLATED BY MANIFEST PROCEDURAL IRREGULARITIES****I. The Chamber’s excessive resort to *ex parte* material violated Mr. Ntaganda’s right to a fair trial****II. The Prosecution’s wilful failure to disclose Mr. Ntaganda’s non-privileged conversations in its possession irreparably damaged the fairness of the trial****III. The Chamber’s failure to suspend the proceedings prior to the resolution of the ‘no case to answer’ appeal was an error****IV. Violation of Mr. Ntaganda’s right to a fair hearing****GROUND 5: NO ATTACK DIRECTED AGAINST A CIVILIAN POPULATION¹****I. Failure to find that a civilian population was the primary object of the attack****II. The Chamber erred by limiting its analysis of the evidence to six military operations****III. Failure to accord sufficient weight to the legitimate purpose of the six military operations it considered****IV. Failure to consider relevant evidence going beyond the allegations of the Prosecution****V. No orders to attack civilians were issued****A. *Kupiga na kuchaji* was not an instruction to attack all Lendu****B. The Chamber’s errors related to the seven orders/instructions considered**

(1) P-0010 Order

(2) Pre-Mongbwalu instructions issued to P-0017/P-0963

(3) P-0768’s Camp Goli allegation

(4) Order to fire a grenade launcher in Sayo

(5) Kisembo’s briefing to troops in Mongbwalu

(6) Salumu’s order to destroy a triangle / pocket of resistance

¹ Ground 5 is addressed before Ground 4 to reflect the order in which the elements were addressed in the Judgment.

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