

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open 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
5 Ag Mahmoud - ICC-01/12-01/18
6 Presiding Judge Kesia-Mbe Mindua, Judge Tomoko Akane and Judge Kimberly Prost
7 Trial Hearing - Courtroom 3
8 Monday, 4 July 2022
9 (The hearing starts in open session at 2.31 p.m.)
10 THE COURT USHER: [14:31:28] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE MINDUA: [14:31:57](Interpretation) Court is now in session.
14 Good afternoon, to all.
15 Would you like to please announce the case, Court Officer.
16 THE COURT OFFICER: [14:32:16] Good afternoon, Mr President, your Honours.
17 This is the situation in the Republic of Mali, in the case of The Prosecutor versus
18 Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference
19 ICC-01/12-01/18.
20 And for the record, we're in open session.
21 PRESIDING JUDGE MINDUA: [14:32:33](Interpretation) Thank you very much,
22 Court Officer.
23 As usual, we will first hear from the parties who is present, please.
24 Office of the Prosecutor.
25 MS SARDACHTI: [14:32:51](Interpretation) Good afternoon, your Honours.

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 The Office of the Prosecutor is represented by Gilles Dutertre, Caroline Leroy, and
2 myself Marie-Jeanne Sardachti, inter alia.
3 PRESIDING JUDGE MINDUA: [14:33:07](Interpretation) Thank you, Prosecutor.
4 THE INTERPRETER: [14:33:07] The Prosecutor also added Charlotte Luijben.
5 MS MARINIER-DOUCET: [14:33:18](Interpretation) Good afternoon, your Honours.
6 Melinda Taylor, Mr Maouloud Al-Ansary, Leila Abid, and myself, Sarah
7 Marinier-Doucet, representing Al Hassan's Defence.
8 PRESIDING JUDGE MINDUA: [14:33:33](Interpretation) Thank you very much,
9 Ms Doucet.
10 I turn now to the representative of victims.
11 MR LUVENGIKA: [14:33:41](Interpretation) Good afternoon, your Honours.
12 The victims at this hearing are represented by Madam Tovia Vila Romane, and myself
13 Fidel Nsita Luvengika. Thank you.
14 PRESIDING JUDGE MINDUA: [14:33:58](Interpretation) Thank you very much,
15 Mr Nsita.
16 Now, this afternoon we will be hearing from Witness P-0529.
17 Before we invite the witness to enter, I would like to ask the counsel for the witness to
18 introduce themselves.
19 THE INTERPRETER: [14:34:20] Please switch your microphone on.
20 MS CARIOLOU: [14:34:23] Apologies.
21 Good afternoon, Mr President, your Honours.
22 Leto Cariolou, and I am appearing before you today on behalf of the -- as legal
23 adviser to the witness. Thank you.
24 PRESIDING JUDGE MINDUA: [14:34:39](Interpretation) Thank you very much,
25 Ms Cariolou.

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 So I would now turn to the witness.

2 Witness, good afternoon. How are you?

3 WITNESS: MLI-D28-P-0529

4 (The witness speaks Tamasheq)

5 THE WITNESS: [14:34:56](Interpretation) I'm fine. Thank you very much. I'm
6 very well, by the grace of God.

7 PRESIDING JUDGE MINDUA: [14:35:03](Interpretation) Thank you, Witness. On
8 behalf of the Chamber, I would like to welcome you to the Court.

9 THE WITNESS: [14:35:17](Interpretation) Thank you.

10 PRESIDING JUDGE MINDUA: [14:35:20](Interpretation) You are going to testify
11 before the Court in the case against Mr Al Hassan to help us assess or ascertain the
12 truth.

13 THE WITNESS: [14:35:41](Interpretation) Yes.

14 PRESIDING JUDGE MINDUA: [14:35:44](Interpretation) Protective measures have
15 been put in place to ensure that your identity is not revealed to the public.

16 THE WITNESS: [14:36:08](Interpretation) Yes.

17 PRESIDING JUDGE MINDUA: [14:36:10](Interpretation) Each time that you are
18 obliged to provide details which may reveal your identity, you will have the
19 opportunity to give those details in closed session -- private session.

20 THE WITNESS: [14:36:33](Interpretation) Okay.

21 PRESIDING JUDGE MINDUA: [14:36:36](Interpretation) That means that nobody
22 outside of this courtroom will be able to hear you during those periods of time.

23 THE WITNESS: [14:36:51](Interpretation) Indeed. Noted.

24 PRESIDING JUDGE MINDUA: [14:36:56](Interpretation) Witness, I'm now going to
25 invite you to take a -- or, make a solemn declaration, and this pursuant to

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

- 1 Regulation 66(1) of the -- or, sorry, Rule 66(1) of the Rules of Procedure and Evidence.
- 2 THE WITNESS: [14:37:24](Interpretation) I understand.
- 3 PRESIDING JUDGE MINDUA: [14:37:28](Interpretation) I would ask you now to
- 4 repeat what I say.
- 5 THE WITNESS: [14:37:39](Interpretation) Okay.
- 6 PRESIDING JUDGE MINDUA: [14:37:41](Interpretation) I solemnly declare that I
- 7 shall state the truth.
- 8 THE WITNESS: [14:37:51](Interpretation) I solemnly declare that I shall speak the
- 9 truth.
- 10 PRESIDING JUDGE MINDUA: [14:37:57](Interpretation) All the truth and nothing
- 11 but the truth.
- 12 THE WITNESS: [14:38:04](Interpretation) The full truth and nothing but the truth.
- 13 PRESIDING JUDGE MINDUA: [14:38:13](Interpretation) Thank you, Witness.
- 14 Witness, you are now under oath.
- 15 THE WITNESS: [14:38:22](Interpretation) I understand.
- 16 PRESIDING JUDGE MINDUA: [14:38:25](Interpretation) The representative of the
- 17 Victims and Witness Unit, and Defence counsel, have already explained to you what
- 18 that means.
- 19 THE WITNESS: [14:38:47](Interpretation) Yes.
- 20 PRESIDING JUDGE MINDUA: [14:38:50](Interpretation) I now have some advice to
- 21 you, advice of a practical nature.
- 22 THE WITNESS: [14:39:01](Interpretation) Okay.
- 23 PRESIDING JUDGE MINDUA: [14:39:04](Interpretation) You must bear in mind
- 24 that, throughout your testimony, everything that you say in this courtroom will be
- 25 noted in writing by court reporters. Also, what you say will be translated at the

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 same time into various languages by the interpreters.

2 THE WITNESS: [14:39:42](Interpretation) Yes, I understand.

3 PRESIDING JUDGE MINDUA: [14:39:46](Interpretation) It is therefore important
4 that you speak clearly and that you take your time.

5 THE WITNESS: [14:39:59](Interpretation) I understand.

6 PRESIDING JUDGE MINDUA: [14:40:02](Interpretation) And of course, if you have
7 a question, please just raise your hand to let us know that you would like to speak.

8 THE WITNESS: [14:40:22](Interpretation) I understand.

9 PRESIDING JUDGE MINDUA: [14:40:25](Interpretation) First of all, the lawyers of
10 the Defence will put questions to you. That's what we call examination-in-chief.

11 And then the Prosecutors will put their questions. That's what he call
12 cross-examination. And then the victims representatives. And in due course,
13 possibly, the Chamber will put questions to you.

14 THE WITNESS: [14:41:05](Interpretation) I understand.

15 PRESIDING JUDGE MINDUA: [14:41:09](Interpretation) Well, then I think we can
16 move on, straight ahead, and I'm going to offer the floor to Ms Doucet.

17 Ms Doucet.

18 MS MARINIER-DOUCET: [14:41:24](Interpretation) Thank you.

19 QUESTIONED BY MS MARINIER-DOUCET:

20 Q. [14:41:28] Good afternoon, Witness. Are you well?

21 A. [14:41:32] Yes, I'm fine. I'm feeling fine, thanks be to God.

22 Q. [14:41:36] Now, my name is Ms Doucet. We've already met a couple of times
23 and I shall be putting questions to you this afternoon.

24 A. [14:41:51] Okay.

25 Q. [14:41:53] Now, as we already discussed, while we're speaking this afternoon,

Trial Hearing
WITNESS: MLI-D28-P-0529

(Private Session)

ICC-01/12-01/18

1 interpreters are interpreting what we say at the same time, so it's important that we
2 speak at a reasonable pace and that we give short answers.

3 And we've also said that if I raise my hand, it's to indicate to you that you may be
4 speaking for too long and that it's important to take a break so that the interpreters
5 can do their work. So I would ask that you just keep an eye on me to see if at any
6 point in time I do indeed raise my hand.

7 A. [14:42:59] Noted.

8 Q. [14:43:02] Thank you.

9 First of all, I will ask that we move directly into private session, because I need to put
10 some questions which are of an identifying nature.

11 PRESIDING JUDGE MINDUA: [14:43:19](Interpretation) Court officer, please open
12 a private session.

13 (Private session at 2.43 p.m.)

14 THE COURT OFFICER: [14:43:37] We are in private session, Mr President.

15 PRESIDING JUDGE MINDUA: [14:43:38](Interpretation) Thank you very much,
16 court officer.

17 MS MARINIER-DOUCET: (Interpretation)

18 Q. [14:43:43] Now, Witness, we're in private session now, so only the people inside
19 this room will be able to hear your answers to my questions. I'm now going to ask
20 you some questions regarding your identity.

21 Can you give me your full name, please.

22 A. [14:44:02] My name, as far as I know [REDACTED]

23 Q. [14:44:27] Thank you. Is it true that you are also known [REDACTED]

24 [REDACTED]

25 A. [14:44:41] Yes. Yes, indeed, I am.

Trial Hearing
WITNESS: MLI-D28-P-0529

(Private Session)

ICC-01/12-01/18

1 Q. [14:44:47] Do you know what age you are now, approximately?

2 A. [14:45:02] If I am not mistaken, I am currently [REDACTED]

3 Q. [14:45:12] Do you know what age you were in 2012?

4 A. [14:45:29] I think -- I think I was between [REDACTED]

5 Q. [14:45:40] Do you have a NINA card? Did you have a NINA card in 2012?

6 A. [14:45:58] No, no, I didn't have one then. I only had the receipt.

7 Q. [14:46:11] Okay. So when did you submit your request and when did you
8 receive that receipt?

9 A. [14:46:38] I made the request from about [REDACTED] and then it was [REDACTED]
10 that I received it.

11 Q. [14:46:56] Do you know the exact day and month of your birth?

12 A. [14:47:12] No, not really. No, not really. And I never -- I never asked.

13 Q. [14:47:28] You -- are you a member of the [REDACTED] is that correct?

14 A. [14:47:38] Yes.

15 Q. [14:47:40] And that is an ethnic group that is part of the [REDACTED] is that
16 right?

17 A. [14:47:50] Yes, indeed.

18 Q. [14:47:54] Thank you very much.

19 I'm now going to go into the various places you lived, starting with your childhood
20 and up until 2012. So, to start off, in what -- which village were you born?

21 A. [14:48:24] What point in time are you talking about now?

22 Q. [14:48:30] I'm talking about your birth. In which village were you born?

23 A. [14:48:34] I was born [REDACTED]

24 Q. [14:48:40] Could you then tell us where you grew up.

25 A. [14:48:54] I grew up in the vicinity of Timbuktu, outside of Timbuktu, in the

Trial Hearing
WITNESS: MLI-D28-P-0529

(Private Session)

ICC-01/12-01/18

1 bush.

2 PRESIDING JUDGE MINDUA: [14:49:05](Interpretation) Ms Marinier-Doucet, do
3 you think that the information regarding the place that he grew up, do you think that
4 that is identifying? Could we move into open session now?

5 MS MARINIER-DOUCET: [14:49:20](Interpretation) Well, the village is quite small.
6 The settlement is quite small. It's just this question I think we should deal with in
7 private session.

8 PRESIDING JUDGE MINDUA: [14:49:28](Interpretation) Okay. Very well then.

9 MS MARINIER-DOUCET: [14:49:36](Interpretation)

10 Q. [14:49:36] Could you give us the name of that place [REDACTED]

11 [REDACTED]

12 A. [14:50:12] Well, first of all, we lived [REDACTED]

13 [REDACTED] And then we moved [REDACTED]

14 [REDACTED] And that's where I grew up.

15 Q. [14:50:42] Might it be possible to know whether [REDACTED] the place that you refer
16 to, is a village, and whether -- whether the Tamasheq word for the encampment, the
17 [REDACTED]

18 A. [14:51:24] The name you just gave there is the name of a well, a place where
19 people would go to collect water.

20 Q. [14:51:46] Okay. Now, when we refer [REDACTED] when we are in open session
21 we could just refer to that as being the well.

22 This would now allow us now, in fact, your Honour, to move into open -- open
23 session.

24 PRESIDING JUDGE MINDUA: [14:52:05](Interpretation) Court officer, please move
25 into open session.

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 THE WITNESS: [14:52:13](Interpretation) I understand.

2 (Open session at 2.52 p.m.)

3 THE COURT OFFICER: [14:52:24] We're back in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [14:52:31](Interpretation) Thank you very much,
5 Court Officer.

6 MS MARINIER-DOUCET: [14:52:41](Interpretation)

7 Q. [14:52:42] Can you now tell us who you were living with at that well.

8 A. [14:53:00] The people at the well don't stay just in one place. They move
9 around, they come, they go, they leave again. They're always on the move.

10 Q. [14:53:21] And when you grew up by that well, did you go to school?

11 A. [14:53:33] No.

12 Q. [14:53:36] And what language did you speak when you were growing up?

13 A. [14:53:44] Only Tamasheq.

14 Q. [14:53:50] And now you speak a little Hassaniya, is that -- but you learnt it later;
15 is that right? Hassaniya.

16 A. [14:54:05] Yes, that's correct.

17 Q. [14:54:09] And what work did you do by the well?

18 A. [14:54:30] Well, just dealing with livestock, taking care with livestock. Often I
19 would take them to the well so they could drink, or I would herd them. So herding
20 work.

21 Q. [14:54:50] So when you were living by your well, did you often travel to
22 Timbuktu?

23 A. [14:55:08] Yes, indeed, I would go from time to time to Timbuktu.

24 Q. [14:55:17] Could you explain to us how often you would go to Timbuktu. Was
25 it maybe once a week? Was it once a month? Was it twice a month?

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0529

1 A. [14:56:01] Well, it would depend. Sometimes I would go once a week.

2 Sometimes it was a few times a month -- or, sorry, sometimes it was twice a month.

3 It wasn't set.

4 Q. [14:56:16] And why would you go to Timbuktu?

5 PRESIDING JUDGE MINDUA: [14:56:27](Interpretation) Prosecutor.

6 MS SARDACHTI: [14:56:31](Interpretation) I'd like to know from what age we're

7 talking about. The question put was very general. I would like to know from what

8 age these trips to Timbuktu were being made.

9 PRESIDING JUDGE MINDUA: [14:56:47](Interpretation) Ms Marinier-Doucet.

10 MS MARINIER-DOUCET: [14:56:55](Interpretation) Yes, I'm happy to be more

11 specific.

12 Q. [14:57:01] Having grown up by the well, I'm talking about the period before

13 2012. So how often would you travel to Timbuktu and for what reason?

14 THE INTERPRETER: [14:57:15] Or, the question is now: For what reason would

15 you travel to Timbuktu?

16 THE WITNESS: [14:57:29](Interpretation) Well, just to travel, just to make trips.

17 Sometimes to go and get grain, cereal to meet our needs.

18 MS MARINIER-DOUCET: [14:57:42](Interpretation)

19 Q. [14:57:44] And how long did the trip take from your well to Timbuktu?

20 A. [14:58:26] Well, if somebody is riding to Timbuktu, rather than travelling by a

21 vehicle, then they could leave in the morning and arrive in Timbuktu in the afternoon.

22 Or otherwise, they might spend the night and then return the following day.

23 Q. [14:58:49] So I'd like to stay with the period before 2012. Did you have

24 members -- family members who lived in Timbuktu?

25 A. [14:59:17] I did. I did, indeed. I had relatives who lived in Timbuktu.

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 Q. [14:59:26] Could you tell us in which district they lived.

2 A. [14:59:42] Some lived [REDACTED]

3 Q. [14:59:55] Could you describe the living conditions at the well.

4 A. [15:00:12] At the well? Well, how do you mean exactly?

5 Q. [15:00:19] For instance, is a place where there were houses, or did people live
6 more so in tents? Was there electricity and water? So what were the day-to-day
7 living conditions at the well?

8 A. [15:00:48] No, not at all, there's no electricity, except for solar electricity, using
9 panels. And another activity is to go and get water at the well, or otherwise we
10 would take the animals to pasture.

11 Q. [15:01:27] Can you tell us whether those living conditions which you've just
12 described have changed in 2012.

13 A. [15:01:55] How do you mean when you say "changed"? Could you please
14 repeat your question.

15 Q. [15:02:06] Was it the same infrastructure as regards electricity vis-à-vis solar
16 panels? Was it also the same way of going to the wells? Was your daily life
17 different after 2012?

18 A. [15:03:08] No, it didn't really change. Except one thing. From 2012 onwards,
19 the life in the bush was something I left a bit. And I didn't lead that life anymore in
20 2012.

21 Q. [15:03:35] And at the end of 2011, the beginning of 2012, did you continue to go
22 to Timbuktu every month, sometimes once a week or twice a month? Did you
23 continue that activity of going to Timbuktu at the same rhythm at the end of 2011 or
24 the beginning of 2012?

25 A. [15:04:50] No, not really. Not really. At that time, towards the end of 2011, I

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 left northwards to an area called [REDACTED] At that time, in 2012, there wasn't a lot of
2 people who came to the town.

3 Q. [15:05:25] Do you know the reason why many people weren't going back to the
4 town?

5 A. [15:05:50] Because there was insecurity on the ground, and therefore they
6 hesitated. They were scared.

7 Q. [15:06:01] Everybody describes this instability. Could you describe it.

8 A. [15:06:34] Fear which people had, meant that the town became inaccessible and
9 it became impossible to go to the town. Personally, at that time, I was not informed
10 about what was happening in the town.

11 Q. [15:07:03] Do you know whether at that time -- where was the Malian army?

12 A. [15:07:34] Where I was, the place where I was living at that time was in the bush.
13 The army didn't reach this area.

14 As regards the town, I was aware that they were present in the town. But personally,
15 I don't know. I didn't see them since I didn't go to the town during that period
16 of -- just around 2012.

17 Q. [15:08:22] Thank you.

18 With your leave, I will ask Counsel Taylor to proceed from now on.

19 PRESIDING JUDGE MINDUA: [15:08:31](Interpretation) Do proceed.

20 QUESTIONED BY MS TAYLOR:

21 Q. [15:08:55] Good afternoon, Mr Witness. My name is Melinda Taylor and I'll be
22 putting the rest of the questions of the Defence to you.

23 A. [15:09:20] Very well. I have taken note of that.

24 Q. [15:09:25] Now, Mr Witness, you just mentioned at page 14, line 8, that fear
25 meant that the town became inaccessible and people could not go to the town.

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 Mr Witness, what were people afraid of?

2 A. [15:10:24] The people I had links to and who gave me some information, they
3 were scared of the Malian army. They were scared that the army would apprehend
4 them or shoot at them.

5 Q. [15:10:51] And, Mr Witness, do you know why they were scared that the Malian
6 army might apprehend them or shoot at them?

7 PRESIDING JUDGE MINDUA: [15:11:05](Interpretation) Madam Prosecutor.

8 MS SARDACHTI: [15:11:10](Interpretation) I let one question pass. I should have
9 stopped earlier. But this is speculation. He is talking about what goes on in the
10 mind of other people.

11 PRESIDING JUDGE MINDUA: [15:11:22](Interpretation) Madam Taylor, could you
12 rephrase the question, please.

13 MS TAYLOR: [15:11:28] Thank you, Mr President. I do note that the witness said
14 "the people who gave me some information". So we are working off the back of the
15 fact that the witness was provided information on this point.

16 Q. [15:11:40] So, Mr Witness, you've mentioned that you were provided
17 information that people were afraid of the Malian army. Did they tell you why they
18 were afraid of the Malian army, or why they thought they might be shot at or
19 arrested?

20 A. [15:12:36] During that time, there was insecurity around the territory and there
21 were also skirmishes, and that is the reason why people were scared.

22 Q. [15:12:54] Now, Mr Witness, you said that previously you travelled frequently
23 to Timbuktu, but during this period you didn't. Were you afraid of the Malian
24 army?

25 A. [15:13:56] In reality, in that period before 2012, just before 2012 I was in the

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 north, [REDACTED] where I worked. It meant that I didn't have any reason to go to the
2 town at that point in time.

3 Q. [15:14:17] Mr Witness, could you just clarify something for us. How far away
4 [REDACTED] from Timbuktu? How long would it take to travel between the two?

5 A. [15:15:10] The distance between [REDACTED] and Timbuktu is something I don't
6 know with any precision. But I do know that during that time, a person who left
7 [REDACTED] on foot in the morning could arrive in Timbuktu about the beginning of the
8 afternoon.

9 Q. [15:15:32] Now, Mr Witness, the people who told you that they were afraid of
10 the Malian army, what did they do?

11 A. [15:16:02] What did they do? I don't understand the question.

12 Q. [15:16:10] Where were they living at this time?

13 A. [15:16:51] (No interpretation)

14 Q. [15:16:52] Mr Witness, you mentioned that you heard about people being afraid
15 of the Malian army and received information on this. These people that you're
16 talking about, where were they living at this time?

17 A. [15:17:35] The people where I have some information are people -- or, individual
18 who lived in the bush.

19 Q. [15:17:49] And did these people stay where they are, or did any of them go
20 anywhere else at this time, when they were scared?

21 A. [15:18:31] It was different for some individuals. Some stayed in the bush,
22 others fled to go to refugee camps.

23 Q. [15:18:48] Now, Mr Witness, was there a particular point in time when you
24 yourself came into Timbuktu in 2012?

25 A. [15:19:34] Yes, indeed. In 2012, when it was said that the MNLA were in the

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0529

1 town, I went to the town together with a young man.

2 MS TAYLOR: [15:19:53] Mr President, may I go into private session briefly.

3 PRESIDING JUDGE MINDUA: [15:20:01](Interpretation) Court officer, closed or

4 private session, please.

5 (Private session at 3.20 p.m.)

6 THE COURT OFFICER: [15:20:17] We're in private session, Mr President.

7 PRESIDING JUDGE MINDUA: [15:20:23](Interpretation) Thank you, court officer.

8 Madam Taylor.

9 MS TAYLOR: [15:20:27]

10 Q. [15:20:27] Mr Witness, you've stated you came into Timbuktu with a young man.

11 What was the name of this young man?

12 A. [15:20:55] His name was [REDACTED]

13 Q. [15:21:02] And which tribe was he from?

14 A. [15:21:18] He was [REDACTED]

15 Q. [15:21:29] So he was from [REDACTED] Was he related to you?

16 A. [15:21:49] [REDACTED]

17 Q. [15:21:57] [REDACTED]

18 A. [15:22:38] [REDACTED]

19 [REDACTED]

20 MS TAYLOR: [15:22:52] Mr President, I believe we can go into open session.

21 PRESIDING JUDGE MINDUA: [15:23:01](Interpretation) Court officer, open session,

22 please.

23 (Open session at 3.23 p.m.)

24 THE COURT OFFICER: [15:23:12] We are back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [15:23:18](Interpretation) Thank you very much,

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 Court Officer.

2 Counsel Taylor.

3 MS TAYLOR: [15:23:24]

4 Q. [15:23:24] Now, Mr Witness, do you know the approximate age of this young
5 man at that time?

6 A. [15:23:56] No. We don't have the same age. I can't say for certain what age he
7 was, but I know that he was older than I was.

8 Q. [15:24:08] Do you know how much older?

9 PRESIDING JUDGE MINDUA: [15:24:22](Interpretation) The question has already
10 been answered by the witness, Ms Taylor.

11 MS TAYLOR: [15:24:29]

12 Q. [15:24:29] And, Mr Witness, what languages did your friend speak at the time?

13 A. [15:24:54] He spoke Tamasheq and he also understood Hassaniya.

14 Q. [15:25:05] So, Mr Witness, what happened after you and your friend arrived in
15 Timbuktu?

16 A. [15:25:47] When we arrived in Timbuktu, at that time the Ansar Dine were
17 present. My companion therefore asked me that we join that group. And after that
18 we became integrated into the group.

19 Q. [15:26:11] Now, Mr Witness, you stated your companion asked you to join
20 Ansar Dine. How did your companion know about Ansar Dine?

21 A. [15:26:50] Once, when we entered Timbuktu, we saw them circulating in their
22 vehicles, and in that way he understood that they were them.

23 Q. [15:27:08] And had your companion spoken to anyone in Ansar Dine before he
24 proposed this?

25 PRESIDING JUDGE MINDUA: [15:27:31](Interpretation) Madam Prosecutor.

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0529

1 MS SARDACHTI: [15:27:35](Interpretation) At this stage I would ask that these are
2 open questions, not suggestive questions.

3 PRESIDING JUDGE MINDUA: [15:27:46](Interpretation) Madam Taylor, the
4 concern of the Prosecution is legitimate at this stage.

5 MS TAYLOR: [15:28:05] Thank you, Mr President. I do believe it is an open
6 question. We are allowed to put to the witness if his companion had spoken to
7 anyone from Ansar Dine before this point. There's nothing leading in that. He can
8 say yes or no. It doesn't presuppose any established facts.

9 PRESIDING JUDGE MINDUA: [15:28:37](Interpretation) All right, Ms Taylor.
10 Please proceed.

11 MS TAYLOR: [15:28:41]

12 Q. [15:28:41] Mr Witness, had your friend spoken to -- to your knowledge, had
13 your friend spoken to anyone in the group Ansar Dine before he proposed that you
14 join them?

15 A. [15:29:36] When he suggested this to me, at that time he hadn't spoken to
16 anyone in the group. However, when the request was made and I gave my
17 agreement, we then met a man in his vehicle. His name was Abou Youssef. And
18 then he had exchanges with that gentleman.

19 Q. [15:30:04] And in which language were these exchanges?

20 A. [15:30:35] I can't be sure. I wasn't immediately beside them when they spoke.
21 But I understood that the individual, that gentleman, he spoke Hassaniya, so more
22 than likely they spoke in that language.

23 Q. [15:30:57] And were you able to see this individual, Abou Youssef, from where
24 you were?

25 A. [15:31:28] Yes. Yes, indeed. I could see them. In fact, it was in the market

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 and there was a -- there were a lot of people there. It's just that I wasn't close enough
2 to hear what they were saying.

3 Q. [15:31:44] And can you describe Abou Youssef. What did he look like?

4 A. [15:32:13] Well, back then, as far as I remember, he was short, or he was a short
5 man. And he was bearded. He had a beard.

6 Q. [15:32:26] And what colour was the hair in his beard, if you could see it?

7 A. [15:33:12] Well, I think that there was both black and white hair in his beard.
8 As regards the hair on his head, that I didn't really notice.

9 Q. [15:33:30] Now, Mr Witness, what did your friend tell you about his
10 conversation with Abou Youssef?

11 A. [15:34:14] Well, he just told me that he had asked to join the group and that he
12 had got approval for that, approval had been given. And he had -- he asked that we
13 go with them, and we left.

14 Q. [15:34:39] Mr Witness, I just have a point of clarification. You said, "he asked
15 that we go with them." Is "he" your friend or Abou Youssef? Who asked that you
16 go with them?

17 A. [15:35:34] It was my friend that told me that he had said to Abou Youssef -- or,
18 that he had asked Abou Youssef to join their group. He'd made a request to join the
19 group. Abou Youssef had said "yes". And then he told me to go with them.

20 Q. [15:36:01] Now, Mr Witness, did your friend know or tell you the name of the
21 group you were joining?

22 A. [15:36:38] At that time there was only the Ansar Dine group.

23 Q. [15:36:42] Did your friend know the leader of the group?

24 A. [15:37:06] Are you talking about the period preceding that, or what period are
25 you talking about?

Trial Hearing
WITNESS: MLI-D28-P-0529

(Private Session)

ICC-01/12-01/18

1 Q. [15:37:14] At the time you had this conversation with your friend, did he tell
2 you the name of the leader of Ansar Dine?

3 A. [15:37:45] No, not at all. Prior to that we didn't know who the leader was.

4 Q. [15:37:58] And, Mr Witness, did your friend tell you anything about what the
5 group was doing in Timbuktu?

6 PRESIDING JUDGE MINDUA: [15:38:28](Interpretation) Ms Cariolou.

7 MS CARIOLOU: [15:38:31] I was wondering if the witness could answer in private
8 session, just in case this is incriminatory.

9 MS TAYLOR: [15:38:40] We have no objection.

10 PRESIDING JUDGE MINDUA: [15:38:44](Interpretation) Very well.

11 Thank you, Prosecutor.

12 Closed -- or, private session, please.

13 (Private session at 3.39 p.m.)

14 THE COURT OFFICER: [15:39:05] We're in private session, Mr President.

15 PRESIDING JUDGE PROST: [15:39:07] Thank you.

16 If the witness has understood the question, he may respond.

17 THE WITNESS: [15:39:30](Interpretation) Could you repeat the question, please.

18 MS TAYLOR: [15:39:32]

19 Q. [15:39:32] Mr Witness, did your friend tell you what the group was doing in
20 Timbuktu, or what its objectives were?

21 A. [15:40:20] Well, on that point he told me that they were Muslims and that they
22 were there for Islam and that they were carrying out jihad, and that therefore had to
23 join them. And we joined them.

24 Q. [15:40:43] Now, Mr Witness, you said that they were Muslims and that they
25 were there for Islam. Before this point was Islam important to you?

Trial Hearing
WITNESS: MLI-D28-P-0529

(Private Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [15:41:09](Interpretation) Ms Taylor, for the Court
2 record, the witness referred to "jihad". You referred to "Islam". Could you just
3 check your transcript, please.

4 MS TAYLOR: [15:41:25] Mr President, he referred to three elements. He said they
5 were Muslims, they were there for Islam and they were there for jihad. I'm asking
6 about things separately in a step-by-step process. We have this --

7 PRESIDING JUDGE MINDUA: [15:41:41](Interpretation) Very well. Thank you,
8 Ms Taylor.

9 MS TAYLOR: [15:41:47]

10 Q. [15:41:47] Now, Mr Witness, I'll repeat my question.

11 Now, at this point in time, was Islam important to you?

12 A. [15:42:16] Yes, of course. Of course. Islam was of great importance to me at
13 that time.

14 Q. [15:42:25] And was it important to you when you grew up as well, before this
15 time?

16 A. [15:42:58] I haven't understood entirely. Could you repeat the question, please.

17 PRESIDING JUDGE MINDUA: [15:43:06](Interpretation) Ms Taylor, do you think
18 that we should remain in private session?

19 MS TAYLOR: [15:43:11] I think for these questions, yes. They're within the same
20 category. And I do have a follow-up question that I do believe should be kept
21 within the same level of protection. Then we can go into open session, but I do
22 believe, following counsel's intervention, this should all be dealt with in accordance
23 with the same level of confidentiality. I have a follow-up question which will
24 directly go back to that issue.

25 PRESIDING JUDGE MINDUA: [15:43:40](Interpretation) Thank you. Thank you,

Trial Hearing
WITNESS: MLI-D28-P-0529

(Private Session)

ICC-01/12-01/18

1 Ms Taylor. But please try to move swiftly because, of course, public proceedings is
2 the principle.

3 MS TAYLOR: [15:43:54] Of course, Mr President. Thank you.

4 Q. [15:43:59] Mr Witness, I'll repeat my question. You said at that time religion
5 was important to you. Was it also important to you before that time?

6 A. [15:44:36] Yes, of course. Of course. In the period preceding that also Islam
7 was a very great importance to me.

8 Q. [15:44:45] Now, Mr Witness, your friend said that "they were there carrying out
9 jihad, and that therefore we had to join them." What did you understand by this
10 notion of "jihad"?

11 A. [15:45:52] Well, at that time he explained they are Muslims, they're there for
12 God's religion. They're there to defend the law of the Prophet Muhammad. And
13 that's how I understood it. Peace on Muhammad.

14 MS TAYLOR: [15:46:17] Can we go into open session.

15 PRESIDING JUDGE MINDUA: [15:46:22](Interpretation) Certainly.

16 Court officer, open session.

17 (Open session at 3.46 p.m.)

18 THE COURT OFFICER: [15:46:36] We're back in open session, Mr President.

19 PRESIDING JUDGE MINDUA: [15:46:41](Interpretation) Thank you.

20 Ms Taylor.

21 MS TAYLOR: [15:46:45]

22 Q. [15:46:45] Now, Mr Witness, earlier you said that you came back to Timbuktu
23 when the MNLA were there. Did you see the MNLA when you came into
24 Timbuktu?

25 A. [15:47:32] Well, when I returned to the town, passing their checkpoints we saw

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 them. We saw them at their checkpoints as we went through. So we greeted them
2 before entering the town. That's how I saw them.

3 Q. [15:47:55] And where were the checkpoints that you saw?

4 A. [15:48:27] Well, those checkpoints were towards, I would say, the northwest
5 boundary of the town of Timbuktu.

6 Q. [15:48:39] Now did you and your friend consider joining the MNLA?

7 A. [15:49:17] I personally intended to join the MNLA, but it was my friend who
8 suggested that I join those groups instead. And it was indeed what we did
9 subsequently, we joined that group.

10 Q. [15:49:43] And did your friend explain why you should join those groups rather
11 than the MNLA?

12 A. [15:50:25] No, not really. It's just at that point in time he said that it's -- it was
13 preferable to join the group that we then joined.

14 Q. [15:50:42] So just to be clear, do I take it he didn't explain why it was preferable?

15 A. [15:51:22] Yes. Yes, indeed. He said it would be preferable to join that group
16 because that group was involved in jihad.

17 MS TAYLOR: [15:51:39] I just have one follow-up question in private session. I'm
18 just anticipating.

19 PRESIDING JUDGE MINDUA: [15:51:54](Interpretation) Yes.

20 Court officer, private session, please.

21 (Private session at 3.52 p.m.)

22 THE COURT OFFICER: [15:52:07] We're in private session, Mr President.

23 PRESIDING JUDGE MINDUA: [15:52:11](Interpretation) Thank you.

24 Ms Taylor.

25 MS TAYLOR: [15:52:16]

Trial Hearing
WITNESS: MLI-D28-P-0529

(Private Session)

ICC-01/12-01/18

1 Q. [15:52:16] Now, Mr Witness, earlier you explained your understanding of jihad.
2 Is it your understanding that your friend, did he have the same understanding of
3 jihad as you?

4 PRESIDING JUDGE MINDUA: [15:52:44](Interpretation) Madam Prosecutor.

5 MS SARDACHTI: [15:52:48](Interpretation) Well, this is a question which would
6 invite speculation and indeed confusion.

7 PRESIDING JUDGE MINDUA: [15:52:59](Interpretation) I'm not sure if I agree with
8 you, prosecutor. Having listened to the witness of -- the answer of the witness, it
9 was the friend that had explained to him about jihad. I'd like to hear his answer.
10 Witness, did you understand the question put by Ms Taylor?

11 Ms Taylor.

12 MS TAYLOR: [15:53:40]

13 Q. [15:53:41] Mr Witness, earlier you explained -- this is at page 25, line 12, you said
14 your friend explained that: "They are Muslims. They are there for God's religion.
15 They are there to defend the law of the Prophet Muhammad [peace be upon him].
16 And that's how I understood it."

17 Do you remember saying that, Mr Witness? Is this how your friend explained jihad
18 to you?

19 A. [15:54:52] Yes, he simply explained to me that those were Muslims, and his
20 understanding of what they were doing was what I explained to you.

21 Q. [15:55:10] So, Mr Witness --

22 I believe we can go into open session. I apologise, Mr President.

23 PRESIDING JUDGE MINDUA: [15:55:20](Interpretation) Certainly.
24 Court officer.

25 (Open session at 3.55 p.m.)

Trial Hearing
WITNESS: MLI-D28-P-0529

(Open Session)

ICC-01/12-01/18

1 THE COURT OFFICER: [15:55:30] We're back in open session, Mr President.

2 PRESIDING JUDGE MINDUA: [15:55:35](Interpretation) Thank you, Court Officer.

3 Ms Taylor.

4 MS TAYLOR: [15:55:39]

5 Q. [15:55:39] Now, Mr Witness, what happened next? What did you do next?

6 A. [15:56:06] We then left with those gentlemen. So after joining the group, we
7 went off with those men. We went to the camp, and at the camp we alighted and we
8 then stayed inside the camp.

9 Q. [15:56:29] Now, Mr Witness, you've mentioned "the camp". Do you recall
10 where this camp was?

11 A. [15:56:56] The camp was right in Timbuktu, in the centre of Timbuktu.

12 Q. [15:57:06] And was it in a particular building?

13 A. [15:57:49] Well, what I know about the place is that, when you exit that place, to
14 the north there are a lot of buildings, a lot of buildings beyond there. On the other
15 side, it's the town centre. It was a military camp where the military were.

16 Q. [15:58:18] And what happened at this camp when you arrived at this camp?

17 A. [15:59:05] We were taken to the camp. There were already people there inside
18 the camp. Then they took us to a house where we stayed for a number of days. I
19 don't remember exactly how many days. And then they took us to another place.

20 MS TAYLOR: [15:59:23] Mr President, I see it's 4 o'clock.

21 PRESIDING JUDGE MINDUA: [15:59:31](Interpretation) Indeed, it's one minute,
22 one minute to 4. But we could take a break now for half an hour and then resume
23 at 4.30.

24 (Trial Chamber confer)

25 PRESIDING JUDGE MINDUA: [15:59:49](Interpretation) Well, I would have liked

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0529

1 in fact to continue the hearing, but I'm being told that normally we should now stop
2 for the day. So we shall indeed break here for the day.

3 Witness, as you -- as you know, we have not finished taking your testimony, but we
4 have finished for today.

5 THE WITNESS: [16:00:24](Interpretation) Yes.

6 PRESIDING JUDGE MINDUA: [16:00:28](Interpretation) Court Officer, are we in
7 private session?

8 Now, Witness, tomorrow we're going to continue taking your testimony and we will
9 start at 9.30.

10 THE WITNESS: [16:00:54](Interpretation) Well noted.

11 PRESIDING JUDGE MINDUA: [16:00:56](Interpretation) I would remind you that
12 you may not discuss your testimony with anyone between now and then.

13 THE WITNESS: [16:01:15](Interpretation) I understand.

14 PRESIDING JUDGE MINDUA: [16:01:19](Interpretation) You should not discuss it
15 with your family, or any friends, if you are in contact with them this evening.

16 THE WITNESS: [16:01:33](Interpretation) Understood.

17 PRESIDING JUDGE MINDUA: [16:01:37](Interpretation) For the time being, on
18 behalf of the Court I'd like to thank you very much for having taken the time to be
19 with us today and for being very patient.

20 THE WITNESS: [16:01:59](Interpretation) Yes.

21 PRESIDING JUDGE MINDUA: [16:02:03](Interpretation) Now, before the Court
22 rises, I would like to thank all those who took part in the hearing today, the parties,
23 the participants, the court reporters and the interpreters, the security officers.
24 And of course, I wish a pleasant evening to the public attending here in person in the
25 public gallery and to those who are following proceedings remotely.

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0529

- 1 THE COURT USHER: [16:02:41] All rise.
- 2 (The hearing ends in open session at 4.02 p.m.)