

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 v. 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 Monday, 19 July 2021
10 (The hearing starts in closed session at 9.29 a.m.)
11 THE COURT OFFICER: [9:29:33] All rise. The International Criminal Court is now
12 in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:29:57](Interpretation) Court is in session.
15 Good morning to all. And, let us get the week off to a good start.
16 And please, courtroom officer, could you call the case.
17 THE COURT OFFICER: [9:30:26] Good morning, Mr President, your Honours.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And for the record, we are in closed session.
21 PRESIDING JUDGE MINDUA: [9:30:47](Interpretation) Thank you very much,
22 Mr Courtroom officer.
23 For the record, we shall start with the appearances as usual.
24 Mr Prosecutor, please.
25 MR DUTERTRE: [9:31:03](Interpretation) Good morning, Mr President. Good

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1 morning, your Honours. For the eighth consecutive and last week, the Prosecution
2 is represented this morning by Madam Yayoi Yamaguchi; Mr Mousa Allafi; Mr Lucio
3 Garcia; and myself, Mr Dutertre.

4 And I'd like to greet the witness and all the people in and around the courtroom.

5 PRESIDING JUDGE MINDUA: [9:31:32](Interpretation) Thank you very much,
6 Mr Prosecutor.

7 I turn now to the Defence. Counsel.

8 MS TAYLOR: [9:31:38] Good morning, Mr President. Good morning, your
9 Honours. Good morning to everyone inside and around the courtroom.

10 I'd firstly like to wish an Eid Mubarak to those who celebrate.

11 The Defence for Mr Al Hassan is represented today by Mr Mohamed Youssef; Ms
12 Molly Thomas; Ms Dolly Chahla; and myself, Melinda Taylor. Thank you.

13 PRESIDING JUDGE MINDUA: [9:32:04](Interpretation) Thank you very much,
14 Ms Taylor.

15 I'm now turning to the legal representatives for victims, Maître.

16 MR LUVENGIKA: [9:32:17](Interpretation) Good morning, Mr President.

17 Good morning, your Honours. The victims are represented at this hearing by
18 Madam Laplace, and by myself, Maître Fidel Nsita Luvengika.

19 And I'd like to take the most of this opportunity to greet everyone here in the
20 courtroom and thank you.

21 PRESIDING JUDGE MINDUA: [9:32:34](Interpretation) Thank you very much,
22 Maître Nsita.

23 And now it's over to counsel for our witness. Maître.

24 [REDACTED] [9:32:47](Interpretation) Good morning, Mr President, and

25 your Honours [REDACTED] I am the counsel and legal advisor

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1 [REDACTED] the witness appearing in this case. I take this opportunity to
2 extend my greetings to everyone participating in this hearing. Thank you.

3 PRESIDING JUDGE MINDUA: [9:33:03](Interpretation) Thank you very much,

4 [REDACTED]

5 Now, lastly, I'm turning to the witness.

6 Good morning, Mr Witness. How are you this morning?

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

8 (The witness speaks Arabic)

9 THE WITNESS: [9:33:16](Interpretation) Good morning, Mr President. Good
10 morning to the two honourable judges besides you. I'm doing well. Thank you
11 very much.

12 PRESIDING JUDGE MINDUA: [9:33:24](Interpretation) Thank you very much,
13 Mr Witness.

14 On behalf of the Chamber, I would like to welcome you again to this beginning of the
15 week. I'd like to remind you again, that you are still under oath, and that you
16 should say the truth, the whole truth, and nothing but the truth.

17 Today, we shall be continuing and probably finishing with the cross-examination on
18 the part of the Defence.

19 I'm going to now hand over to Ms Taylor.

20 Ms Taylor.

21 MS TAYLOR: [9:34:02] Thank you very much, Mr President.

22 And to commence, I'd like to presage the possibility that we may actually finish even
23 earlier; so that we can, if necessary, move to any further steps with a view to not
24 terminating, but concluding the testimony of this witness and I think that would be in
25 the interests of everyone to do so as soon as possible.

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1 QUESTIONED BY MS TAYLOR: [9:34:28] (Continuing)

2 Q. [9:34:32] Good morning, Mr Witness. How are you today?

3 A. [9:34:35] Good morning. I'm doing well. Thank you very much.

4 Q. [9:34:38] Now, Mr Witness, what does the Koran say about the duty to take
5 steps to reconcile people or Muslim groups that are in dispute?

6 A. [9:35:12] Almighty God says in the chapter of "The Rock[s]", quote, The
7 believers are brothers. We can sigh among brothers and be God-fearing so that you
8 may succeed in life. Unquote.

9 In the chapter of "Women", Almighty God says, Reconciliation is the better path and
10 man is naturally characterised by a lack of generosity. Unquote.

11 Q. [9:35:55] Now, in terms of this reconciliation between brothers or individuals, is
12 there a positive duty to promote this?

13 A. [9:36:30] Yes. And Almighty God promises great rewards to whomever does
14 that, a great reward to whomever puts reconciliation before punishment,
15 reconciliation before dispute and conflict, pardon before sanction. And the chapter
16 on consultation - "Shura" - Almighty God says, quote, And he who pardons and
17 reconciliates will get his reward from the Almighty. Unquote.

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21 I'd like to bring up OTP tabs 317 and 318. It's -- MLI-OTP-0001-7544 is the Arabic
22 and the translation is MLI-OTP-0078-0475, and if that could kindly be placed on
23 evidence 1.
24 And if the Arabic could be kindly given to the witness.
25 Just while I'm waiting, I've just been told that the last two sentences that I said weren't

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1 interpreted properly. So I'm just going to read them out again for the witness
2 because it's important that he hears the name that I was referring to.

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 Now, Mr Witness, can you see the document before you?

8 A. [9:43:27] I think that the court usher gave me the wrong document.

9 Q. [9:43:43] Do you have tab 317? MLI-OTP-0001-7544? It should be an

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 Q. [9:46:07] If we could now turn to OTP tab 319. That's MLI-OTP-0001-7545 and
23 the translation is OTP tab 320. That's MLI-OTP-0078-0477.

24 Do you have this document in front of you, Mr Witness?

25 A. [9:47:35] I do.

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1 Q. [9:47:37] And does this document still concern [REDACTED]?

2 A. [9:47:55] It does.

3 [REDACTED]

4 [REDACTED]

5 A. [9:48:46] Yes.

6 Q. [9:48:47] If we could now turn to OTP tab 860. That's MLI-OTP-0068-4751 and

7 then the translation is OTP 861. That's MLI-OTP-0078-0399.

8 [REDACTED]?

9 A. [9:51:18] It is.

10 Q. [9:51:21] And it's dated [REDACTED].

11 That's correct?

12 A. [9:51:38] Yes.

[REDACTED]

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A. [9:54:01] Yes. That's correct.

Q. [9:54:03] Is it correct that the Koran states: "Do not mix the truth with falsehood or conceal the truth while you know it"?

A. [9:54:43] Would you please repeat the question.

Q. [9:54:46] Is it correct that the Koran states: "Do not mix truth with falsehood or conceal the truth while you know it"?

A. [9:55:02] Indeed. That's from the chapter of "The Cow".

Q. [9:55:14] So if you know that evidence or allegations are false, does the Koran require you to reveal that?

A. [9:55:24] It does.

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[REDACTED]

Given my weak observational ability and also my weakness in describing and remembering events, I am confident [REDACTED] is strong in that aspect and had his testimony been included with my testimony, it would have uncovered how things happened better to the Prosecution and to you. And I can say the same thing about [REDACTED]

Q. [9:58:39] Is it correct that you had become aware that there were people from Timbuktu who had claimed that things had happened when they hadn't?

A. [9:58:49] Yes. I am fully aware of that. Sometimes I would delve into details while talking to the Prosecution in the interviews about the things believed to be mere rumours and hearsay.

Q. [9:59:21] If I could bring up Defence tab 76, [REDACTED]. It's a call [REDACTED]
[REDACTED] If we could bring it up on evidence 1.

And with the permission of the Chamber, if we could turn to page -- you can see here [REDACTED]

And with the permission of the Chamber, if my colleague, Dolly Chahla, could kindly read lines just 109 to 111.

PRESIDING JUDGE MINDUA: [10:00:38](No interpretation)

MS CHAHLA: [10:00:55](Interpretation)

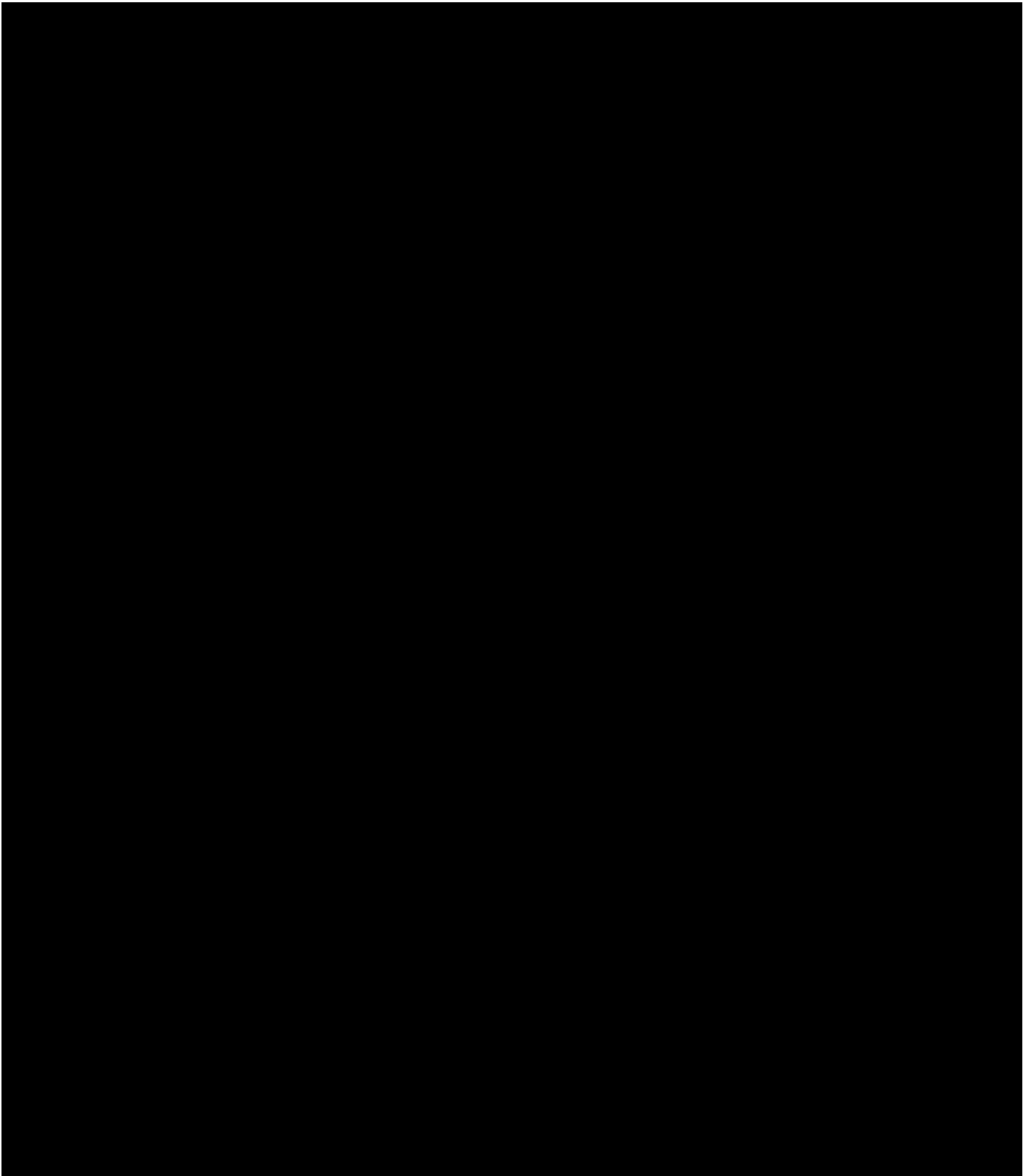
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23 However, testimony is a matter that the Koran threatens whomever lies while
24 testifying. This is something that many Koranic verses teach us, as I have previously
25 cited. These principles - are the principles that you yourself have mentioned - are

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1 things I strongly believe in. The distinction between truth and false is something I
2 vehemently believe in.

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So we can't really tell whether this is

5 being said seriously or unseriously, whether this is being said boastfully or in a

6 jocular sense. These are considerations that we cannot tell from these texts.

7 If you ask me about the general principles that I espouse out of my religious

8 conviction and my commitment to Koranic teachings -

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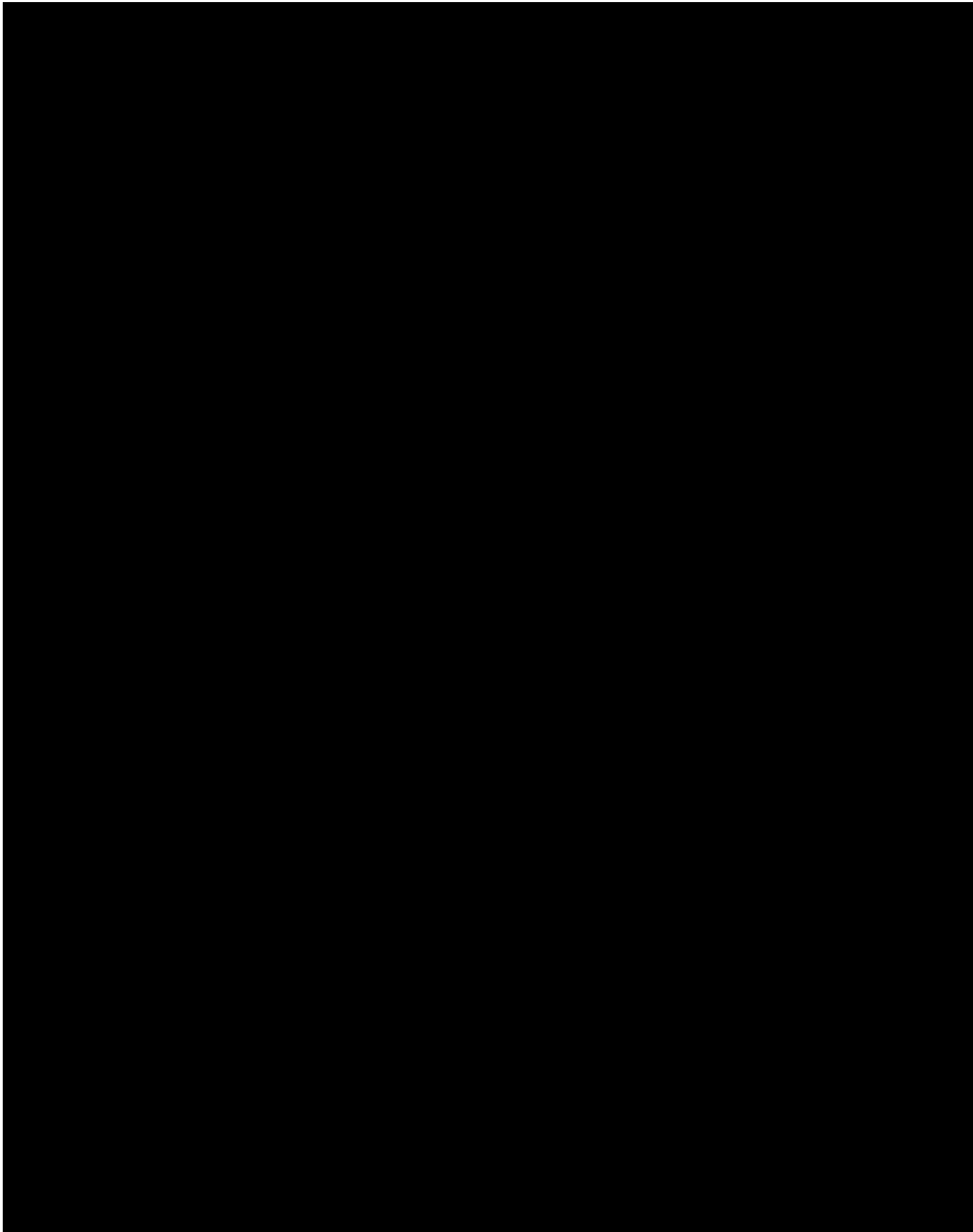
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2 Q. [10:10:32] Mr Witness, in 2017, were you aware that there were many women
3 who had made false allegations about Mohamed Moussa going after women to rape
4 them?

5 A. [10:11:17] I learned bit by bit about this matter you've just mentioned. I was
6 aware during the events about this. I learned from some members that -- of the
7 committee that women complained against Mohamed Moussa and characterised
8 what happened to them as sexual harassment.

9 However, given my familiarity with Mohamed Moussa, I tried to know more about
10 what happened. I know that he is a -- an observant Muslim, a married man, and he
11 is committed to the principle of honourable women. If he ever stares at another
12 woman, his wife would leave the household.

13 So he comes from a very conservative household, and I am certain that Mohamed,
14 whom I know for being an observant and religious person, cannot possibly engage in
15 such conduct. But I do not exclude the possibility that other people acting under his
16 command committed things that women complained about.

17 And I know the same thing about Al Hassan. I'm aware that Al Hassan is a religious
18 man. He has two wives. So there is absolutely no reason for him to commit rape
19 on whomever. Neither his religion nor his social status would invite him to engage
20 in such conduct.

21 But I do not exclude the possibility that members of the police could do things that
22 are the reason for such allegations. However, I can add something of which I am not
23 certain a hundred per cent. I mean, when I say things or when I give a testimony, I
24 am not all the time 100 per cent certain. Sometimes I could say things that do not
25 necessarily reflect reality. Someone I know as religious could stop being religious in

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1 the future. But I say what I think is the truth about people, and I say the positive
2 aspects, as well as the negative aspects, about these people.

3 Q. [10:13:43] Now, you've talked about Koranic principles and truths. Are there
4 exceptions to the general rule that lying is *haram*?

5 A. [10:13:59] Lying is a major fundamental sin in religion, that leads to hell, discord
6 within society and great corruption becoming rampant. However, lying could be for
7 the purpose of hiding something or for reconciliation or for protecting peoples'
8 honour.

9 In this instance, lying could be excusable, but only within the appropriate amount.
10 For example, to -- to hide something. Sometimes there could be a lie, but it's not
11 considered a lie. For example, the Prophet Muhammad, when asked by an elderly
12 lady or an elderly per- -- and elderly lady, she asked him, "Can you ask God to give
13 me -- to grant me paradise?" The Prophet's response was, "Well, there are no elderly
14 people in paradise."

15 In this instance, he was joking with her. But, in fact, what he was trying to tell her is
16 that while in paradise, you will no longer be elderly, you will get your youth back.

17 So this is not lying. This is called positive hiding -- or, in Arabic, *tawria*.

18 Also, there is legitimate lying for the purposes of reconciliation, but the scholars
19 instruct that in such instances, it has to be only within the appropriate amount and it
20 has to be only to serve the purpose of protecting honour to achieve reconciliation or
21 for positive hiding -- in Arabic, *tawria*.

22 Q. [10:16:12] In terms of the appropriate amount, would it be an appropriate
23 amount if lying would result in someone being unjustly accused or punished?

24 A. [10:16:57] I couldn't quite get the context of your question. I thought we were
25 talking about instances where lying could be legitimate within Islamic Sharia. But

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1 what you've mentioned now refers to actual illegitimate lying.

2 Lying is not prohibited because it leads to hiding the truth. For example, leading to
3 someone being punished for something they did not commit.

4 THE ARABIC INTERPRETER: [10:17:30] Ms Taylor, the booth believes that your
5 question might have been misinterpreted. So you're welcome to put it again, if you
6 wish.

7 MS TAYLOR: [10:17:33] I've been told by the interpreters that there's a possibility
8 that my question was misinterpreted.

9 So I apologise for that, Mr Witness.

10 You were talking about the legitimate exceptions where it's allowed to lie.

11 Q. [10:17:46] Is it correct that it's not allowed to lie if it would cause someone to be
12 unjustly accused or punished?

13 A. [10:17:54] We're talking here, about the principle indeed. One reason why
14 lying is prohibited is that it could lead to false accusation. That is a fundamental
15 reason why lying is not allowed. It's not an exception.

16 Q. [10:18:34] Now I'd like to turn to Defence tab 72. It's MLI-D28-0005.

17 MR DUTERTRE: [10:18:47](Interpretation) Mr President.

18 PRESIDING JUDGE MINDUA: [10:18:53](Interpretation) Prosecution.

19 MR DUTERTRE: [10:18:56](Interpretation) On -- this point needs to be quite clear.

20 I think from translation, page 16, line 26, in French, it was the previous reply. And it
21 says: Lying is not forbidden but -- because it can lead to falsehoods.

22 And I think we should hear -- check up that, exactly what the witness has said.

23 PRESIDING JUDGE MINDUA: [10:19:34](Interpretation) Ms Taylor, were you able
24 to follow that? Can you please have this clarified by the witness because in the
25 French transcript, it says that lying is authorised.

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1 MS TAYLOR: [10:19:49] Yes, Mr President, I understood. There was also an issue
2 with the interpretation of my question, so that's why I put the question again. And
3 the witness has now responded, I believe, again, and clarified that it was the opposite.
4 But I can ask him to clarify. But I believe his second answer addresses this.

5 Q. [10:20:10] Now Mr Witness, there's an issue with the transcript. It says at - in
6 the English as well, page 18, line 11, you say:

7 "Lying is not prohibited because it lies (sic) to hiding the truth."

8 Did you mean to say lying is not prohibited or lying is prohibited?

9 A. [10:21:01] Lying, as I have said, is prohibited. Not only prohibited, it's a major
10 sin. One of the major sins. And it is one reason for human deterioration and for
11 leading to hell. You've asked me about exceptions to that rule. I said there are two
12 exceptions. The first exception is called, in Arabic, *tawria*, or positive hiding, which
13 means something appears on the surface to be a lie, but is in fact truthful.
14 This -- this exception cannot in any way apply to testimony. A testimony -- in a
15 testimony, you only say what you know. Not what you think is the case, while it is
16 not factual.

17 The second exception is lying for the purpose of reconciliation. For example, conjugal
18 reconciliation -- that is, if a husband lies, says something to a wife and then makes up
19 a lie in order to maintain the relationship. Or when someone makes a lie to
20 reconcile between two people having a disagreement. When you meet someone
21 and you say -- the other guy says hi, while the other guy doesn't really say hi; that's
22 an attempt to reconcile. This is legitimate lying.

23 However, the scholars warn that these exceptions should not be extended to cover
24 other lies. Lies are dangerous and are prohibited.

25 Q. [10:22:54] I'd like to turn to Defence tab 72. [REDACTED] I'd

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1 like to turn specifically to page 2626 and looking at -- between lines 157 and 182.

2 And just for the record, there's a redaction in line 157 that's been lifted, and it should
3 say, "Hassan".

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19 PRESIDING JUDGE MINDUA: [10:28:38](Interpretation) Mr Prosecutor.
20 MR DUTERTRE: [10:28:40](Interpretation) It would be good to have less expurgated.
21 And "*fronts*" was translated into Arabic as "French," and with the expurgation, it's all a
22 bit -- the redaction, it's all a bit muddled there.
23 PRESIDING JUDGE MINDUA: [10:29:03](Interpretation) Ms Taylor, do you have a
24 clearer version? And also, the Prosecution raised a matter of translation.
25 MS TAYLOR: [10:29:11] Mr President, no, we don't, as the Chamber's aware.

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1 PRESIDING JUDGE MINDUA: [10:29:27](Interpretation) Very well. Then please
2 continue.

3 MS TAYLOR: [10:29:32]

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 Q. [10:30:32] It might be an issue of pronunciation. Perhaps if my colleague,
12 Mohamed Youssef, could ...

13 PRESIDING JUDGE MINDUA: [10:30:43](Interpretation) Mr Prosecutor.

14 MR DUTERTRE: [10:30:47](Interpretation) Yes, Mr President. I believe that we
15 are -- we have to believe what she says, that there should be a more-redacted version.
16 But the question has just been put, line 72, that Mali contends and we don't know
17 what's behind this.

18 It's a little bit difficult to follow and not very fair for the Prosecution either because
19 we don't know what we're talking about here. We don't have any means of
20 verifying it.

21 And, if Ms Taylor knows what is behind these words, then she needs to provide a
22 less-redacted version. It's not an ambush, after all, the cross-examination. And the
23 Chamber doesn't know what's behind these redactions either.

24 So things need to be done in a manner to enable us to follow what's going on.

25 PRESIDING JUDGE MINDUA: [10:31:37](Interpretation) Ms Taylor.

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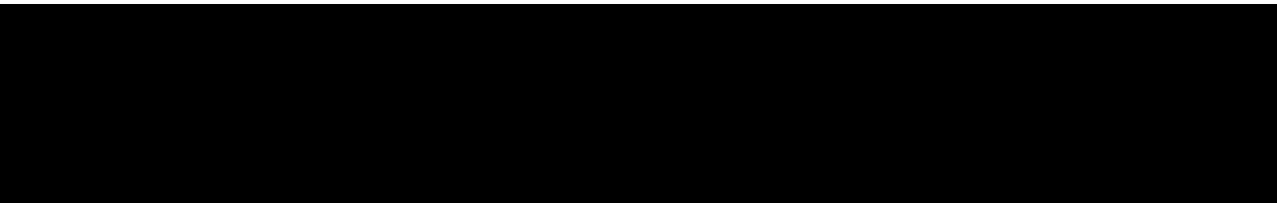
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1 MS TAYLOR: [10:31:38] If I may explain to the Prosecution. These redactions were
2 imposed by the Chamber. We don't know what's behind the redactions. So we are
3 not the ones who implemented the redactions.

4 Now, we received them in this form on Friday ...

5 Please, Mr Dutertre, I'm still explaining.

6 On Friday, the Chamber lifted the redaction to the name, "Hassan", but we have not

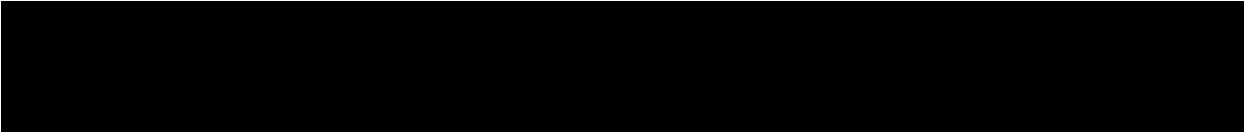
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10 Now, we have no objection to the redactions being lifted, but so far, we have not been
11 able to obtain any further lifting of redactions.

12 PRESIDING JUDGE MINDUA: [10:32:41](Interpretation) Well, what I'm going to
13 do --

14 Yes, Mr Prosecutor?

15 MR DUTERTRE: [10:32:46](Interpretation) Yes. It would be nice for us to receive a
16 version for the case file. As for line 172, this is -- we're still speculating. We do not
17 know whether it's true or false at the level of the Prosecution.

18 
19

20 What do you suggest as a remedy?

21 MR DUTERTRE: [10:33:15](Interpretation) Well, Mr President, if the -- if the
22 Chamber thought that it should be redacted in some places, then this needs to be
23 respected by everyone, and it shouldn't be a fishing expedition enabling people to try
24 and ascertain what is behind this -- these redactions, especially for line 172.

25 PRESIDING JUDGE MINDUA: [10:33:39](Interpretation) Ms Taylor, what do you

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1 respond to that? Because I'd like to also confer with my colleagues on this matter.

2 MS TAYLOR: [10:33:46] Thank you, Mr President. Now, the Prosecution has had
3 these conversations, they were equally able to ask for any redactions to be lifted.
4 They have not done so. Now, this is -- the witness on Friday specifically discussed
5 and testified in relation to the group that Mr Al Hassan was associated with at
6 Er-Intedjeft.

7 Now, we should be able to put questions to this witness about what he knew
8 concerning Mr Al Hassan's involvement with this group and the group's link, if any,
9 with other entities, given that this witness has given evidence on that point to the
10 Prosecution, both earlier and in his testimony.

11 Now, it would be entirely unfair if we would be prevented from putting questions to
12 this witness about this subject. He's someone who conveyed information regularly
13 to the Prosecution about Mr Al Hassan's alleged association with specific groups.
14 The Defence needs to be able to cross-examine this witness on this point, and it's not a
15 fishing expedition to ask the witness what he knows about this group.

16 And, the Prosecution is not prejudiced because they have the same version that we
17 have. We do not have a different version.

18 PRESIDING JUDGE MINDUA: [10:35:18](Interpretation) Very well. The Chamber
19 shall deliberate briefly.

20 (The Trial Chamber confers)

21 PRESIDING JUDGE MINDUA: [10:38:03](Interpretation) Very well. So, Ms Taylor,
22 the Chamber is authorising you to put the question on this particular point that you
23 have raised with regard to the relevance of this question as you have shown its
24 relevance.

25 So there is no need to lift any other redactions at this juncture, Mr Prosecutor.

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1 Please go ahead, Ms Taylor.

2 MS TAYLOR: [10:38:37]

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9 THE ARABIC INTERPRETER: [10:39:39] Note from the booth: We did not get the
10 interpretation from English. So I would ask from my colleagues to interpret it into
11 English, please.

12 THE INTERPRETER: [10:40:05] We will sight translate your question again now to
13 the witness. Thank you.

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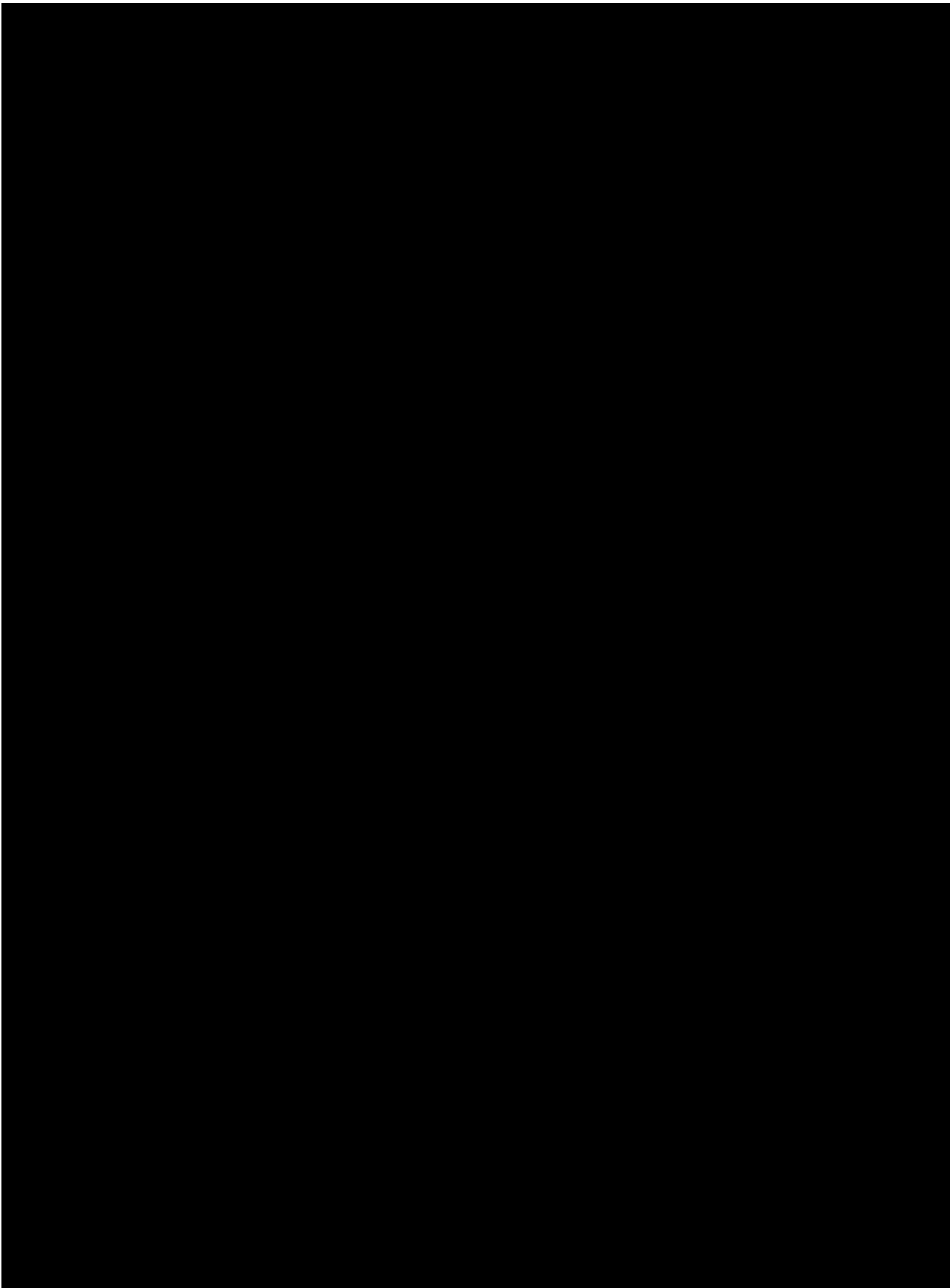
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Trial Hearing
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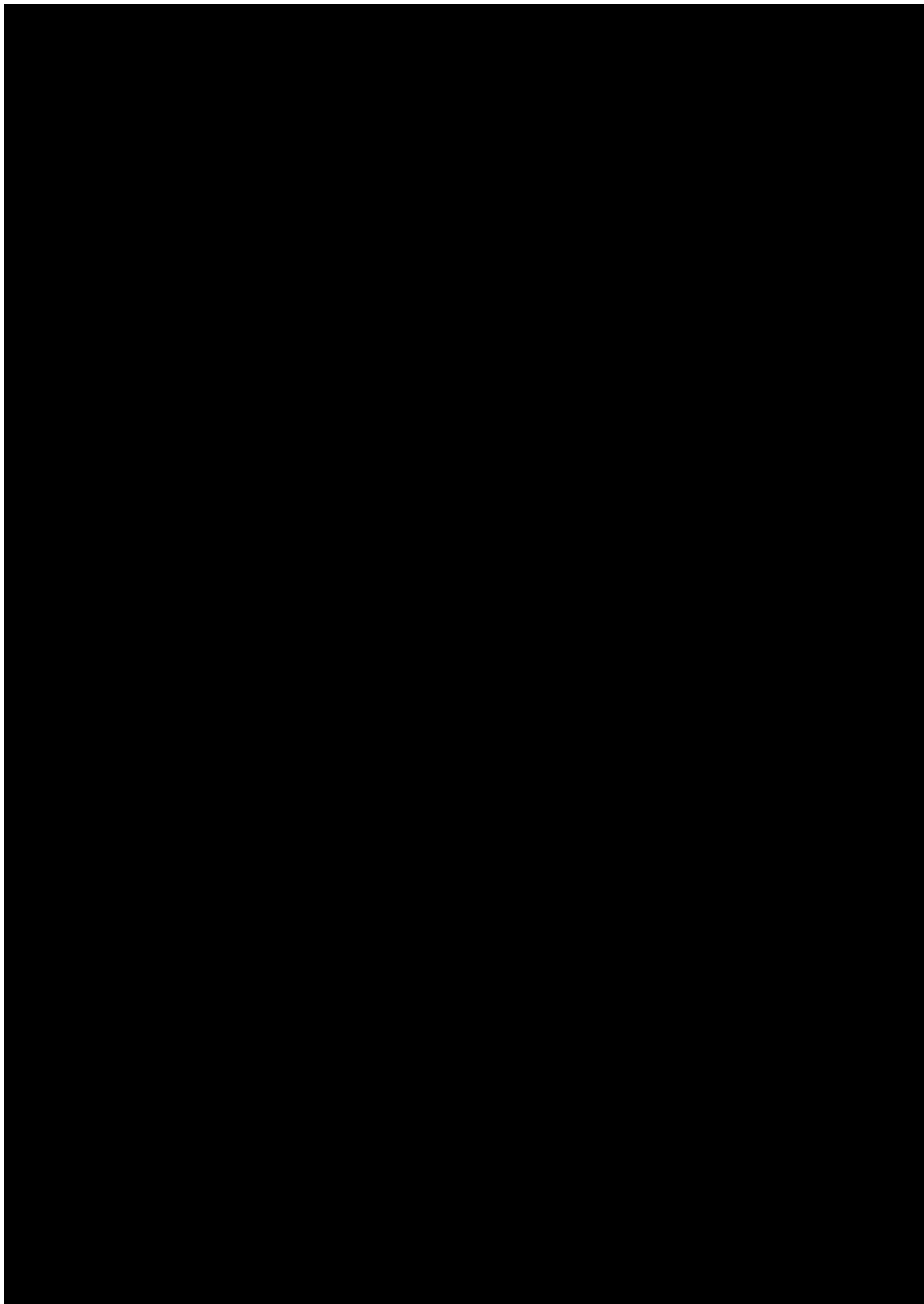


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[REDACTED]

Part of that is Mr Al Hassan himself. [REDACTED]

[REDACTED] and it was clear he was active with Al-Qaeda at the time. He was sitting besides a tree and he had this bottle of cold water besides him. [REDACTED]

[REDACTED] He said he was creating a national force. I don't know whether he said MNLA or something else. But anyway, he said it's a national force that wants to defend the area. And I, of course, recognised the reasons why such a force is being established.

The questions I contemplated over at the time was -- were: Did Al Hassan leave Al-Qaeda and join MNLA? Or was it MNLA that allowed some of its members to alter the nature of its activity? I mean, Al-Qaeda allowed some of its members to alter the nature of its activity, therefore, allowing Al Hassan to be MNLA and -- while coordinated with Al-Qaeda at the same time.

And this group Al Hassan is forming, is it a group on good terms with Al-Qaeda and Ansar Dine? In which case, that group would antagonise France and Mali. Or, is this group on good terms with Mali? And in the latter case, the group would be somewhat different from Al-Qaeda. So I was asking these questions in order to get the full picture.

My understanding of -- at the time was that this group was interested in self-defence and could be assisted by the government because it was helping stabilise the north and ensure security in the north. [REDACTED]

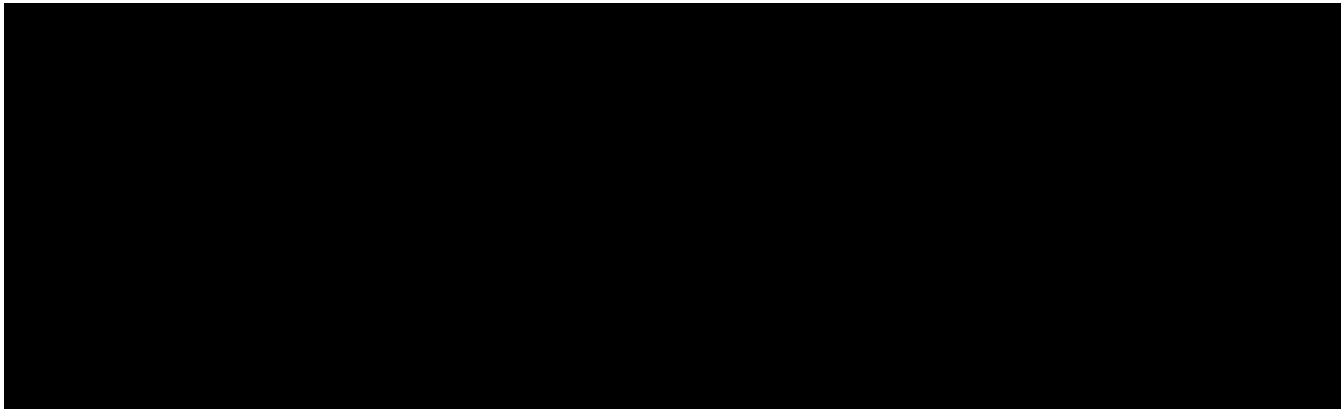
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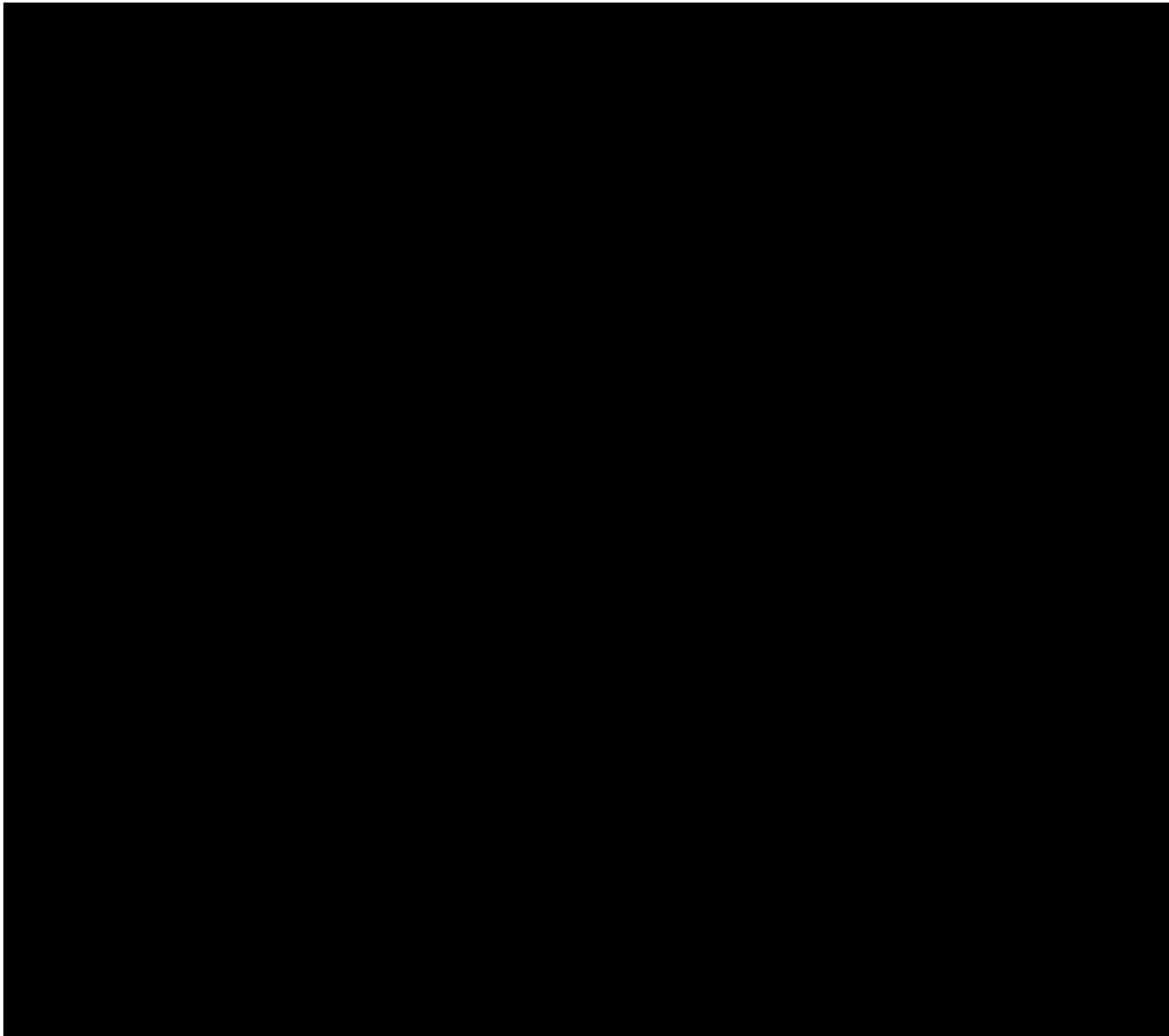
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PRESIDING JUDGE MINDUA: [10:54:10](Interpretation) Please go ahead, Counsel.

MS CHAHLA: [10:54:14](Interpretation)



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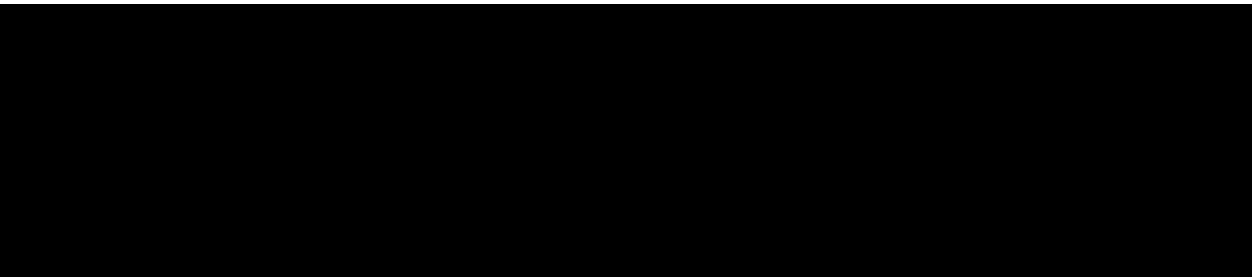
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MS TAYLOR: [10:59:50] Mr President, I see it's almost 11 o'clock.

PRESIDING JUDGE MINDUA: [10:59:58](Interpretation) Yes, indeed, Ms Taylor.

We shall rise for half an hour, and we shall reconvene at 11.30. The hearing is
suspended.

(Recess taken at 11.00 a.m.)

(Upon resuming in closed session at 11.31 a.m.)

THE COURT USHER: [11:31:41] All rise.

Please be seated.

PRESIDING JUDGE MINDUA: [11:32:08](Interpretation) The Court is once more in
session.

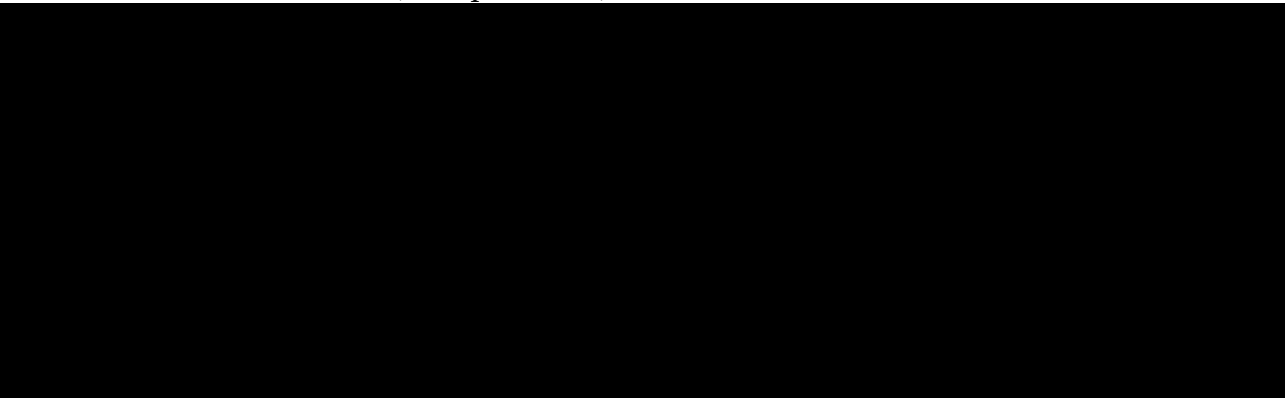
Ms Taylor, you have the floor. Please go ahead.

MS TAYLOR: [11:32:20] Thank you, Mr President.

Now, if we could turn specifically to page 2659. And with the permission of the
Chamber, if my colleague, Ms Chahla, could read lines 123 to 145. It's page 2659.

PRESIDING JUDGE MINDUA: [11:32:46](Interpretation) Please go ahead.

MS CHAHLA: [11:32:53](Interpretation)



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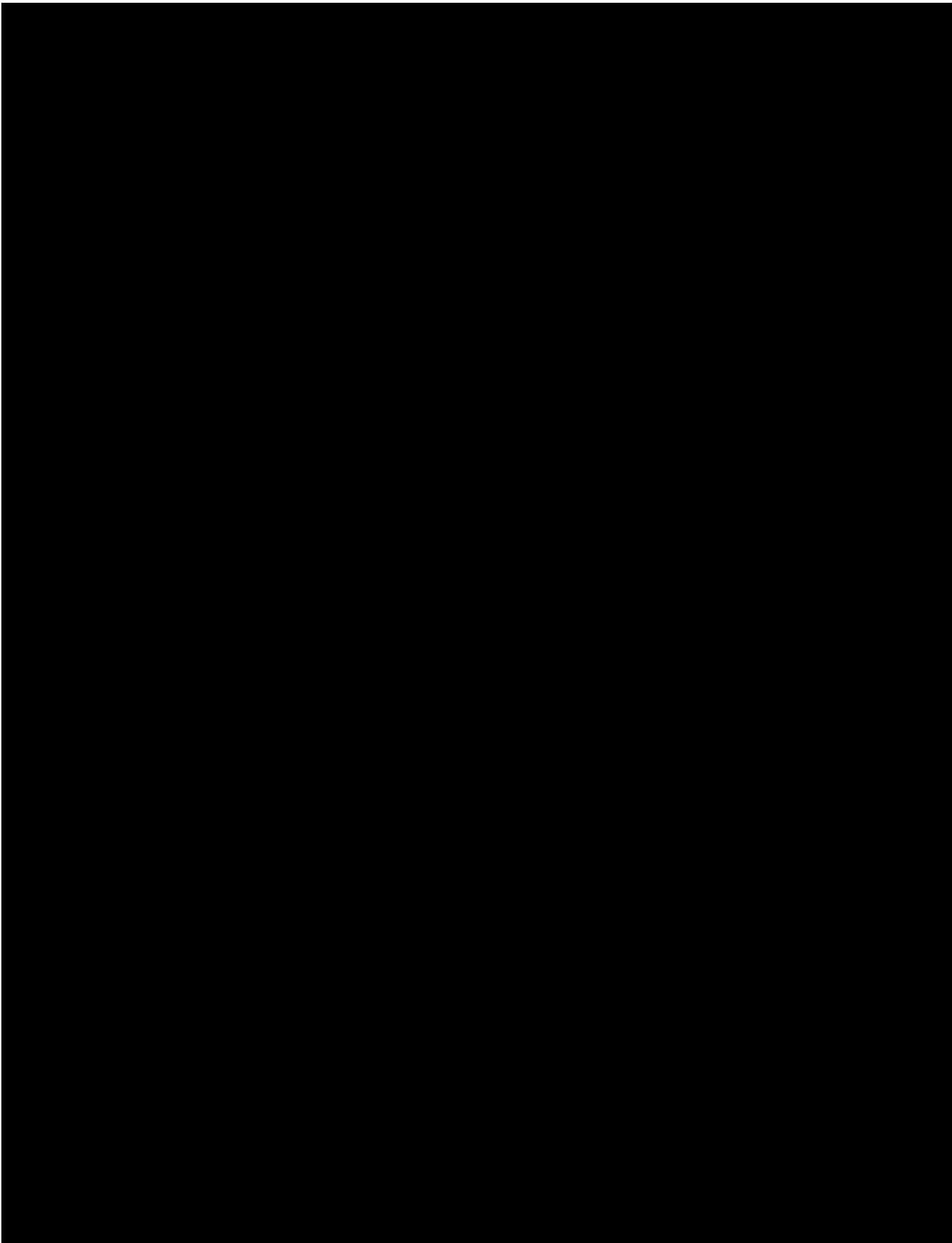
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Did you hear that in the translation?

THE INTERPRETER: [11:40:24] Message from the English booth: That could also have been interpreted as, "It's been like that for a long time."

MS TAYLOR: [11:40:53]

Q. [11:40:54] Mr Witness?

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3 And with the leave of the Chamber, if my colleague, Maître Chahla, could read this

4 out, lines 10 to 16.

5 PRESIDING JUDGE MINDUA: [11:44:29](Interpretation) Please go ahead.

6 MS CHAHLA: [11:44:33](Interpretation)

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24 THE ARABIC INTERPRETER: [11:47:03] Microphone, please. I can't hear you.

25 MS TAYLOR: [11:47:05] I apologise. Apologies.

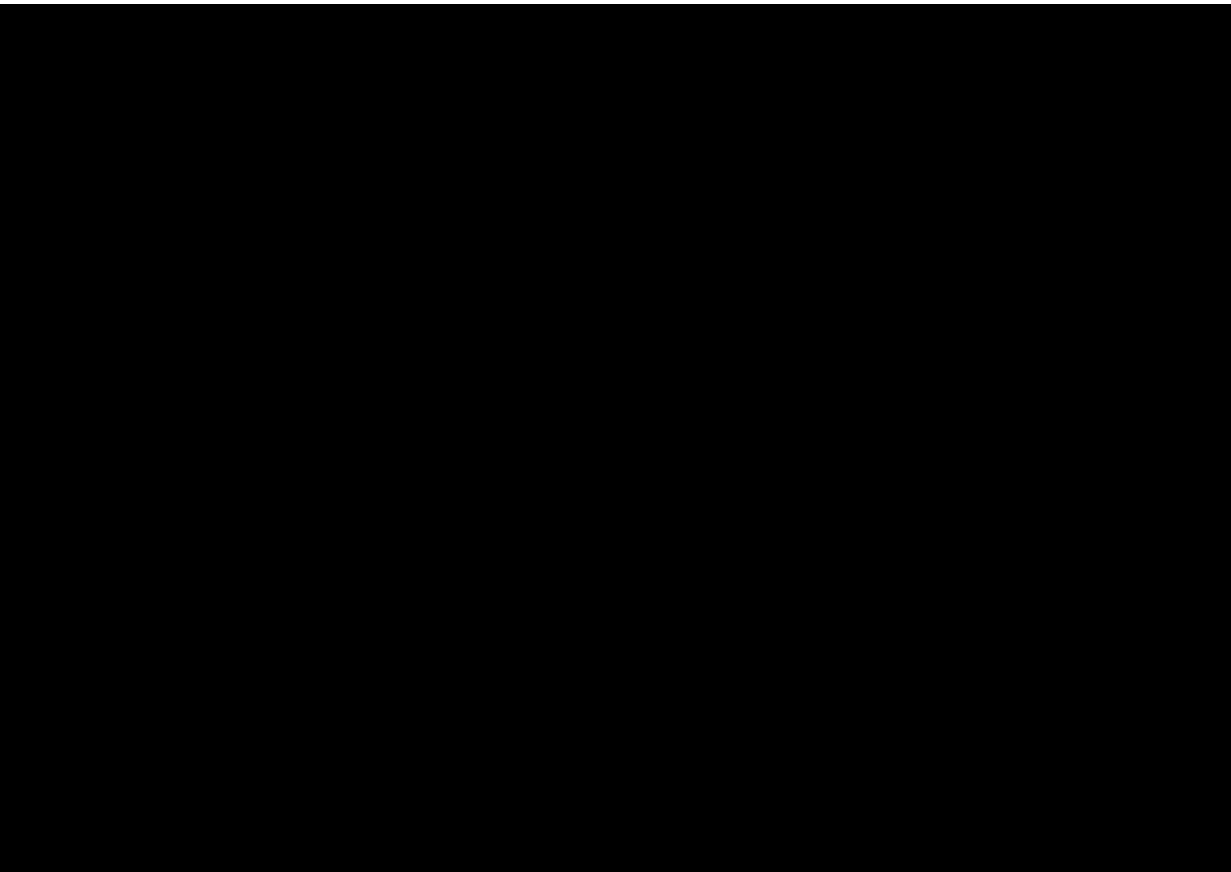
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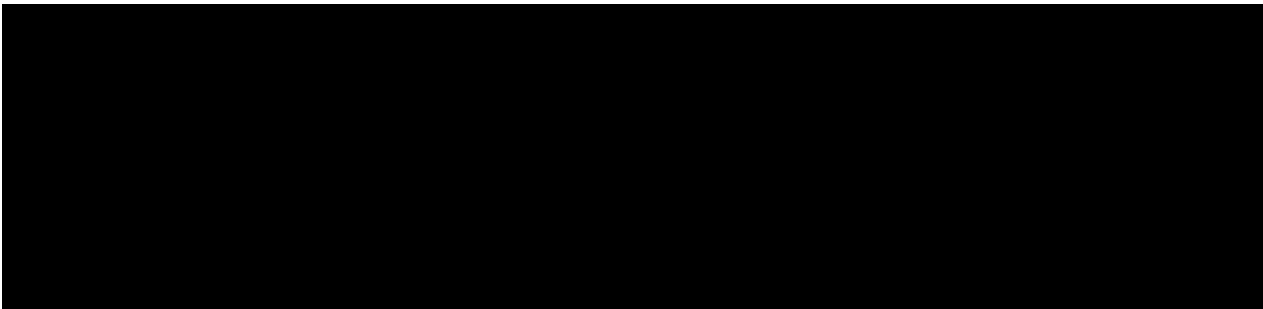
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As to the relationship, I know that the people who had prior acquaintance with the hardline-Islamist group, worked with that group, were familiar with that group, and had connections within the group.

There will always be some form of relationship. Take me, for example. Today, I am -- I don't now have a relationship, but if I run into Koutaiba, I would probably invite him for tea, and I would address him as a friend. So I know that prior familiarity means relationships would continue in the future, but I don't know whether he was operating until he was arrested. I concluded that he was operating only after he got arrested.



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[REDACTED]

If we could scroll down to lines 147. I apologise. It's page 2645 is the relevant part.

And with the permission of the Chamber, if my colleague, Ms Chahla, could read out the relevant extracts.

PRESIDING JUDGE MINDUA: [11:50:54](Interpretation) Please go ahead.

MS TAYLOR: [11:51:03] I believe it's from lines 147 to 170.

MS CHAHLA: [11:51:09](Interpretation)

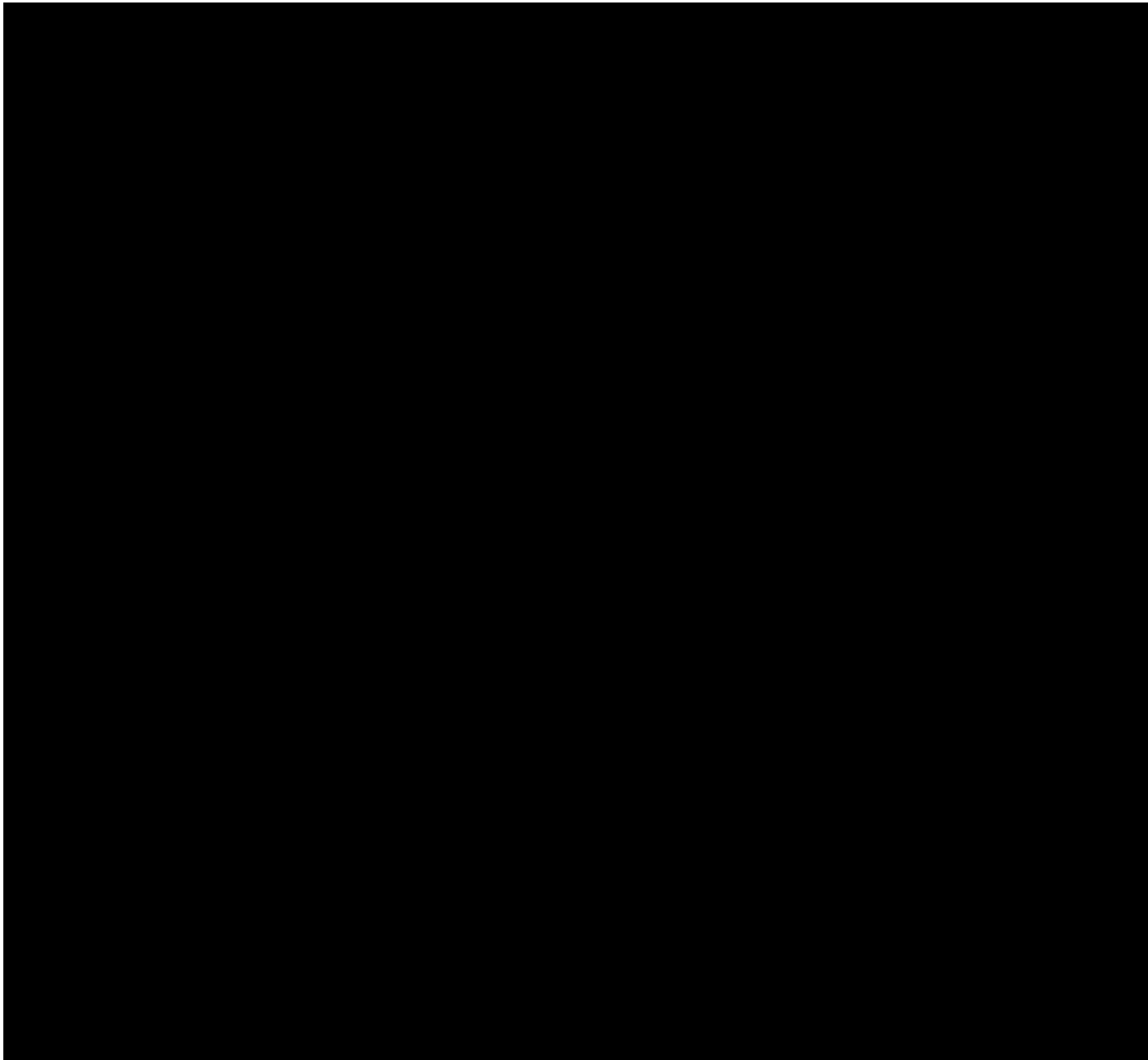
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19 Q. [11:55:46] So if we can just continue to get the contents of the meeting. So if my
20 colleague could read lines 171 to 190, I believe that that will provide more details
21 concerning the context and who's involved.

22 PRESIDING JUDGE MINDUA: [11:56:07](Interpretation) Yes. Please go ahead,
23 Ms Chahla.

24 MS CHAHLA: [11:56:16](Interpretation)

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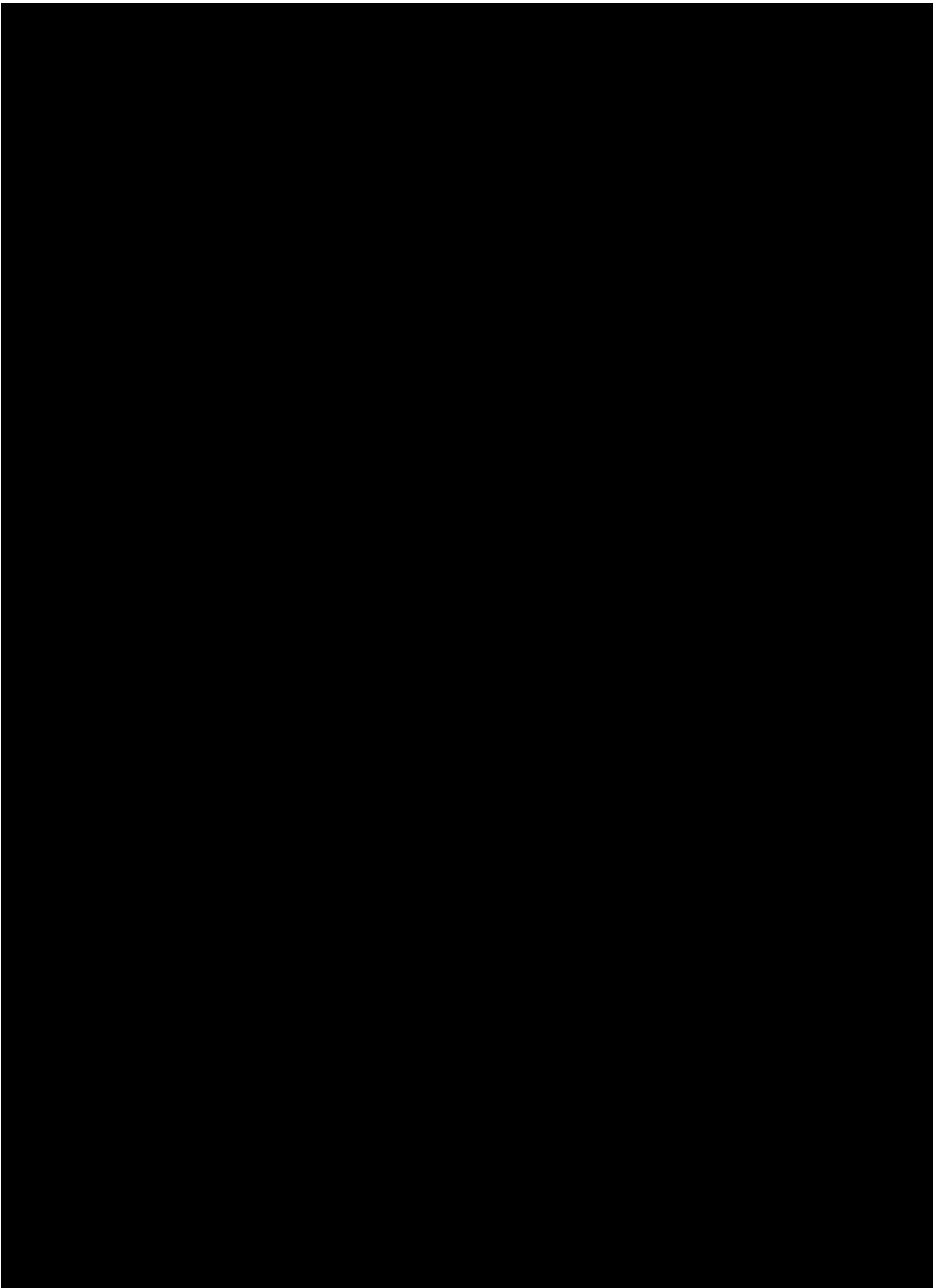
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2 MR DUTERTRE: [12:03:54](Interpretation) Mr President, I'm finding it a little bit

3 difficult to follow in terms of date. And we're going from one page to another.

4 And I find it difficult to follow what the relevance of this line of questioning is, and

5 this is quite some time that I've been wondering this now.

6 So maybe Ms Taylor would be so kind as to explain it to us in the absence of the

7 witness.

8 PRESIDING JUDGE MINDUA: [12:04:15](Interpretation) Ms Taylor.

9 MS TAYLOR: [12:04:16] I can move on to another question.

10 PRESIDING JUDGE MINDUA: [12:04:21](Interpretation) Very well. Move on.

11 MS TAYLOR: [12:04:24]

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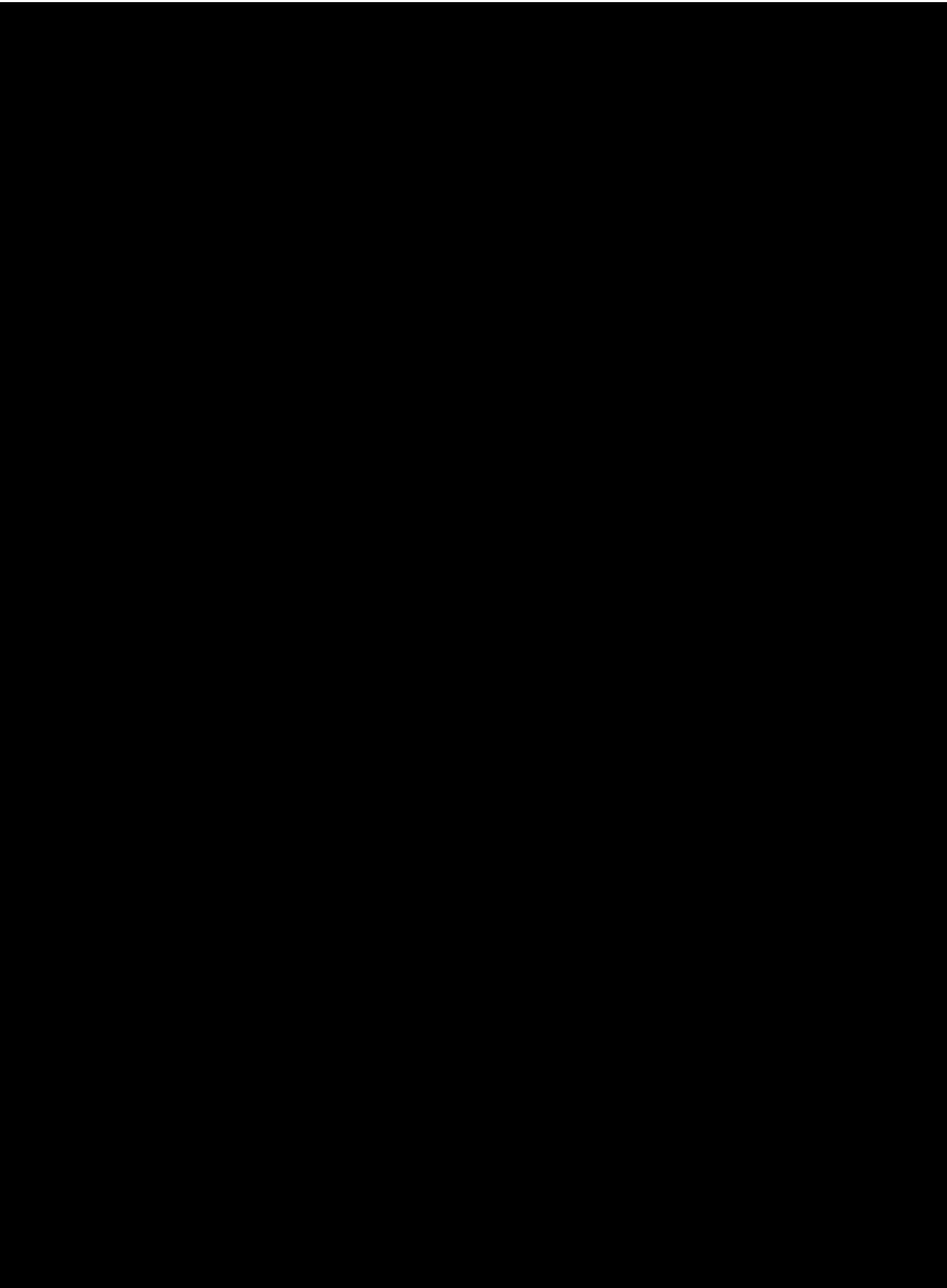
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1 A. [12:09:32] Yes. But my understanding of "influence" is that I would directly
2 instruct him or to forcefully suggest to him whether -- or to give a strong
3 recommendation whether to testify or not. My commitment was to encourage and
4 nothing beyond, to encourage those I know to get in business with the Prosecution
5 and to tell the truth to the Prosecution. That's what I believe in. I believe that that
6 conduct would be to the benefit of the Prosecution, the Court and the -- justice that all
7 of these parties realise what really happened in Timbuktu in 2012.
8 I encouraged [REDACTED] to follow in those footsteps.
9 And I told them about the benefits that would come out of such conduct, which is to
10 convict those who deserve to be convicted and to acquit those who deserve to be
11 acquitted or exonerated.
12 I also gave certain hints. I was familiar with certain problems that would prevent
13 them from coming around, and I tried to assuage their concerns about those problems.
14 If someone feels that he is dealing with the infidels and revealing truths to them, this
15 would embarrass that person, would make him afraid. [REDACTED]

[REDACTED]

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1 [REDACTED]
2 Q. [12:12:34] [REDACTED] did you propose a deal to the Prosecution that if they
3 arranged [REDACTED] to The Hague, you would orient -- you
4 would orient him and provide him with your position concerning the group?

5 PRESIDING JUDGE MINDUA: [12:13:09](Interpretation) Mr Prosecutor.

6 MR DUTERTRE: [12:13:12](Interpretation) Yes, just for the OTP, could the Defence,
7 Ms Taylor, provide us with a reference. It would be most useful. On two or three
8 occasions prior to this she mentioned matters without giving any references.

9 PRESIDING JUDGE MINDUA: [12:13:26](Interpretation) Ms Taylor?

10 MS TAYLOR: [12:13:28] Certainly, Mr President. I can give all the references for
11 everything I've said. [REDACTED]

12 [REDACTED]
13 [REDACTED]

14 [REDACTED] But I don't believe that that should be brought up
15 until the witness has answered the question.

16 I'll repeat the question.

17 Q. [12:14:16] [REDACTED] did you propose a deal to the Prosecution whereby if
18 they arranged [REDACTED] you would orient
19 him and provide him with your position concerning the group?

20 A. [12:14:36] The word "propose" is fine for me, but I'm not sure if it's the good
21 word to use. The correct account of this is that my ambition [REDACTED]
22 [REDACTED] was a big hope. And it went beyond that. My hope was to meet others
23 too, through whom I would learn about the state of the group and the weaknesses of
24 the group - and, how to utilise the news of the group - and take advantage of that,
25 and what to do in the future in terms of dealing with or against the group, as well as

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1 assessing the influence of the group.

2 My interest [REDACTED] and others of his ilk comes from that interest. This
3 can be understood from the words I said to the Prosecutor and can also be understood
4 from some of the suggestions I gave [REDACTED]

5 However, I cannot describe that as a proposal or a deal or anything pertaining to the
6 terms you've used.

7 Q. [12:16:08] Well, in fairness, we can bring up the terms you used. If I can bring
8 up OTP tab 1368, [REDACTED] turning to page 3022. And if we look at
9 page 3022, specifically -- well, actually, we'll start on 3021 so it follows.

10 It's line 865. And you're telling the Prosecution:

11 "What I had specifically [REDACTED]

12 And then turning on to page 3022:

13 "... is that we can really benefit to a high degree from this person more than him just
14 providing information.

15 If we could properly put him in the right place ... you can even get information and
16 [REDACTED] ... you and the other person who
17 are interested, the other entities interested.

18 [REDACTED]
19 [REDACTED]
20 group is going to create instability.

21 And the reason why they are [going --] able to do that are people [REDACTED]

22 [REDACTED]
23 So that we can go deeper than just get information .. [REDACTED]

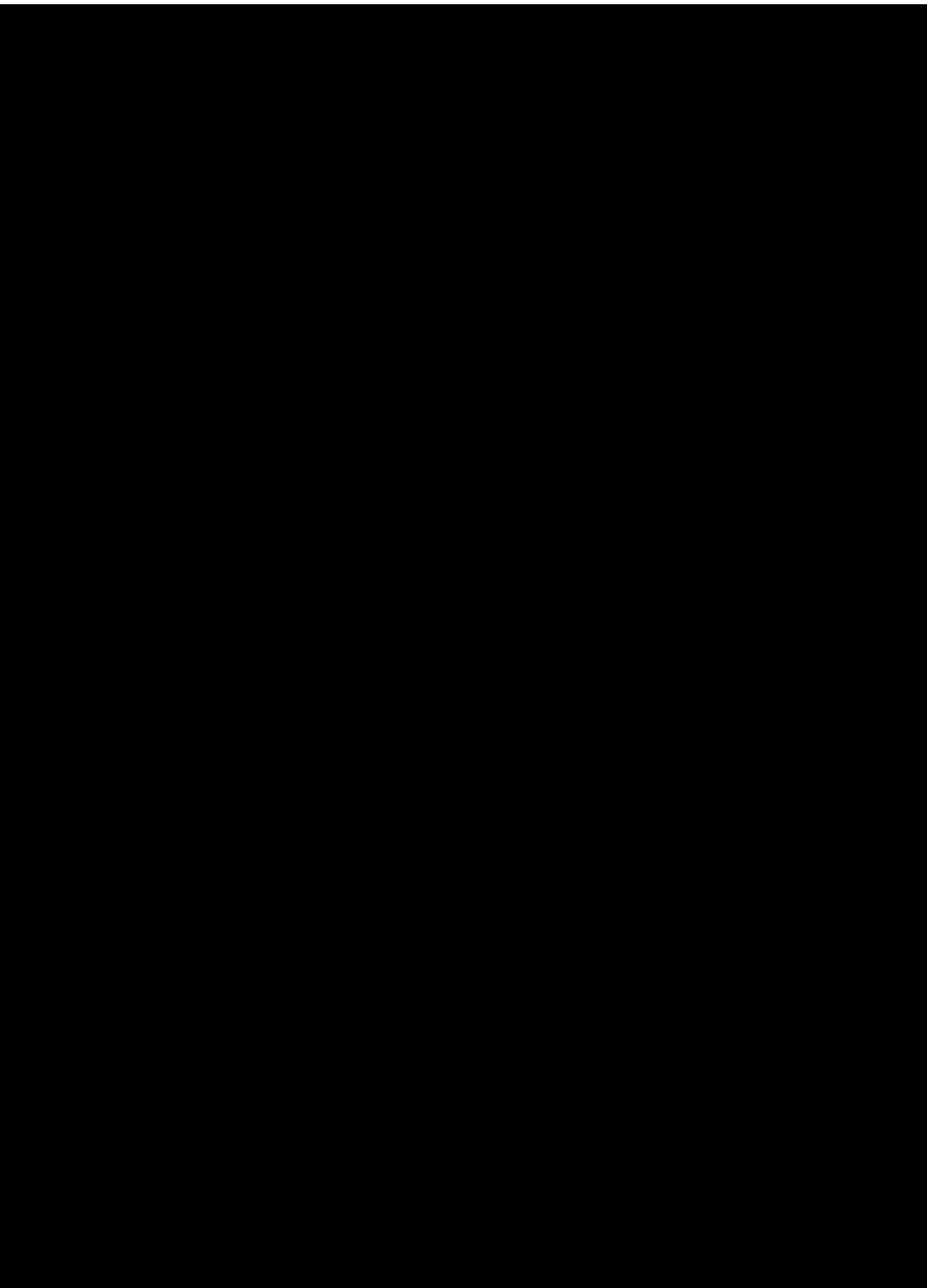
24 [REDACTED]
25 [REDACTED]

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13 And the Prosecution says: "Okay. And is this something - and I'm definitely not
14 asking you to do this - but is this something you could persuade him to do?"

15 And then you say, line 1031: "He is at my disposal when it comes to this because he
16 trusts me and he knows that when I believe in a certain idea, I have enough reasons to
17 believe in that idea."

18 Have you had a chance to follow the Arabic, Mr Witness?

19 A. [12:25:56] Yes, and the meaning I got is fine.

20 Q. [12:26:02] Now, is it correct that the Prosecution asked you to give them updates
21 from Timbuktu during your interview sessions?

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24 But I

25 don't know whether I can say -- I mean, in the past, they said they are interested in the

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1 events in Timbuktu in 2012 and the reasons leading to those developments and the
2 resulting problems.

3 So each time they asked me about new updates, I would think they are trying to find
4 a link between current news and the 2012 events.

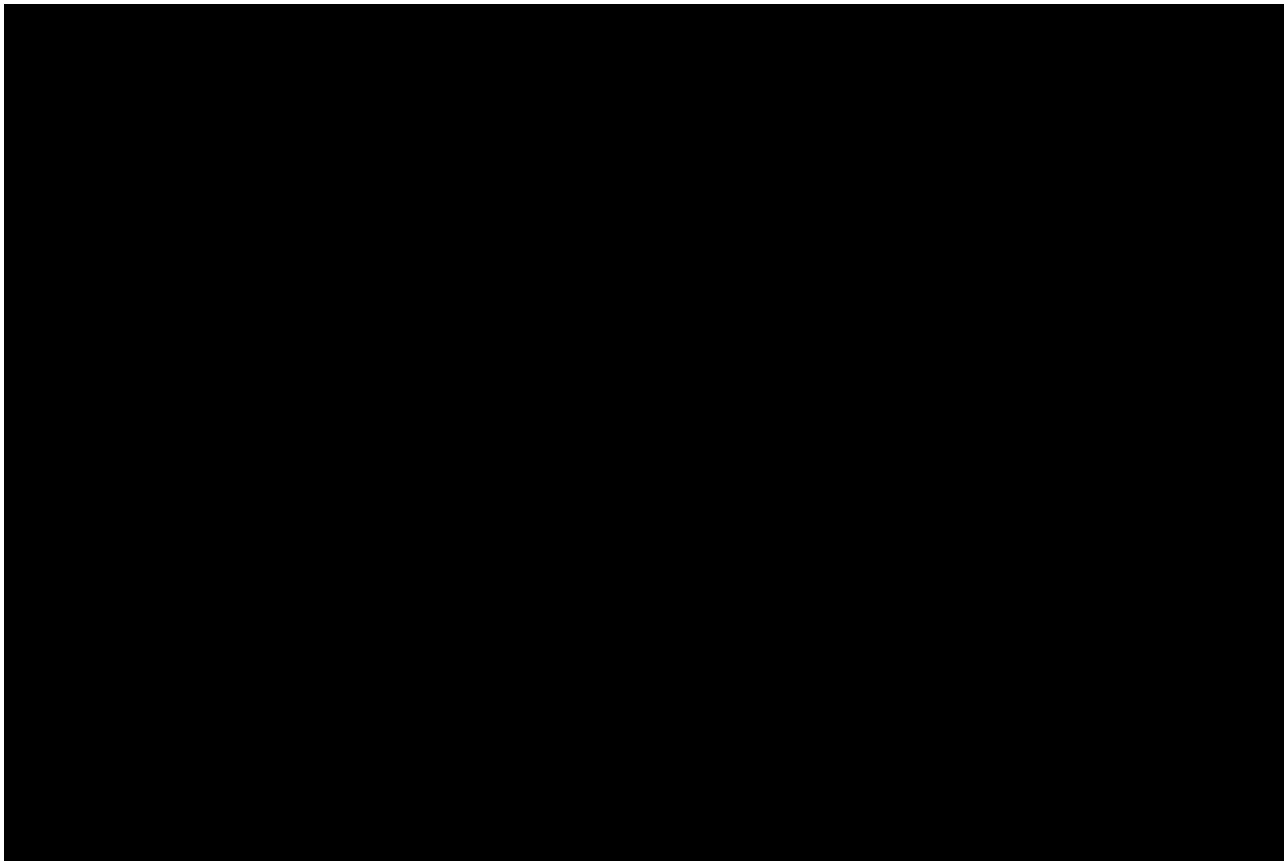


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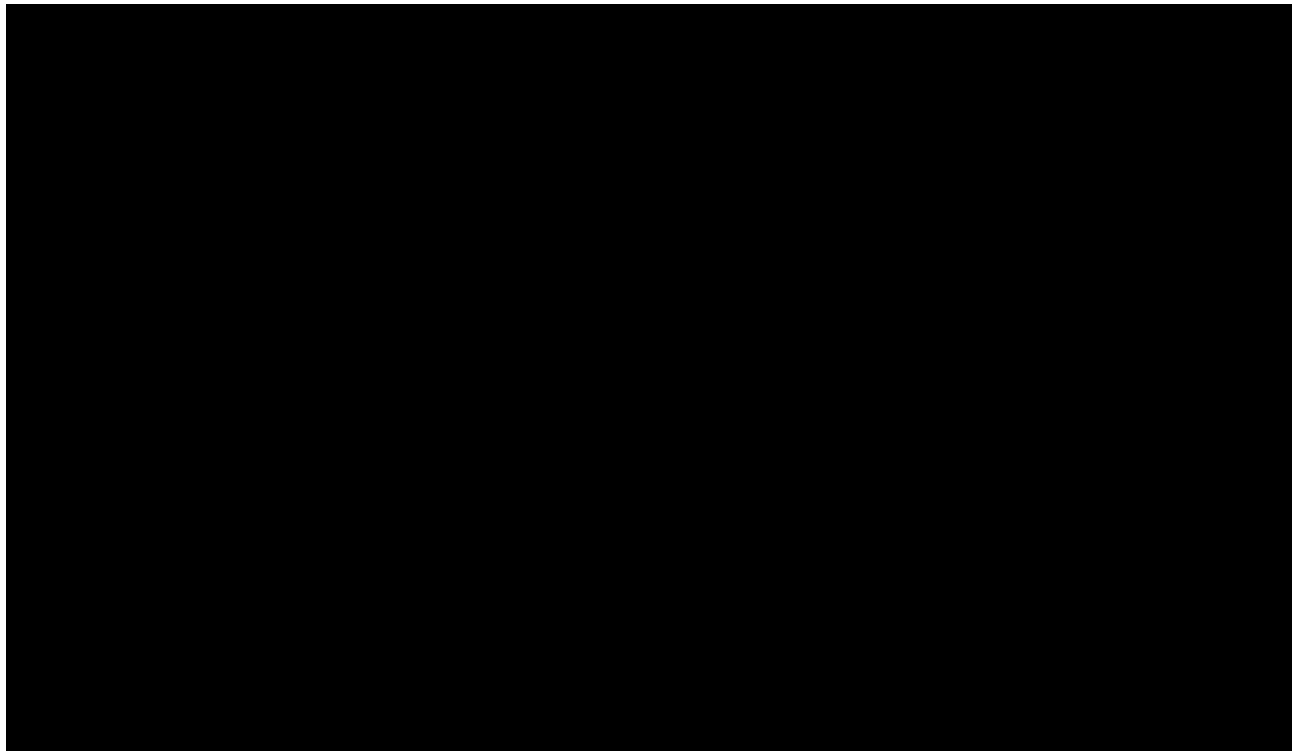
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13 Q. [12:32:01] Now, either during or after 2017, did you ever receive, directly or
14 through a third person, any information concerning Al Hassan from the Malian
15 authorities?

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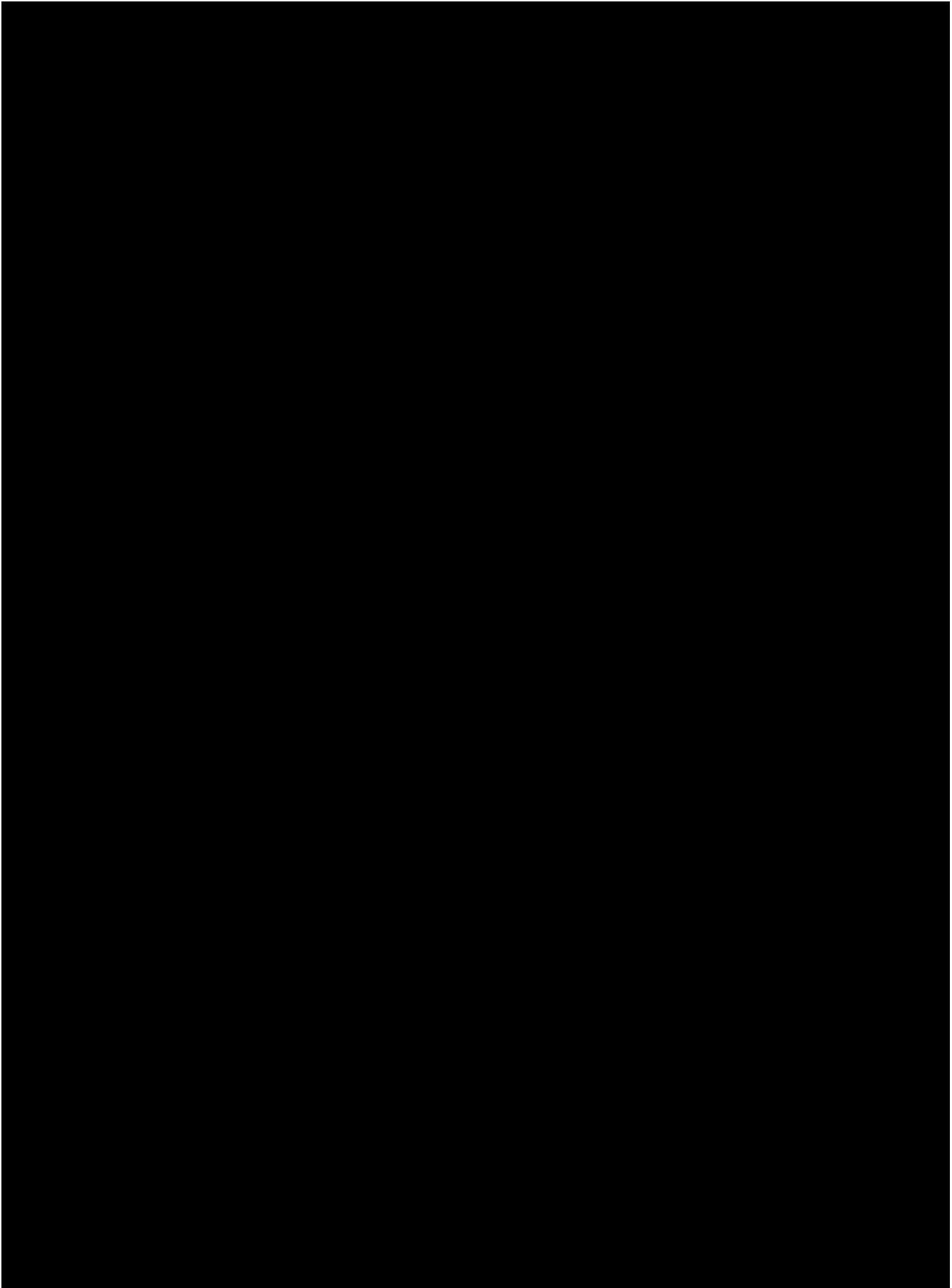


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[REDACTED]

Q. [12:38:33] Now, if I could just bring up tab -- [REDACTED] And I can show you, I only want to address a very short extract. [REDACTED]

[REDACTED]

With the Chamber's permission, if my colleague, Ms Chahla, could read [REDACTED]
[REDACTED]

PRESIDING JUDGE MINDUA: [12:39:22](Interpretation) Yes. Please go ahead.
Court officer.

THE COURT OFFICER: [12:39:37] Sorry. Before counsel reads out, would you like to have page [REDACTED]? Thanks.

MS TAYLOR: [12:39:47] Yes, please.

THE COURT OFFICER: [REDACTED]

MS TAYLOR: [12:39:48] If it could be scrolled over while Ms Chahla reads.

MS CHAHLA: [12:40:03](Interpretation)

[REDACTED]

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20 Indeed I believe that the community in the north, the Azawadi community, is a
21 Muslim community. The role of the traditional judge, the cadi, who does not get
22 involved in politics and who does not deem people infidels, nor does he wish to make
23 significant changes to policy in the north, these people are indeed positive
24 stakeholders for reconciliation in the north in the sense -- in the Islamic sense that the
25 Azawadi community understands.

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1 Also in this case, development is needed, and youth -- work for youth is needed to
2 avoid them getting radicalised. We need to be self-reliant and to avoid relying on
3 foreign help. The cadis are particularly very important in such regard.

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7 A. [12:45:26] Will you please repeat the question. I don't quite understand
8 training or planning or whatever was said.

9 Q. [12:45:42] I'm trying to use exact words.

10 In 14 January 2020, you met with the Prosecution and you discussed with them your
11 upcoming testimony in this case. That's correct?

12 A. [12:46:01] Yes, I believe so.

13 Q. [12:46:04] And when discussing this upcoming testimony, did you ask them if
14 you would get a form of training before your testimony?

15 A. [12:46:28] Did I use the word "training" in Arabic, in this sense, in this form?

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21 So the Prosecution told me there's something called "witness preparation," and that
22 was the first time I learned about such thing. And they told me that in traditional
23 court systems, there is some form of training for testifying, something that is no
24 longer used in modern courts.

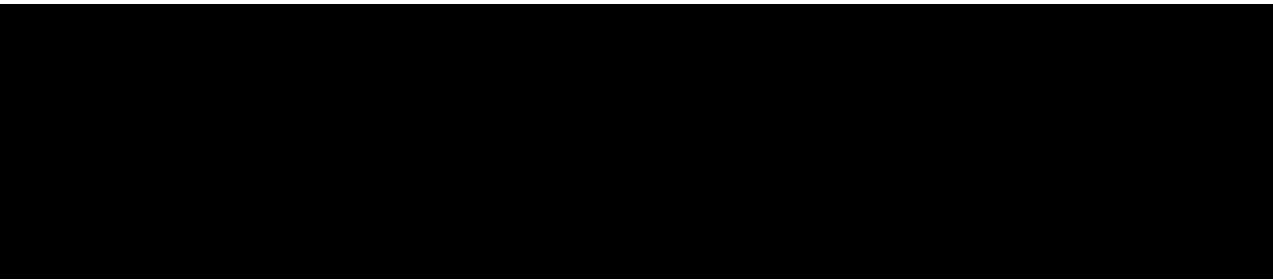
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But I've learned before this date

you've mentioned, that that is not the case.

Q. [12:48:21] Did you ask this question because you wanted to know how to prepare your testimony in advance?

A. [12:48:30] I wanted to have some background about the size of the testimony. Will the testimony focus on parts of the extensive account I have already given? Or will it be the entire account? I just wanted to know the size of the testimony I would be giving.

Q. [12:49:14] Now, after your lengthy preparation sessions with the Prosecution this year, were you able to understand what the Prosecution wanted from you in your testimony?

A. [12:49:25] As I have told you, every time they would show me texts or I would read texts, I would benefit from that in many ways. For example, I would refresh my memory of the events, and I would be able to understand the links between the different matters. I would also understand the same matter, but from different perspectives, and I would conclude the purposes of the questions.

The Prosecution did explain to me their purposes. I didn't quite need to speculate what their purposes were because they said them outright to me. What the Prosecution wanted was to get a fulsome account of what happened, and, each time, they would focus on a different set of events, would focus the questions on that part, and would look at the matter from different perspectives. I can tell that this is the

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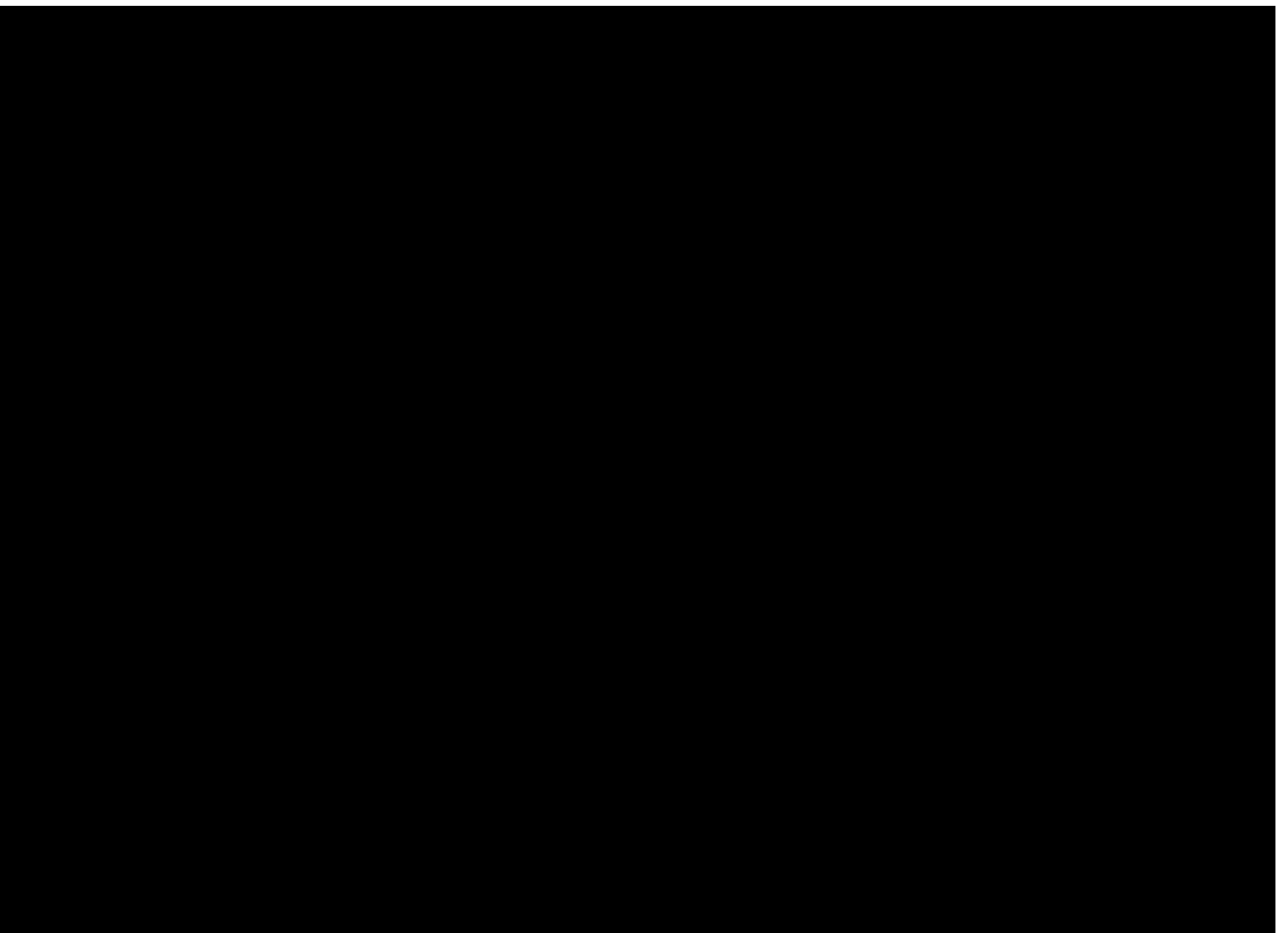
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1 case also, from the last coaching that happened.

2 And the Prosecution said that they are focusing on the Al Hassan case and that they
3 are interested -- as well as the Chamber and, yourself, ma'am. You all wanted to
4 know about the level of responsibility of Mr Al Hassan regarding what happened in
5 Timbuktu and the events in Timbuktu, the state he was in, the position he had within
6 the group - and within the decision-making spectrum - and his role in the
7 implementation and in the events in Timbuktu.

8 As to -- his characterisation of events is something, it is something that I -- as to the
9 characterisation of the acts done by the Prosecution, that is something I did not pay
10 attention to. That's a legal matter, and it's up to you, the legal experts, to determine.
11 My role was to tell what I know about the period in question. What I know about Al
12 Hassan, his actions and his position within the group.

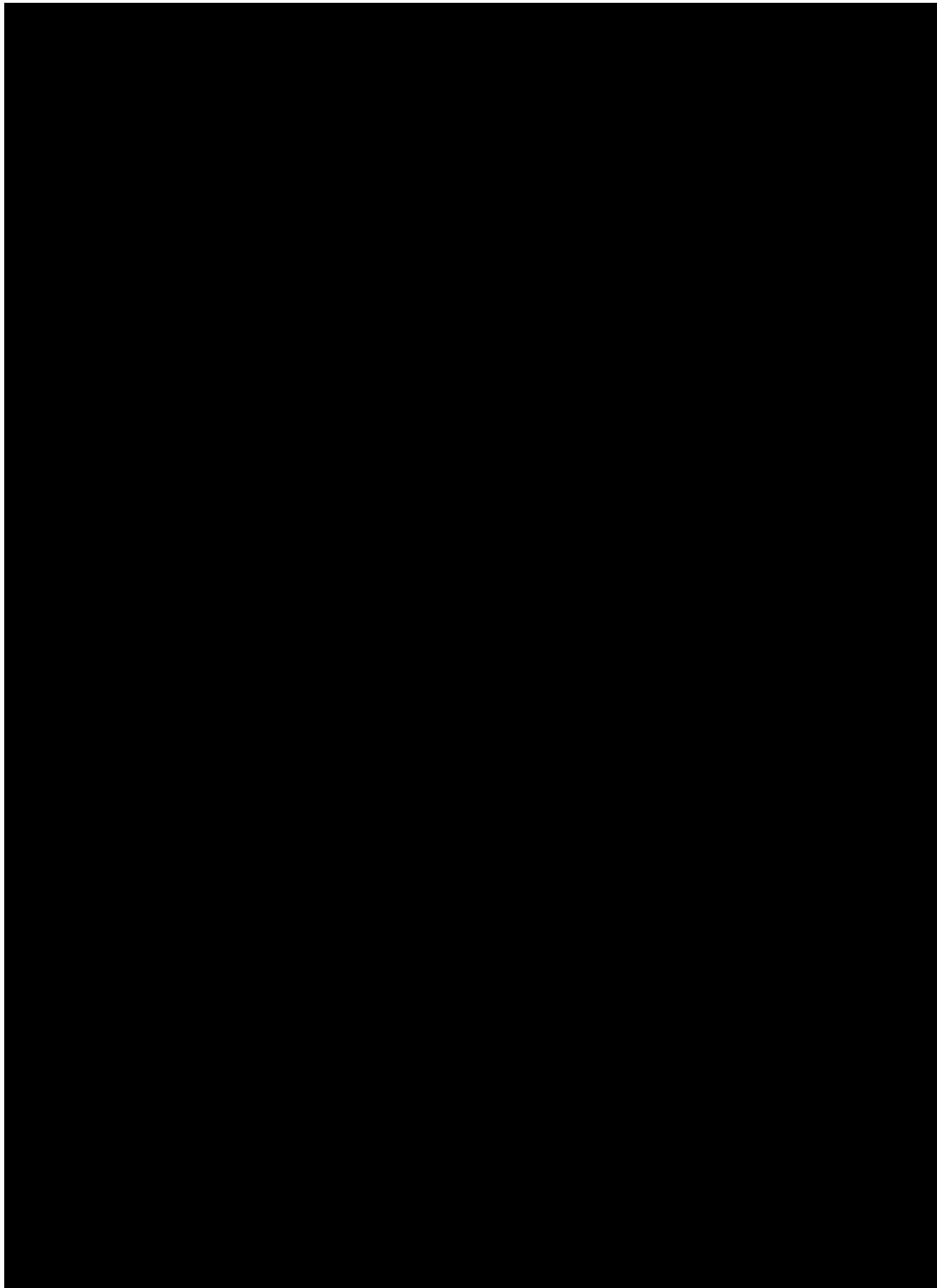


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1 court chamber would ask me to confirm the accounts included in these binders, I
2 would be happy to respond affirmatively.

3 Q. [12:57:10] Now, would it be fair to say that over the course of the numerous
4 interactions you've had with the Prosecution, you've developed a bond with them?

5 A. [12:57:36] Yes, and occasionally I would be jocular in my exchange with them
6 because I've gotten acquainted with everyone in this office. Sometimes I would tell

7 [REDACTED]
8 [REDACTED]

9 So I would be jocular with them, which means how open I was in my approach with
10 them. This is true on my side. I have no idea how is the case on their side. I'm
11 telling you my emotions.

[REDACTED]

15 MR DUTERTRE: [12:58:45](Interpretation) Mr President.

16 PRESIDING JUDGE MINDUA: [12:58:46](Interpretation) Prosecutor.

17 MR DUTERTRE: [12:58:47](Interpretation) For some moments now, we've been
18 having questions for which the relevance has not been established, and I think that
19 this is one of them.

20 And since time is passing, I could tell you that I will only need half an hour for my
21 redirect.

22 PRESIDING JUDGE MINDUA: [12:59:17](Interpretation) Ms Taylor, we are also
23 wondering about the relevance of your last question.

24 MS TAYLOR: [12:59:27] I believe that if I can continue, I can actually finish in the
25 next 10 minutes. But the question, the reason why it's relevant, is because of the

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1 answer of the Prosecution to this. It's specifically the answer of the Prosecution that
2 we consider to be relevant.

3 So if I can just -- and I do believe it's important that we have that opportunity, because
4 according to the transcripts, the Prosecution then said to him that: Whoever we
5 believe in or blame up there, the reward will come.

6 So it's only fair that we have the opportunity to put that to the witness.

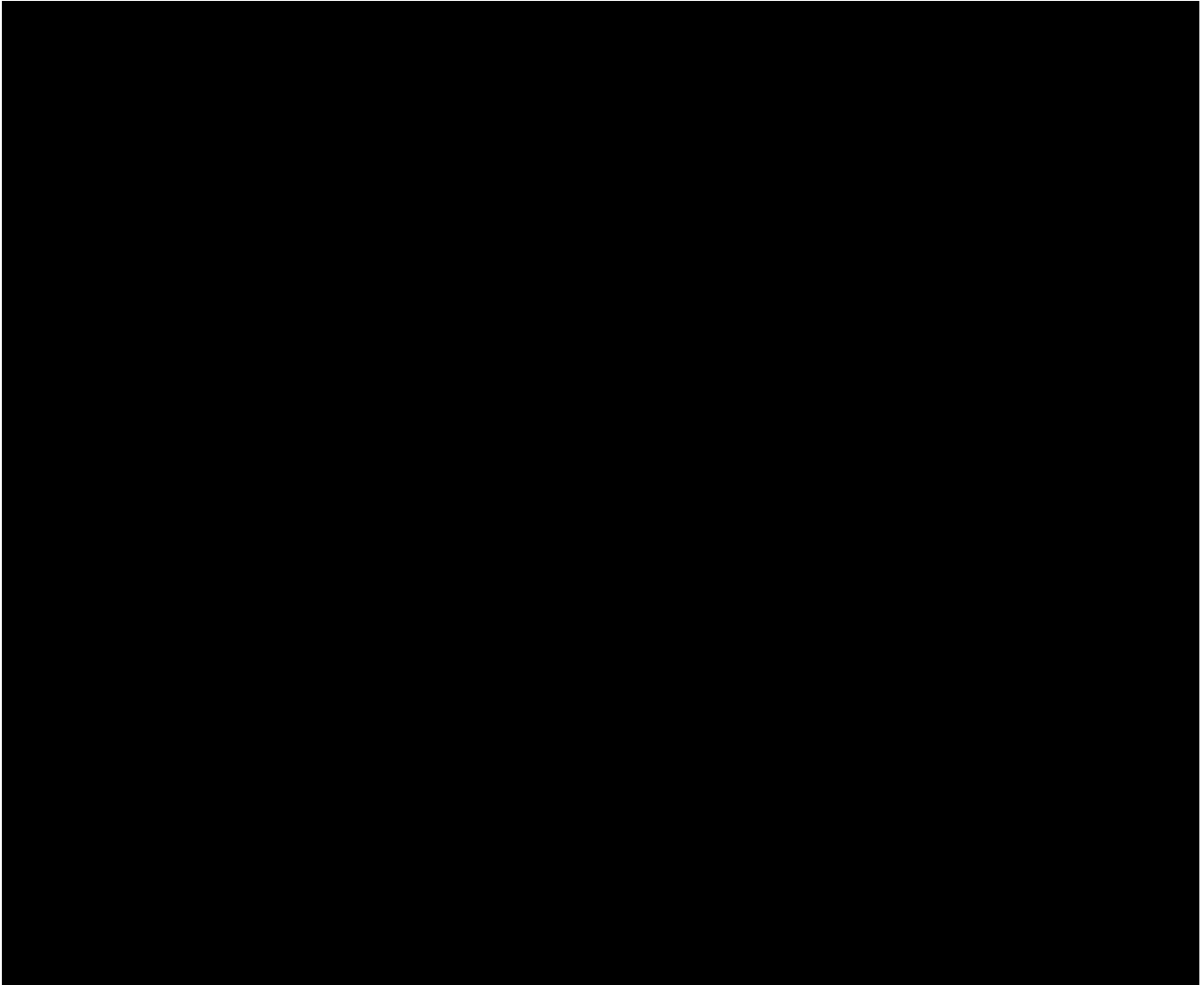
7 PRESIDING JUDGE MINDUA: [13:00:18](Interpretation) Yes, please, go ahead.

8 Ask your question.

9 MS TAYLOR: [13:00:21]

10 Q. [13:00:22] Mr Witness, do you recall that exchange?

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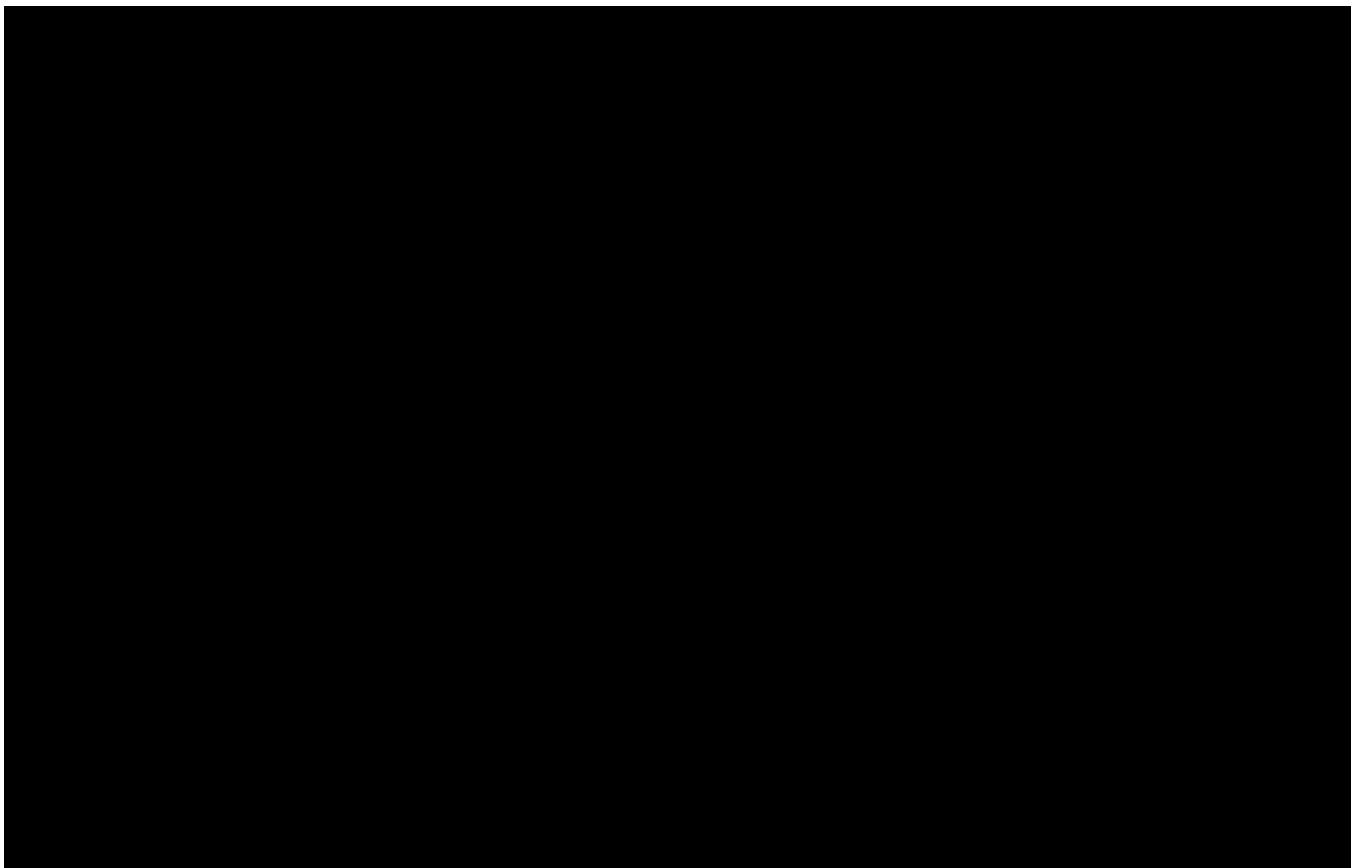
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13 Q. [13:04:25] Do you recall this?

14 PRESIDING JUDGE MINDUA: [13:04:28](Interpretation) Mr Prosecutor.

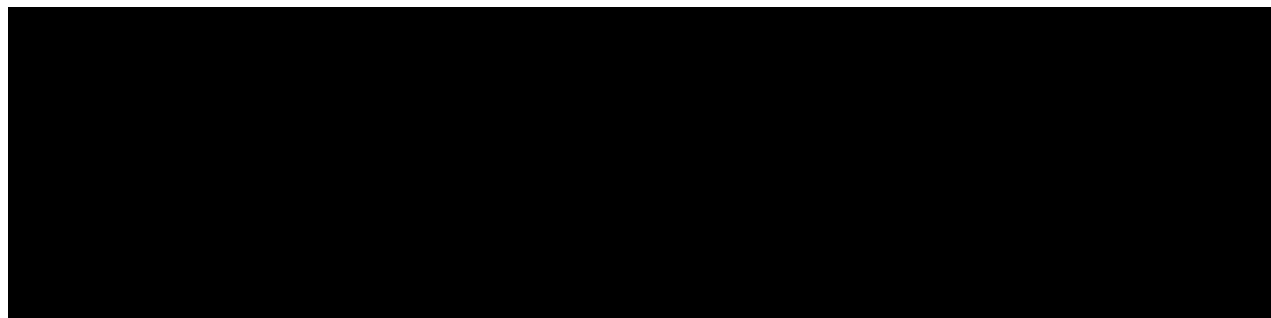
15 MR DUTERTRE: [13:04:30](Interpretation) Yes, Mr President. We would need to
16 allow the witness to see the context prior to this to enable him to have an overview of
17 these exchanges with the interviewer.

18 PRESIDING JUDGE MINDUA: [13:04:46](Interpretation) There we are.

19 Please go ahead, Ms Taylor.

20 MS TAYLOR: [13:04:55] In that case, we can go to 9108, and I'll read -- I can read
21 fully from 93- -- from line 935. And it says:

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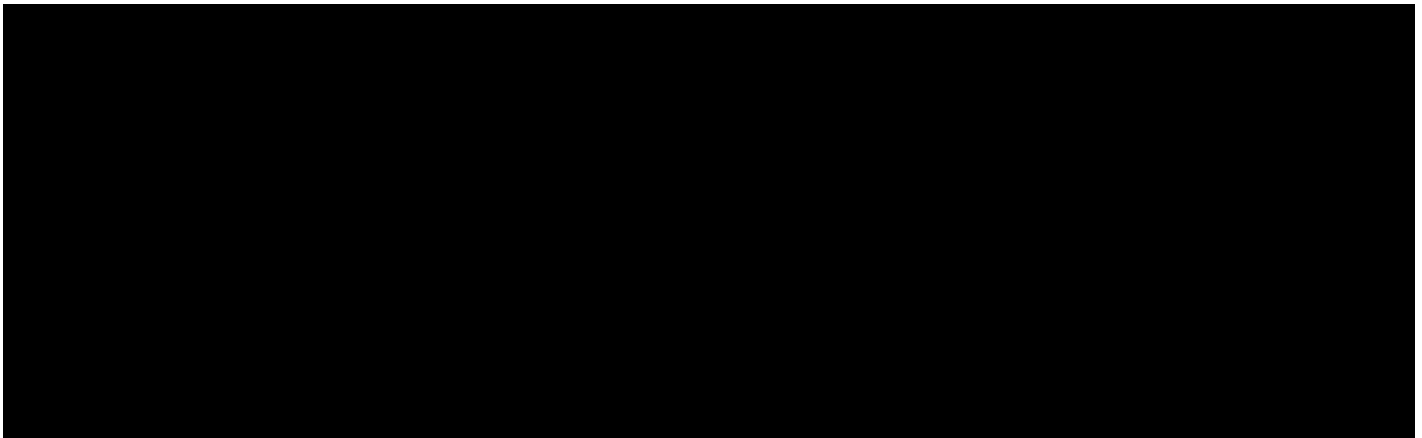


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7 Interviewer [1]: If you allow, we will discuss with VW and see what can ... what we
8 can offer either locally or by sending someone.

9 Interpreter: Yes.

10 Interviewer [1]: Other than that, I know I am not in a position to advi[s]e you or to
11 know what's going on inside your head."

12 Turning to the next page, 9109.

13 "All I know is that from what you've told us, you've been through some hardship and
14 I think you shouldn't give up now.

15 Interpreter: ...

16 Interviewer [1]: Whoever we believe in or blame up there, I think we need to ... we
17 will in the end.

18 [...] The reward will come.

19 Interpreter: I need to be reminded by that.

20 Interviewer [1]: That's what I'm trying to do ...

21 [...] Yes, good, OK, and now I have the final procedural series of questions to you."

22 Q. Were you able to follow the Arabic, Mr Witness?

23 A. [13:07:41] Yes. The translation misses something. The words "whoever we
24 blame up there," that's not in the Arabic. But -- but you could put your question
25 anyway because I understand it from the English at least.

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1 Q. [13:08:11] Do you recall this exchange?

2 A. [13:08:15] I remember it very well.

3 Q. [13:08:26] Now, apart from the issue you just pointed out, is it an accurate
4 reflection of this exchange?

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6 And with the permission of the Chamber, if my colleague, Ms Chahla, could read

7 lines 43 to 47.

8 PRESIDING JUDGE MINDUA: [13:12:21](Interpretation) Please go ahead, Counsel.

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22 PRESIDING JUDGE MINDUA: [13:14:32](Interpretation) Mr Prosecutor.

23 MR DUTERTRE: [13:14:33](Interpretation) Mr President, I do find it difficult myself

24 to understand this question, which is ...

25 THE INTERPRETER: [13:14:43] Overlapping speakers.

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1 PRESIDING JUDGE MINDUA: [13:14:46](Interpretation) This is a very ambiguous
2 question.

3 Please rephrase, Ms Taylor.

4 MS TAYLOR: [13:14:48] Certainly. I'll reformulate.

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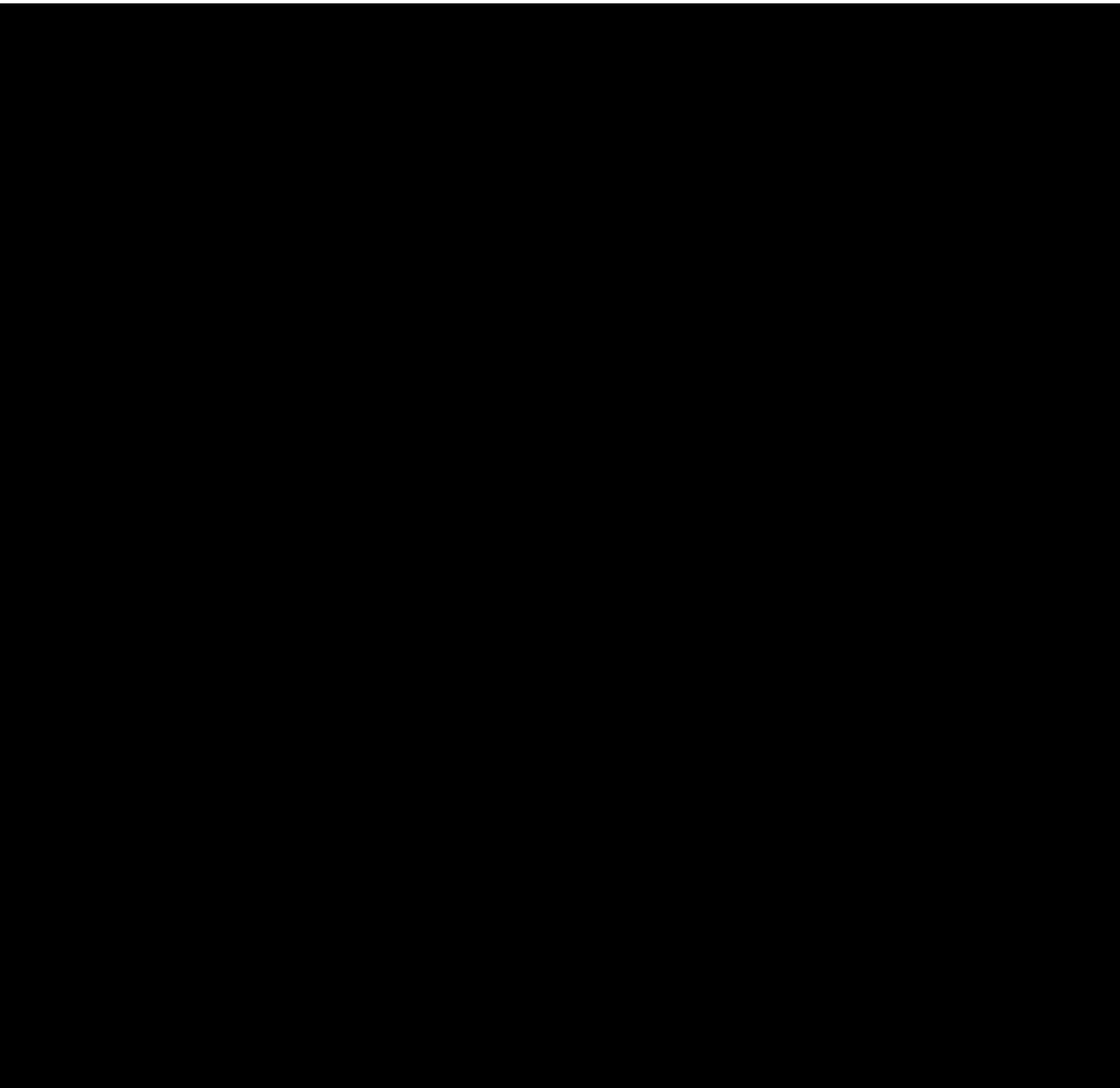
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19 MS TAYLOR: [13:19:26] I have no further questions, Mr President.

20 PRESIDING JUDGE MINDUA: [13:19:29](Interpretation) Ms Taylor, was that your
21 last question?

22 MS TAYLOR: [13:19:39] Yes, Mr President.

23 PRESIDING JUDGE MINDUA: [13:19:44](Interpretation) Ah, very well, because I
24 was going to put a stop to the hearing for us to break for lunch because, in principle,
25 we should be -- we should have stopped at quarter past one, but it's now nearly 1.20.

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1 So we shall rise for lunch and return at 2.15, and, in theory, we shall be finished
2 by 3.30.

3 Court is suspended.

4 (Recess taken at 1.20 p.m.)

5 (Upon resuming in closed session at 2.16 p.m.)

6 THE COURT USHER: [14:16:54] All rise.

7 Please be seated.

8 PRESIDING JUDGE MINDUA: [14:16:59](Interpretation) The Court is back in
9 session.

10 Now, Ms Taylor, if I've understood correctly, you have completed your
11 cross-examination. Is that correct?

12 MS TAYLOR: [14:17:12] Yes. That's correct.

13 PRESIDING JUDGE MINDUA: [14:17:13](Interpretation) Very good. Thank you
14 very much on behalf of the Chamber.

15 And so now, we can turn to any supplementary questions from the Prosecution. The
16 Prosecution said it would possibly be half an hour or so, and then there will be some
17 questions from the Chamber.

18 But first, reaction to the questions from the Defence. We do not want to put
19 anybody at all under pressure. We need to finish by 15.30 today, because the
20 witness has to meet his religious obligations. But, if necessary, we could suspend the
21 hearing at 15.13 -- .30 and return on Wednesday morning, tomorrow being a day off.

22 So I just wanted to be clear that nobody should feel under pressure.

23 So having said that, Mr Prosecutor, you have the floor.

24 MR DUTERTRE: [14:18:30](Interpretation) Thank you, Mr President, your Honours.

25 I am going to try and be relatively quick, three or four questions. So I think possibly

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1 less than the half an hour I mentioned, maybe even a quarter of an hour.

2 QUESTIONED BY MR DUTERTRE:

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15 MR DUTERTRE: [14:21:08](Interpretation)

16 Q. [14:21:08] So now I have a matter of substance. In the French transcript, T-119,
17 confidential, in real-time version, page 6, lines 6 to 23, Ms Taylor asked you about the
18 representatives of the tribes who had come to mark their agreement to Ansar Dine
19 implementing the sharia.

20 So my question is as follows, Mr Witness: What powers or what influence would
21 these tribes have had if they'd been in confrontation with Ansar Dine rather than
22 being affiliated to Ansar Dine?

23 A. [14:22:34] That's a rather difficult question because this goes back into the past
24 to different eras. These tribes -- if Al-Qaeda doesn't manage to infiltrate them, for
25 the first time, these tribes would have been able to face Al-Qaeda. But in Timbuktu,

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1 it was too late because Al-Qaeda spent a lot of time mobilising its forces and
2 accumulating power among the tribes of the Sahara in the regions of Abeïbara (phon.)
3 and, also, in the tribes of Al Wasra, and in the mountains.
4 Al-Qaeda managed to exert influence in the mountains of Tigharghar, and a number
5 of Tawari arrived from Libya and other countries, and they were preparing to carry
6 out a revolution, but Al-Qaeda quickly conquered them. And Iyad and his group
7 also managed to infiltrate into the Tuareg groups. So these tribes had no choice
8 except to align with Ansar Dine, but these same tribes also failed to take the chance to
9 constitute an alliance.

10 Q. [14:23:08] When you say "Tawari", which is the word we have in the
11 French transcript, do you mean "Tuareg"?

12 A. [14:25:08] Yes, "Tawari" is "Tuareg". Yes, you're correct.

13 Q. [14:25:16] Now, the third of my four questions, in the French transcript, T-106,
14 confidential, edited version, page 63, lines 23 to 28, Ms Taylor was talking -- was
15 questioning you about Ansar Dine and MNLA, and, particularly, the coordination
16 between MNLA and Ansar Dine.

17 Mr Witness, to your knowledge, what were the true intentions of Iyad Ag Ghaly with
18 regard to the existence of the MNLA lay movement?

19 A. [14:24:50] Iyad Ag Ghaly and some people close to him - such as, *Ibrahim
20 Banna, and Hassan Fagaga, who died in an accident, and others - these were the
21 strongarm that was being used to combat MNLA, and Ansar Dine was to replace the
22 MNLA in the Azawad or Tuareg society in the north of Mali.
23 Rather than going through the young people, MNLA was to attract the young people
24 and -- to try to get them into the MNLA, and to contain the MNLA movement
25 through defeat and combat or give it the choice to be part of Ansar Dine.

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1 So Iyad and the Ansar Dine project were established in order to fight against the
2 MNLA, but there are obviously common points between the MNLA and Ansar Dine.
3 Ansar Dine, even if it's an ideological movement, has drawn -- drawn on or used
4 nationalist principles, which made MNLA believe that the movement was closer to it
5 than Al-Qaeda. And, at that stage, it was easier for MNLA to be part of Ansar Dine,
6 and that would also make it easier to attract and to mobilise the young people.
7 And that idea still persists. Even if Ansar Dine joined Al-Qaeda, Iyad became the
8 head of Al-Qaeda, a new idea emerged, the High Islamic Council, as an example, and
9 all these groups which were set up with the same aim, which was to create the
10 conditions for an atmosphere which could assimilate and -- the nationalist idea of the
11 Islamist idea.

12 Q. [14:27:43] This brings me to my final point --

13 PRESIDING JUDGE MINDUA: [14:27:46](Interpretation) Ms Taylor.

14 MS TAYLOR: [14:27:48] It was simply to ask -- sorry. It was simply to ask the
15 Prosecutor to wait for the translation. That's all. It's just been difficult to follow.

16 PRESIDING JUDGE MINDUA: [14:28:03](Interpretation) Yes. Quite.

17 MR DUTERTRE: [14:28:13](Interpretation) Thank you for this reminder,
18 Mr President.

19 Q. [14:28:16] So I come now to my final point.

20 On the subject of a video, MLI-OTP-0009 to 1749, which was played yesterday or the
21 day before, from 00:11:25:17. So that was 00:11:25:17 to 00:12:30:00, 30:00. This
22 video concerned the rooms of the Islamic tribunal in Timbuktu.

23 And I'm now going to show it without the sound on evidence 2. We don't need the
24 sound for this. And I am at 00:11:25:14.

25 (Viewing of the video excerpt)

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1 MR DUTERTRE: [14:31:14](Interpretation)

2 Q. [14:31:14] Mr Witness, have you seen these images well?

3 A. [14:31:28] Yes.

4 Q. [14:31:31] So at transcript 112, Ms Taylor was asking you whether the jihadis

5 had left anything at the hotel La Maison, and you suggested that nothing had

6 been -- and she suggested that nothing had been left behind. And your answer was:

7 "Yes. I believe so."

8 So my question is as follows, Mr Witness -- and, it was whilst viewing these images

9 that the question was put to you. My question to you is: At any given moment in

10 time during this video footage, did you see the specific room in which the tribunal

11 would sit or not?

12 A. [14:33:00] I believe that I need to see the video again to be certain because all of

13 the rooms look the same to me.

14 Q. [14:33:19] I've gone back to 00:11:25:10. And for the record, I stopped at

15 00:12:30:20. But now I'm going back to 00:11:25:12.

16 (Viewing of the video excerpt)

17 MR DUTERTRE: [14:34:46](Interpretation)

18 Q. [14:34:46] I stopped at 00:12:28:22.

19 A. [14:35:07] I've seen the video again, but I do have doubts as to making a

20 distinction between the various rooms. But the room in which the person was

21 standing up, looks like the room in which the Islamic court would sit.

22 I also saw the kitchen; I recognised that room. But it could be that this video also

23 shows rooms on the ground floor, and it may be that there are rooms on the ground

24 floor or rooms on an upper floor where the Islamic court would sit. But the way the

25 images are played, one after the other, raised doubts for me.

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1 And the way this person appears, walking for the first time in this corridor, which
2 faces a room where the court would sit, and when he opened the large wooden door,
3 I believe that that was the room where the court would sit.

4 Q. [14:36:45] Mr Witness, I am at 00:11:57:03.

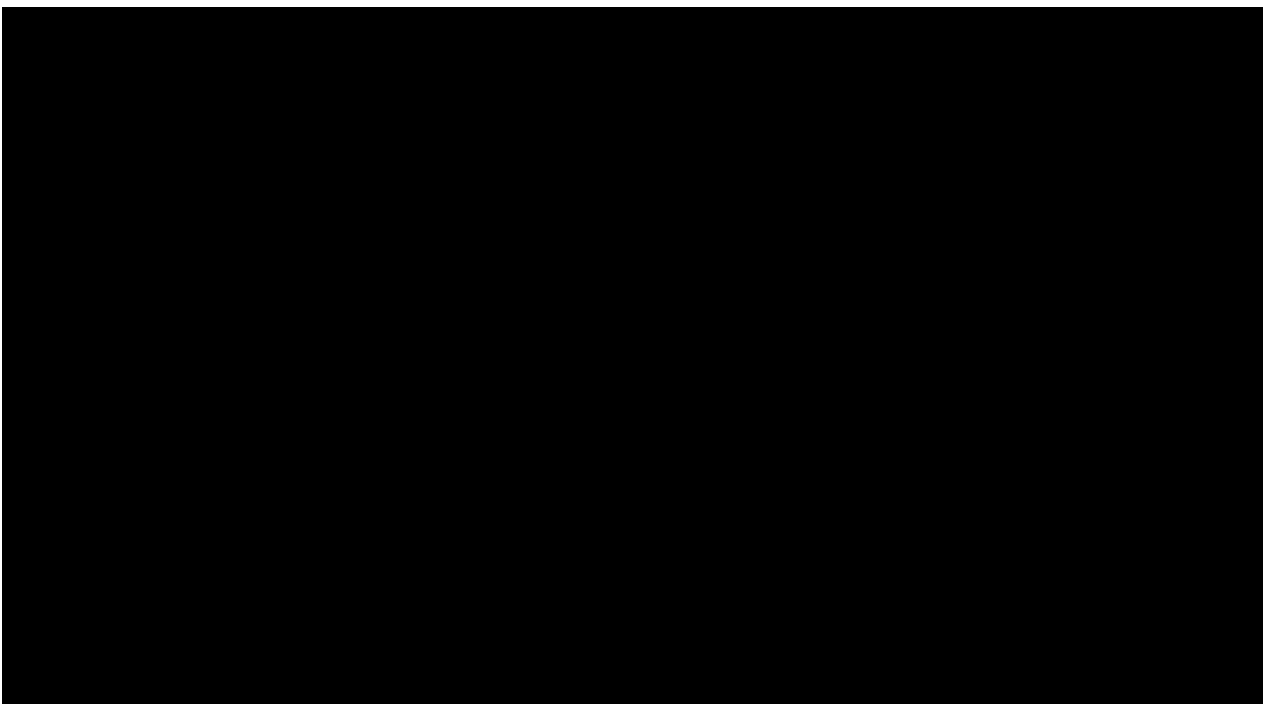
5 Is this the room that you are referring to with the chairs in it?

6 A. [14:37:07] Yes. But to be certain, I need to see it from various angles, and I need
7 to see the windows as well, but I do believe that this room only had one large
8 window.

9 Q. [14:37:38] It's very difficult to scan through this, Mr Witness, but I am now at
10 00:11:58:10, and we can see a window to the right and a window in the corner to the
11 left-hand side, towards which the individual is walking.

12 If this can be of assistance to you?

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23 So from this, we can deduct that this is not the room where the Islamic court would
24 sit.

25 MR DUTERTRE: [14:39:38](Interpretation) I thank you very much, Mr Witness, for

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1 your cooperation.

2 Mr President, your Honours, I have no further questions. These are the few
3 clarifications that I was seeking. Thank you very much.

4 PRESIDING JUDGE MINDUA: [14:39:50](Interpretation) Thank you very much,

5 Mr Prosecutor. You kept your word, and you took a little less than half an hour.

6 So there are questions from the Chamber, and I shall now hand over to Judge Akane.

7 JUDGE AKANE: [14:40:11] Mr Witness, can you hear me?

8 THE INTERPRETER: [14:40:26] The witness's microphone, please.

9 THE WITNESS: [14:40:32](Interpretation) Yes, I can hear the Arabic interpretation.

10 JUDGE AKANE: [14:40:43] I would like to ask you a few questions.

11 Mr Witness, do you know where Mr Al Hassan lived or the location where he slept at
12 night when he worked for the Islamic police in 2012?

13 THE WITNESS: [14:41:29](Interpretation) I do not have much information in this

14 regard. I can answer in the negative because everything that I know about his

15 family circumstances is as follows: That his family was in the Zarho region, and his

16 wife, more specifically, I know that on a specific moment in time, he transferred one

17 of his wives or both of his wives to the city, but I do not have any specific information

18 in this regard. So my answer to that question is no.

19 JUDGE AKANE: [14:42:14] So he resided in the city of Timbuktu?

20 THE WITNESS: [14:42:26](Interpretation) Yes. In any case, he lived in Timbuktu

21 and spent a lot of time there and only went out to work. When his wife was in town,

22 he would spend the night at home. And if she wasn't there, he would spend the

23 night at one of his friends' house or in the centre.

24 JUDGE AKANE: [14:42:58] Please clarify the "centre."

25 Where is the centre?

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1 THE WITNESS: [14:43:11](Interpretation) I am talking about the headquarters of the
2 police. That was his place of work, at the headquarters, the first or second
3 headquarters, that is.

4 JUDGE AKANE: [14:43:30] Thank you very much. I'll move on to the next
5 question.

6 In your testimony, you stated several times that Al Hassan was a adherent to the
7 group of -- or Al Hassan joined the group or to the jihadist group. My question is:
8 Do you know whether Mr Al Hassan pledged allegiance to one of the emirs or to the
9 jihadist group, such as, Al-Qaeda during the period of April 2012 to January 2013?

10 THE WITNESS: [14:44:31](Interpretation) Pledging allegiance is a confidential
11 matter, and people do not know when this occurs. But according to the rules of the
12 groups, the status of -- Mr Al Hassan's status can only be occupied by an individual
13 who has pledged allegiance, whether it be in writing or orally.

14 JUDGE AKANE: [14:45:00] Thank you very much. I'll move on to another
15 question.

16 In transcript 96, page 59, lines 4 to 7, you stated that:

17 "The presence of the police" -- at the Islamic court -- "is for the purpose of guarding
18 the door and [...] accompanying the defendants to the upper floor and also escorting
19 them out."

20 And in transcript 97, page 55, lines 11 to 12, and page 56, lines 4 to 5, you also stated
21 that: "The police was always at the door of the court ..." and also, in front of the
22 entrance of the building.

23 My question is: Was it a standard procedure that the Islamic police guarded the
24 door of the court and accompanied the defendants to the upper floor and also
25 escorted them out?

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1 THE WITNESS: [14:46:18](Interpretation) This picture that I have explained is a
2 continuous picture, but I am not aware that the judges asked for guarding or
3 protection outside the doors or that one of the emirs asked for protection or guarding
4 of the judges; that is not something that I know. [REDACTED]
5 [REDACTED]

6 However, the presence of police was always there at the court until the work ended in
7 different forms. You would always find police presence in the waiting corridor,
8 before -- or in front of the court. You will find also the police at the main entrance to
9 the court. And this was a continuous situation, and it was not based on official
10 orders. However, the work situation necessitated that this took place.

11 JUDGE AKANE: [14:47:52] Maybe a little bit related to this question, in transcript 97,
12 page 51, line 18, to page 52, line 2, you mention Mohamed Moussa referring a
13 fornication case to the Islamic court.

14 My question is: When defendants are referred to the Islamic court by the *Hesbah*,
15 who guarded the door of the court, and who was accompanying the defendants to the
16 upper floor and also escorting them out?

17 THE WITNESS: [14:48:47](Interpretation) Yes, madam. Your question is based on
18 an image of a clear administrative system of this group. However, I cannot really
19 answer this clearly. I cannot say whether this was a clear or a regular procedure or
20 not.

21 [REDACTED]
22 [REDACTED] And I think that Mohamed Moussa, when he refers someone to the court, he
23 just refers them to the judiciary and does not have a role after that. And the *Hesbah*
24 does not guard the judiciary and does not wait for the defendants until they are done.
25 So this procedure is the remit of the police.

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1 JUDGE AKANE: [14:49:52] When the cases -- when the cases were sent to the *Hesbah*,
2 to the Islamic court, does the Islamic court also have any involvement during the
3 proceedings and the time of execution of the punishment?

4 THE WITNESS: [14:50:28](Interpretation) Maybe I did not get the interpreting
5 correctly because I heard the word "court" twice.

6 So are you referring to the "court" or to the "*Hesbah*"?

7 JUDGE AKANE: [14:50:42] I will repeat my question.

8 When the cases were sent by the *Hesbah* to the Islamic court, does the Islamic police
9 also have any involvement during the proceedings and the time of execution of the
10 punishment?

11 THE WITNESS: [14:51:16](Interpretation) There are three cases that you refer to in
12 this question. First, the execution of punishment. When the execution of
13 punishment takes place, then the police and the *Hesbah* are expected to appear at the
14 areas for execution of the punishment. And, it looks like the role of these institutions
15 were different. So all the procedures of execution were done by the police, and the
16 *Hesbah* were supervising that.

17 As to the building of the court, the *Hesbah* does not play any role there. It is the
18 police only that takes care of this. I heard the word "proceedings." So if you said
19 the word "proceedings" in English, I would like to assure you that the police does not
20 play any role in the judiciary -- meaning, that the police does not participate in the
21 investigations done by the judiciary. It does not involve itself in the issuance of
22 sentences or any of these matters. Thank you.

23 JUDGE AKANE: [14:52:39] When the defendant was referred by the *Hesbah* under
24 the leadership of Mohamed Moussa, was Mohamed Moussa allowed to participate in
25 the judicial proceeding as a member of the judicial committee?

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1 THE WITNESS: [14:53:12](Interpretation) As I would like to maintain honesty here,
2 I feel worried when you use the word "when" because the word "when" may refer to
3 individual cases. [REDACTED]

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 JUDGE AKANE: [14:54:19] I move on to another question.

12 In transcript -- in transcript 97, page 59, lines 10 to 16, you stated that the police was at
13 the disposal of the judge. They guarded the judge; they provided security for the
14 judge.

15 And you added that: "[...] the judiciary and the police were inseparable."

16 My question is: The Chamber would like to know why was the Islamic police
17 guarding the judges at the Islamic court? Were there any security risks for the
18 judges?

19 THE WITNESS: [14:55:13](Interpretation) Madam, in your previous question, I told
20 you that there is no official procedure that the police would guard the court.

21 However, in practice, this happened according to the way I described. And we need
22 to go back to the idea that the police is the right arm of -- or the right hand of the
23 judge.

24 What I said was, the Islamic judiciary or the Islamic courts existed in Mali even before
25 the extremist Islamic groups took over; it was a traditional kind of judiciary. And

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1 when the group arrived in that area, they told people that the police is now in your
2 hand -- or this force is now in your hands, so use it to apply sharia. This was said to
3 the scholars and the judges as well. So the police is in the hand of the judiciary.
4 However, the security forces dedicated the police to execute the orders of the
5 judiciary, and that's what I mean with it was meant for the judiciary and there wasn't
6 really a -- security forces to guard the judges.

7 JUDGE AKANE: [14:57:05] Thank you very much. I would like to move to another
8 question.

9 In transcript 103, page 15, lines 17 to 22, you stated that: "Abou Zeid and Abou Al
10 Hammam gave" -- the jihadists -- "a house from the governmental facilities that they
11 confiscated when they arrived in Timbuktu. They always made sure that the newly
12 wedded had a house [...] And many of the jihadists lived there with their wives and
13 their families."

14 First question is: Could you please give the Chamber more details about these
15 facilities, in particular, their location, and how this was organised.

16 THE WITNESS: [14:58:17](Interpretation) I just need to know the names of these
17 facilities before the jihadists confiscated them. However, they confiscated all
18 government *institutions like banks, hotels, schools -- school buildings, government
19 school buildings, and also churches and non-Islamic places of worship. Also, they
20 took over the agriculture institution and other institutions.

21 So, in short, they took over all government buildings and also the buildings that
22 belonged to foreigners or those that they considered as infidels. * For example, the
23 courthouse was not a government building, but it belonged to a foreigner, an infidel
24 as they claimed. Also, they took over cafes. And there are some people that they
25 labelled as apostates or infidels, so they took over Tami's house. But at a later stage,

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1 he negotiated with them, so they gave it back to him. So they took over all
2 government buildings and the government facilities and the houses of those they
3 labelled as apostates or infidels.

4 JUDGE AKANE: [15:00:32] Thank you very much.

5 The second question is: Do you know where the young jihadists who arrived in
6 Timbuktu in 2012 lived before they got married?

7 THE WITNESS: [15:01:08](Interpretation) The young jihadists, some of them were
8 not married before, and some of them were married in their countries of origin, and
9 some were married in the deserts of Mali from the Wasra and Tuareg tribes. Some
10 were also married in Gao.

11 So these were those who arrived in Timbuktu. Many of them were from the
12 Polisario. Some were from Morocco, Algeria, Tunisia, and Libya. So their
13 situations differed. Those who came from Algeria, already had relations with those
14 from Azawad and many of them were married to Tuareg and the Arab women.
15 And some got married in Timbuktu. They took a second or a third wife. Some did
16 not have good relations with Tuareg like the Tunisians, for instance, and the
17 Moroccans. So some of them got married and some didn't in Timbuktu. Some of
18 the foreigners who arrived in Gao, before arriving in Timbuktu, could get married
19 from one of the tribes there.

20 THE ARABIC INTERPRETER: [15:02:46] The interpreter didn't hear the name
21 properly. Songhai, probably.

22 THE WITNESS: [15:02:53](Interpretation) And that was how it was.

23 JUDGE AKANE: [15:03:06] Thank you. So you don't know where they were living
24 if they have -- they had no wives or families in Timbuktu?

25 THE WITNESS: [15:03:27](Interpretation) No, madam. I think I misunderstood

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1 your question. Now I do. Those too, lived in the government facilities that were
2 under the control of the group. So, for instance, the building of that radio station,
3 ORT, there were no families living there. There were only unmarried men living
4 there, around 30 of them. And also the building of the tax office. There were
5 unmarried men living there.

6 So the jihadis give -- give some places to the jihadists who were married, and some
7 places were dedicated for those who were not married.

8 JUDGE AKANE: [15:04:19] Okay. Next question: Regarding the detention of
9 women, in transcript 94, page 10, line 5, to page 17, line 4, you spoke at length about
10 the issue of women held in detention.

11 My question is: Did you ever speak with Mr Al Hassan about the issue of women
12 being detained at the first police station or at the second police station?

13 PRESIDING JUDGE MINDUA: [15:04:57](Interpretation) Maître Taylor.

14 MS TAYLOR: [15:05:05] Mr President, I do apologise for interrupting, and it's with
15 great deference that I do so. But this question is predicated on something that was
16 not established in evidence, and, actually, the witness testified clearly to the contrary.
17 So in terms of saying, did he discuss with Mr Al Hassan the issue of women being
18 detained at the first police station or second police station, I don't think that's an
19 appropriate question to put to this witness, given that he has testified quite clearly
20 that women were not detained -- or, to his knowledge, women were not detained
21 there.

22 JUDGE AKANE: [15:05:42] I will formulate the question a little bit.

23 Did you ever speak with Mr Al Hassan about the issue of women being detained?

24 THE WITNESS: [15:05:56](Interpretation) Never. I only talked with Mohamed
25 Moussa about this issue.

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1 JUDGE AKANE: [15:06:09] Thank you very much.

2 Do you -- did you ever speak with Mr Al Hassan about the issue of destruction of
3 mausoleums that occurred in Timbuktu before or after the events?

4 THE WITNESS: [15:06:37](Interpretation) Yes, but he did not participate in any of
5 the consultations about this issue. I remember that when we were lost in the
6 mountains, we were relating stories of things that happened, and I know that Al
7 Hassan encouraged this and considered this an achievement.

8 JUDGE AKANE: [15:07:10] Thank you very much.

9 This will be the last question from myself. In your testimony, in transcript 91, page
10 25, lines 9 to 17, you stated that the Islamic police had two offices and that the second
11 office station was at the government -- governor's mansion or governor's office.
12 Regarding the timing of the move from the first to the second police station, you
13 stated in transcript 91, page 25, line 22, that: "[...] it could be August or September."

14 [REDACTED]
15 [REDACTED]

16 THE WITNESS: [15:08:23] Yes, madam. I was worried when you were posing this
17 question because I was assuming that you were going to ask me if I was sure about
18 that date, because I am not. But it was at least after Ramadan 2012.

19 JUDGE AKANE: [15:08:47] Thank you very much.

20 PRESIDING JUDGE MINDUA: [15:08:53](Interpretation) Thank you, Judge Akane.
21 And now, Judge Prost.

22 JUDGE PROST: [15:09:04] Thank you.

23 Mr Witness, I only have a few brief questions on one topic to explore with you.

24 You provided -- you explained to the Chamber in some detail what you knew about
25 the takeover of Aguelhok and the camp of Amachach. You were not present for

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1 those events, but you identified various sources for your information and that's what
2 I wanted to explore a bit further with you.

3 In transcript 101, page 28 - and these are all the edited transcripts - and transcript 106,
4 page 66, you told us that Koutaiba talked to you at length about the takeover at
5 Amachach. You stated:

6 "[...] he told me the account as you would tell a story in the evening [...]" and that "[...]
7 it was a very long account that he gave us."

8 So I'm just interested in a bit more detail of that conversation you had with him. If
9 you can recall approximately when it took place, perhaps with reference to the events.

10 And it sounds like it wasn't just you present. If you could describe a bit of the
11 context of that conversation.

12 THE WITNESS: [15:10:34](Interpretation) The conversations between Koutaiba and
13 myself happened on different occasions. But the one where I was referring to
14 children's stories, I was talking about a certain period of time, which is the period that
15 Koutaiba and myself spent a month where we slept in approximate beds, and we
16 didn't have our families with us. So we talked a lot.

17
18
19 So we would spend a lot of time reading and talking in my house. And, of course,
20 out of politeness, I wouldn't go to bed until my guests went to bed.

21 So we spent lots of nights up, and, at that time, I became close to Koutaiba. We
22 talked a lot - and, we even fought or quarrelled a bit like children - and we became
23 good friends. And one of these times, he told me what happened in Amachach, and
24 I was not paying a lot of attention at what he was saying. But what stayed in my
25 mind were some of the things that I knew Koutaiba was focused on at the time.

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1 For example, Iyad Ag Ghaly ordered him not to participate in the battle. Then, he
2 actually went behind Iyad's back and participated in the battle. And when Iyad
3 knew of this, he asked him to stay in the back or behind the troops, and he actually
4 went secretly to the front. And he was describing to me how heroic he was during
5 this battle, and how he resisted the idea of emirs of keeping the scholars outside the
6 realm of the battle. And he said that scholars should participate, and, "Even if the
7 emirs tried to keep me away, I will take the initiative and participate and be at the
8 front lines."

9 And Koutaiba also told me that the MNLA failed for several days to control the area.
10 However, when he took the initiative, they managed to take over the place and
11 control it. And he described to me the southern hill where he and his group were
12 situated, where the fire that they shot could reach the barracks.

13 And there is a lot of this that I forgot because I was not paying much attention to what
14 he was saying.

15 JUDGE PROST: [15:13:57] Thank you.

16 And this particular conversation where he gave you those details, do you recall
17 approximately when? You've spoke about the time you were close together,
18 approximately when this was? This conversation, when the conversation took
19 place?

20 THE WITNESS: [15:14:16](Interpretation) Just to be sure, my talks with Koutaiba
21 and with Radwan were before what I'm going to mention now. But I am focusing on
22 the time of the intensive communication between me and Koutaiba. We had very
23 close ideas about our visions, about what we want to do in the future, and this
24 happened in the 11th month and the 12th month of 2013; so the end of 2013. And
25 I'm only going to focus on the 11th month, on November.

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1 JUDGE PROST: [15:15:16] Thank you.

2 And Koutaiba, in recounting this experience to you, was talking about these events
3 afterwards. From what you saw and heard at the time in 2012, did Koutaiba and
4 other fighters who'd been present at these battles, did they speak to you about those
5 battles, those attacks? Or did they speak generally to the armed groups about those
6 battles and attacks after -- after the events?

7 THE WITNESS: [15:15:58](Interpretation) Yes. The people talked about this
8 amongst themselves about what were referred to as the wars, the victories in Kidal,
9 Gao, Timbuktu. These were battles (Arabic spoken), in Arabic, and wars of the
10 Prophet. And there was also a video where the jihadists are
11 exchanging -- discussing on their mobile phones about this. And I would like to
12 stress that I wasn't at all interested in this, but it was a subject that was discussed
13 frequently.

14 JUDGE PROST: [15:16:57] Thank you very much. And did you ever discuss these
15 particular battles/attacks, Aguelhok/Amachach, with Mr Hassan that you recall?

16 THE WITNESS: [15:17:21](Interpretation) I know that Mr Al Hassan did not take
17 part in any of these conquests as they referred to them as, but according to what was
18 said, it was possible there was a discussion between him and me about the conquests
19 in general because the discussions with the -- were with the jihadists, namely. But I
20 can't imagine that we would've spent days in the mountain without this subject
21 coming up. But I -- I can't recall us ever having had this question as a subject of
22 discussion precisely.

23 JUDGE PROST: [15:18:08] Thank you very much, Mr Witness.

24 PRESIDING JUDGE MINDUA: [15:18:18](Interpretation) Thank you, Judge Prost,
25 for your questions.

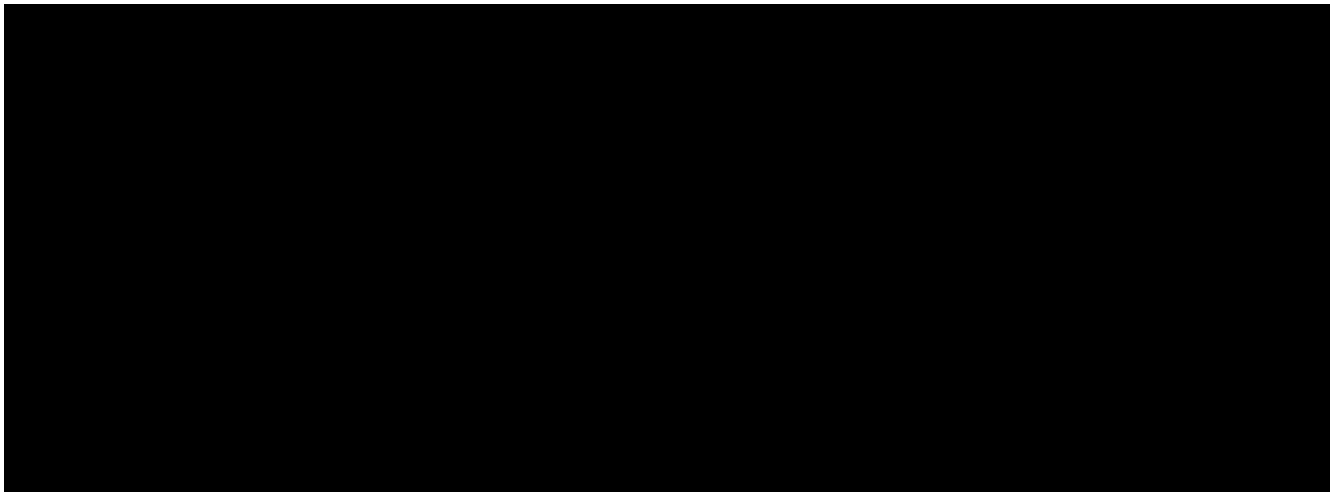
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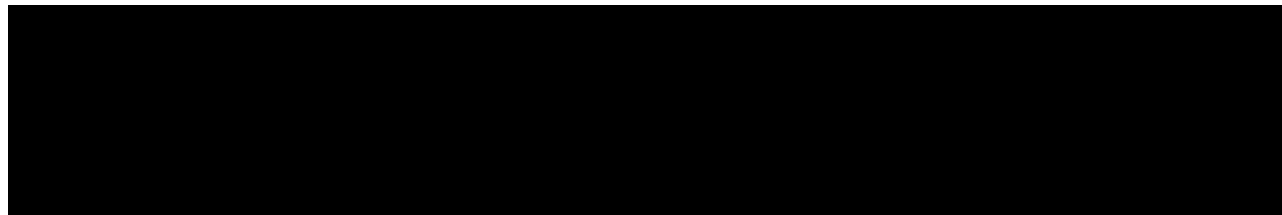
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8 THE WITNESS: [15:19:36](Interpretation) Yes, Mr President, I am sure that Mr Al
9 Hassan was not a sheikh, but -- he didn't have that title, but he was an emir. He
10 didn't have the title, "sheikh."

11 PRESIDING JUDGE MINDUA: [15:19:52](Interpretation) Thank you very much.

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15 THE WITNESS: [15:20:28](Interpretation) Here, Mr President, you're asking me a
16 question that's difficult to give an answer to because it's a very complex matter. The
17 considerations relating to promotions and ranks are different, but none of these are
18 equivalent to the sort of military ranks you referred to. The extremist groups in
19 Timbuktu had their own criteria and parameters to appoint people to posts as they
20 pleased. The most important post was allegiance. Allegiance had to be pledged in
21 advance and they had to -- secondly, they had to clear -- make it clear that they met
22 the minimum ideological criteria that they wanted to promote and promulgate across
23 the territory. And this idea was clear on certain points, migration of the -- of the
24 ideas between the -- migration of the unbelievers and to deny them.
25 And the person -- if the person met these factors and refused all false gods by

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1 believing the principles, he could be ... allegiance to the group, and then you would
2 get a post within the group. And then later, there would be other considerations
3 which came into play.

4 [REDACTED] They chose the face, if you like, the face
5 that allowed them to spread ideology that they wanted to implement without having
6 recourse to an interaction with the local population.

7 So these are some of the criteria, which were the most important: Personality -- well,
8 the person has to be capable of implementing the tasks, and it also needs to be
9 someone who was familiar with the area; and, there was also things like knowledge of
10 the sharia, being literate, having degrees, knowledge of electronics, explosives, having
11 specialist knowledge. But that goes into a different level, I think, to promote the
12 person in question. So the parameters are very varied.

13 [REDACTED]
14 [REDACTED] The *Hesbah* and the police are involved
15 in different areas. Police is there for repression, and the *Hesbah* has a religious
16 vocation. They have, therefore, two different vocations, and it is clear that there are
17 considerations, which mean that the members of the *Hesbah* have certain -- more
18 powers compared with the police. The *Hesbah*, those are seen as being the best men
19 who are the people who can make the sharia well known. The police is a police
20 institution, which is part of the judicial branch and executes orders.

21 There's also a distinction between the two institutions. [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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PRESIDING JUDGE MINDUA: [15:26:00](Interpretation) So finally, in terms of what we might call a philosophy between the police and the *Hesbah*, the distinction is not in terms of degree, but it's the quality of the institutions. I hope that I've made my point, if I've understood you.

Do you know whether Mr Al Hassan spoke regularly with Mr Iyad Ag Ghaly?

THE WITNESS: [15:26:47](Interpretation) When Al Hassan worked for the police, I know that he * did not communicate with Iyad Ag Ghaly on a regular basis because Al Hassan spent most of his time as * an assistant to the chief. His chief is thus the one who would deal with senior chiefs, such as, Abou Zeid and Abou Hammam, and during the final phase where Al Hassan no longer had a superior, he could communicate directly with Abou Zeid and Abou Hammam. And this interaction related often to the availability of equipment or other resources because the police did not get daily orders from the top which had to be executed.

There was a sort of daily round of activities, which were the *Hesbah* and the police.

So this was a kind of routine. If there were any interruptions to this routine, if there was an error or if there was a particular need, the question would be reported up to -- the emirs could intervene. So there would be no regular interaction between Al Hassan and the *emirs. But towards the end, he had to interact with them when Khaled was gone. And finally, when the jihadists went to the mountains, Al Hassan

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1 started meeting Iyad Ag Ghaly. He started to see him more regularly at that point.

2 PRESIDING JUDGE MINDUA: [15:28:31](Interpretation) Thank you. Mr Witness,

3 I'm going to drop some of my questions, given the time, but I have one very last one.

4 Where was Ansar Dine, from which money was made available ... that was

5 distributed to you?

6 THE WITNESS: [15:29:02](Interpretation) It was Iyad Ag Ghaly. Well, Al-Qaeda

7 had money, which they gave to Iyad Ag Ghaly, and this was to do with the money

8 that was got ... and, also, when they attacked other locations. And it was also the

9 booty that they received when they attacked other locations, as well as the goods, the
10 people -- that certain jihadists had acquired in certain conquest zones.

11 And then, of course, you've got the commercial transactions and the profits that came
12 from those. So there were commercial transactions with Arab tribes in the north.

13 They had sources of money, various sources for Al-Qaeda. Al-Qaeda also

14 sent -- devoted a certain amount of money to the -- money that was given to Ansar

15 Dine.

16 PRESIDING JUDGE MINDUA: [15:30:15](No interpretation)

17 MR DUTERTRE: [15:30:17](Interpretation) There is a difference in the English and

18 French translations. And in English, it says: "and he would do so via Khaled", and

19 then it says, the French, it says: "He was obliged to do so in the absence of Khaled".

20 It's not quite the same.

21 PRESIDING JUDGE MINDUA: [15:30:53] (Interpretation) Maybe the witness should
22 be reminded of the -- of the witness (sic).

23 Ms Taylor?

24 MS TAYLOR: [15:30:58] Could I just check this with the Arabic-speaking people on

25 my team, please. And I'm having issues with the translation overlapping; so if we

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1 could just have a moment.

2 PRESIDING JUDGE MINDUA: [15:31:12](Interpretation) Yes. Absolutely. Please
3 go ahead, Ms Taylor.

4 (Counsel confers)

5 THE COURT OFFICER: [15:31:22] Your Honours, just to inform the Chamber that
6 we do not have the English transcript at this moment, but the technicians are looking
7 into it. Thank you.

8 MS TAYLOR: [15:31:40] Perhaps it's an issue that can be best addressed by the
9 interpreters through checking the audio with the transcripts later, because we don't
10 have the transcript at the moment. Because the interpreters will be able to check the
11 audios, and I believe that's -- otherwise, it risks prejudice because we don't have a
12 transcript running.

13 THE INTERPRETER: [15:32:03] Message from the English booth: There was a
14 message from the French interpreter.

15 PRESIDING JUDGE MINDUA: [15:32:06](Interpretation) Yes, indeed. It was the
16 Arabic-to-French interpreter who told us what was what, but I do agree with you.
17 It is 3.30. Ms Taylor, would you like to say anything or not? (Overlapping
18 speakers) to you, Ms Taylor.

19 MS TAYLOR: [15:32:24](Overlapping speakers) Thank you, Mr President. I do
20 understand that the Defence has a right under Rule 140 to put questions to the
21 witness after judges have put questions to the witness. Now, we'd understood that
22 we'll be sitting till 3.15 today. Now, that's what we were told ... 3.30?
23 Yes, so 3.30, sorry. So given the substantive questions that have been put to this
24 witness, I do believe we should have an opportunity to consult with our client. I
25 don't believe we have many follow-up questions, but I do believe it would be

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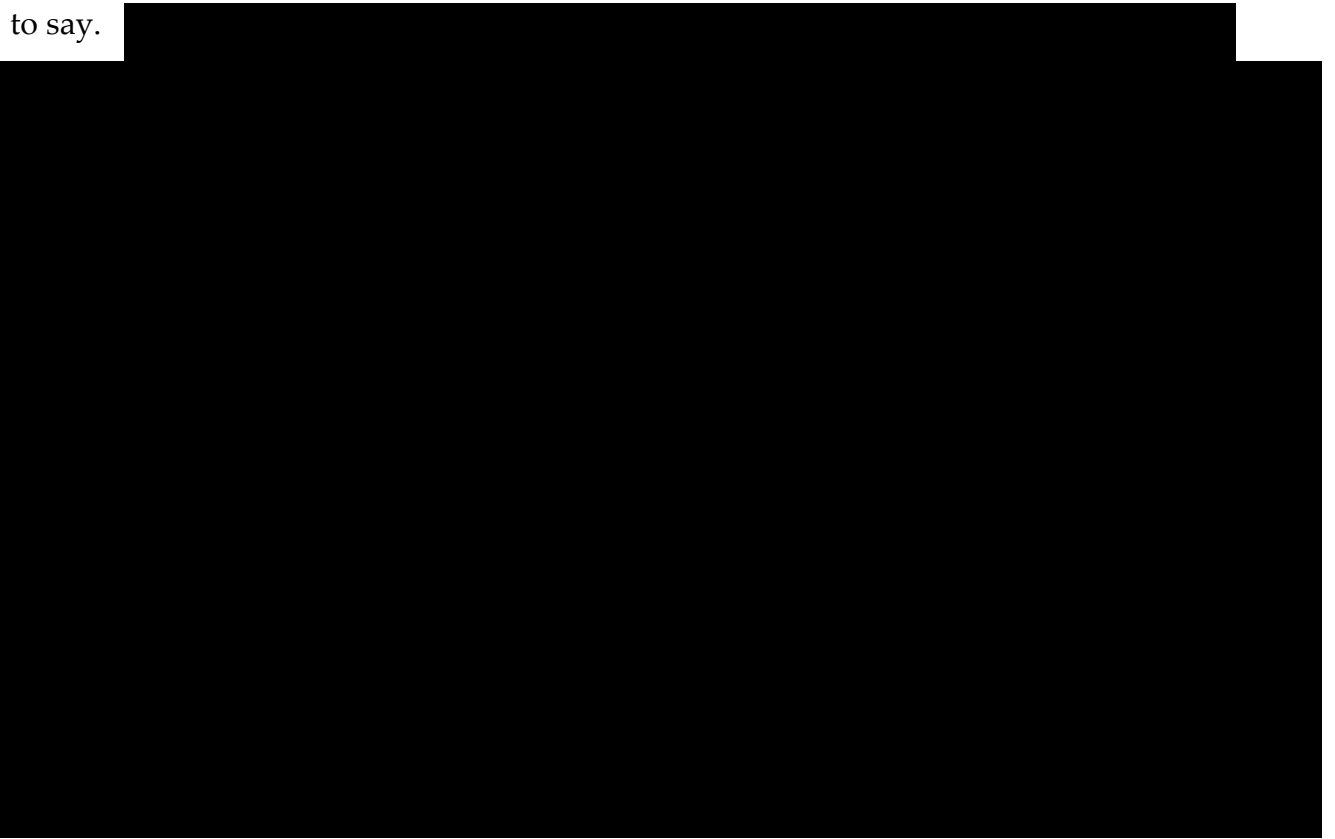
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1 prejudicial to require us to respond directly without having an opportunity to consult
2 with Mr Al Hassan.

3 PRESIDING JUDGE MINDUA: [15:33:10](Interpretation) Well, finish what you have
4 to say.



16 So I am now turning to Ms Taylor to see what she has to say.

17 MS TAYLOR: [15:34:08] I thank you, Mr President. I'm not opposed to this, but I
18 would ask to have a small, 30-minute break, if that's possible. And as I said, I have
19 very few questions, probably three-to-four questions, but I do believe it's important to
20 allow me to consult with Mr Al Hassan. And given the range of questions that were
21 put to the witness, I do believe that this will allow me to focus any questions and
22 allow for a speedy resolution of his testimony.

23 But I do understand the witness has been fasting, so I am attentive to that as well.

24 PRESIDING JUDGE MINDUA: [15:34:44](Interpretation) Thank you very much,
25 Ms Taylor.

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1 I am turning to the witness now.

2 Mr Witness, we are in a quandary, as you can see. The Chamber is obviously ready
3 to work on Wednesday, and tomorrow is an official holiday. [REDACTED]

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 What do you say to that?

8 THE WITNESS: [15:35:32](Interpretation) Yes, Mr President. I do hope that today
9 will be the last day of the hearing. I have no objection to being patient and for us to
10 bring my testimony to an end today, were it possible. [REDACTED]

11 [REDACTED]
12 [REDACTED]

13 But I do have no objection to finishing today, if it's at all possible.

14 PRESIDING JUDGE MINDUA: [15:36:04](Interpretation) [REDACTED]

15 [REDACTED]
16 [REDACTED]

17 So, Ms Taylor, we shall suspend the hearing for 30 minutes to allow you to consult
18 your client. So we shall start at four -- in 25 minutes, would that be all right for you?

19 MS TAYLOR: [15:36:38] I'm sorry. I don't have a transcript still. So was the
20 proposition that we break for 25 minutes? Or that -- yes --

21 PRESIDING JUDGE MINDUA: [15:36:44](Interpretation) Yes. Twenty-five
22 minutes. Yes.

23 The hearing is suspended.

24 (Recess taken at 3.37 p.m.)

25 (Upon resuming in closed session at 4.00 p.m.)

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- 1 THE COURT USHER: [16:00:06] All rise.
- 2 Please be seated.
- 3 PRESIDING JUDGE MINDUA: [16:00:26](Interpretation) Court is in session once
- 4 again, and it's over to Ms Taylor.
- 5 Ms Taylor, please.
- 6 MS TAYLOR: [16:00:41] Thank you.
- 7 QUESTIONED BY MS TAYLOR:
- 8 Q. [16:00:54] Good afternoon, Mr Witness.
- 9 A. [16:00:55] Thank you very much. I am -- I am well.
- 10 Q. [16:01:00] Now, Mr Witness, at page 86 of the transcript, you were asked by
- 11 Judge Akane if you knew where Al Hassan lives or the location where he slept at
- 12 night.
- 13 And you said in response:
- 14 "I do not have much information in this regard. I can answer in the negative [...]"
- 15 And then at line 19, you said:
- 16 "But I do not have any specific information in this regard."
- 17 At lines 22 to 25, you then said that he would either be at his wife or at a friend's or in
- 18 the centre. And then you clarified by "centre", you meant his place of work.
- 19 Now, Mr Witness, it's correct, isn't it, that you have no specific information about Al
- 20 Hassan sleeping at his place of work?
- 21 A. [16:02:10] No, and that is why I furnished general -- a general explanation, and I
- 22 believe that he transferred his house to Tellafarandi (sic), from Tellafarandi to
- 23 Timbuktu. And at one moment in time, one or both of his wives were in Timbuktu,
- 24 so then he would go home to sleep.
- 25 But I do not have the full picture, and that's why I answered in the negative saying no.

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1 But there are people who work within the group, who spend their time at their
2 friends' houses if they do not have a wife or if they do not have a house where they
3 can stay over. For example, I spend the night at somebody's house when my wife is
4 not home.

5 Q. [16:03:07] Now, Mr Witness, you were then asked about an issue concerning
6 pledging allegiance and you testified that this issue is confidential.

7 Is it correct that you told the Prosecution during previous interviews that you did not
8 know if Al Hassan had sworn allegiance to someone in Timbuktu?

9 A. [16:03:39] Yes. And I told them that Mr Al Hassan's post, according to the
10 rules, can only be occupied by an individual who has pledged allegiance.

11 Q. [16:03:57] Now, you were asked about whether Mr Al Hassan was an emir. In
12 your response, were you referring to the time period where you believe that Al
13 Hassan took over from Khaled?

14 A. [16:04:17] Yes.

15 Q. [16:04:20] Now, I'd also just like to bring up a Defence document. It's Defence
16 tab 205.

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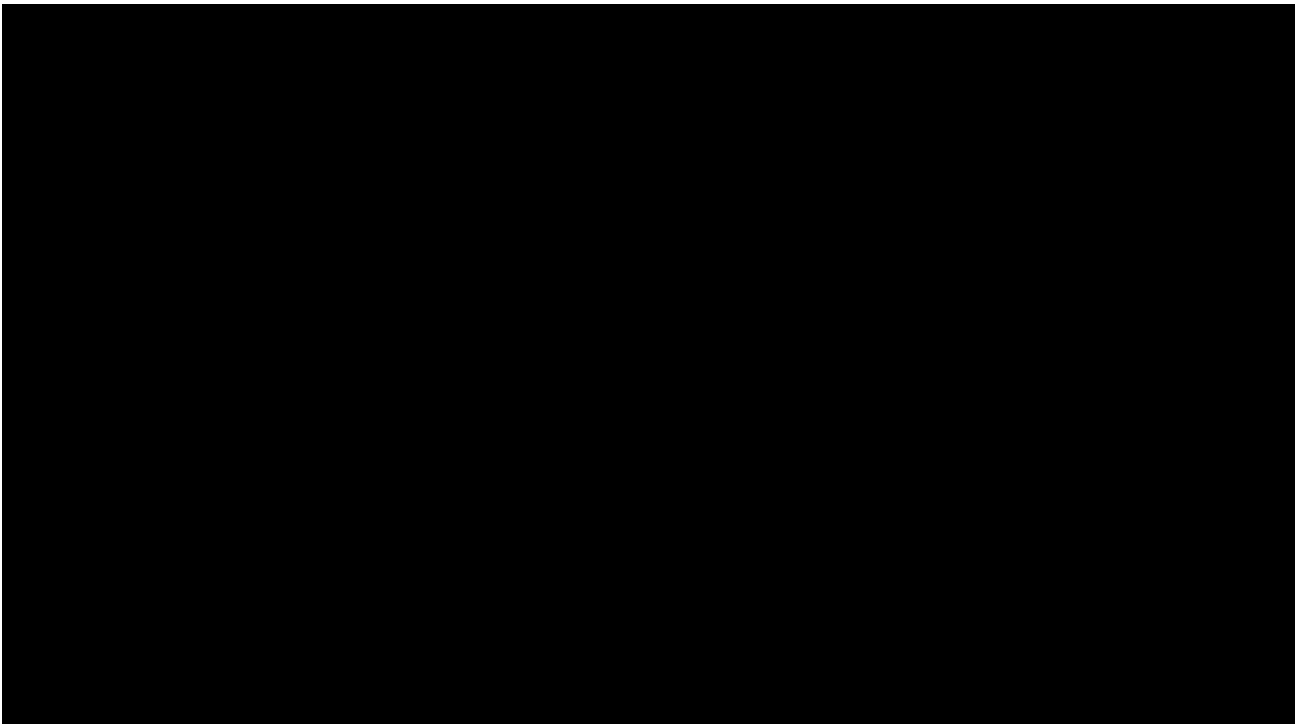
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MS TAYLOR: [16:07:32] I have no further questions.

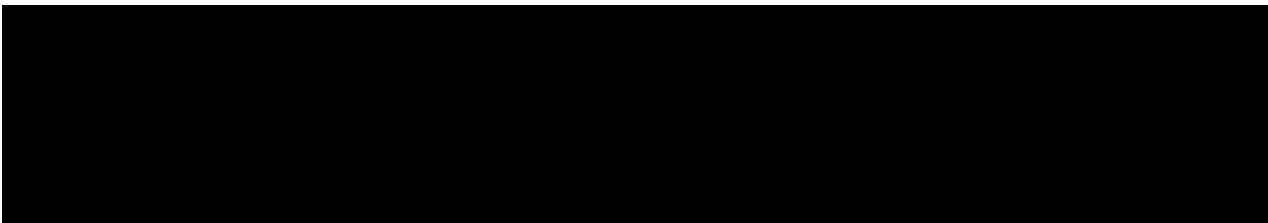
PRESIDING JUDGE MINDUA: [16:07:38](Interpretation) Thank you very much,
Ms Taylor.

So I note that nobody is now requesting to address the Court. So we shall now close
the hearing.

But the witness is getting to his feet, requesting to address the Court.

Mr Witness?

THE WITNESS: [16:08:04](Interpretation) Your Honour, Mr President, I am
expressing myself as if I were to contradict my request to you to curtail today's
proceedings. But in view of the fact that my testimony has come to an end, I would
like to underscore certain points that were embarrassing to me in my testimony,
amongst which, the following:



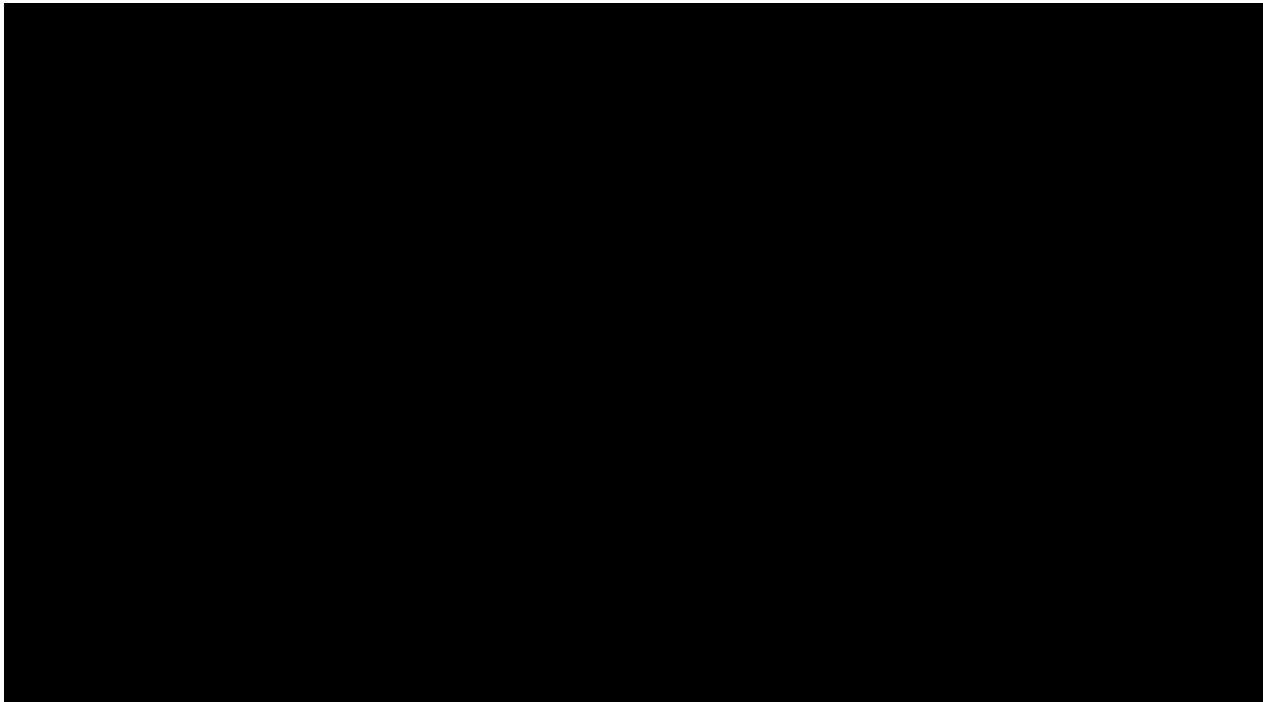
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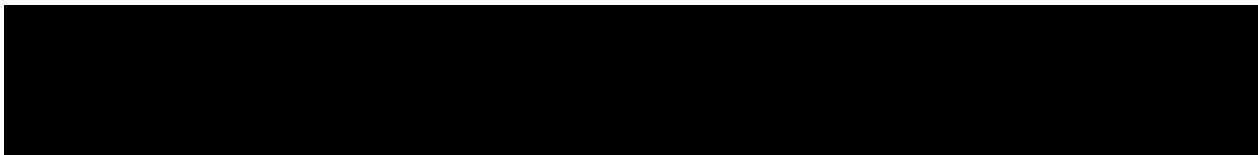


PRESIDING JUDGE MINDUA: [16:10:42](Interpretation) Ms Taylor, you're on your feet.

MS TAYLOR: [16:10:44] Yes, Mr President. And it's not that I wish to curtail the witness, but I am concerned that if he goes into substantive evidence, that will now trigger a right on the part of the Defence to put further questions.

So I do believe that we shouldn't be going into anything substantive at this point.

PRESIDING JUDGE MINDUA: [16:11:12](Interpretation) Mr Witness, I fear that Ms Taylor is right. It is not habitual to allow a witness before the ICC to make a speech after their testimony. I did let you address the Court because I wanted to hear what you had to say, and you've been extremely willing to assist the Chamber in casting light on this matter. But you're now running the risk of starting to address matters of -- going to the merits of the case that will then give rise to further discussion between the parties.



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3 Do you want to add anything else? I think that's enough now.

4 THE WITNESS: [16:12:34](Interpretation) I just wanted to summarise what I was

5 going to say and my testimony. But because this is going to give rise to further

6 questions, well, everything that I was going to say has already been said, I believe.

7 Thank you very much, your Honour.

8 PRESIDING JUDGE MINDUA: [16:12:59](Interpretation) Thank you very much,

9 Mr Witness, for your understanding.

10 So we shall now end today's hearing. And I'm even more in a rush, despite the fact

11 that you have accepted to finish what you had to say. I'd like to thank everybody

12 very -- to thank you, Mr Witness, very sincerely for having assisted the Chamber with

13 your clear responses and your very willing attitude to answer the questions put to

14 you.

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18 I am now going to thank the parties and the Prosecution, Defence, the Legal

19 Representatives for Victims.

20 I'd like to thank the court reporters, the interpreters. These hearings have been

21 particularly difficult with the issues of interpretation, of verification, translation et

22 cetera. I'd like to congratulate you.

23 And also I'd like to thank the security officers, without whom these hearings would

24 not be possible in the harmonious way that they have unfolded.

25 Before we close today, I would like to remind the parties of the rules -- of the rules of

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1 procedure in terms of disclosure. We have now finished with this witness, that is,
2 the 36th Prosecution witness, which coincides with the beginning of the judicial recess,
3 the summer judicial recess.

4 I'd like to wish everyone a very nice summer break, and please take very good care of
5 yourselves.

6 Mr Witness, I'd like to wish you a good onward journey and a good deal of luck, and
7 I've understood that you like to study very much, and I wish you all the best in your
8 future studies.

9 The Court is adjourned.

10 (The witness is excused)

11 THE COURT USHER: [16:15:24] All rise.

12 (The hearing ends in closed session at 4.15 p.m.)

13 CORRECTIONS REPORT

14 The following corrections, marked with an asterisk and not included in the
15 audio-visual recording of the hearing, are brought into the transcript.

16 Page 64 lines 19-21

17 "A. [14:24:55] Iyad Ag Ghaly and some people close to him such
18 as Al Banat who has since died and also person who has also died
19 such as and other people were the strongarm that were being
20 used to combat MNLA." Is corrected to "A. [14:24:50] Iyad Ag Ghaly and some
21 people close to him - such as, Ibrahim Banna, and Hassan Fagaga, who died in an
22 accident, and others - these were the strongarm that was being used to combat
23 MNLA"

24 Page 73 line 18

25 "instances" Is corrected to "institutions"

26

1 Page 73 line 22 to Page 74 line 3

2 "Also they took over cafes. And there are some people that they labelled as infidels.

3 So they took over their building. So they took over all government buildings

4 and the government facilities and the houses of those they labelled as the infidels."

5 Is corrected to

6 "For example, the courthouse was not a government building, but it belonged to a

7 foreigner, an infidel as they claimed. Also, they took over cafes. And there are some

8 people that they labelled as apostates or infidels, so they took over Tami's house.

9 But at a later stage, he negotiated with them, so they gave it back to him. So they took

10 over all government buildings and the government facilities and the houses of those

11 they labelled as apostates or infidels."

12 Page 82 line 13

13 "he communicated" Is corrected to "he did not communicate"

14 Page 82 lines 14-16

15 "as the deputy head of the police, and it was his superior who would deal with other

16 superiors such as Abou Hammam and during the file phase" Is corrected to "as an

17 assistant to the chief. His chief is thus the one who would deal with senior chiefs, such

18 as, Abou Zeid and Abou Hammam, and during the final phase"

19 Page 82 lines 24-25

20 "...emir. And he would do this via Khaled." Is corrected to "...emirs. But towards the

21 end, he had to interact with them when Khaled was gone."

22 Page 89 line 23 to Page 90 line 1

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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