

Trial Hearing
WITNESS: MLI-OTP-P-0150

(Closed Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor vs Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Tuesday, 13 July 2021
10 (The hearing starts in closed session 9.31 a.m.)
11 THE COURT USHER: [9:31:38] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:31:56](Interpretation) The hearing shall now
15 begin.
16 Good morning, everyone.
17 Courtroom officer, kindly call the case.
18 THE COURT OFFICER: [9:32:23] Good morning, Mr President, your Honours.
19 This is the situation in the Republic of Mali, in the case of the Prosecutor versus Al
20 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case number ICC-01/12-01/18.
21 And, for the record, we are in closed session.
22 PRESIDING JUDGE MINDUA: [9:32:43](Interpretation) Thank you very much,
23 courtroom officer.
24 As every morning, we will now proceed with introductions, beginning with the OTP.
25 Mr Prosecutor.

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1 MR DUTERTRE: [9:33:00](Interpretation) Good morning, your Honours. The OTP
2 is represented today by Yayoi Yamaguchi, Mr Mousa Allafi, Mr Garcia, and myself,
3 Gilles Dutertre. I take this opportunity to greet the witness and everyone else who is
4 taking part in today's hearing. Thank you, your Honour.

5 PRESIDING JUDGE MINDUA: [9:33:28](Interpretation) Thank you very much,
6 Mr Prosecutor.

7 And now the Defence. Counsel.

8 MS PRADHAN: [9:33:34] Good morning, Mr President. Good morning,
9 your Honours. I'd like to take the opportunity as well to greet everyone in the
10 courtroom, including the witness. The Defence for Mr Al Hassan today is
11 represented by Ms Dolly Chahla, Ms Molly Thomas, Ms Melinda Taylor, and myself,
12 Alka Pradhan. Thank you.

13 PRESIDING JUDGE MINDUA: [9:34:14](Interpretation) Thank you very much,
14 Counsel.

15 And now, the Legal Representatives of Victims. Counsel.

16 MR LUVENGIKA: [9:34:16](Interpreted) Good morning, your Honours. The
17 victims in this case are represented at today's hearing by Prisque Biyéké Dipanga,
18 Ludivine Tixier-Dunet, and myself, Fidel Nsita Luvengika.

19 And as usual, I take this opportunity to greet everyone here in the courtroom.
20 Thank you.

21 PRESIDING JUDGE MINDUA: [9:34:41](Interpretation) Thank you, Counsel.

22 And now the witness's counsel. Counsel, please.

23 [REDACTED]: [9:34:58](Interpretation) Good morning, your Honours. I am

24 [REDACTED] and I am the legal adviser to the witness, [REDACTED]

25 [REDACTED] And I take this opportunity to greet everyone at the hearing.

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1 PRESIDING JUDGE MINDUA: [9:35:15](Interpretation) Thank you very much, [REDACTED]

2 [REDACTED]

3 And now the witness.

4 Good morning, Mr Witness. How are you?

5 WITNESS: MLI-OTP-P-0150 (On former oath)

6 (The witness speaks Arabic)

7 THE WITNESS: [9:35:23](Interpretation) Good morning, your Honour. I am well.

8 Thank you very much.

9 PRESIDING JUDGE MINDUA: [9:35:34](Interpretation) Thank you very much,

10 Mr Witness.

11 Now, today, we shall continue with your testimony. And as you know, you are still

12 under oath. Thus, you must tell the truth, the whole truth and nothing but the truth.

13 Naturally, as you have already done previously throughout the course of your

14 testimony, the Chamber thanks you for your cooperation. And we do hope you will

15 continue giving your testimony in such a serious manner, as you have.

16 I will now hand over to Ms Pradhan for continuation of her cross-examination.

17 Ms Pradhan.

18 MS PRADHAN: [9:36:42] Thank you, Mr President.

19 QUESTIONED BY MS PRADHAN: (Continuing)

20 Q. [9:36:44] Good morning, [REDACTED]. How are you this morning?

21 A. [9:36:52] Good morning. Thank you.

22 Q. [9:36:53] Very good.

23 [REDACTED], when we finished yesterday afternoon, we had just discussed certain

24 [REDACTED] regarding, in your words, "points where I

25 considered that I wasn't very sincere or not very clear since the first meeting in

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1 [REDACTED] until the date of this very interview."

2 For the Chamber, the cite there is transcript 115, page 105, lines 2 to 6.

3 Do you recall that, [REDACTED]?

4 A. [9:37:43] Yes.

5 Q. [9:37:43] Thank you, sir.

6 [REDACTED], yesterday you went into some detail about your understanding of the

7 quality of sincerity, again, using your words. And you said that:

8 "With regard to sincerity, I believe that this is an extraordinary quality. Nobody can

9 ascertain that they are 100 per cent sincere [...] So I was obliged to put in place

10 criteria in terms of the truth that I was to bring before the tribunal, because the quality

11 of sincerity is very important and this is the quality of prophets."

12 And the citation there again, is transcript 115, pages 78 to 79, lines 22 to 25 on 78 and

13 lines 1 through 3 on page 79.

14 [REDACTED], do you recall -- do you recall making -- talking about the quality of

15 sincerity?

16 A. [9:39:01] Yes.

17 Q. [9:39:03] Thank you, sir.

18 And my question is, you went into some detail about that and about your

19 understanding of the truth according to the Koran yesterday. Did you make that

20 understanding clear to the Prosecutors [REDACTED]

21 [REDACTED]?

22 A. [9:39:29] No, not at all. [REDACTED]

23 [REDACTED]

24 [REDACTED] as is the case here in this Chamber where I am under oath.

25 Q. [9:40:15] [REDACTED], is it your testimony that [REDACTED]

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[REDACTED]

2

[REDACTED]?

3

A. [9:40:52] No, that's not true.

[REDACTED]

4

But what was not necessary was for me to explain everything that was said to the

5

Prosecution.

6

Q. [9:41:08] And when you say -- just for clarity, [REDACTED] when you say it was

7

not necessary to explain everything to the Prosecution, could you clarify what you

8

meant by that, sir.

9

A. [9:41:45]

[REDACTED]

10

[REDACTED]

11

[REDACTED]. And I didn't

12

explain to them -- I didn't explain the religious and intellectual criteria I was basing

13

myself on on my convictions.

[REDACTED]

14

[REDACTED]

15

[REDACTED] I am under oath here, and so I am showing more sincerity.

16

And I'm being more careful in comparison with the interview with the Prosecution.

17

That has the concentration and the intelligence, you see. Thus, the criteria of

18

sincerity, which I explained earlier, is something additional, considering the serious

19

attitude that I am taking in this hearing before this Court.

20

Q. [9:43:05] Thank you for that, [REDACTED].

21

This brings us to something that you said yesterday as well, which is that -- that you

22

referred just now to your testimony before this Court being under oath, and drawing

23

the distinction, therefore, between the testimony that you're giving now, during direct

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examination and cross-examination and all of your previous interviews that were not

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under oath.

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1 Do I understand you correctly, sir?

2 A. [9:43:48] I think so. [REDACTED]

3 And the oath is much more important because under Sharia, if you change the terms
4 of the oath, * you are subject to punishment in the afterlife and in this earthly life. So
5 both require sincerity, but the difference to -- between my testimony here and my
6 interviews with the Prosecution is just that I am more serious and more careful in the
7 use of terms and in the clarifications of the truth.

8 Q. [9:44:51] Thank you, sir. And just one last question on this. Did you
9 understand, during the course of your interviews with the Office of the Prosecutor,
10 that the information you were giving during those interviews was being used to build
11 cases here at the ICC?

12 A. [9:45:32] Yes. Exactly. And I also understand that there will be careful study
13 of the case, and people will read between the lines, and this will be used to make
14 some things clearer.

15 Q. [9:45:51] Thank you, sir.

16 I'd like to go back to the document we were looking at yesterday. It's your interview
17 with OTP [REDACTED] And the document is OTP tab 1384,

18 [REDACTED]
19 Do you have that page in front of you, [REDACTED]?

20 A. [9:46:48] Which line exactly, please?

21 Q. [9:47:05] Certainly, sir. I'd like to direct you to the lines beginning at 624 of the
22 English.

23 A. [9:47:33] Yes.

24 Q. [9:47:36] Thank you, sir.

25 And at -- at line 624, you say: [REDACTED]

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[REDACTED]

Do you see that, sir?

A. [9:48:15] Yes.

Q. [9:48:16] [REDACTED]

[REDACTED]

A. [9:49:15] Yes, I saw that. But I would like to explain.

Q. [9:49:36] Please go ahead and explain, [REDACTED].

A. [9:49:41] [REDACTED]

[REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 That being said, I don't remember what I said to the investigators.

7 Perhaps if you were to show me what I said, I can give you more information.

8 Q. [9:52:31] Certainly, [REDACTED] I'd be happy to do that.

9 If you look at the next page, sir, at page 0888, at lines 686 to 693, this is -- yes. This is
10 immediately after you were asked by the interviewer [REDACTED]

11 [REDACTED] You said:

12 [REDACTED]

13 [REDACTED]

14 And then at line 692:

15 [REDACTED]
16 [REDACTED]

17 And you do go on, as you just did, sir, you do go on further on that page to discuss

18 [REDACTED] at line 697. And your request to OTP - at lines

19 708 and 709 - that [REDACTED]

20 [REDACTED]

21 Do you recall that exchange, sir, now?

22 A. [9:54:14] Yes.

23 Q. [9:54:16] Thank you, [REDACTED]

24 My question is regarding those specific lines, lines 686 to 693, [REDACTED]

25 [REDACTED]

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- 1 Can I ask if, [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 A. [9:55:02] Well, you have raised many issues, complex ones and thorny ones.
6 First of all, [REDACTED]
7 There is an implicit question here, namely, your first question, [REDACTED]
8 [REDACTED] [REDACTED] And
9 then there is something that -- a question that stems from that, namely, [REDACTED]
10 [REDACTED]
11 I think that the question is rather complex and you've drawn some conclusions here.
12 What is true is that - and I'll answer your last question - [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 Q. [9:56:42] Thank you, [REDACTED]
16 And I'm sorry if any of my question was unclear. I'd be more than happy to clarify.
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 Is that correct, sir?
22 A. [9:57:34] Yes. Exactly. [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 Q. [9:57:58] Thank you, [REDACTED].

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1 I suppose my question is this: If you look back at those lines between 686 to 693, it

2 appears that when you say [REDACTED]

3 [REDACTED] and in the English, it says: [REDACTED]

4 [REDACTED]

5 And my question to you, sir, is: [REDACTED]

6 [REDACTED]?

7 A. [9:58:52] Yes. [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 THE INTERPRETER: [10:01:05] Inaudible.

22 MS PRADHAN: [10:01:09]

23 Q. [10:01:09] [REDACTED] I apologise. Could you please repeat the last sentence

24 that you said because I believe it wasn't heard properly.

25 A. [10:01:26] I said that [REDACTED]

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1 [REDACTED] And I said that I have noted, according to your

2 questions, that you seem to believe that [REDACTED]

3 [REDACTED] This is not the

4 case.

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Q. [10:02:17] Thank you so much, [REDACTED] That actually does clear -- clarify

11 those lines quite a bit.

12 I guess my last -- my last question for you just on those lines is that, so it is your

13 position that [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Is that correct, sir?

17 PRESIDING JUDGE MINDUA: [10:03:10](Interpretation) Mr Prosecutor.

18 MR DUTERTRE: [10:03:13](Interpretation) Yes, Mr President. I would just like to

19 have it noted that this question has been put in a number of different manners since

20 this morning on a number of occasions. And we are asking the witness, once again,

21 what he has already said in a very clear manner, especially in his last answer.

22 PRESIDING JUDGE MINDUA: [10:03:32](Interpretation) Ms Pradhan, there's no use.

23 I am witness to this. You have put this question on a number of occasions already.

24 And since this morning, there are questions that you are putting that have already

25 been put to the witness yesterday as well. But you are repeating them. So please

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1 move on. And be mindful that on 23 July, this witness will no longer be with us.

2 So please try and move forward.

3 MS PRADHAN: [10:04:09] Thank you, Mr President. May I briefly be heard?

4 PRESIDING JUDGE MINDUA: [10:04:19](Interpretation) No, because that's it.

5 That question the witness has already answered. Move on to another one.

6 MS PRADHAN: [10:04:29] Thank you, Mr President.

7 Q. [10:04:34] Now, at the bottom of that page, [REDACTED] page 0888 again,

8 we -- around -- right. We referred to lines 708 and 709 where you discuss [REDACTED]

9 [REDACTED].

10 Do you recall that, sir?

11 A. [10:05:05] I did not hear part of your question.

12 Q. [10:05:17] I'm sorry, sir. I was simply referring you back to lines 708 and 709,

13 on page 0888, where you refer to [REDACTED].

14 Do you see those lines, sir?

15 A. [10:05:40] Yes.

16 Q. [10:05:50] Okay. And, sir, I'd like to refer you to a different document from, I

17 believe, the same day. It's OTP tab 1381. And that's [REDACTED] And

18 we're looking at page 0815.

19 THE COURT OFFICER: [10:06:29] Would counsel kindly confirm which redacted

20 version.

21 MS PRADHAN: [10:06:35] Certainly. R02.

22 Q. [10:06:51] Do you have that page in front of you, [REDACTED]?

23 A. [10:06:56] Yes.

24 Q. [10:07:13] And on this page, there is a discussion about [REDACTED]

25 [REDACTED]

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1 Do you see that, sir?

2 A. [10:07:25] Yes.

3 Q. [10:07:47] Thank you, sir.

4 And building on your previous expression of [REDACTED]
5 understandably, do you see at lines 240 to 243 where -- excuse me. At 24-- at line
6 244, it clarifies that the previous lines were actually stated by [REDACTED] And lines
7 240, it says:

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 Do you recall that discussion, [REDACTED]?

13 A. [10:09:06] Yes.

14 Q. [10:09:07] And so is it accurate to say that [REDACTED]
15 [REDACTED]?

16 A. [10:09:23] No. That is not correct. [REDACTED]

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 [REDACTED]

2 [REDACTED] So you cannot directly link my testimony to this, as
3 you are attempting to do, to a sine qua non condition, that is. No. It is not a
4 sine qua non condition. There is not such a nexus in existence between the two
5 things.

6 THE INTERPRETER: [10:11:30] Message from the interpreter: Could the witness
7 be requested to slow down. Thank you.

8 MS PRADHAN: [10:11:43]

9 Q. [10:11:43] [REDACTED] I'm not sure if you heard, but if you could please slow
10 down just a little bit so that we can make sure to get all your answers.

11 [REDACTED], it's actually not me who is trying to directly link your testimony with
12 [REDACTED]. In this document that I just read you, it's [REDACTED]
13 statement here that says: [REDACTED]

14 [REDACTED]

15 [REDACTED]
16 [REDACTED]

17 PRESIDING JUDGE MINDUA: [10:12:29](Interpretation) [REDACTED]

18 [REDACTED] [10:12:32](Interpreted) Thank you, Mr President. I do not see
19 anything in the Arabic text [REDACTED]

20 [REDACTED]

21 [REDACTED] That is not true.

22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 attacking my role at the investigative stage right from the very beginning.

2 I have been a lawyer [REDACTED] and I have never been attacked in such a

3 manner. My ethics have never been challenged, and I find this inadmissible.

4 In the Arabic text - and, I believe that there are interpreters capable of telling us what

5 there is in the Arabic version - [REDACTED]

6 [REDACTED] Thank you, Mr President.

7 MS PRADHAN: [10:14:00] Mr President, may I be heard?

8 PRESIDING JUDGE MINDUA: [10:14:03] Wait, wait, wait, wait. Just wait, wait.

9 (Interpretation) You need to wait, and then I shall allow you to address the Court,

10 Ms Pradhan.

11 [REDACTED] has just intervened. And when he was speaking, I could see

12 that -- maybe I was wrong, but I could see that you were protesting with your head.

13 I believe that [REDACTED] does have the right to intervene and raise his objections

14 whenever he feels the need to do so. That's my first point. I might be wrong.

15 My second point, he says there's an issue with what he said, the English text and the

16 Arabic text. And we need to resolve this issue. There we are.

17 Please. You can address the Court now.

18 MS PRADHAN: [10:14:55] Mr President, [REDACTED]'s interventions are limited to

19 self-incrimination under Rule 74. He is not entitled to stand up in the middle of

20 cross-examination and testify as to his understanding or his impressions of what he

21 did that day. If he would like to testify, I would be more than happy to

22 cross-examine him under oath. I have not made any personal attacks. I have

23 made -- I issued questions based on the interview reports that we were given. But

24 even -- and my job here as a representative of Mr Al Hassan is to question those

25 reports and put questions based on the black-and-white text, which is precisely what I

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1 have done. It is wholly inappropriate. And I understand that over the course of
2 yesterday and today, everyone in -- several members of -- officers of the Court have
3 referred to the number of years they have spent practicing. I also have a number of
4 years practicing, and I have never seen anyone be able to stand up in the middle and
5 offer testimony regarding a question on the exact point that I am currently
6 cross-examining the witness about.

7 It is grotesque influence of a witness during cross-examination.

8 I have to put that on the record, sir.

9 PRESIDING JUDGE MINDUA: [10:16:32](Interpretation) Very well. It's on the
10 record now. But [REDACTED] under Rule 74, when you speak of him in such terms,
11 according to him, that -- in terms that are not including in the Arabic text, he has a
12 right to get to his feet and request to address the Court.

13 But let's now move forward and cover this problem of the discrepancy between the
14 Arabic and the English text.

15 MS PRADHAN: [10:17:06] Absolutely. And I would be happy to explore that
16 discrepancy, if there is in fact a translation error. But the intervention should have
17 been limited to pointing that out.

18 Mr President, if I may make a suggestion. If the interpreters may read the Arabic
19 lines.

20 PRESIDING JUDGE MINDUA: [10:17:39](Interpretation) Very well. So we're
21 going to request the assistance of the interpreters, starting from the line 237, is that
22 correct, to read the Arabic version?

23 THE INTERPRETER: [10:17:58] From the French booth:

24 [REDACTED]

25 [REDACTED]

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5 End of translation.

6 PRESIDING JUDGE MINDUA: [10:18:52](Interpretation) Thank you very much.

7 Ms Pradhan.

8 MS PRADHAN: [10:18:56] Thank you, Mr President. If that satisfies the Chamber,

9 I do not see a discrepancy between the English and the Arabic on this point. But I

10 would be happy to either repeat my question to [REDACTED] or move on from here.

11 PRESIDING JUDGE MINDUA: [10:19:15](Interpretation) You can put the question

12 now and listen to what the witness has to say.

13 MS PRADHAN: [10:19:20] Certainly. Thank you, Mr President.

14 Q. [10:19:23] [REDACTED], I just -- just to reorient you, sir, we're at lines 240 to 243.

15 And this was in the interview, this is the statement [REDACTED] And it says here:

16

17

18 And my question to you, sir, is: During that interview, was that your understanding

19 of what the conditions would be? [REDACTED]

20 A. [10:20:15] Yes, because the assessment that had been done required that. What

21 is more, this applies to disclosure and not to testimony as you said before.

22 [REDACTED] But the protection is an

23 obligation incumbent upon the Court. And when the time will come for me to

24 testify, then an assessment will be done. And if protection proves to be necessary, I

25 will only testify without benefiting -- I will only testify if I can benefit from

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1 protective measures. And if the assessment ascertains that the risk is not particularly
2 high, then I shall testify. It's not a condition, but it is one of the obligations
3 incumbent upon the Court. It can be necessary or not according to a specific
4 situation.

5 So today we are in closed session. But it might be that on another day, I will testify
6 in open session. It will all depend on the assessment of the security situation and not
7 on the contents or the nature itself of the testimony.

8 Q. [10:21:43] Thank you, [REDACTED]

9 And my final question just on this is: Were you able to hear the Arabic translation of
10 that statement earlier from the interpreters?

11 A. [10:21:56] Yes, and we are only talking about disclosure. Yes, that is true. But
12 in the English text, (Speaks English) "testimony" (Interpretation) is also mentioned.

13 THE INTERPRETER: [10:22:25] "Testimony", the witness used the English word.

14 THE WITNESS: [10:22:29] (Interpretation) So we're not talking here, about
15 disclosure but about testimony, which is incorrect.

16 MS PRADHAN: [10:22:46]

17 Q. [10:22:46] Thank you, [REDACTED]. I understand the distinction.

18 [REDACTED] staying on this same topic for a moment, on June 3 during your direct
19 examination - and we're at transcript 91, page 82, lines 8 to 11 - you said -- to orient
20 you, sir, this was a discussion about [REDACTED]

21 [REDACTED]

22 And you said at these lines:

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1

[REDACTED]

2

Do you recall making that statement, sir, to, I believe, Mr Duterte, on June 3?

3

A. [10:24:07] Yes.

4

Q. [10:24:22]

[REDACTED]

5

[REDACTED]

6

7

8

A. [10:24:58]

[REDACTED]

9

[REDACTED]

10

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15

[REDACTED] the

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only information that I omitted to communicate is the information that had an impact

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on other information, which I noted at a later stage. And I was no longer able to

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note this because I had given specific or precise information at that point.

19

Q. [10:26:33] Thank you for that clarification,

[REDACTED].

20

[REDACTED]

21

22

[REDACTED]

Do you

23

recall that, sir?

24

A. [10:27:02] Yes.

25

Q. [10:27:12] Thank you, sir.

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3 A. [10:27:22]

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5 Q. [10:28:02] Yes, indeed, Thank you.

6 I'd like to return to that same document, that's OTP tab 1381, and

7 at page 0811.

8 Do you have that in front of you, sir?

9 THE ARABIC INTERPRETER: [10:28:35] Message from the interpreters: Can you
10 repeat the reference number, please.

11 MS PRADHAN: [10:28:40] Of course. For the interpreters, the reference number is

12 It's R2. And I'm looking at page 0811.

13 Q. [10:29:06] Do you have that before you, sir?

14 A. [10:29:20] Yes.

15 Q. [10:29:21]

16

17

18 A. [10:29:40] I do remember that, but I can't

19 tell you the specific dates, unless I can read them to you as I can now.

20 Q. [10:30:12] Of course. And this was I believe - even on this day,

21 But I

22 want to move to page 820, where you see at lines, beginning at line 392, the

23 interviewer is speaking about the particular importance of the "basis of knowledge to

24 what you are telling us."

25 Do you see that, ?

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1 A. [10:31:16] Yes.

2 Q. [10:31:18] And between lines 399 and about 415, the interviewers give you five

3 categories of sources of information. And I'll read you -- rather than read you the

4 whole transcript, I'll represent to you that the five categories are: What you

5 experienced after the events; what you heard from other people; what you learned

6 [REDACTED]; what you

7 have learned [REDACTED]; and then conclusions that you've

8 reached from all of that information.

9 Do you recall those five categories of information being put to you?

10 A. [10:32:25] Yes.

11 Q. [10:32:25] [REDACTED]

12 [REDACTED]

13 Did you ever have difficulty recalling which source you were relying upon in

14 answering questions from OTP?

15 PRESIDING JUDGE MINDUA: [10:32:56](Interpretation) Prosecutor.

16 MR DUTERTRE: [10:32:59](Interpretation) No objections, but I think it would be a

17 good thing if my learned friend could read a number of other lines to be more

18 complete, lines 396 and 397.

19 PRESIDING JUDGE MINDUA: [10:33:13](Interpretation) Ms Pradhan.

20 MS PRADHAN: [10:33:15] Of course. So beginning at line 39- -- actually, I'll go

21 back and begin at line 392 for the purpose of completeness.

22 PRESIDING JUDGE MINDUA: [10:33:35](Interpretation) Very well.

23 MS PRADHAN: [10:33:37] The interviewer here says:

24 "I just want to remind you about the particular importance to mention the basis of

25 knowledge to what you are telling us."

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1 And then the interviewer says:

2 "Even more than before, we had made distinction between what you experienced
3 yourself when you were in Mali."

4 And then the interviewer goes on to discuss the categories that I read earlier:

5 "What you experienced after the events. What you heard from other people. What
6 you have learned [REDACTED] What you have learned
7 [REDACTED] And also conclusions that you've done from
8 all of this, which is also helpful for us when we know what it is."

9 And I may as well read the next two lines which says:

10 "This is in combination with the fact" - and so there is additional basis here - "that [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 And I will come back -- I will come back to the lines after that. But my question for

14 you, [REDACTED], based on the section that I just read, is - again, this is [REDACTED]

15 [REDACTED] discussing events from 2012 onwards - was it ever

16 difficult for you to recall exactly which source you were relying upon in answering

17 the questions from OTP during these interviews?

18 A. [10:35:30] Well, I don't know whether the Prosecution also asked me that

19 question, but that's not important. What's important is what I'm going to tell you

20 right now. [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

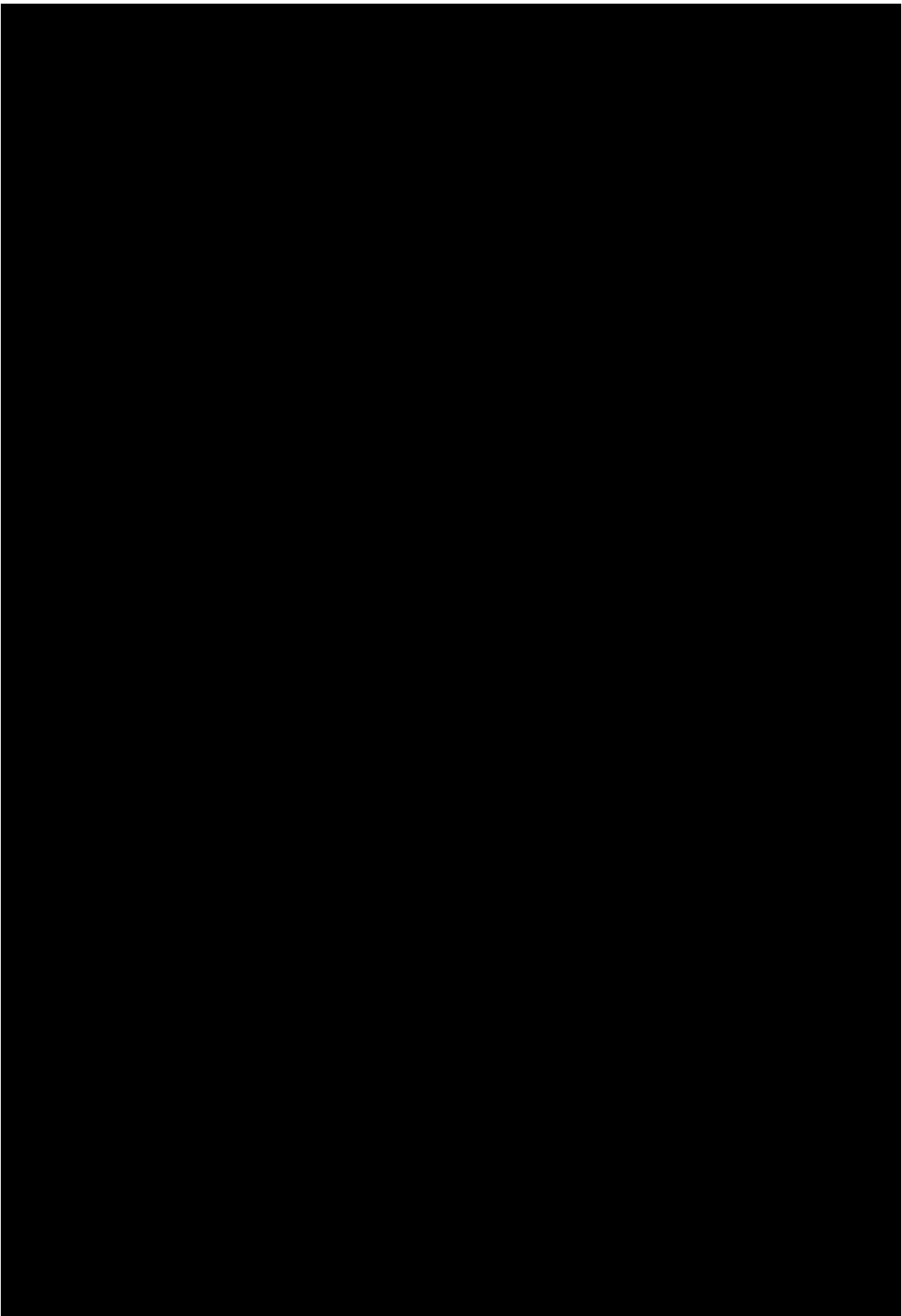
25 [REDACTED]

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1 [REDACTED]
2 [REDACTED] For example, when questions are put to me, incidents come back to mind.
3 The Prosecution asked me about [REDACTED]
4 [REDACTED] And when you asked questions, I
5 remember the name of [REDACTED] So that is how things unfolded. One event led
6 to me remembering another. It was not generally a difficulty, but sometimes things
7 overlap, namely, [REDACTED]
8 [REDACTED]
9 So these questions did help give some order to my memory.

10 Thank you.

11 Q. [10:40:58] Thank you, [REDACTED].

12 Now, you stated just a moment ago that [REDACTED]
13 [REDACTED] And then just slightly before that on the transcript - it's page 29, lines
14 1 through 4 - you say that [REDACTED]

15 [REDACTED]

16 So is it your testimony then, that [REDACTED]
17 [REDACTED]?

18 A. [10:41:47] [REDACTED]

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 Q. [10:42:34] Thank you, [REDACTED].

23 And my question really to you was: Did you ever have any difficulty in
24 distinguishing the source for the answer that you were giving OTP? Did you
25 ever -- were you ever unclear about whether you remembered it [REDACTED]

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1 [REDACTED] ? That

2 was my question to you.

3 PRESIDING JUDGE MINDUA: [10:43:05](Interpretation) Prosecution.

4 MR DUTERTRE: [10:43:08](Interpretation) Your Honour, first of all, the witness has
5 already dealt with that aspect. Secondly, that's a very general question. And what
6 is more, my learned friend has to be more specific and point out to the witness -- has
7 to point this -- well, I'm not going to explain how to conduct cross-examination, but
8 you have to put a specific question to the witness.

9 PRESIDING JUDGE MINDUA: [10:43:38](Interpretation) Ms Pradhan, this is your
10 last question. The witness has already answered several times. And now if you
11 have specific -- a specific item or a question to put to the witness, do so. But the
12 question has been answered several times.

13 Go ahead.

14 MS PRADHAN: [10:44:00] Thank you, Mr President. I'm afraid I didn't really hear
15 the answer to my question, but I'll -- I'm happy to move on.

16 Q. [10:44:18] On that same page, [REDACTED], at lines 414 to 415, the interviewer
17 says:

18 [REDACTED]

19 [REDACTED]

20 And I wanted to specifically ask you, [REDACTED]

21 [REDACTED]

22 MR DUTERTRE: [10:45:12](Interpretation) Your Honour.

23 PRESIDING JUDGE MINDUA: [10:45:13](Interpretation) Prosecution.

24 MR DUTERTRE: [10:45:15](Interpretation) This is a completely speculative question,
25 and I'm not going to go into any further explanations with the witness in the

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1 courtroom. But the speculative nature, to my mind, is sufficient -- this is sufficient

2 foundation to object to this question. And he can just reply.

3 PRESIDING JUDGE MINDUA: [10:45:46](Interpretation) Counsel, please rephrase

4 your question.

5 MS PRADHAN: [10:45:49] Certainly, Mr President. My question is about [REDACTED]

6 [REDACTED] impression of what he was being asked during the interviews.

7 Q. [10:46:02] And so, [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 What was your understanding of [REDACTED]?

11 A. [10:46:30] I have already answered, and I said yes. I've already understood the

12 sentence and the part about [REDACTED] The Prosecution told me

13 that [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 myself. No one told me that.

2 Q. [10:48:55] Thank you, [REDACTED].

3 Now, sir, do you recall at -- during this same session [REDACTED], learning that the
4 Prosecution was focusing on Mr Al Hassan?

5 A. [10:49:19] Yes. I was informed of that, and it was quite natural [REDACTED]

6 [REDACTED]

7 they are focusing on Mr Al Hassan because he is the accused. And perhaps
8 tomorrow, they will look at [REDACTED].

9 Q. [10:49:54] In this same document at page [REDACTED] -- I'm looking at lines 569 to 570.

10 Do you see those, [REDACTED]?

11 It says at those lines:

12 [REDACTED]

13 [REDACTED] the charge is brought against Al Hassan."

14 Do you remember being told that, sir?

15 A. [10:50:54] Yes.

16 Q. [10:51:14] Thank you.

17 And in that line, [REDACTED]

18 [REDACTED]

19 [REDACTED]?

20 A. [10:51:55] [REDACTED]

21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 Q. [10:52:30] Thank you, [REDACTED].

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1 And do you recall at the time that you were told that [REDACTED]

2 [REDACTED]

3 [REDACTED]?

4 A. [10:52:55] [REDACTED]

5 [REDACTED]

6 [REDACTED] I'm not sure, or I don't know whether

7 those -- whether those were amongst the various interviews.

8 THE INTERPRETER: [10:53:49] Correction: Whether those lines were said during
9 which one of those two interviews.

10 MS PRADHAN: [10:53:59]

11 Q. [10:54:02] And, [REDACTED], do you recall - this is at page 0824 of the
12 document, lines 541 to 542 - being asked if you had had a chance to become familiar
13 with the case against Mr Al Hassan from what is public? Do you recall being asked
14 that?

15 And a little further down at line 548, the interviewer saying "there is information in
16 the public domain."

17 Do you recall that exchange, sir?

18 A. [10:54:51] Yes.

19 Q. [10:54:53] [REDACTED] what was your understanding or what did you
20 understand from the request to read what was publicly available on Mr Al Hassan [REDACTED]
21 [REDACTED]?

22 PRESIDING JUDGE MINDUA: [10:55:28] *Monsieur le Procureur.*

23 * MR DUTERTRE: [10:55:34] Mr President, could my learned friend please rephrase
24 the question? It is not clear, at least not to me

25 PRESIDING JUDGE MINDUA: [10:55:43](Interpretation) Ms Pradhan, did you hear

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1 the Prosecution's objection?

2 MS PRADHAN: [10:55:50] I did, sir. I phrased the question very similarly to a
3 previous question. But I'm happy to try again.

4 PRESIDING JUDGE MINDUA: [10:56:03](Interpretation) Rephrase.

5 MS PRADHAN: [10:56:06]

6 Q. [10:56:07] [REDACTED] you understand the lines that we're talking about here?

7 Where the interviewers have asked you -- have informed you that there is
8 information in the public domain about Mr Al Hassan. And the exact exchange -- I
9 think it may be clearer if I read the exact exchange, Mr President. And this begins at
10 line 541. And it says:

11 "[REDACTED] have you had the chance to get familiar with the case against Al
12 Hassan at all from what is public?"

13 And your response is: "No ..."

14 And then the interviewer says: "Not at all?"

15 And then the interviewer goes on to say: "Okay. Now there is information in the
16 public domain."

17 And my question to you is: What was your understanding of why you would need
18 to read public information about Mr Al Hassan's arrest?

19 PRESIDING JUDGE MINDUA: [10:57:13](Interpretation) Prosecution.

20 MR DUTERTRE: [10:57:16](Interpretation) Yes. Thank you, your Honour. I am
21 rising because there may be a misunderstanding, and it might be misleading for the
22 witness, and not intentionally, I add. But there is no request in the investigator's
23 question for the witness to read anything. It's a question: Are you aware of
24 anything. And of course, this is -- makes it possible to understand where he's
25 coming from. So it wasn't a request of the witness to read something. It is a

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1 question as to what he might have learned about the case in question.

2 PRESIDING JUDGE MINDUA: [10:58:07](Interpretation) I'm not quite following

3 you, Mr Prosecutor. There is information in the public domain, and the question is

4 being put to the witness. And he's -- he's being asked what he thinks.

5 Ms Pradhan, what is your question exactly? I'm trying to understand the

6 Prosecutor's objection.

7 MS PRADHAN: [10:58:38] Mr President, I'm very sorry that this has caused such

8 confusion. Really, I'm just trying to understand what [REDACTED] understanding

9 of that statement by the interviewer was, whether he understood it as a request or not.

10 And I can certainly ask a follow-up question that may clarify this that would move us

11 forward.

12 PRESIDING JUDGE MINDUA: [10:59:00](Interpretation) Please.

13 MS PRADHAN: [10:59:03]

14 Q. [10:59:03] [REDACTED] after you learned that there was public information

15 from OTP about Mr Al Hassan's arrest in this interview, did you read any of the

16 public information?

17 A. [10:59:27] I didn't even understand what meant, "information in the public

18 domain." At the time, and in my mind, there were chains of information that

19 disclosed information. But I -- I don't read the news a lot, and I don't know of other

20 sources of information that I could draw upon to get this information available in the

21 public domain. And I know I was not aware of the information that were being

22 broadcast on the various networks about Al Hassan and -- at that time, and what I

23 understood from the sentence, "information in the public domain."

24 Q. [11:00:31] Thank you, [REDACTED].

25 MS PRADHAN: [11:00:34] *Monsieur le Président*, I see that it is 11 o'clock.

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1 PRESIDING JUDGE MINDUA: [11:00:39](Interpretation) Correct, Ms Pradhan.

2 We will now suspend for half an hour and resume at 11.30.

3 The hearing is now suspended.

4 (Recess taken at 11.00 a.m.)

5 (Upon resuming in closed session at 11.29 a.m.)

6 THE COURT USHER: [11:29:58] All rise.

7 Please be seated.

8 PRESIDING JUDGE MINDUA: [11:30:14](Interpretation) Court is in session once
9 again.

10 Ms Pradhan, over to you for the continuation of your cross-examination.

11 MS PRADHAN: [11:30:32] Thank you, Mr President.

12 Q. [11:30:44] [REDACTED] we just spent some time talking about a session that
13 you had in [REDACTED] with the office of the Prosecution. And I'd like to move to [REDACTED]

14 [REDACTED]

15 And the reference here is OTP tab 1386. And that's [REDACTED]
16 beginning at page 1221, 1221.

17 Do you have that before you, sir?

18 And I'll direct you specifically to the lines beginning at 111 to 127 and give you a
19 chance to read that.

20 A. [11:32:09] Yes.

21 Q. [11:32:10] Thank you, sir.

22 And in this exchange, the interviewers remind you that they're focusing on the
23 Islamic police and Mr Al Hassan. And they say, beginning at 117:

24 "[...] we wanted at this point to ask you whether you have anything you wanted to, to
25 add to the way the population perceived the Islamic police or the way the Islamic

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1 police interacted with the population."

2 And then saying: "Appreciating that you are not necessarily always present, or you
3 did not experience everything yourself. But also including things that you may have
4 heard or, and backed with the specific mentions that these things that you did not
5 experience but you heard with the events that you had."

6 And my first question for you, sir, is that -- I apologise, because the English
7 translation is not clear to me of what they were asking of you.

8 What was your understanding of what you were being asked with regards to the
9 Islamic police and Mr Al Hassan?

10 A. [11:33:31] The question is as follows: I was asked a question about the
11 perception that the people had of the Islamic police. When we say "we," they're
12 referring to the population of Timbuktu. And what is more, I am being asked to give
13 the perception that most people had in Timbuktu, and, what I also thought of it and
14 how I understood the situation myself.

15 Q. [11:34:11] Thank you, [REDACTED]

16 And if we look at page 1223, two pages hence, beginning at line 185, you speak about
17 Mr Al Hassan. And you say:

18 "[...] AL HASSAN was like a facilitator, he helped the locals to have a better
19 understanding of the police, because he was a local."

20 And at 196 to 197, you say:

21 "[...] that's why within a short period of time, he was only a police member and then
22 he was promoted to become the assistant of the head of the police ADAM."

23 And then at 204 to 205, you say:

24 "KHALID was behind the scene, but the de facto leader at the time was [Mr Al]

25 HASSAN who was directly interacting with people and listening to their concerns in

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1 the office."

2 And then finally, at lines 211 to 213, you say, this is when Hassan -- there's -- I'll begin
3 at the beginning of the sentence. It says:

4 [REDACTED]

5 [REDACTED] This is when HASSAN was tasked to
6 carry out new activities, [and] secret missions abroad."

7 And so at this point in time, [REDACTED] sir, you laid out four different stages
8 of Mr Al Hassan's involvement with the Islamic police.

9 Is that correct?

10 A. [11:36:16] Firstly, there's a very blatant error in translation at lines 209 and 210.

11 And (Speaks English) "This is when --"

12 THE INTERPRETER: [11:36:55] The witness speaks in English.

13 THE WITNESS: [11:36:56](Speaks English) "-- [Al] HASSAN was tasked to carry out
14 new activities, secret mission[s] abroad."

15 (Interpretation) I never said that. In fact, it was Khalid who said that. It was Khalid
16 who accomplished those tasks, and Al Hassan became the de facto leader, which
17 meant that Al Hassan became the de facto leader of the Islamic police at that moment
18 in time.

19 This is a very short period of time when we compare it with the previous period
20 where Khalid and Adam were at the head of the police.

21 Q. [11:37:45] Yes. And I thank you for that clarification, [REDACTED], because
22 at -- right below that, at lines 216 to 217, you did correct that and say:

23 "KHALID. He was tasked to carry out secret missions abroad and this is when
24 HASSAN became the head of the police."

25 And so my question to you is: Those are the four stages you identified in that

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1 exchange.

2 Is that correct, sir?

3 A. [11:38:19] Yes.

4 Q. [11:38:46] Thank you, sir.

5 From here, I'd like to move you to [REDACTED]. And the document here that

6 we're looking at is OTP tab 1389, [REDACTED] and specifically at page

7 [REDACTED]

8 [REDACTED]

9 [REDACTED] ?

10 A. [11:39:59] I do not see either the page or the lines that you are talking to me

11 about. You've put a question to me on the basis of the page and lines, but I don't see

12 them.

13 Q. [11:40:19] And the page specifically that I will be asking you about, sir, is page

14 1573. But my initial question is a more general one to you. And that is: The date

15 of this particular interview was [REDACTED]

16 And my first question to you, sir, is: [REDACTED]

17 [REDACTED] ?

18 A. [11:40:55] No. I do not believe that to be the case [REDACTED]

19 [REDACTED]

20 Q. [11:41:27] All right. Well, [REDACTED], sir, when you were first told that

21 the Prosecution was focusing on Al Hassan and this interview [REDACTED] had

22 you been able to read more public information about Mr Al Hassan's case?

23 A. [11:41:50] Not at all. [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 Q. [11:42:33] [REDACTED]

4 [REDACTED]

5 A. [11:42:40] [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q. [11:43:06] Thank you, sir.

9 [REDACTED] But going back to that page, page

10 1573, I'm looking at lines -- the lines beginning at 44.

11 Do you have that in front of you, sir?

12 A. [11:43:28] Yes.

13 Q. [11:43:43] And this exchange between you and the interviewer reminds you that

14 their questions are focusing on Mr Al Hassan at this time and to please consider the

15 situation, line 49, as a whole in Al Hassan's role in that situation.

16 And then at lines 59 to 61, you say:

17 "There's nothing new I would like to read in relation to AL HASSAN, but I now

18 remember that many statements I gave you in the past regarding AL HASSAN [REDACTED]

19 [REDACTED]."

20 Can I ask you, [REDACTED], what triggered that memory that you now remembered

21 that statements that you had given in the past regarding Mr Al Hassan [REDACTED]

22 [REDACTED]?

23 A. [11:45:12] In his question, the investigator asked whether I had anything to add

24 concerning Al Hassan in this context. And, if my memory serves me correctly, [REDACTED]

25 [REDACTED] I don't believe that I

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1 told the investigators that prior to that, or maybe I told them implicitly but not
2 explicitly.

3 Q. [11:45:52] And a little -- just to clarify your previous answer, [REDACTED] you
4 had been informed [REDACTED] to be very clear about the sources of your answers in
5 the interviews.

6 Is that correct, sir?

7 A. [11:46:33] Yes. They did tell me that. They told me this during the previous
8 interviews -- no. Maybe I spoke before the end of the interpretation. I said that the
9 Office of the Prosecutor wanted me to reveal the source of my information; that I
10 make a distinction between what I had seen and heard. I had been informed of that
11 [REDACTED] and that is why I had
12 understood that directly from the questions themselves. And, in some cases, during
13 some interviews, it was explained to me frankly.

14 Q. [11:47:41] Thank you, [REDACTED].

15 [REDACTED]
16 [REDACTED]

17 You continued to make statements about Mr Al Hassan [REDACTED]

18 [REDACTED] And you're stating:

19 "[...] I now remember that many statements I gave you in the past [...] [REDACTED]

20 [REDACTED]

21 My question is: Was this the first time that you remembered that, [REDACTED]?

22 A. [11:48:21] No, not at all. I informed the Office of the Prosecutor [REDACTED]

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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10 "[...] I think before when you asked me the question, I was not very accurate. I could

11 not remember exactly the period during which [Mr Al] HASSAN became the de facto

12 leader of the police."

13 And then the next sentence is:

14 "But [REDACTED], I now remember

15 that the person who was higher up above [Mr] AL HASSAN was Khaled AL

16 SAHRAWI [...]"

17 Do you recall this exchange, sir?

18 A. [11:51:27] Yes. I remember that I had mentioned the name of another

19 individual whom I could not remember at that time. But in all of my answers, I

20 specified that there were three stages. Al Hassan played an effective role in the

21 police when he was the deputy of Adam and Khaled Al Sahraoui, whose name I had

22 forgotten during some of the interviews.

23 Subsequently, I heard that Khaled himself was no longer available to head up the

24 police and that it was Hassan who took his role. I didn't know the dates. I didn't

25 know at what moment in time Khaled Al Sahraoui had taken over the command of

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1 the police or at what moment Hassan became the head of the police. I wasn't aware
2 of the dates. [REDACTED]

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 So in June, [REDACTED] Khaled was the head of
16 the police. so I used the information that I had, I crosschecked information, and I
17 gave investigators approximate periods with regard to the period when Khaled was
18 at the head of the police, and when Adam was at the head of the police and when Al
19 Hassan was at the head of the police.

20 PRESIDING JUDGE MINDUA: [11:54:42](Interpretation) Mr Prosecutor.

21 MR DUTERTRE: [11:54:43](Interpretation) Yes. Maybe two points of clarification,
22 Mr President. Line 108 and 109, I'm being told in Arabic that it is written, "before",
23 and not as indicated in line 110, in the English, "before when you asked me the
24 question." The name or the word "question" does not figure in the Arabic version.
25 And the second point - and I know that it has been redacted on the first page of this

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1 transcript - but this investigation -- sorry. This interview was [REDACTED].

2 PRESIDING JUDGE MINDUA: [11:55:33](Interpretation) Very well.

3 Ms Pradhan, are you in agreement with the interpretation in English from the Arabic?

4 MS PRADHAN: [11:55:49] Yes, Mr President. I believe I already accepted the
5 witness's statement on the second point that Mr Dutertre raised. But, yes. It causes
6 me no trouble, the first point that he raised.

7 PRESIDING JUDGE MINDUA: [11:56:04](Interpretation) Very well. Please
8 continue.

9 MS PRADHAN: [11:56:09] Thank you, Mr President.

10 Q. [11:56:12] [REDACTED]

11 now, and it's that you always identified three stages. And I'll -- I apologise. I'll try
12 to get your exact wording here.

13 This is page 46 of the transcript. I'm just reading from lines 12, starting at line 12.

14 You said, [REDACTED], just now:

15 "[...] in all of my answers, I specified that there were three stages."

16 And you went on to talk about the different stages of Mr Al Hassan's involvement
17 with the police.

18 But I'm afraid I only got two of them, in which you identified Mr Al Hassan, the
19 deputy of Adam and Khaled, and then a second one when Khaled was no longer
20 available and Al Hassan took his role.

21 Could you please specify what those three stages were.

22 A. [11:57:35] Yes. That's a very good question. I made the distinction between
23 the role of Al Hassan when he was Adam's deputy and his role when he was deputy
24 to Khaled indeed. When Hassan was deputy to Adam, it would seem to me that he
25 fell - or, he was Adam's underling and that he was his deputy. * But when he became

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1 an assistant to Khaled, nobody would see Khaled anymore. The ordinary locals knew
2 only Al Hassan. Only Al Hassan figured, and so that's why they thought he was the
3 de facto chief of the police. And this came to the fore in all of the interactions. * And
4 you saw in an earlier video that you've shown me how Khaled's involvement would
5 be sought in the event of an issue outside of the city, wherein the real chief would be
6 needed to mobilise vehicles and supplies for a mission outside of Timbuktu.
7 But as far as the situation within the city was concerned, it was Al Hassan who did
8 everything without asking for the approval of Khaled. For example, daily patrols,
9 the daily work of the police, the taking of statements, of complaints. It was Al
10 Hassan who did all of this as if he were the chief of the police.
11 He was the one who knew that there was somebody above him, which was not the
12 case when Adam was the chief of the police. So the second phase -- and then there's
13 a third, the third phase is when Al Hassan became chief of the police. And then, Al
14 Hassan can take the equipment that he needs directly from the emirs. So there's a
15 little difference between the last two stages.

16 Q. [11:59:54] Thank you for that clarification, [REDACTED]

17 Now, I want to take you to page 1579 of the same document, lines 251 to 271. And
18 the first couple of lines repeat what you've just said and so I will not repeat them
19 again. But I want to specifically ask you about lines 256 to 257 where the interviewer
20 asks you:

21 "[REDACTED]

22 [REDACTED]

23 And you respond at line 271: [REDACTED]

24 Now --

25 PRESIDING JUDGE MINDUA: [12:01:19](Interpretation) Prosecution.

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1 MR DUTERTRE: [12:01:21](Interpretation) Yes, your Honour. I think we need to
2 put things in context. Taken from this angle, we have no idea what is being talked
3 about in this passage. I think my learned friend should go backwards a bit. This is
4 really quite unusual.

5 PRESIDING JUDGE MINDUA: [12:01:43](Interpretation) Ms Pradhan, could you
6 comply with this request to put these things in greater context.

7 MS PRADHAN: [12:01:53] Of course, Mr President, although we had just finished
8 with [REDACTED] statement about the three stages of -- what he saw as the three
9 stages of Mr Al Hassan's involvement with the Islamic police, which he ended with
10 almost exactly the same statement he made at page 1579, which is why I began there.
11 But I'm happy to go back some ways. I guess, Mr President, this is a very kind of
12 broad request because Mr Al Hassan had been involved at several pages before that
13 in discussing the -- his recollections at the time of things that -- for example, on page
14 1578, led to the appointment of Mr Al Hassan as the leader of the police, and
15 discussing various things that he said he remembered about tasks or acts that Mr Al
16 Hassan had engaged in.

17 And my quest -- I mean, my purpose here, is not going into every single one of those,
18 but to ask specifically about the role of Mr -- the titles of Mr Al Hassan, the stages of
19 his involvement as put by [REDACTED]
20 So I can certainly go back several pages and walk through all of that, but I can also
21 represent to the Court that that is what the discussion was.

22 MR DUTERTRE: [12:03:35](Interpretation) If I could assist my learned friend, your
23 Honour.

24 PRESIDING JUDGE MINDUA: [12:03:41](Interpretation) Yes.

25 MR DUTERTRE: [12:03:44](Interpretation) Thank you. Perhaps we could go back

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1 to line 251, which provides the context. Line 251.

2 PRESIDING JUDGE MINDUA: [12:03:56](Interpretation) Ms Pradhan.

3 MS PRADHAN: [12:04:00] Certainly. Certainly. Line 251 where the interviewer
4 says:

5 "[...] one of my earlier questions is, and I'm making reference to this fact that you're
6 saying that AL HASSAN already, before he was appointed symbolically, he was in
7 charge of the police."

8 And then it goes on to say:

9 [REDACTED]
10 [REDACTED]

11 Q. [12:04:44] Do you recall those questions, [REDACTED]?

12 A. [12:05:11] Yes. But I think that subsequent to that conversation, we talked
13 about the word "symbolically" and the word "de facto" used in English sometimes in
14 the text. And we wanted to make that term clearer. There is a clarification of all
15 these terms and their meaning later on at a later stage.
16 The word "symbolic" leader or head, Khaled was a symbolic leader. Does that reflect
17 the actual reality? Was he a symbolic head, or was it Al Hassan? Well, in any event,
18 we continue to discuss that point, and we focused on the responsibility. And there
19 was a distinction necessary, a distinction between "responsibility" and the degree of
20 responsibility.

21 I gave the example of the scope of the responsibilities taken by Mr Al Hassan during
22 the phase where he was not yet head of the police, that is to say, from the time of the
23 beginning of the events, until the absence of Khaled for a period of time to prepare for
24 the war.

25 During that period, Mr Al Hassan took on a number or a certain degree of

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1 responsibility. For example, organising patrols in the city, organising traffic,
2 receiving complaints, investigations, writing reports, summoning prisoners before the
3 court, and bringing them back to the prison. All of that -- all those things were
4 amongst Al Hassan's responsibilities during the presence of Khaled.

5 * But Khaled coordinated between the police and Abu Zeid and Abu Al Hammam.

6 And if there were need for equipment, weapons, money, Khaled took care of those
7 things. Khaled requested funding, equipment, from the emirs. And I think that Al
8 Hassan could also take on that responsibility when Khaled was not there; in other
9 words, ask for what he needed from the emirs.

10 So that was the distinction or the difference between the two phases. That is why the
11 role of Al Hassan was described as important and effective, particularly after Adam.

12 But even the presence of Adam, Al Hassan was present alongside Adam at each stage.

13 And together, they would go to the court, they would summon the accused, they
14 would transfer them to the centre, and they would carry out activities together.

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 MS PRADHAN: [12:09:04] The Court's indulgence for one moment, sir.

19 Q. [12:09:42] [REDACTED] just to stay on this line for a moment -- and I do

20 appreciate the detail that you're giving. But my focus really -- and I know that we

21 had to go back and give more context about this. My focus is really on lines 256 and

22 257, where the interviewer asks you:

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 [REDACTED] isn't it true that you're being forced to speculate here [REDACTED]

2 [REDACTED]?

3 A. [12:10:50] The Prosecution had told me that my perception and my

4 understanding of things were important and very much sought after. [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q. [12:11:24] But, [REDACTED] you were asked specifically to indicate what your

10 source of the information was. [REDACTED]

11 [REDACTED].

12 And what was your source for that, sir, for putting that?

13 PRESIDING JUDGE MINDUA: [12:11:57](Interpretation) Mr Prosecutor, I see you.

14 But I don't think it's worthwhile. Please be seated.

15 Counsel, I think the witness has answered the question [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 So this isn't speculation. He's already answered. So kindly move on.

19 MS PRADHAN: [12:12:38] Certainly, Mr President. If I may just ask a clarifying

20 question just on this, and then I'll move on.

21 I simply want to ask -- I can tell you what I'd like to ask --

22 PRESIDING JUDGE MINDUA: [12:12:52](Interpretation) You are negotiating. Put

23 your last question. Then move on.

24 MS PRADHAN: [12:12:57] Thank you, Mr President.

25 Q. [12:13:00] [REDACTED]

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[REDACTED]

A. [12:13:21] You've summarised things that I explained at length in one word, a "symbolic" head or leader. But I think that Hassan thought of himself as being in charge of the units, or the things that we talked about to use the word "symbolic" chief or "real" chief. He saw himself as being in charge of the things that I've mentioned.

Q. [12:14:12] Thank you, [REDACTED].

[REDACTED] I'd like to refer you back to your interview from [REDACTED] And this, again, the reference is [REDACTED] and looking specifically at page 1223, beginning at line 185, [REDACTED].

Do you see that?

A. [12:15:10] Yes.

Q. [12:15:35] Thank you, [REDACTED].

And between lines 185 to 194, you describe Mr Al Hassan as:

"[...] like a facilitator, he helped the locals to have a better understanding of the police, because he was a local."

You talk about how, at line 192, he was using the locals to get information. And then finally, at line 196, you say:

"[...] that's why within a short period of time, he was only a police member -- "

He was only a police member.

-- "and then he was promoted to become the assistant of the head of police ADAM."

And so there was this period of time, Mr Al Hassan (sic), that you'd already spoken about where Mr Al Hassan was only a police member.

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1 Is that correct?

2 A. [12:17:02] Yes. And during that period -- and, when you told me that you had
3 mentioned four phases of Al Hassan's work within the police, I thought about it a bit
4 and I said yes. Because there were three phases during which Al Hassan held an
5 important position and there was a final stage when he was just a member of the
6 police.

7 Q. [12:17:23] And just to clarify, [REDACTED], in translation, it sounded as if you
8 said there's a final --

9 PRESIDING JUDGE MINDUA: [12:17:38](Interpretation) Prosecutor.

10 Please go on. The Prosecution has decided not to.

11 MS PRADHAN: [12:17:53] I believe I was about to make the clarification that
12 Mr Duterte was asking for, which is that it sounded to me from the translation that
13 you were saying there was a final stage where he was only a member of the police.

14 Q. [12:18:18] Could you please clarify what those stages were from when he
15 was -- when, exactly, among these stages he was only a member of the police?

16 A. [12:18:34] No. I mean, rather, the very first phase. But we talked earlier about
17 the three phases or stages during which Al Hassan had an imminent role, an
18 important role. But before that, we agreed that there had been four phases of Mr Al
19 Hassan's work within the police, and that's the fourth phase. But in actual fact, it
20 was the very first. Four stages, and the very first one was the stage when he was a
21 mere member of the police.

22 Q. [12:19:20] And, [REDACTED], when you say "later, we agreed that there were
23 four stages," what do you mean by "we agreed"?

24 A. [12:19:30] An earlier question that was put to me, that you put to me, before you
25 explained that there were three stages of his work with the police, you said to

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1 me -- you explained four stages of the work of Mr Al Hassan within the police. And

2 I had considered the phase during which he was just a member of the police.

3 MS PRADHAN: [12:20:27] Mr President, may I have the Court's indulgence for one

4 minute, not even one minute, five seconds.

5 PRESIDING JUDGE MINDUA: [12:20:33](Interpretation) Go ahead.

6 MS PRADHAN: [12:20:45] (Interpretation) Thank you, Mr President.

7 Q. [12:21:00](Speaks English) So returning to the document, [REDACTED] -- and

8 this is just again, for the record, it's [REDACTED] at page 1609.

9 And pointing, in particular, to the end of that page, [REDACTED] -- actually, I'd like to

10 actually point you to line 1302. And for the purpose of completeness, we'll start at

11 1298 with the sentences.

12 And this is where you say, sir:

13 "I don't think I have something to add, but I think I also gave you a good overview

14 about TIMBUKTU and the surrounding area, and whenever you ask me new

15 questions, I keep remembering new things.

16 "But also as time goes by, my memory is not as good as before when I try to recall

17 people or specific events or specific places.

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 "And this is why I trust myself ...

22 "... because when I meet someone, I try to focus more on his thoughts. I wouldn't

23 pay attention to the clothes or to the colour of his clothes. I focus more on what [he's]

24 saying and the way he thinks."

25 [REDACTED] in this line, line 1310, when you say:

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1 "[...] when I meet someone, I try to focus more on his thoughts."

2 I have two questions. And perhaps for clarity, the first question is: When you say,
3 "when I meet someone," who are you talking about there, sir?

4 A. [12:23:22] I'm talking about myself. I'm not talking about other people, and I
5 am -- was trying to help the investigators understand my personality and my
6 tendencies. I know myself very well. I know my weaknesses. I know my
7 strengths, in particular, when it comes to testifying. When there's all kinds of topics,
8 a multitude of topics, it's all very well for the investigators who you're talking to to
9 explain your weaknesses and your strengths. And with time, the Prosecution saw
10 that I was weak when it came to names and dates -- and when it came to numbers,
11 names, and dates. And they used items of evidence to refer to events that had
12 happened a long time before that.

13 There was also the problem of lack of concentration, descriptions of things,
14 descriptions of vehicles, even colours. [REDACTED] doesn't allow me
15 to recognise colours, other than the primary colours. Any colour that's not a primary
16 colour, I really need to concentrate. I really need to concentrate quite a bit to
17 remember the descriptive word.

18 [REDACTED]
19 [REDACTED]
20 [REDACTED] in actual fact, there is a
21 close link between all the verses.

22 During all that education, I was able to master the intent as Aristotle speaks so that I
23 can see you. In other words, words reveal the person and not his physical
24 appearance. I was influenced by such remarks, and I said to the Prosecutor that I
25 was very good when it came to analysing things or incidents that I'd been present at

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1 and when I was listening to people speak. So he could count on me for testifying.

2 At the same time, I was warning them if they want to depend on me for dates.

3 That was just an introduction to myself when I was speaking to the Prosecution.

4 Q. [12:26:39] And, [REDACTED] if I understand you correctly, you were

5 telling -- your answer here is that, your testimony is that you were conveying to OTP

6 at this time that you could not recall -- that, in your words, "I was weak when it comes

7 to numbers, names, and dates." But in this line, "I try to focus more on his thoughts.

8 I focus more on what he's saying and the what I he thinks."

9 Who is -- who is "he" - and, this may be a translation issue, who is "he" in this

10 situation, sir? Whose thoughts and words are you focusing on?

11 A. [12:27:46] I said their "ideas." Not their "idea." I was speaking in general, not

12 about a particular person. As I have said, this was an introduction to myself. I

13 have strengths and weaknesses when it comes to testifying.

14 Q. [12:28:01] Thank you, sir.

15 So then it's accurate to say that you were telling OTP that your responses would focus

16 on the thoughts of other people.

17 Is that accurate, sir?

18 A. [12:28:22] No, not at all. Here it says, even if the information having to do with

19 people and their names and these events are fading away, other information remains

20 because the information has to do with the ideas that I remember easily and for which

21 I have the capacity to analyse.

22 Q. [12:29:46] Thank you, [REDACTED].

23 And I think you're probably correct. There probably is a bit of room in the

24 translation between English and Arabic. And so I'm just trying very hard to

25 understand what you're saying here.

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1 What you just said was -- of course you spoke about your difficulty with specific
2 details. And you said here, at transcript page 60, line 2:

3 "[...] words reveal the person and not his physical appearance. I was influenced by
4 such remarks, and I said to the Prosecutor that I was very good when it came to
5 analysing things or incidents that I had been present [for] and when I was listening to
6 people speak."

7 When you say you were good at analysing when you were listening to people speak,
8 what do you mean by that, sir?

9 A. [12:30:47] I believe that I've already explained this. You reminded me that the
10 same thing was said. I explained to you that the aim of this sentence was merely to
11 clarify that one of my strengths was to know and understand the position of the
12 person talking to me and their convictions through what they have to say to me.
13 So with regard to the events that occurred in Timbuktu to which I was eyewitness,
14 and with regard to the individuals with whom I had conversations, even if I do not
15 recall names or events or the dates of -- or some of the details; nevertheless, I am able
16 to remember a lot of things that arise out of my own analysis of people. Of their way
17 of being, of their body language et cetera, and, in the light of what they had to say to
18 me.

19 Allow me to give you a simple example to illustrate. As you know, you reminded
20 me of the Koran, some of the verses of the Koran which give some freedoms and
21 liberties to women of which I am entirely aware. The jihadis used the Koran and
22 gave some freedoms to women. But in practice, they did not do so. They referred
23 to other verses of the Koran that lead us to believe that women do not have the same
24 rights.

25 For example, the verse that encouraged women -- encourages women to stay at home.

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1 I was aware of that. But the OTP gave me or showed me a video of one of the
2 preachers of the group who was explaining this specific verse and requesting that this
3 verse be applied in Timbuktu to call upon women to stay at home.

4 So this -- this will not change with the passage of time, my expertise, that is.

5 Q. [12:34:07] Thank you for that example, [REDACTED].

6 And now, at the bottom of that same page - we're still on page 1609 - you say here at
7 13- -- line 1316, excuse me, that:

8 "[...] I also want to stress more on the, if you don't mind, on the protection issue."

9 Now, which protection issue were you referring to at that time, [REDACTED]? And
10 I'll remind you, this was [REDACTED].

11 A. [12:35:15] Every time the word "protection" was used between [REDACTED] and
12 the last meeting with the OTP, every time the word "protection" was used, that means
13 the protection of myself as an individual and that of my family members and the
14 protective measures administered within the Court.

15 Q. [12:35:41] Thank you, sir.

16 On the next line here, you say:

17 "I have learnt a lot from the interviews conducted by [REDACTED]"

18 One of the interviewers.

19 "... and I trust the justice system in Court in general."

20 What did you mean, sir, by: I have learnt a lot from the interviews conducted?

21 A. [12:36:26] I believe I have answered this question previously. Certainly, you
22 will know that no one dictated the information to me that I provided. The OTP was
23 only talking to me in the room where everything was being recorded. What I heard,
24 I explained previously, when I listen to you, for example, I learn things. I can,
25 for example, understand or learn what is underlying your question. It might be that

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1 I can learn things from your questions themselves. I have answers to bring, but I

2 learn in light of the questions that you are putting to me.

3 And with regard to confidence that I have in the judicial system and in the Court itself,

4 this goes [REDACTED] to the first interview with the OTP, with the

5 investigators. I learnt that they are not motivated by hatred against a specific

6 individual. They investigate specific events. They are not interested in the nature

7 or the personality or the origins of the individual, the ethnic origin or their religious

8 beliefs. This is of little interest to them.

9 What is of importance to them is the events upon which they are questioning me.

10 And, I came to this conclusion myself. They reminded me of my rights.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 And this is the kind of treatment that I never received, even from my close relatives,

18 because they do not believe in the same things and they don't give people the same

19 kind of treatment. So on each occasion, I was able to note this and this reinforced my

20 feeling of confidence.

21 I also explained to you that I learn when I listen to the way people talk. This is a

22 talent that I have. It is a talent that God gives to each human being. And one of my

23 talents is that I learn things well when I listen to others speak.

24 Q. [12:39:45] Thank you very much, [REDACTED] for that clarification.

25 [REDACTED], you just stated that - and this is page 63 of the transcript at line 20:

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1 "I can, for example, understand or learn what is underlying your question[s]. It
2 might be that I can learn things from your questions themselves. I have answers to
3 bring, but I learn in light of the questions that you are putting to me."

4 Now -- one moment, please, [REDACTED].

5 You were told in [REDACTED] -- and the document here, is OTP tab 1331,

6 [REDACTED] at line -- excuse me. At page 93, that -- page 93, line 570,

7 that:

8 "We ask you [...] questions that we think we know the answers to.

9 "And [it] will probably come across as if we know absolutely nothing but you should
10 be fine with it...that's how it should be.

11 "Don't assume that we know certain things or...just give your own account."

12 Now, [REDACTED], when you just said that you learn things from the questions,
13 including the questions that I've put to you today, are you learning things -- are you
14 answering based on your interpretation of a question? Or are you, as you were
15 asked to do, back in [REDACTED], just giving your own account?

16 A. [12:43:22] The capability that I mentioned to you a moment ago, enables me to
17 better understand. I can give you my point of view, my personal point of view, and
18 not what is expected of me. Nevertheless, I do appreciate, for example, the fact that
19 a question is put to me from various angles. That enables me to see that there are a
20 number of manners of seeing or viewing that question and that I learn from that.
21 For example, you underscore various different items, and this means that I am
22 independent. It reinforces my independence, and it means that I am -- I'm not a
23 servant.

24 Q. [12:44:52] Thank you, [REDACTED].

25 And your -- I want to use your words. I want to be very careful and use your words

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1 here. Your capability to understand the purpose of a question from how someone
2 underscores various different items, when you were speaking -- I'm going back to
3 [REDACTED] when you said you had learned a lot from these interviews. Is it
4 accurate to say then that you had learned, for example, what OTP wanted to focus on
5 in the case?

6 A. [12:45:45] Yes, but I could have drawn that conclusion without the OTP even
7 saying so.

8 Q. [12:46:06] And would it also be accurate, sir, that you learned of how the OTP
9 was structuring their case against Mr Al Hassan?

10 PRESIDING JUDGE MINDUA: [12:46:25](Interpretation) Mr Prosecutor.

11 MR DUTERTRE: [12:46:27](Interpretation) "How the OTP was structuring their case
12 against Mr Al Hassan?" Well, if there's somebody who can answer that, that would
13 be -- in this courtroom, that would be me. And I can answer the question for
14 my learned friend, if she wants me to.

15 PRESIDING JUDGE MINDUA: [12:46:44] Maître Pradhan.

16 MS PRADHAN: [12:46:54](Overlapping speakers) Not at all, Mr Prosecutor. My
17 question was to [REDACTED], about whether he learned from the Prosecution
18 interviews how the case was being structured against Mr Al Hassan. I -- I think I'm
19 very well aware of how Mr Dutertre is structuring the case against Mr Al Hassan.
20 My question is, [REDACTED] made a series of statements in which he discusses his
21 capability of ascertaining the purpose behind a question, and that's what we've just
22 heard. And so simply as a follow-up to that, I'm just trying to ascertain
23 what -- among the specific points that he was able to learn about, what his
24 impressions were. Those are his own impressions, not Mr Dutertre's, which I would
25 not want to influence him at this stage.

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1 PRESIDING JUDGE MINDUA: [12:47:42](Interpretation) Mr Prosecutor, I reread the
2 question put by Ms Pradhan once again in English, in the transcript. She is asking
3 whether * [REDACTED] had learnt or was aware of the manner in which the
4 Prosecutor was structuring the investigation. Is that not the case?

5 But here, maybe the -- the witness was informed because you work with the witness.
6 Don't you think that this is an acceptable question? I believe that it can be put to the
7 witness, and he can answer whether he was aware yes or no, and there we have it.

8 MR DUTERTRE: [12:48:28](Interpretation) I am in your hands, Mr President. But
9 what I would like to say is that the word "structure" is rather wide or open. When a
10 case is brought before a Chamber, this greatly exceeds what a witness was able to
11 perceive left, right, or centre.

12 Now the question can be put to him.

13 PRESIDING JUDGE MINDUA: [12:49:01](Interpretation) Very well, Mr Prosecutor.
14 Ms Pradhan, did you hear? It's the word "structure" that's pausing -- that's causing a
15 problem. It's a little bit complex. Maybe you could rephrase.

16 MS PRADHAN: [12:49:12] Of course, Mr President. It's just we've talked a little bit
17 about using legal terms in a legal sense in terms -- in a layman's sense. And, you
18 know, I believe the question to be just very clear, just a yes-or-no question to [REDACTED]
19 [REDACTED] not speaking of the legal structure of a case of course, but how the case was
20 being organised.

21 But I'm happy to rephrase, if that would help.

22 Q. [12:49:38] [REDACTED] -- I'm slowing down. [REDACTED] would it be
23 accurate to say that you learned what the main points were of OTP's case against
24 Mr Al Hassan through the course of your interviews?

25 A. [12:50:11] I wasn't interested in the main arguments in the file or case against

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1 Mr Al Hassan. But I will tell you that I have learned a great deal from the questions,
2 as I have already indicated to you. [REDACTED]

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]

9 that is why I said that I understood what the investigators were interested
10 in - because I was able to draw my own conclusions. I could also understand or
11 ascertain the areas or items that were of interest to them.
12 Now, as to whether all of these elements gave me an idea of the global structure, well,
13 no, because that wasn't even of interest to me. What is more, I do not have any legal
14 training, which would enable me to understand what pushes an investigator to focus
15 in on one point or another in their investigation.
16 What is of interest to me -- well, is the points that they're honing in on. I'm not
17 understanding the legal ideas underpinning whether they focus on one idea or
18 another.

19 Q. [12:52:21] Thank you, [REDACTED] You mentioned just a moment ago -- I just
20 have a brief question, and then I have a new topic for you, but you mentioned just a
21 moment ago, gleaned from your interviews that they were interested in:

22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1

[REDACTED]

2

A. [12:53:10] Are you asking me whether, what I understood from the questions

3

that they were focusing on was before that very date?

4

Q. [12:53:24] I have a simpler question for you, [REDACTED] The question is:

5

When did you realise the importance to OTP [REDACTED]?

6

A. [12:53:40] I do not recall, but I believe that it was right at the beginning. And I

7

am certain that it was before I corrected the matters that I corrected at a later stage.

8

Q. [12:54:17] Thank you, [REDACTED].

9

[REDACTED]

10

11

12

13

14 PRESIDING JUDGE MINDUA: [12:55:02](Interpretation) Mr Prosecutor.

15 MR DUTERTRE: [12:55:03](Interpretation) Yes, Mr President. I believe that this

16 question has no relevance whatsoever - unless my learned friend would explain it to

17 me, and we can show the witness out of the courtroom for her to do so - but it has no

18 relevance with regard to the -- his testimony and the case itself.

19 PRESIDING JUDGE MINDUA: [12:55:26](Interpretation) Ms Pradhan, I do not see

20 the relevance of this question.

21 Do you really think that we're going to hear an explanation and ask the witness to

22 leave the courtroom? I think we can save time and just move on to something else.

23 MS PRADHAN: [12:55:43] *Monsieur le Président*, I have to protest on this point

24 because I believe that this is, in fact, a very important point, and I would like to

25 explain to the Chamber, if given the opportunity.

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1 PRESIDING JUDGE MINDUA: [12:55:57](Interpretation) Very well.

2 Mr Courtroom Officer, could you please show the witness out of the courtroom for a
3 few moments.

4 (The witness exits the courtroom)

5 MS PRADHAN: [12:56:30] Mr President, may I also please request that [REDACTED]

6 [REDACTED]'s counsel --

7 PRESIDING JUDGE MINDUA: [12:56:38](Interpretation) No. Wait a moment.

8 There we are. The witness has left the courtroom. This is at the behest of the OTP.

9 I didn't want him to leave the courtroom. But because you want to explain yourself,
10 now the witness has left the courtroom.

11 Ms Pradhan, why is it important for you to ask about [REDACTED]

12 [REDACTED]

13 MS PRADHAN: [12:57:20] Because, Mr President, as we indicated on Friday, one of
14 the important topics for us is the degree of pressure on [REDACTED] to answer
15 questions put to him by OTP. [REDACTED]

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 [REDACTED] And it is only after he has a very long discussion about that, that he
20 then answers further questions put to him by the OTP.

21 And so there is, I believe -- again, this is sort of a clear analysis of how those
22 circumstances may have affected both the answers he gave and the manner in which
23 he gave them to OTP. And then I do have a certain number of substantive questions
24 on the answers he gave and questions going to his credibility on that respect. I think
25 this is really quite a direct link.

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1 PRESIDING JUDGE MINDUA: [12:58:34](Interpretation) Mr Prosecutor.

2 MR DUTERTRE: [12:58:38](Interpretation) I believe, Mr President, that the link is
3 only theoretical, if there were to be one at all. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 But my learned friend has not substantiated or provided a nexus, [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 So there is nothing in what my learned friend has said that establishes a causal link.

11 And, to say something, is not proof in itself. So there is no relevance demonstrated
12 in this line of questioning.

13 PRESIDING JUDGE MINDUA: [13:00:22](Interpretation) Maître Pradhan.

14 MS PRADHAN: [13:00:23] Thank you, Mr President. I would respond to
15 my learned friend by pointing out that while he says the link is theoretical, that is
16 precisely the purpose of cross-examination. It's to glean facts from the witness and
17 get his impressions of what happened to him and whether or not -- and find out more
18 facts about whether or not that had an impact on his testimony.

19 I can certainly represent to the Chamber that I do not have [REDACTED] pages of questions on
20 this for [REDACTED] In fact, I think in that last five minutes, we could have gotten
21 through all the questions that I have about this. You know, this has now taken six or
22 seven minutes just to discuss a nexus that I think is of extreme importance. And I
23 say that using my professional judgment, as I have in everything in this
24 cross-examination, which should be given the same weight I think as the professional
25 judgment used by the Prosecutor in his direct examination.

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1 PRESIDING JUDGE MINDUA: [13:01:35](Interpretation) It is 1 p.m. The

2 Prosecutor, please.

3 MR DUTERTRE: [13:01:39](Interpretation) Thank you for your indulgence,

4 Mr President. Very briefly. Now, the relevance has not been demonstrated prima

5 facie, and, in the alternative, whilst retaining my first conclusion, we should put

6 direct questions without beating around the bush at length. The questioning needs

7 to be put to the witness directly. It needs to be crystal clear, very simple. And the

8 Defence's case needs to be put before him. He needs to answer it.

9 PRESIDING JUDGE MINDUA: [13:02:09](Interpretation) Very well. I think that
10 everyone has had the time to voice their arguments.

11 Ms Pradhan.

12 MS PRADHAN: [13:02:14] I'm sorry, Mr President. But when dealing with

13 potential victims of trauma - and this is something in which I do have significant

14 expertise - one does not simply put to them the question, "Were you traumatised by

15

16 The foundation has to be laid using his own statements. And I do want to point out

17 that in these interviews [REDACTED] himself states, for example, he felt that he was

18 in a black hole; that his memory was affected. These are statements he makes during

19 the course of this interview that are extremely significant [REDACTED]

20

21

22 So again, I'm happy to give the specifics of this, but we could have gotten through

23 quite a bit of this in the time that it's taken for the Prosecution to object.

24 PRESIDING JUDGE MINDUA: [13:03:16] Very well. The Chamber has heard

25 submissions. It is a little bit after one. We shall suspend for the lunch break, and

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1 the Chamber will take the opportunity to deliberate.

2 We will be back at 2.30, and we will then provide instructions.

3 The hearing is now suspended.

4 THE COURT USHER: [13:03:37] All rise.

5 (Recess taken at 1.03 p.m.)

6 (Upon resuming in closed session at 2.31 p.m.)

7 THE COURT USHER: [14:31:21] All rise.

8 Please be seated.

9 PRESIDING JUDGE MINDUA: [14:31:48](Interpretation) Court is in session once
10 again.

11 Before we rose for lunch, the Prosecutor had raised an objection subsequent to which
12 there were submissions made. The Chamber has deliberated on the subject and has
13 come to the following decision.

14 Ms Pradhan, the Chamber considers that up to now, you have not demonstrated the
15 nexus and, therefore, the relevance between the questions associated with [REDACTED]

16 [REDACTED] and his oral testimony before this
17 Court.

18 As a result, you are not authorised to put the questions that you had intended to put
19 on this subject, and you shall therefore be moving on to something else.

20 There we are. That's the decision of the Chamber.

21 I'd like to make the most of this opportunity to say that the Chamber is getting
22 somewhat concerned with regard to our programme and the time remaining until 23
23 July, which will mark the last day of the testimony of this witness and this witness's
24 presence in our courtroom. I think we might have to move to extended hours
25 tomorrow and the day after.

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1 So tomorrow and the day after that, that is to say, Thursday, in the afternoon, we shall
2 be sitting from 2.15 to 4.15 p.m., with a view to gaining 30 minutes a day and enable
3 the Defence to finish its cross-examination in the time imparted and for the
4 Prosecution to have the possibility to put any additional questions to the witness and
5 also to allow the Chamber to put its questions.

6 So it would seem to me that Ms Taylor would like to get to her feet.

7 Ms Taylor.

8 MS TAYLOR: [14:34:30] Thank you, Mr President. I think the Defence would have
9 appreciated being consulted on this because we have been very attentive to the time
10 that we are using, and we are regulating it with a view to finishing within our
11 pre-allotted schedule, taking into account the factors that you have just mentioned.

12 And we would oppose moving prematurely to extended sitting hours, given, in
13 particular, what we witnessed last week, that is, that this has been an extremely
14 arduous testimony over the course of several weeks and that to move towards
15 extended sitting hours at the end of the week is likely not to be in the interests of
16 justice, the interests of the witness himself, or compatible with equality of arms.

17 Now, before this witness started his testimony, the Defence wrote to the Prosecution
18 to express its concerns regarding the time available to hear this witness and to see
19 what proposals could accommodate the interests of both parties without going into
20 extended sitting hours just at the time of the Defence. That was our concern from
21 the outset; that we would reach a point where we would be unfairly prejudiced and
22 forced to resort to extended sitting hours just in cross-examination.

23 And at that point in time, the Prosecution assured us that they did not envisage using
24 that much time and that this would not be an issue and that, therefore, there would be
25 no inequality on that point.

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1 Now, we do respectfully submit that it is premature to schedule these extended
2 sitting hours, to do so without much notice, given that that impacts upon Defence
3 preparation, and there are certain things that the Chamber is aware of that we are
4 waiting for.

5 So it would not, we respectfully submit, be compatible with the truth-searching
6 functions of this process to move to that at this point, particularly when we ourselves
7 have not requested it.

8 PRESIDING JUDGE MINDUA: [14:37:09](Interpretation) Counsel, this is
9 astonishing because what -- you're carrying out the cross-examination yourself - that's
10 your team - and these are additional minutes which are added in your favour. What
11 we had in mind when we give an extension of our programme, of our timetable, that's
12 in favour of the Defence first and foremost because the Prosecutor has already
13 finished with the examination-in-chief.

14 It seems that you're opposed to it, but I don't understand why you are speaking about
15 equality of arms.

16 MS TAYLOR: [14:37:53] If I may be heard, Mr President.

17 PRESIDING JUDGE MINDUA: [14:37:54] *Oui*.

18 MS TAYLOR: [14:37:55] It's because we would be forced to sit longer hours during
19 the day and to cross-examine the witness at a time when the witness might very well
20 be tired and fatigued. So our concern is not the total amount of hours that's
21 allocated to us, but the conditions under which we question the witness, which, under
22 Article 67(1), should be the same and equitable as compared to the conditions under
23 which he was questioned in examination-in-chief.

24 So my concern is to have long sitting hours at the end of our cross-examination,
25 which would force us to have longer days in court at a crucial juncture, would

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1 minimise the amount of time we have for preparation (Overlapping speakers)

2 PRESIDING JUDGE MINDUA: [14:38:45](Interpretation) Very well, Counsel.

3 Thank you. Very well. So, I hoped that you were going to finish before and that
4 we will have enough time for the Prosecutor and for the Chamber.

5 If not, what are you going to do? It's in -- is it your intention to keep the witness
6 after the Court recess? Is it possible?

7 MS TAYLOR: [14:39:12] Mr President, firstly, I note there's no right to
8 re-examination under the Statute. So the -- the objective here should be, first and
9 foremost, preserving the rights under cross-examination. It's premature to be
10 looking at re-examination when we have not yet finished cross-examination.
11 Now, I don't have any indication from the Prosecution how much time they want for
12 re-examination, but I can certainly assure the Chamber that we will complete
13 cross-examination within our allotted hours, if not beforehand.

14 Now, we have tallied up the amount of objections that's been made by the
15 Prosecution, and, all objections, less than five minutes, total over three hours and 30
16 minutes.

17 So if the Chamber is concerned with saving time, there are solutions that are available
18 that will save time without prejudicing our right to conduct cross-examination in an
19 equitable manner.

20 PRESIDING JUDGE MINDUA: [14:40:06](Interpretation) Thank you very much,
21 Counsel. So we don't waste any more time, we are going to put an end to this
22 discussion. Whatever the case, I would say that I'm now becoming concerned, and I
23 think that we have to look at our timetable. As you're opposed to that, the Chamber
24 will deliberate, and we will notify you of the decision. Thank you.

25 Maître Pradhan, you have the floor for the follow-up.

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1 MS PRADHAN: [14:40:40] Thank you, Mr President.

2 Q. [14:40:47] [REDACTED], I hope you were able to rest during the break.

3 A. [14:40:56] Very much so. Thank you.

4 Q. [14:40:59] [REDACTED] I'd like to ask you about some of the content of the
5 interviews that you had with OTP [REDACTED] and that's where we
6 left off.

7 [REDACTED]
8 [REDACTED]

9 A. [14:41:23] No.

10 Q. [14:41:41] Thank you, sir.

11 And I'd like to turn you to the meetings that you had with the Office of the Prosecutor
12 in [REDACTED]. Specifically, we'll go to [REDACTED]. And the document is -- is OTP
13 tab 1398, [REDACTED]. And at page 9082, to orient you, [REDACTED], I'm
14 looking specifically at lines 19 through 31.

15 Do you have that in front of you, sir?

16 A. [14:43:00] I do.

17 Q. [14:43:08] Thank you.

18 And so you'll see that in those lines, the -- the interviewer states that -- actually, I'll
19 begin just before that at line 16, again, for completeness.

20 And it says: "[...] in this session, we're going to [...] display to [REDACTED] a few
21 videos."

22 And the interviewer says: "I acknowledge that this [is] maybe material that [REDACTED]
23 [REDACTED] has not seen and it may present events that you have not seen.

24 "But based on your previous statements, based on your experience in

25 TOMBOUCTOU, we believe that you may be able to shed some light on what you see

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1 in these footages."

2 And then ends with stating that the material focuses on Mr Al Hassan, and the "...

3 intention is to show it so [that] you can explain whether there is [...]" the "material

4 should be considered for holding him responsible or not."

5 Do you recall that exchange, [REDACTED]?

6 A. [14:44:40] The interpretation I'm hearing is different from what the transcript

7 shows here, and I don't know whether this is due to the English translation. The

8 translation appears erroneous because it says to be able to tell whether the material, it

9 is sufficient -- or to hold the -- to hold him accountable or not.

10 While -- while here, it says -- it reads here: To what extent is this person responsible

11 or not responsible for the acts attributed to him?

12 So these are different ways of phrasing it. The first one sounds more legalistic; while

13 the second one seems to be a generic reference to responsibility and my opinion on

14 such matter.

15 Q. [14:45:33] Thank you for that clarification, [REDACTED] And I -- I know that

16 we've run into this a few times where something may have a legal connotation and

17 something may have a layman connotation.

18 I do just want to direct you to the lines just before that, that say:

19 "There is no doubt that [...] you will realise that it focuses on --"

20 And, here, the English translation may have trouble, but it says:

21 "[...] you will realise that it focuses on [Mr] AL HASSAN when we're moving towards

22 trial."

23 And so does that refresh your recollection as to what you were being asked here,

24 [REDACTED]?

25 A. [14:46:38] Yes, indeed. The Prosecutor did tell me these words, that the

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1 footages they were going to show me focus on a person, Mr Al Hassan, and that they
2 were preparing a case for trial against him.

3 Q. [14:46:58] Thank you, [REDACTED]

4 And do you recall then during this session being shown several videos by the
5 interviewers on which you were asked to comment?

6 A. [14:47:16] Yes. That's correct.

7 * Q. [14:47:22] And so, if I may direct you to page 9110 -- actually, I'll begin before
8 that at page 9099. And I give you this page, [REDACTED], just to orient you
9 regarding the discussion about one of the videos on which you were asked to
10 comment and I'll give you a moment to read that.

11 Have you had the opportunity to read that page, sir?

12 A. [14:50:06] Yes.

13 Q. [14:50:07] Thank you.

14 And do you recall just -- this is really just a quick, to preface my next two very specific
15 questions, do you recall the video that you had seen? That they had showed to you?

16 PRESIDING JUDGE MINDUA: [14:50:33](Interpretation) Prosecutor?

17 MR DUTERTRE: [14:50:34](Interpretation) Yes, your Honour. There are [REDACTED]
18 pages of transcript. So I think that you're asking for the witness's memory a bit too

19 much. The witness has to be shown the video if we're going to save time because
20 here, we've been discussing issues which we were talking about a moment ago.

21 PRESIDING JUDGE MINDUA: [14:50:56](Interpretation) Ms Pradhan.

22 MS PRADHAN: [14:50:59] A moment, Mr President.

23 Mr President, I -- I believe I -- I just have a question about a statement that [REDACTED]
24 [REDACTED] made that doesn't necessarily relate to the contents of the video, but one of his
25 conclusions. And perhaps I can try asking that question and see if it might be -- if I

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1 might be able to just move from there, rather than taking more time.

2 PRESIDING JUDGE MINDUA: [14:51:36](Interpretation) Indeed. Please, move on.

3 MS PRADHAN: [14:51:41]

4 Q. [14:51:41] Monsieur [REDACTED] if you turn to page 9100 -- now, I don't

5 want -- you know, I'm not asking you to comment at length on the video itself. I

6 understand that you saw a lot of videos in the course of your interviews and it's been

7 a while since then.

8 But do you see the statement there, where you say:

9 "In this specific incident, I can tell you that he --"

10 Referring to Mr Al Hassan --

11 "is not the main person in charge. He is just doing this because he is an active

12 member of the Islamic Police."

13 Do you see that, sir?

14 A. [14:52:24] Yes. And that shows that it's a video that I realised was captured in

15 a later stage. And that is why I characterised Mr Al Hassan's role as an active

16 member of the police.

17 Q. [14:52:58] Thank you, [REDACTED]

18 PRESIDING JUDGE MINDUA: [14:52:58](Interpretation) Prosecutor.

19 MR DUTERTRE: [14:52:59](Interpretation) Yes, your Honour. The question was

20 directly linked to this video. So if you deal with this subject, you have to deal with it

21 in a complete way. That's fair for the witness, and it's necessary for everybody in

22 this Chamber and for -- and in this courtroom and the Chamber to know what we're

23 talking about.

24 PRESIDING JUDGE MINDUA: [14:53:18](Interpretation) Ms Pradhan, here, I'm in

25 agreement with the Prosecutor because there were a lot of videos which were shown

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1 to the witness. And here, we are told that there are [REDACTED] pages of interviews
2 and you're asking the witness, "Mr Al Hassan, is he on the video?"

3 How is he going to answer that?

4 Please reformulate or move on.

5 MS PRADHAN: [14:53:46] I understand the difficulty, Mr President. And I think
6 my next question really clarifies what I'm looking for here, which is not so much the
7 contents of the video. So perhaps I can ask that, and we can see.

8 Q. [14:53:58] With my next question -- this is my last question on this particular
9 issue, is at line 648, where you say, [REDACTED]:

10 "But if we suppose that this video was filmed during the last episode when he was the
11 head of the police, we can say that he did that as the main responsible and this is a
12 possibility."

13 And my question to you, [REDACTED] there, is simply whether you were speculating
14 regarding your conclusions?

15 PRESIDING JUDGE MINDUA: [14:54:40](Interpretation) Prosecutor.

16 MR DUTERTRE: [14:54:43](Interpretation) I'm -- I'm sorry to have to come back in,
17 but it's not fair for the witness to be put such questions without him being shown the
18 videos, and the questioning must come from the video. You take a sentence from
19 [REDACTED] and you're asked to comment on it. That's not reasonable, nor is
20 it useful for the Chamber.

21 PRESIDING JUDGE MINDUA: [14:55:13](Interpretation) Ms Pradhan, when the
22 Prosecutor spoke, I was also rereading the question that you put. It's not going to
23 work like that. You really have to reformulate it or move on.

24 MS PRADHAN: [14:55:26] I can move on, Mr President.

25 Q. [14:55:30] [REDACTED] I'd like to direct your attention on that same page, if I

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1 may, to line 657, where the interviewer says:

2 "If we look at all the documents we've looked at already these two days and the dates
3 of the documents where" it was confirmed -- "you have confirmed that it was [Mr] AL
4 HASSAN who investigated --"

5 And there may be a translation issue here --

6 "that it was [Mr] AL HASSAN who investigated AL HASSAN and signed the reports,
7 carried out punishments or sent it to the tribunal...

8 "... many of these documents --"

9 This is, again, the interviewer speaking --

10 "are signed at a time where we can be sure that it was before he was named as the
11 head of the police.

12 "And this is what we would like to understand; was he de facto ... did he have the
13 responsibility, the power to investigate and to issue things at that time when he was
14 not necessarily the main head of the police?"

15 Do you recall that exchange, [REDACTED]?

16 A. [14:56:56] I do.

17 Q. [14:57:05] Thank you, sir.

18 And if you move to the next page, page 9101, we come back to a discussion about the
19 different stages of Mr Al Hassan's involvement with the police. And here, you say:

20 "[...] I think I explained that before when [Mr Al] HASSAN joined the police, he was
21 acting as someone very important but this goes through three different stages if we
22 look at his background;"

23 And here, you state:

24 "the first stage was when he contributed toward the security aspect. This is before
25 the establishment of the police -- "

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1 That's the first stage --

2 "and then the second stage is when he joined the police and became a very active
3 member and the third stage is when he was officially appointed as the head of the
4 police."

5 Is that correct, [REDACTED]?

6 A. [14:58:10] It is.

7 Q. [14:58:12] Thank you, sir.

8 And during the rest of that -- during the next few lines, the interviewer says at line
9 682:

10 "[...] it's that second stage that I am going to ask one more question about.

11 "And I agree [that] you have explained it to us many times and we're just trying to
12 reach a conclusion on that."

13 And the interviewer then asks you:

14 "Is it in that second stage that he has the responsibility and the power to conduct
15 investigations, draft reports, take them to the tribunal and [...] decide on minor
16 punishments or does that only happen when he becomes the head of the police?"

17 And you answer: "No, he was exercising this power before his appointment, his
18 official appointment as the head of the police [...]"

19 And you continue at line 704 to say:

20 "All I can say about [Mr] AL HASSAN during that episode --" Excuse me, and let
21 me -- let me be complete here. At line 698, you say:

22 "I spoke about an early stage; the first few days" where "they were in the process of
23 establishing the police."

24 And then you say: "All I can say about [Mr] AL HASSAN during that episode is that
25 he was a very active member of the police."

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1 Is that correct, [REDACTED]?

2 A. [15:00:03] The translation is incompatible, and I need to put together all the
3 things that are written here. Yes, I did say a few things to the investigators, and I
4 would like to clarify them. The fact that he became a police officer, this came at a
5 later stage -- sorry, a head of the police. This came at a later stage, I'm sorry, and we
6 know that before he became the head, he was -- he had quite a few privileges within
7 the police.

8 But I spoke about an earlier stage, a very -- a much earlier stage in which the stage
9 that the police was established; that's the stage I'm talking about. And I knew that
10 the police was then carrying out some penalties and some punishments before these
11 cases reached tribunal. I cannot say about Mr Al Hassan, in particular, or in person
12 more than he was a very active person within the police. So in that earlier stage, I
13 am describing Al Hassan as a -- an active person of the police. And I am not
14 referring any specific responsibilities to him at that earlier stage, and this is the stage
15 where the police was being established.

16 I also described that stage as the stage when a lot of people were being punished
17 without reaching the tribunal. I explained all this, and I clarified that the members
18 of the group all have taken part in punishing these people for any crimes they have
19 committed, and that was before the formation of the tribunal. The police and the
20 security have all contributed towards this. At this stage, I explained Al Hassan as a
21 very active member of the police.

22 MS PRADHAN: [15:03:36] Mr President, I believe there may be a discrepancy in the
23 translation in this document at page 9101 between -- at lines 670 to 675 in the Arabic,
24 lines 676 to 681 in the English. I believe there are some discrepant words between
25 the two. If we could have perhaps the translators translate the Arabic.

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1 PRESIDING JUDGE MINDUA: [15:04:20](Interpretation) Yes, indeed. I shall be
2 asking the Arabic booth -- Arabic into French, Arabic into English -- to read to us from
3 line 670 to 675.

4 And then, Ms Pradhan, what lines did you say? 691? Is that correct? And further
5 down. Let's start with the five first lines, 670, please.

6 THE ARABIC INTERPRETER: [15:05:08] "Yes. I would like to --"

7 PRESIDING JUDGE MINDUA: [15:05:17](Interpretation) From line 670 to 675,
8 please.

9 THE ARABIC INTERPRETER: [15:05:27] "[REDACTED]"

10 I -- and I said that what -- [REDACTED] and that he was actually
11 carrying out his duties in the police station and his privileges within the police
12 station.

13 "He was executing everything. But we have many other stages that we mention in
14 the history of Mr Al Hassan. The first -- the first trip, when before he -- the police
15 was established and he was active in the security side, and he gained a lot of
16 confidence within the group.

17 "When the police was established and formed, I said I did not know whether he
18 enrolled within the police directly as soon as it was established or he became part of
19 the police after that. "In any case, the early stages of the police, whether this
20 was -- Mr Al Hassan was within the police or not, these are regarded -- these are not
21 the first or -- the second stages. The second stage and the last stage. Within the
22 first stages, we can consider him only as an active member of the police force.
23 Within the second and the third stages, there is no doubt that he was carrying out
24 privileges, high privileges, and these privileges are within the police force."

25 Thank you. That's the five lines.

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1 PRESIDING JUDGE MINDUA: [15:07:38](Interpretation) Thank you very much.

2 Ms Pradhan.

3 MS PRADHAN: [15:07:43] Mr President, may I just ask for one further clarification.

4 At line 11 of the transcript, the English says: [REDACTED] And I
5 believe it may say "many things" rather than "everything."

6 Is that -- can we ask for clarification on that point.

7 THE ARABIC INTERPRETER: [15:08:13] I'm sorry. Would you please clarify the
8 line again. This is the interpreter requesting you clarify which line, please. Thank
9 you.

10 MS PRADHAN: [15:08:17](Overlapping microphones) Of course. So I just read
11 from line 11 of the transcript that it is line 671 on the page.

12 THE ARABIC INTERPRETER: [15:08:27] Thank you.

13 PRESIDING JUDGE MINDUA: [15:08:30] *Interprètes, s'il vous plaît.*

14 THE ARABIC INTERPRETER: [15:08:31] Message from the booth: The booth
15 confirms the corrections suggested by the Defence counsel.

16 PRESIDING JUDGE MINDUA: [15:08:52](Interpretation) Very well.

17 Ms Pradhan.

18 MS PRADHAN: [15:08:56] Thank you, Mr President. And thank you to the
19 interpreters.

20 PRESIDING JUDGE MINDUA: [15:09:06](Interpretation) Mr Witness?

21 THE WITNESS: [15:09:12](Interpretation) In the second line, 671, it says, "the first
22 trip." It should be the first stage, and it is translated -- it was interpreted "first trip"
23 because the Arabic says "trip" rather than "stage." But the Arabic is incorrect. What
24 is meant here is the stage, the first stage. The difference between the two words is
25 one letter missing in Arabic.

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1 PRESIDING JUDGE MINDUA: [15:09:55](Interpretation) Yes. I accept what you
2 say because, of course, it makes a lot more sense to say "first stage" rather than "first
3 trip."

4 Does it not, Ms Pradhan?

5 There we are. So shall we move on to the second interpretation. That's from line
6 691. Or would you like to put a question, Ms Pradhan?

7 MS PRADHAN: [15:10:25] No, Mr President. I think those lines were sufficient.

8 I -- I actually did not have a question on further lines on that. It was those five lines
9 that I was concerned with, if the Chamber is satisfied.

10 PRESIDING JUDGE MINDUA: [15:10:43](Interpretation) Of course. So, please,
11 continue.

12 MS PRADHAN: [15:10:54] Thank you, Mr President.

13 Q. [15:10:55] Now, [REDACTED], I know that here in this exchange - and, again,
14 this is [REDACTED], the exchange that we're discussing - you were again explaining
15 the stages of Mr Al Hassan's involvement in the police force. And now we have
16 quite a detailed explanation or translation of what you consider to be the three stages.
17 Is that correct, sir?

18 A. [15:11:26] Yes. And I believe that today I have explained that there are four
19 stages, and I do not see any problems in that or any discrepancies in that.

20 Q. [15:11:52] Certainly, [REDACTED] But isn't it true that the idea of four stages
21 was initially suggested to you by the interviewer on the next page of this interview in
22 [REDACTED]? And I'd like to point you here to -- and this is page 9102 of the
23 document, beginning at line 720 where the interviewer, Interviewer 2, says:
24 "I want to just make a very short summary to be clear that we understood very well.
25 "If you confirm that we understood."

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1 That's line 724.

2 Line 726 says: "We can ... even -- "

3 "We can say even 4 steps. The first one even before the police. He was in the

4 security and he did his job. I mean he helps them.

5 "Before to establish the police."

6 And then, it continues at line 734: "Second, when the police was established, he was

7 a very active member of the police with what we said trust."

8 The interviewer goes on-- excuse me, it switches to:

9 "Interviewer 1: The third one" was that "he was not officially the [chief] of the police

10 but he's acting as he had the all the power of the police."

11 And you confirm: "That's a correct summary ... and the last stage."

12 And he said: "[...] the last stage [is] he was officially the general ... the head of the

13 police."

14 So isn't it true, [REDACTED], that the idea of four stages - and breaking it into four

15 stages - actually was initially suggested by the Prosecution?

16 A. [15:13:56] No. It is not correct because here, that you -- that he is actually here,

17 repeating what I have actually said. He is -- you see that he's repeating, but he is

18 actually not suggesting that. He is just saying again what I have said. You can see

19 this very clearly if you go back to the question and to the context through which we

20 are talking.

21 At that day, I was dividing it into four stages. I was speaking about the police. I

22 did not speak about the security, and I was talking about his career within the police

23 from a person to an active person. Once he was just an active person. Then he

24 became a deputy head. Then he -- a deputy head of Adam, then Khaled. Then he

25 became the chief of the police. So we are not speaking at this stage of the stage in

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1 which he was a member of the security forces.

2 Therefore, here, when we speak about different stages in his history, we are speaking

3 about stages of the history of Al Hassan, not just stages in the -- within the police.

4 So here, I have different classifications. Here, I remember at that time when he was

5 working in the security, and I also mentioned a time when he's working in the police.

6 Then I divided the work within the police and the security -- sorry, within the police

7 to three stages. So the whole situation is very different here.

8 Q. [15:15:47] Thank you, [REDACTED] You just said that: "[...] when we speak

9 about different stages in his history, we are speaking about stages of the history of Al

10 Hassan, not just stages [...] within the police."

11 Is that correct, sir? Is that what you just said?

12 A. [15:16:25] I said stages in the history of Al Hassan with working within the

13 group and not just within the police. So we looked at the history of his working in

14 his -- the whole history of Al Hassan, you will look at five or six stages.

15 Q. [15:16:50] Thank you, [REDACTED]

16 And I'd like you to move, sir, to page 9106, the same document, beginning at line 850

17 and 851. Excuse me, sir. I'd actually like to move you to line 861, if I may.

18 Do you have that in front of you, [REDACTED]

19 A. [15:17:47] I'm not sure when you give the page number, that I'm looking at the

20 correct page. But I think a new page has just been displayed in front of me.

21 Q. [15:18:24] Thank you, sir.

22 And in order to confirm, if you look at page -- excuse me. If you look at line 861 -- I

23 can read you the text in English, and you can tell me in case you don't have the

24 correct page in front of you.

25 Line 861, you state: "I am even surprised because I managed to answer the questions

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1 and I can remember things because [REDACTED]

2 [REDACTED]

3 What did you mean by that, [REDACTED]?

4 A. [15:19:16] What I mean is what I have explained to you before, because you had
5 already started mentioning that -- that those years and this length of time caused a lot
6 of confusion with certain issues. And I explained this to you before, that this
7 has -- previously, that some things become not clear to me, and some things become
8 clearer because some issues have been raised more. Therefore, I remember them
9 more.

10 With this issue here, I believe that this will increase, [REDACTED]

11 [REDACTED]

12 [REDACTED]. So I am far away from these interviews of
13 the -- with the Prosecution. So when this interview came, they were asking me
14 about certain things I did not have any need to remember. Perhaps I had forgotten it.
15 However, every time there was a question, I was astonished to remember all of these
16 issues and many of these issues.

17 Q. [15:20:44] Thank you, sir.

18 And if I could just ask you about line 850, earlier on the page, where someone --I
19 think it's apparent that it's not you, but it says:

20 [REDACTED]
21 [REDACTED]

22 [REDACTED]?

23 A. [15:21:52] [REDACTED]

24 [REDACTED]
25 [REDACTED]

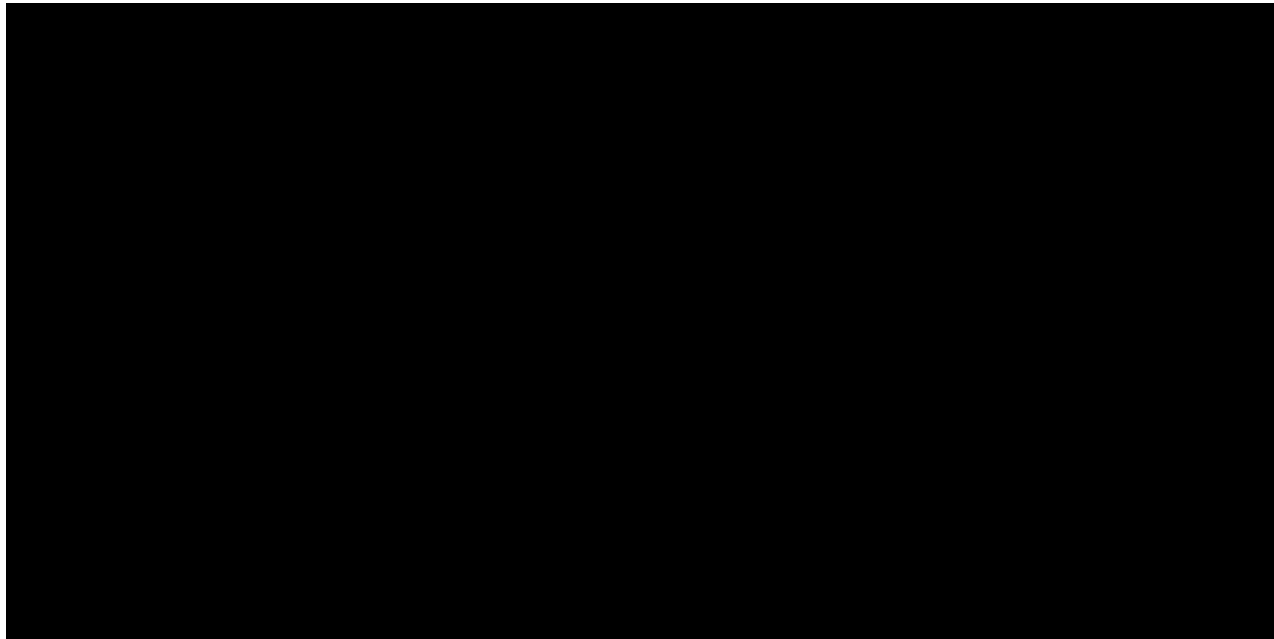
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10 PRESIDING JUDGE MINDUA: [15:23:39](Interpretation) The Prosecutor.

11 MR DUTERTRE: [15:23:40](Interpretation) Yes, Mr President. I believe that there's

12 a question of translation from 849 to 851. 849, it would be "[REDACTED]" --

13 THE INTERPRETER: [15:23:58] The interpreter requests Mr Dutertre to repeat what

14 he just said. It was not clear.

15 PRESIDING JUDGE MINDUA: [15:24:06](Interpretation) Yes, but only the

16 interpreters can help us here.

17 Interpreters, what do you say about this? Line 849, in Arabic.

18 MS PRADHAN: [15:24:55] Mr President?

19 PRESIDING JUDGE MINDUA: [15:24:56] *Oui*.

20 MS PRADHAN: [15:24:57] I'm not sure that the English interpreter heard Mr

21 Dutertre when he was directing the line --

22 PRESIDING JUDGE MINDUA: [15:25:03](No interpretation)(Overlapping speakers)

23 MR DUTERTRE: [15:25:07](No interpretation)(Overlapping speakers)

24 THE INTERPRETER: [15:25:22] Message from the interpreter: Multiple

25 overlapping channels.

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1 The Presiding Judge just asked Mr Dutertre if he could repeat what his question was.

2 Mr Dutertre said that he could not hear anything on the English channel.

3 PRESIDING JUDGE MINDUA: [15:25:34](Interpretation) Exactly. Could the
4 interpreters please interpret for us or translate line 849.

5 THE ARABIC INTERPRETER: [15:25:51] Yes. The translation of line 849, I believe
6 that the Arabic is actually not clear.

7 It says: "[REDACTED]" and, it's not -- it does not -- there's no
8 completion of some ... what ...

9 "[REDACTED]"

10 "[REDACTED]"

11 The Arabic is not clear. This is from the interpreter saying that the Arabic is not clear.

12 That's the -- that was the translation.

13 PRESIDING JUDGE MINDUA: [15:26:35](Interpretation) Ms Pradhan, you heard
14 what was said. So it's not clear. Maybe we should go back to the witness himself.

15 Mr Witness, what did you say? How do you read this excerpt that's page -- line 849,
16 Mr Witness?

17 THE WITNESS: [15:27:00](Interpretation) I have already told you my opinion.

18 [REDACTED]

19 [REDACTED]
20 [REDACTED]

21 PRESIDING JUDGE MINDUA: [15:27:43](Interpretation) There we are,

22 Mr Prosecutor. That's all that we can have for the time being in terms of
23 interpretation.

24 Ms Pradhan.

25 MS PRADHAN: [15:28:10] The Court's indulgence.

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1 (Counsel confers)

2 MS PRADHAN: [15:28:33](Interpretation) Thank you.

3 Q. [15:28:34] (Speaks English) [REDACTED] we've just been through a couple of
4 translations now. And may I just clarify when you -- we'll rely on what -- the
5 English translation or perhaps the translation that we've had from the interpreters
6 saying -- talking about [REDACTED].

7 [REDACTED]
8 [REDACTED]

9 PRESIDING JUDGE MINDUA: [15:29:17](Interpretation) Prosecutor.

10 MR DUTERTRE: [15:29:18](Interpretation) Yes, your Honour. At the start of the
11 hearing this afternoon, the Chamber -- considering that there was no demonstrated
12 link between the relevance of the questions [REDACTED]
13 [REDACTED], and I think that we're now going back over this ruling
14 through the backdoor.

15 So a decision has been issued, and I believe it should be applied.

16 PRESIDING JUDGE MINDUA: [15:29:51](Interpretation) Ms Pradhan, I think that
17 the Prosecutor is right because we are risking of going back on what we wanted to
18 avoid.

19 Now, your question to the witness, [REDACTED] There's
20 no link precisely. [REDACTED]

21 And with regards to that, we've said that we're not interested [REDACTED]

22 [REDACTED] We're not interested in that either.

23 So please move on.

24 MS PRADHAN: [15:30:33] Mr President, may I just -- may I just quote [REDACTED]
25 himself. I certainly respect your ruling from earlier, but [REDACTED] stated just a

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1 moment ago himself in describing the answer to my question, which was not in that
2 area --

3 PRESIDING JUDGE MINDUA: [15:30:54](Interpretation) Indeed. Indeed, yes, but
4 he said -- because you're getting him to read a text, which is related to what I
5 specifically excluded at the start of the afternoon, and you (sic) answered.

6 But normally, you shouldn't put this question; so move on. [REDACTED]

7 [REDACTED] are not of interest to us.

8 MS PRADHAN: [15:31:26] Mr President, I did not understand psychological
9 conditions to be excluded -- his psychological condition to be excluded from my
10 questioning. Clearly [REDACTED] believed it to be relevant since he -- he himself
11 raised it. I did -- I don't believe that I asked any questions pertaining to the topics
12 that you had forbidden.

13 But a psychological condition, I believe, has a direct bearing on interviews conducted.
14 I had not asked any follow-up questions about [REDACTED]
15 [REDACTED] and I didn't intend to.

16 PRESIDING JUDGE MINDUA: [15:32:25](Interpretation) Very well. Go ahead, but
17 not [REDACTED] So we'll see what your question is, and we'll see.

18 MS PRADHAN: [15:32:34] Thank you, Mr President. I will not ask any questions
19 about [REDACTED].

20 Q. [15:32:35] My question, [REDACTED] -- let's go back a couple of minutes. We
21 had a little back-and-forth, and you heard with the interpreters about the meaning of
22 those lines. And I'll just go back to those lines quickly.

23 It's lines 850 and 851 of page 9106 where, in the English, it says:

24 [REDACTED]

25 [REDACTED]

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1 more comfortable. And my question is just: Regarding your psychological

2 condition, what was proposed to make you more comfortable?

3 What measures were proposed to -- for your psychological support?

4 A. [15:33:30] First of all, I did not convey to the Prosecutor at this interview that I

5 had concerns that would prevent me from the interview or that would otherwise

6 impact the interview. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Q. [15:35:31] Thank you, [REDACTED] That's much clearer. I appreciate it.

17 [REDACTED] do you recall during your interviews [REDACTED] with OTP requesting

18 [REDACTED]?

19 A. [15:35:45] I don't know what [REDACTED] means.

20 Do you mean [REDACTED]

21 [REDACTED]?

22 Q. [15:36:06] Certainly [REDACTED]. I'll give you the reference. That might

23 help.

24 * PRESIDING JUDGE MINDUA: [15:37:30](Interpretation) Court officer, when there

25 is a lull in proceedings such as there is now, I believe that you are counting this to be

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1 docked off the Defence's time. Ms Pradhan, because once is alright, but when it's
2 constantly like this, it's not alright.

3 Ms Pradhan, because, yes -- but when it's always like this, this can't go on, so this time
4 is to be taken from your account.

5 MS PRADHAN: [15:37:51] Certainly, Mr President. And I do apologise. I have
6 tried to keep these to a minimum, but we are dealing with a lot of documents here,
7 and I want to make sure we can be accurate.

8 Q. [15:38:10] [REDACTED], if you look at -- this is document [REDACTED]
9 page -- 8944. Excuse me. It's 8930 at page 8944 and line -- beginning at line 483.

10 Do you have that in front of you, sir?

11 THE COURT OFFICER: [15:39:03] Counsel, would you kindly give us the full
12 reference once more. Thank you.

13 MS PRADHAN: [15:39:10] Of course. It's OTP tab 1390, [REDACTED]
14 and specifically at page 8944. Is that helpful? Thank you.

15 Q. [15:39:35] So page 8944, [REDACTED], if you look at line 483, please. And here,
16 you have the interviewer asking -- or saying:

17 "[...] Now we are going ... unless you have something else you need to tell us about
18 [REDACTED]?"

19 And, at line 487, you reply:

20 [REDACTED]

21 [REDACTED]

22 And can you explain -- do you recall this exchange first, [REDACTED]?

23 PRESIDING JUDGE MINDUA: [15:40:19](Interpretation) Prosecutor.

24 MR DUTERTRE: [15:40:20](Interpretation) Yes, your Honour. [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED] These are questions, as my learned friend
3 knows, which are not also relevant for the testimony, and they are -- only go into
4 security aspects.

5 PRESIDING JUDGE MINDUA: [15:40:56](Interpretation) Ms Pradhan.

6 MS PRADHAN: [15:40:57] I would note, first, that we're sitting in closed session and
7 that I am not asking -- I'm very cognisant of security issues. [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 But I think, Mr President, I have also questioned [REDACTED] several times over the
11 past couple of days regarding [REDACTED] And this is a
12 very short question. It's just to ask him if he recalls asking for [REDACTED]
13 [REDACTED]. I do not intend to ask further questions about [REDACTED]

14 [REDACTED]

15 PRESIDING JUDGE MINDUA: [15:41:47](Interpretation) Prosecutor, the Defence is
16 concerned with security issues, and I accept this.

17 Ms Pradhan, you can put your question.

18 MS PRADHAN: [15:41:57] Thank you, Mr President.

19 Q. [REDACTED], my question is simply: Do you recall now asking or referring to
20 further protection [REDACTED] during this interview on this date [REDACTED]?

21 A. [15:42:27] No. There was no request for [REDACTED] on the occasion of
22 this interview. [REDACTED]

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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3 PRESIDING JUDGE MINDUA: [15:43:21](Interpretation) Very well, Ms Pradhan.

4 We now have the answer. Please move on to something else.

5 MS PRADHAN: [15:43:29] Yes, Mr President.

6 Q. [15:43:34]

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9 A. [15:44:06]

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19 Q. [15:45:30] Thank you,

20 did you receive a request from our Defence team, Mr Al

21 Hassan's Defence team, pursuant to the witness contact protocol, that members of

22 Mr Al Hassan's Defence team wanted to meet with you?

23 Do you recall that, sir?

24 A. [15:46:10] I do, yes.

25 Q. [15:46:18] And you decided not to meet with members of the Defence team.

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1 Is that correct, sir?

2 A. [15:46:34] Yes. I asked not to be -- not to attend indeed. Yes.

3 Q. [15:46:40] And one last question. Can I ask who informed you of that request,
4 sir.

5 A. [15:46:47] [REDACTED], along with Arabic -- with his Arabic interpreter,
6 over the phone.

7 Q. [15:47:14] I see. So it was a member of the Prosecution who gave you the
8 request.

9 Did you have any questions about that request at all that you conveyed to
10 [REDACTED]?

11 A. [15:47:44] No. [REDACTED] just went on explaining that this was a regular way
12 of doing things compatibly with the regulations of the Court, and, that should such
13 meeting take place, a representative of the Prosecution would attend this meeting.
14 He also told me about the difficult circumstances surrounding holding such an
15 interview in the first place -- such a meeting in the first place. And he also reminded
16 me that I ought to consult with my counsel on the matter.

17 This -- these are the main points of the phone conversation I had with him.

18 Q. [15:48:41] [REDACTED] you mentioned that you were told about the difficult
19 circumstances in holding these meetings.

20 Were -- was that phrase explained to you? What the difficult -- what the difficulty
21 might be in meeting with the Defence?

22 A. [15:49:13] He was only saying that should I accept, I should not expect
23 it -- expect it to happen fast because of the pandemic-related conditions, which means
24 if I give my consent, the arrangement -- the arrangement of such meeting can take a
25 while.

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1 Q. [15:49:39] Thank you, sir.

2 And why did you decline the request, [REDACTED]?

3 A. [15:50:01] At that stage, I was fully aware -- and I think the Prosecution had told
4 me already in one of our interviews, they told me that when I give my testimony
5 before the Chamber, I would be cross-examined by the Defence. So I thought that
6 the Defence would have a full chance to meet me, and that's what's happening these
7 days.

8 So I contemplated that there -- that things would become redundant and duplicate. I
9 had a testimony with the Prosecution [REDACTED]. I don't
10 recall precisely anymore. [REDACTED] So those matters would be
11 brought up again with you. And later on, they would be brought up again a
12 third time here with the Chamber, and that such process would be very tiresome.
13 I also consulted with my counsel, and he agreed with my viewpoint. So the reason is
14 only to avoid exhaustion. [REDACTED]

15 [REDACTED]
16 [REDACTED] It's as simple
17 as that. There was no other point behind that.

18 Q. [15:51:58] Thank you, [REDACTED]
19 I'd like to turn to another document. It's Defence tab 217. And that's
20 [REDACTED] beginning on that first page.

21 Do you have that before you, [REDACTED]
22 I apologise. The first page is 2534, and I'm looking specifically at page 2550. Let me
23 know when you have that page in front of you, sir.

24 A. [15:53:28] Yes. I can see it.

25 Q. [15:53:30] Thank you, sir.

Trial Hearing
WITNESS: MLI-OTP-P-0150

(Closed Session)

ICC-01/12-01/18

1 And this is a report from your preparation session with OTP [REDACTED]
2 [REDACTED]. In the last paragraph of this page, page 2550, you were given [REDACTED]
3 [REDACTED] to review.
4 Do you recall that, sir? And do you recall what your response was?
5 A. [15:54:07] I do.
6 * Q. [15:54:34] And do you recall, sir, particularly if you look at page 2551, that you
7 wanted to ask a clarification question in relation to [REDACTED]
8 [REDACTED], why it was relevant to what you had to talk about in
9 the present case.
10 Do you recall asking that question?
11 A. [15:55:14] Well, at first, I asked -- I mean, I directed my question to the
12 Prosecutor. [REDACTED]
13 [REDACTED] I didn't ask about Defence first, but then I asked whether this will also be
14 relevant to the Defence.
15 Q. [15:56:22] And, [REDACTED], at the bottom of page 2551 going into 2552, isn't it
16 true that you provided OTP more details [REDACTED]?
17 A. [15:56:34] That's possible. That triggers something in my memory. I don't
18 recall precisely, but this is likely. This -- I cannot rule out such possibility.
19 Q. [15:57:08] On 2552, [REDACTED] - I'm happy to refresh your memory, I know
20 this document is in English - for purposes of refreshing your memory, it says:

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Trial Hearing

(Closed Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0150

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[REDACTED]

[REDACTED], does this refresh your memory about what you told OTP about [REDACTED]
[REDACTED]?

A. [15:58:25] Yes, that is true. I did say these things.

Q. [15:58:27] And is it correct that you felt it was important to talk about the details
of [REDACTED] in that discussion with OTP?

A. [15:58:54] [REDACTED]

[REDACTED]

Trial Hearing

(Closed Session)

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WITNESS: MLI-OTP-P-0150

1

2 Q. [16:00:36] And -- excuse me, [REDACTED]. Were you finished with your
3 answer?

4 A. [16:00:45] Yes, I have.

5 Q. [16:00:51] [REDACTED]

6

7

8

9 A. [16:01:10] Yes. I believe that it -- it lacks credibility and it should not be used in
10 the International Criminal Court. Yes. This is what I believed.

11 MS PRADHAN: [16:01:42] *Monsieur le Président*, I note the time.

12 PRESIDING JUDGE MINDUA: [16:01:48](Interpretation) You're right, Ms Pradhan.
13 We're going to stop there for today.

14 Witness, we are coming to the end -- we've come to the end of our day, and we shall
15 continue tomorrow at 9.30 as usual.

16 The Chamber would like to thank you for your cooperation and for the serious
17 attitude you have shown in answer to all the questions. I'd like to remind you that
18 until tomorrow, you know the instructions as to what you must and must not do.

19 I now address all of those in the courtroom, in and around the courtroom. I would
20 like to thank everyone -- the parties, the participants, the court reporters, the
21 interpreters, and the security guards.

22 I wish you all a very good evening, and we shall be back here again tomorrow
23 morning. Court is adjourned.

24 THE COURT USHER: [16:03:02] All rise.

25 (The hearing ends in closed session at 4.03 p.m.)

Trial Hearing
WITNESS: MLI-OTP-P-0150

(Closed Session)

ICC-01/12-01/18

1 CORRECTIONS REPORT

2 The following corrections, marked with an asterisk and not included in the
3 audio-visual recording of the hearing, are brought into the transcript.

4 Page 6 line 4:

5 "you are subject to punishment in -- and the agreement implies punishments or
6 sanctions here."

7 is corrected to

8 "you are subject to punishment in the afterlife and in this earthly life."

9 Page 8 line 4:

10

[REDACTED]

11 is corrected to

12

[REDACTED]

13 Page 23 lines 20-21:

14

[REDACTED]

15

16

17

18 Page 28 lines 23-24:

19 "MR DUTERTRE:

20 [10:55:34](No interpretation)"

21 is corrected to

22 "MR DUTERTRE:

23 [10:55:34] Mr President, could my learned friend please rephrase the question? It is
24 not clear, at least not to me."

25 Page 39 line 25 à page 40 line 2:

Trial Hearing

(Closed Session)

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WITNESS: MLI-OTP-P-0150

1 "But when he became deputy to Khaled, nobody could see Khaled any more. He
2 didn't figure any more."

3 is corrected to

4 "But when he became an assistant to Khaled, nobody would see Khaled anymore.

5 The ordinary locals knew only Al Hassan."

6 Page 40 lines 3-6:

7 "And you will have seen, as I did in the video that you presented, that Khaled, when

8 there was an issue outside of the city, it was the de facto chief who had to mobilise

9 vehicles for a mission

10 outside of the city."

11 is corrected to

12 "And you saw in an earlier video that you've shown me how Khaled's involvement

13 would be sought in the event of an issue outside of the city, wherein the real chief

14 would be needed to mobilise vehicles and supplies for a mission outside of

15 Timbuktu."

16 Page 43 line 5:

17 "Khaled was more in charge of coordination."

18 is corrected to

19 "But Khaled coordinated between the police and Abu Zeid and Abu Al Hammam."

20 Page 55 line 3:

21 "Mr Al Hassan"

22 is corrected to:

23 [REDACTED]

24 Page 67 line 7:

25 "Q. [14:47:22] And so, if I may direct you to page 9100 --"

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(Closed Session)

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WITNESS: MLI-OTP-P-0150

1 is corrected to

2 "Q. [14:47:22] And so, if I may direct you to page 9110"

3 Page 83 line 24 à page 84 line 2:

4 "PRESIDING JUDGE MINDUA: [15:37:30](Interpretation) Court officer, when there is
5 such time free as now, then I think you're the person who's able to count that for the
6 Defence."

7 is corrected to

8 "PRESIDING JUDGE MINDUA: [15:37:30](Interpretation) Court officer, when there is
9 a lull in proceedings such as there is now, I believe that you are counting this to be
10 docked off the Defence's time. Ms Pradhan, because once is alright, but when it's
11 constantly like this, it's not alright."

12 Page 89 line 6:

13 "Q. [15:54:34] And do you recall, sir, particularly if you look at page 1551 (sic),"

14 is corrected to

15 "Q. [15:54:34] And do you recall, sir, particularly if you look at page 2551,"