

Trial Hearing
WITNESS: MLI-D28-P-0605

(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 Ag
5 Mahmoud - ICC-01/12-01/18
6 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Friday, 26 August 2022
10 (The hearing starts in open session at 9.34 a.m.)
11 THE COURT USHER: [9:34:02] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:34:38](Interpretation) The hearing is now open.
15 Good morning, everyone.
16 Court officer, please call the case.
17 THE COURT OFFICER: [9:34:48] 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 open session.
21 PRESIDING JUDGE MINDUA: [9:35:09](Interpretation) Thank you very much,
22 court officer. As we do every morning, we will begin with introductions. First, the
23 Office of the Prosecutor.
24 Mr Prosecutor.
25 MR DUTERTRE: [9:35:24](Interpretation) Good morning, Mr President. Good

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 morning, your Honours, Madam Judges. The Prosecutor's office is represented by
2 Yayoi Yamaguchi; Mr Garcia, behind me; Mr Mousa Allafi, who's on my left; and
3 myself. And I would like to greet everyone here and outside the room, including the
4 public.

5 PRESIDING JUDGE MINDUA: [9:35:55](Interpretation) Thank you very much,
6 Mr Prosecutor Duterte. I turn to the Defence.
7 Counsel.

8 MS GERRY: [9:36:02] Good morning, Mr President, your Honours, and everyone in
9 the courtroom. The Defence today are represented by myself, Felicity Gerry; behind
10 me, Melinda Taylor and Leila Abid; and to my right, Dolly Chahla. And
11 Mr Al Hassan, of course, is at the back of the court behind us. Thank you.

12 PRESIDING JUDGE MINDUA: [9:36:26](Interpretation) Thank you very much,
13 Counsel Gerry.

14 And I would like to take this opportunity also to greet Mr Al Hassan.

15 Now I turn to the representatives of the victims.

16 Counsel.

17 MR DOUMBIA: [9:36:44](Interpretation) Good morning, Mr President.

18 Honourable Judges, good morning. The team of legal representatives of the victims
19 is made up this morning of Madam Romane Tovia Vila, case manager, and myself,
20 Seydou Doumbia, from Bamako. A good day to everyone.

21 PRESIDING JUDGE MINDUA: [9:37:08](Interpretation) Thank you very much,
22 Counsel Doumbia.

23 And now I turn to the counsel under Rule 74, counsel for the witness.

24 Counsel.

25 MS TERZIEVA: [9:37:26] Good morning, Mr President. Good morning,

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

- 1 your Honours. Vessela Terzieva, Rule 74 counsel for Witness D-0605. Thank you.
- 2 PRESIDING JUDGE MINDUA: [9:37:39](Interpretation) Thank you very much,
- 3 Counsel Terzieva.
- 4 So this morning, we will continue the hearing of the witness, D-0605 of the Defence.
- 5 I therefore turn to the witness.
- 6 Good morning, Mr Witness. Do you hear me?
- 7 WITNESS: MLI-D28-P-0605 (On former oath)
- 8 (The witness speaks Arabic)
- 9 (The witness gives evidence via video link)
- 10 THE WITNESS: [9:38:10](Interpretation) Yes, I hear you well.
- 11 PRESIDING JUDGE MINDUA: [9:38:13](Interpretation) Thank you very much.
- 12 Mr Witness, once again, I welcome you here on behalf of the Chamber, and I want to
- 13 remind you that you are still under oath and that you must say the truth, all the truth
- 14 and nothing but the truth.
- 15 I would like you to bear in mind as well the advice which I've already given you with
- 16 respect to when you speak. You must speak slowly, clearly, and you must make
- 17 pauses. You must pause when you speak.
- 18 So without further ado, I will give the floor to the Defence to continue and probably
- 19 for the end of this examination-in-chief.
- 20 Counsel Gerry, you have the floor.
- 21 MS GERRY: [9:39:17] (Microphone not activated)
- 22 PRESIDING JUDGE MINDUA: [9:38:26] Microphone, please.
- 23 MS GERRY: [9:39:29] Thank you, Mr President.
- 24 QUESTIONED BY MS GERRY: (Continuing)
- 25 Q. [9:39:31] Mr Witness, you were telling us yesterday about the slave case at the

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 end of yesterday. I want to go back to that case now.

2 You told us that the woman complained and that she wanted a solution. Was
3 a solution achieved?

4 A. [9:40:37] Yes. With regard to the case of this slave -- I had been saying that
5 with regard to the case of the slave of which the woman had complained, well, she
6 was impregnated by him during an illegal relation, complained to the police, this case
7 was referred to the tribunal, and, subsequently, after the confirmation of the acts on
8 the part of Al Hassan, it was confirmed that this man was a slave, the property of
9 a very well-known tribe. And, instead of being stoned -- instead of being
10 condemned to lapidation because he was married, and if he has an illegal relationship
11 with someone, the *dina* -- the *zina*, adultery, that means he would be lapidated, but in
12 this case, only *ta'zir* was applied to him.

13 And I think -- I don't know anymore, I don't remember, did he have to marry this
14 woman or not. So instead of being stoned -- he was not stoned. So the *hadd* of
15 lapidation was not applied to him, but I no longer remember whether he had to
16 marry this person or not. I don't remember the details that followed.

17 Q. [9:42:48] Thank you.

18 You mentioned Mr Al Hassan. Can you help us to understand what Mr Al Hassan
19 did in relation to this case?

20 A. [9:42:59] Yes. Al Hassan, as I've already told you, is the person within the
21 police force that knows the region and its traditions best. So when the police got this
22 case, Al Hassan, being a person who comes from this region, and given that he also
23 was from a village -- he was from the village of the master of the slave and of the
24 slave himself, so given all that, he was able to learn that this man was the master, the
25 master of one of the -- he was the owner of one of the tribes; so he was not the free

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 person. So that this person -- so the *hadd* of lapidation would be used against him
2 because he had an illegal sexual relationship with a woman. When he discovered
3 that this man was a slave and not free, we applied the application, which was -- or
4 rather, the sanction that had to be in that case.

5 Q. [9:44:47] Can you help us to understand why being a slave was a relevant
6 consideration in that case.

7 A. [9:45:14] Because it totally changes the judgment or the decision, for if the man
8 or person is free, under sharia, Islamic sharia, you dig a hole, throw him into the hole
9 and you stone that person to death. But if that person is not free, *ta'zir* is what will
10 be applied against that person. It is the *ta'zir* sanction. And then that person is
11 released because that person is not a free person.

12 So the rules of the sharia -- the principles of the sharia are not applicable for slaves,
13 but only for free people.

14 Q. [9:46:09] And do you remember what the final decision was of the Islamic
15 tribunal in this case, please?

16 A. [9:46:32] The final decision of the tribunal, as I said, he was not -- it was not -- he
17 was not stoned. The *ta'zir* was applied to him, the *ta'zir* sanction, and then he was
18 released.

19 Q. [9:46:56] Thank you.

20 Mr President, may we very briefly go into private session, please.

21 PRESIDING JUDGE MINDUA: [9:47:02](Interpretation) Yes, indeed.

22 Court officer, partial -- private hearing -- private session, rather.

23 (Private session at 9.47 a.m.)

24 THE COURT OFFICER: [9:47:12] We are in private session, Mr President.

25 PRESIDING JUDGE MINDUA: [9:47:16](Interpretation) Thank you very much.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 Counsel Gerry.

2 MS GERRY: [9:47:23] Thank you.

3 Q. [9:47:23] Mr Witness, in relation to the slave case, [REDACTED]

4 [REDACTED]

5 A. [9:47:37] No, no. Not at all. [REDACTED]

6 Q. [9:47:42] So can you help us to understand how you know about the details
7 you've given us on the slave case, please.

8 A. [9:48:01] The case of the slave was known at the time. And I was a member of
9 the police force and everyone wanted to know how this case was developing. [REDACTED]

10 [REDACTED] and I heard this case being discussed. I even knew
11 the slave. [REDACTED] It is the

12 [REDACTED] neighbourhood in Timbuktu. So I heard even more - all the news
13 and all the developments in this case - and the case interested me because I knew the
14 master of this slave and I had heard talk of this case.

15 Q. [9:49:04] When you told us about what Mr Al Hassan did in relation to the slave
16 case, is that something that you saw or something that you heard?

17 A. [9:49:24] No. I was speaking of what I had heard being said because I was not
18 present as a witness during the investigation, but I spoke of what I had heard of
19 within the police. People knew that Al Hassan was in charge of this case, given that
20 the slave came from the region that was close to Al Hassan's region; so he was the one
21 in the best position to know the situation in that region, and he was the one in the best
22 position to use his knowledge and his relations in the region to know more about it.

23 Q. [9:50:25] Just two more questions in private session.

24 Did you hear the information about Mr Al Hassan's role from Mr Al Hassan himself
25 or from other people?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 A. [9:50:53] No. I heard this from other people, given the decision of the tribunal
2 and when this decision was taken, the news spread about the fact that this man was
3 a slave and that Al Hassan himself had learned this man was a slave and not free;
4 that is why the *hadd* was not applied to him. Everyone was expecting the *hadd* to be
5 applied to him in that case, but thanks to God, this was not the case.

6 Q. [9:51:41] In relation to --

7 MR DUTERTRE: [9:51:47] *Monsieur le Président* --

8 (Overlapping speakers)

9 PRESIDING JUDGE MINDUA: [9:51:58](Interpretation) Mr Witness, what is the last
10 thing that you said concerning Mr Al Hassan?

11 THE WITNESS: [9:52:06](Interpretation) I had said, thanks to God, the *hadd* of
12 lapidation was not applied, thanks to the intervention of Al Hassan, thanks to the
13 knowledge of the situation by Al Hassan.

14 PRESIDING JUDGE MINDUA: [9:52:26](Interpretation) Thank you very much,
15 Mr Witness.

16 Prosecutor?

17 MR DUTERTRE: [9:52:33](Interpretation) Thank you, Mr President.

18 I would ask that we cut the sound for a moment.

19 PRESIDING JUDGE MINDUA: [9:52:42](Interpretation) Court officer, please cut the
20 sound from -- from the witness.

21 THE COURT OFFICER: [9:52:54] The sound to the witness has been disconnected,
22 Mr President.

23 PRESIDING JUDGE MINDUA: [9:52:57](Interpretation) Thank you very much.
24 Prosecutor?

25 MR DUTERTRE: [9:53:02](Interpretation) My colleague who knows Arabic said that

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 this is a slave from a tribe, and this is something that does not figure in French or in
2 English. So I would like the witness to come back to this to know what tribe -- and
3 to specify which tribe the person was from.

4 PRESIDING JUDGE MINDUA: [9:53:28](Interpretation) Counsel Gerry, you have
5 heard the request of the Prosecutor. Could you please ask your witness to specify
6 this.

7 We will now re-establish the sound.

8 Court officer.

9 THE COURT OFFICER: [9:53:47] The sound to the witness has been re-established,
10 Mr President.

11 PRESIDING JUDGE MINDUA: [9:53:58](Interpretation) Thank you very much.
12 Counsel Gerry.

13 MS GERRY: [9:54:01]

14 Q. [9:54:01] Mr Witness, you told us that the man was a slave and that the man was
15 from a tribe and that the man was from a region. Can you help us to understand
16 which tribe and which region, please.

17 MR DUTERTRE: [9:54:27](Interpretation) Mr President, excuse me.

18 PRESIDING JUDGE MINDUA: [9:54:31](Interpretation) Prosecutor.

19 MR DUTERTRE: [9:54:32](Interpretation) These are relevant questions, but --

20 PRESIDING JUDGE MINDUA: [9:54:36](Interpretation) You want the witness to
21 repeat what he had said?

22 MR DUTERTRE: [9:54:42](Interpretation) Yes. But the point brought up by my
23 colleague is not the same as the one I had brought up, that is, that there is the tribe of
24 the person who is speaking -- that is, of the slave. And then there is the tribe of the
25 owner of the slave, and that's what's important.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [9:55:04](Interpretation) Counsel Gerry.

2 MS GERRY: [9:55:08] Mr President, in my submission, I should work through it
3 carefully. I'm going to start with the slave and then get to the owner. It seems to
4 me it's important because there may be a distinction. So I would prefer to continue
5 my examination in the way that I was approaching it. I understood my learned
6 friend's point, but I was trying to take it carefully.

7 I see a nodding. So may I proceed?

8 PRESIDING JUDGE MINDUA: [9:55:50](Interpretation) Okay, Counsel Gerry. I
9 don't think there are any objections. Go ahead.

10 MS GERRY: [9:56:00] Thank you.

11 Q. [9:56:01] So I'll ask the question again.

12 Mr Witness, in relation to the slave, what tribe was the slave from?

13 A. [9:56:08] He belonged to his master's tribe or his owner's tribe, to an extent.

14 Q. [9:56:25] And in relation to the owner, what tribe was the owner from, please?

15 A. [9:56:38] He belonged to the [REDACTED] tribe.

16 Q. [9:56:50] And what region is the [REDACTED] tribe from, please?

17 A. [9:57:00] The region of [REDACTED] [REDACTED] region.

18 Q. [9:57:16] And what connection do you have with the [REDACTED] tribe or the
19 [REDACTED] region, please?

20 A. [9:57:29] [REDACTED]

21 [REDACTED]

22 Q. [9:57:42] And what connection --

23 (Overlapping speakers)

24 A. [9:57:43] And --

25 (Overlapping speakers)

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 MS GERRY: [9:57:44] Oh, sorry.

2 THE WITNESS: [9:57:44](Interpretation) -- excuse me, and [REDACTED]

3 [REDACTED] and we are all from the same province, the province of Timbuktu.

4 We are all from Timbuktu. [REDACTED] come from this

5 region. We are all from Timbuktu. These are the ties that I have with this tribe.

6 Q. [9:58:14] Thank you.

7 And perhaps just so that we are clear, I do want to ask you one more question in

8 private session, but I'll ask this one, what connection did you understand

9 Mr Al Hassan had with the [REDACTED] tribe and the [REDACTED] region, please?

10 A. [9:58:45] The ties of Mr Al Hassan and the [REDACTED] tribe in the region of [REDACTED]

11 this is a relationship of neighbours. [REDACTED]

12 [REDACTED] they all come from the

13 province of Timbuktu, and they all come from the same region, the [REDACTED] region.

14 Q. [9:59:24] Thank you.

15 You told us yesterday --

16 PRESIDING JUDGE MINDUA: [9:59:32](Interpretation) Mr Prosecutor?

17 MR DUTERTRE: [9:59:35](Interpretation) Just a point, perhaps this is worth

18 clarifying, because the witness answered that the slave belonged to the tribe of the

19 master. What exactly does that mean? Could we clarify that, because it's not that

20 clear as an answer. Several interpretations are possible.

21 PRESIDING JUDGE MINDUA: [10:00:04](Interpretation) Counsel Gerry.

22 MS GERRY: [10:00:06] Mr President, I don't agree. I think the word "slave" and

23 belonging to a master is perfectly clear and the master's tribe was given to us. My

24 learned friend has an opportunity to cross-examine possibly later today. If he

25 wishes to ask questions about it, that is when it is his turn. In my submission, the

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 current evidence is perfectly clear.

2 PRESIDING JUDGE MINDUA: [10:00:37](Interpretation) Yes, Prosecutor, I don't

3 understand how you don't understand. It does seem clear to me. Perhaps you can

4 come back to it in your cross-examination.

5 Maître Gerry, let's go back into public session, I think now.

6 MS GERRY: [10:00:50] (Overlapping speakers) No, if I may, I need to ask one more

7 question in private session about translation in relation to the rape case by the police

8 officer, please.

9 PRESIDING JUDGE MINDUA: [10:01:04](Interpretation) Very well. Please go

10 ahead.

11 MS GERRY: [10:01:05] Thank you.

12 Q. [10:01:05] Mr Witness, you told us yesterday about a rape case -- a rape -- a case

13 involving a rape by a police officer. You told us that [REDACTED] for

14 the victim at the Islamic tribunal. Can you help us to understand how many times

15 [REDACTED] for the Islamic tribunal.

16 A. [10:01:56] As far as I can remember, [REDACTED] for the Islamic

17 tribunal in this case, and I don't remember [REDACTED]

18 subsequently thereto.

19 Q. [10:02:14] So the one time [REDACTED] for the -- was the -- for the

20 Islamic tribunal, was that the rape case by the police officer or some other case? Was

21 it just once or more than once? I just need to be clear.

22 A. [10:02:52] It was the case of rape. This was the only time [REDACTED]

23 [REDACTED] It was a case of rape by a member of the police. That's as far as I can

24 remember.

25 Q. [10:03:10] And finally in private session, can you help us to understand why [REDACTED]

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 [REDACTED] for the Islamic tribunal on this one occasion, please.

2 A. [10:03:44] Perhaps they didn't have [REDACTED] on that day. Perhaps he didn't

3 have [REDACTED] on that day, or there was a need for [REDACTED] and [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. [10:04:14] Thank you.

7 May we go back into public session, please.

8 PRESIDING JUDGE MINDUA: [10:04:21](Interpretation) Indeed.

9 Court officer, public session, please.

10 (Open session at 10.04 a.m.)

11 THE COURT OFFICER: [10:04:28] We are back in open session, Mr President.

12 PRESIDING JUDGE MINDUA: [10:04:38](Interpretation) Thank you very much.

13 Maître Gerry.

14 MS GERRY: [10:04:42] Thank you, Mr President.

15 Q. [10:04:44] Mr Witness, you told us yesterday about the Moussa case. You told

16 us that Mr Al Hassan was able to talk to the family. Are you able to help us as to

17 what he talked to the family about?

18 A. [10:05:25] I wouldn't be able to give you the details with regards to what

19 Mr Al Hassan said to the family. What I can tell you is that the family were

20 convinced by the story and they retracted it. They changed their mind.

21 Q. [10:05:53] You told us that there was -- that the family accepted and agreed to

22 one arrangement and then changed their minds. Can you help us as to how you

23 came to know about that.

24 You said that they -- I just want to correct my question. I'll ask it more clearly. I'm

25 sorry to the interpreter. May I just ask that question again.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 You told us that the family of the man with the iron bar accepted *diya* and agreed to
2 *diya* and then changed their minds. Was that -- was that agreement --

3 A. [10:06:48] (Overlapping speakers)

4 Q. [10:06:56] Sorry. Was that agreement before or after the decision of the Islamic
5 tribunal?

6 A. [10:07:23] The decision of the Islamic tribunal applied to the family, the person
7 of the family, who was the family of the person who was the victim. But what the
8 family decided was executed by the tribunal; so it was proposed either *diya* or
9 alternatively *qisas*.

10 At the start, the family was persuaded by compensation, *diya*. But after consultation,
11 in particular with Mr Al Hassan, they were persuaded by *diya*. They changed their
12 mind, as I said, afterwards and they opted for *qisas*, that is to say, to kill the person
13 who had killed.

14 Q. [10:08:32] Mr Witness, first, I'm trying to just understand the chronology, the
15 order of events.

16 The discussion -- you've told us about discussions with Mr Al Hassan, you've told us
17 about a decision by the Islamic tribunal, and you've told us that the family changed
18 their minds. Of those three things, can you put them in order for us so that we can
19 understand the timeline, please.

20 A. [10:09:09] So I said, the decision of the tribunal was based upon the opinion of
21 the family. The family of the person killed decided itself. The tribunal proposed
22 two options, either *diya*, compensation, or to kill the criminal, i.e., *qisas*.

23 So there was a time of consultation with the family with its close members and also
24 with the family of the criminal. They consulted with the family of the victim to find
25 a solution. And during this period, one day before the application of *qisas*,

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 Mr Al Hassan communicated -- he spoke with the family of the victim.

2 At the start, they were persuaded by *diya*, and everybody was convinced that the
3 family was going to call for *diya*. But after a certain time, they changed their opinion
4 and they said they wanted to opt rather for *qisas*. So the tribunal pronounced *qisas*,
5 because the decision is in the hands of the family and it's not in the hands of the
6 tribunal.

7 Q. [10:10:45] Can you help us to understand whether it was usual or unusual for
8 the Islamic tribunal to leave a decision to a family of a victim, please.

9 A. [10:11:03] Yes. In particular, in cases of murder. In Sharia, Islamist
10 jurisprudence, there are two options always. If the family want *diya*, they will obtain
11 it. But if they want *qisas* -- or if they opt for *qisas*, they can also obtain that. But you
12 have to wait for the son grows up. Maybe it's a case of a 20 -- when he gets to 20, 25,
13 and the son of the person who was killed can decide on whether it is *diya* or *qisas*.
14 And it's known in the jurisprudence, Islamic jurisprudence.

15 Q. [10:12:05] You told us that in this case, the decision was left to the mother, and
16 you also told us that -- a moment ago, that the final decision was taken a day before
17 the punishment was given. Can you help us to understand the circumstances in
18 which the family changed their minds.

19 A. [10:12:50] I'm not aware of the circumstances which made the family change
20 their minds, but I just know that they were persuaded by what was said and then
21 they changed -- they were persuaded by *diya*, and the family changed their mind, and
22 the *hadd* of *qisas* -- or the sentence of *qisas* was applied the next day.

23 Q. [10:13:19] Thank you.

24 You told us that you were not present at that -- the application of *qisas* in the Moussa
25 case. Were you ever present at any punishments?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 A. [10:13:47] No, I was never present, and I wouldn't want to be present.

2 Q. [10:13:53] You also told us that Mr Al Hassan did not carry out interrogations
3 but that -- and you described -- you named other people who did.

4 MR DUTERTRE: [10:14:12](Interpretation) Your Honour, I would like to have the
5 reference to that, because that's not the memory I have it at all. And I think that's
6 clearly misleading; so I'd like to have the page, the transcript and the line in French
7 and in English. In French as well. Thank you.

8 MS GERRY: [10:14:29] I'll ask one of my team to find it, I don't have it available at
9 the moment. I can ask an open question and keep going so that we don't waste time.

10 PRESIDING JUDGE MINDUA: [10:14:44](Interpretation) Very well. Please go
11 ahead.

12 MS GERRY: [10:14:47]

13 Q. [10:14:48] Mr Witness, were you ever present at any interrogations?

14 A. [10:15:11] I don't remember.

15 MR DUTERTRE: [10:15:30](Interpretation) Your Honour, to help the Chamber, I'm
16 referring to transcript 192, page 106; that's where you find it, the question with
17 regards to interrogations.

18 PRESIDING JUDGE MINDUA: [10:16:03](Interpretation) Okay, because you have
19 the reference, perhaps you can read this reference to us.

20 MR DUTERTRE: [10:16:13](Interpretation) So page 105 and 106:

21 "[Q.] Witness, who carried out the interrogations in Timbuktu in 2012 at the Islamic
22 police?

23 [A.] As I already said and I repeat, the authority and the prerogative -- absolute
24 prerogative was Adam's. He made the law in Islamic police. If he was absent, it
25 Khaled who replaced him. It was -- Khaled was the chief after him or Abu Zhar

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 replaced him. Any other person could act under the orders of Adam and,
2 afterwards, it was Adam who carried out the interrogations or Abu Zhar or anyone
3 else who was designated by Adam to do so. And afterwards, after Adam was
4 dismissed, all prerogatives were in the hands of Khaled."

5 PRESIDING JUDGE MINDUA: [10:17:20](Interpretation) Thank you very much,
6 Prosecutor.

7 Maître Gerry.

8 MS GERRY: [10:17:24] At transcript 193, page 22, line 3, this witness said he did not
9 see Mr Al Hassan carrying out interrogations. That's the evidence.

10 MR DUTERTRE: [10:17:41](Interpretation) It's different. If there's also an answer,
11 maybe the question should be put.

12 MS GERRY: [10:17:47] It's asked and answered.

13 I asked:

14 "Did [...] Mr Al Hassan carry[ing] out interrogations or not? The answer was:

15 "No, I did not see him."

16 PRESIDING JUDGE MINDUA: [10:17:58](Interpretation) Very well. I think it's
17 acceptable. We are going to continue.

18 Ms Gerry.

19 MS GERRY: [10:18:06]

20 Q. [10:18:07] You told -- just moving on to other cases, you told us -- you
21 mentioned yesterday a case involving air-conditioning. What do you remember
22 about the case involving air-conditioning?

23 A. [10:18:53] Women were arrested at the police commissariat. There was a room
24 outside the commissariat where there were columns together made of iron grilles to
25 let air through, and people who passed by could see inside the room through it.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 And this was the room which was made for the arrests. If a woman was arrested,
2 they would stay outside the commissariat because most of the police are men, so that
3 there is no suspicion -- so there's no suspicion about them as well.

4 Q. [10:20:27] The translation referred to the "police commissariat". Can you help
5 us as to which building you were referring to, please.

6 A. [10:20:40] It was the BMS building.

7 Q. [10:20:48] You told us that there was a place outside the BMS building. Can
8 you describe that place to us, please.

9 A. [10:20:57] Yes, I can describe it to you. The police building at the BMS was at
10 the end of the small Timbuktu souk on the road going towards the *lycée* or the
11 secondary school. If you go towards the *lycée* and -- you are in the souk, you will
12 come across a small room and there is a *guichet*, just like you have in the banks. And
13 this room is -- it had an iron door and it had another door, which was transparent, it
14 was glass, but the police commissariat did not have this glass door and this door had
15 been ripped off. So there was just the iron door with columns or with bars in order
16 to allow air to flow through.

17 Q. [10:22:25] I just want to check the type of room. So that we can understand the
18 type of room, what was your understanding of what that room would have been used
19 for when the building was a bank?

20 A. [10:22:41] It was a counter. You had a machine there, like an ATM to get
21 money from it.

22 Q. [10:23:13] And you told us that that -- when that room was outside BMS, that
23 room was for arrests. What did that have to do with air-conditioning, please?

24 A. [10:23:38] I don't know or I don't remember --

25 Q. [10:23:54] You told us there was a case about air-conditioning --

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 A. [10:23:55] -- I don't remember having said that.

2 Q. [10:24:01] Sorry. You told us that there was a case about air-conditioning.

3 Can you help us to understand the connection between the case about

4 air-conditioning and the former ATM room, please.

5 A. [10:24:22] Yes. This room was given over to women who had been arrested.

6 And I'm not sure if I understand the question well. I don't remember having

7 mentioned something relating to air-conditioning in this commissariat, in this

8 building. Quite simply this room had a door, which let air through for the people

9 who were inside it, and that was the door which was on to the street.

10 Perhaps you could repeat the question so that I can understand it.

11 Q. [10:25:04] Of course. It may be that we have an incorrect translation. I just

12 want to be clear whether there was a case that involved a dispute of some kind over

13 some air-conditioning.

14 A. [10:25:41] Now I understand. The interpretation wasn't very precise. What

15 you mean is the air-conditioning -- there was a woman who came to complain

16 because an air-conditioning unit had been stolen from her house.

17 Q. [10:26:02] Tell us what you know about that case, please.

18 A. [10:26:20] As I said, so a woman went to the police commissariat. She came to

19 complain because the air-conditioning unit had been stolen from her house. The

20 house had been attacked and the air-conditioning unit had been ripped off from

21 inside her house. So like anyone else, she had come to file a complaint and the

22 police -- well, she went to the police station -- or the police went to the place to carry

23 out the investigations. They did what was necessary and then they launched an

24 investigation to find the unit and give it back to her and to find the thief.

25 That's all that I know about the case. The police were searching for the thief.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 MS GERRY: [10:27:33] Mr President, may we briefly go into private session, please.

2 PRESIDING JUDGE MINDUA: [10:27:41](Interpretation) Court officer, please take
3 us into private session.

4 (Private session at 10.27 a.m.)

5 THE COURT OFFICER: [10:27:48] We are in private session, Mr President.

6 PRESIDING JUDGE MINDUA: [10:27:59](Interpretation) Thank you very much.
7 Ms Gerry.

8 MS GERRY: [10:28:02] Thank you, Mr President.

9 Q. [10:28:04] Mr Witness, did [REDACTED] in the case
10 involving the stolen air-conditioning unit, please?

11 A. [10:28:17] Yes, [REDACTED] in that case of the theft of the
12 air-conditioning unit.

13 Q. [10:28:26] Where were you [REDACTED]?

14 A. [10:28:36] I was at the police building.

15 Q. [10:28:43] Which police building?

16 A. [10:28:47] BMS.

17 Q. [10:28:54] [REDACTED]

18 A. [10:29:11] Perhaps Abu Zhar. I don't know. I think it was Abu Zhar.

19 Q. [10:29:25] Was the woman who was complaining present or not?

20 A. [10:29:34] Yes. [REDACTED]

21 Q. [10:29:47] Thank you.

22 May we go back into public session.

23 THE COURT OFFICER: [10:29:56] Court officer, public session, please.

24 (Open session at 10.29 a.m.)

25 THE COURT OFFICER: [10:30:03] We're back in open session, Mr President.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [10:30:14](Interpretation) Thank you very much,
2 Madam Court Officer.

3 Maître Gerry.

4 MS GERRY: [10:30:20] Thank you, Mr President.

5 Q. [10:30:23] Mr Witness, you told us that there was a police investigation. Who
6 in the police carried out that investigation to your knowledge, please.

7 A. [10:30:50] Adam or Abu Zhar or Khaled, if he had been in charge of the police or
8 entrusted with the case, or Abu Zhar. I don't know which case you're referring to
9 when you talk about "the case."

10 Q. [10:31:15] I'm still asking you about the case involving the stolen
11 air-conditioning unit. I'd like to know which police officer or officers carried out the
12 investigation in relation to the stolen air-conditioning unit, please.

13 MR DUTERTRE: [10:31:38](Interpretation) Mr President.

14 PRESIDING JUDGE MINDUA: [10:31:43](Interpretation) Prosecutor.

15 MR DUTERTRE: [10:31:44](Interpretation) This question has been asked and
16 answered.

17 PRESIDING JUDGE MINDUA: [10:31:48](Interpretation) Counsel Gerry, on this
18 topic --

19 MR DUTERTRE: [10:31:54](Interpretation) I don't know. What he said -- he said
20 it's Adam, Abu Zhar or Khaled. He has already answered this question.

21 PRESIDING JUDGE MINDUA: [10:32:03](Interpretation) Counsel Gerry?

22 MS GERRY: [10:32:05] Mr President, the problem is the witness was confused. He
23 went on to say he didn't know which case I was talking about; so the answer
24 appeared to be generally they were the people who carried out the investigations
25 rather than specifically to this case.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 My question was designed to identify the specific police officer or officers in relation
2 to this particular case.

3 May I continue to ask my questions, please?

4 PRESIDING JUDGE MINDUA: [10:32:34](Interpretation) Prosecutor, perhaps we
5 would have to ask the question because earlier the witness did seem confused. He
6 was not sure what Counsel Gerry was referring to.

7 Counsel Gerry, could you ask the question once again.

8 Go ahead, please.

9 MS GERRY: [10:33:00]

10 Q. [10:33:00] Mr Witness, in relation to the case involving the stolen
11 air-conditioning unit, do you know which police officer or officers investigated that
12 case of the stolen air-conditioning unit?

13 A. [10:33:22] I do not know. All I know is that [REDACTED]
14 but -- most probably [REDACTED] But having said that, I don't know
15 who was in charge of this investigation and I don't know who conducted this
16 investigation.

17 Q. [10:33:55] You told us before that the police found -- police were tasked -- I'm
18 sorry, I don't have your exact words but my note is, you said they were going to find
19 out and give back the unit and find the thief.
20 How do you know about those tasks?

21 A. [10:34:35] [REDACTED] The person who spoke to the woman
22 said, "We are going to conduct an investigation. We will try to return these units if
23 we find the thief."

24 Q. [10:35:00] To your knowledge, was the air-conditioning unit found or not?

25 A. [10:35:11] In truth, I no longer remember. There are many things in Timbuktu

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 that are stolen and that are then given back, so I don't know.

2 Q. [10:35:28] To your knowledge, was the thief found or not of the air-conditioning
3 unit?

4 A. [10:35:43] No. I did not hear of any possible arrest of the thief. But what I do
5 know is that there is a place where all objects that had been stolen are deposited, and I
6 don't know if the woman in question was able to find her air-conditioning units at
7 that depot.

8 Q. [10:36:16] Thank you.

9 I've been asking you questions about the four months in 2012 that you were able to
10 help us with in relation to the Islamic police. Do you have any memory of any other
11 cases in which you were personally involved that you can tell us about today?

12 A. [10:37:03] All of the cases I remember, I have mentioned. There are some
13 things of which I'm no longer sure. There are other questions where I don't
14 remember if I heard them or I heard some things said about things because this dates
15 back to a long time ago.

16 Q. [10:37:38] Thank you.

17 You told us about a case in which -- which involved a police officer and rape. I'm
18 not going to ask you about that case again because I've asked you questions about it
19 and you've answered.

20 But in relation to the conduct of police officers in the Islamic police in those four
21 months in 2012, is there anything that you can help us with in relation to the conduct
22 of police officers?

23 A. [10:38:31] In reality, the behaviour of police officers during that period was the
24 behaviour of people who are very decent and respectable. Of course, there can be
25 people or persons who are not polite, that is, impolite people among them. For

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 example, this police officer or member of the police who raped that woman. That
2 event shook the Islamic police force. And some people who were not as respectable,
3 they saw the punishment that he got and they saw that, okay, if you violate the sharia,
4 then they could also be subjected to such sanctions.

5 Q. [10:39:51] Are you able to help us as to your day-to-day observations of the way
6 in which police officers behaved in Timbuktu in that four-month period in 2012?

7 A. [10:40:11] I have shared with you my observations. These were ordinary
8 people like everyone. I did not see any strange or bizarre types of behaviour or
9 immoral behaviour. Each person had his or her function and mission. They all
10 respected each other. There was nothing strange. There wasn't a lack of respect
11 with respect to elders. There was no humiliation of certain people or a lack of
12 respect for certain people. Every person did his or her work to help the others reach
13 their goals.

14 I don't know if I have understood your question, but if I understood it correctly, well,
15 there you go, I have answered it.

16 Q. [10:41:24] You told us that you did not speak to Mr Al Hassan face-to-face
17 before that four-month period and that you did get to know him during that
18 four-month period. Can you describe your assessment of Mr Al Hassan during that
19 four-month period. What was your assessment of him as a person or as a police
20 officer?

21 A. [10:42:07] I did not know Al Hassan personally, but that does not mean that I
22 did not know him at all; that's my first point.
23 Second point, I met Al Hassan at the police. I had known him from afar. I knew
24 who he was, that he was a son of such-and-such a person from such-and-such a tribe.
25 I knew most of the members of his family; so I knew who he was. But within the

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 police force and with respect to his behaviour, all I know about him is that I know
2 that Al Hassan is a respectable person who wants the good of all and who gives
3 advice to all those who come to him and who make a mistake.

4 With me, I can say that he was quite nice to me. He guided me. He warned me
5 about certain things that I did not know, certain things for which -- of which I was not
6 sufficiently aware. I wasn't sufficiently alerted to certain things and that's why I
7 would like to thank him, and I'm very grateful and will be grateful to him my entire
8 life -- for my entire life.

9 At the time I really did need a guide, a person who would provide advice to me and
10 would guide me and orient me at that time, I really needed that.

11 Q. [10:44:11] Thank you.

12 I want to ask you about locations, please. Firstly, you did mention going to a market
13 and someone saying bad things. Was there one market or more than one market in
14 Timbuktu?

15 A. [10:44:43] In Timbuktu, there were several markets, but the market I was
16 referring to and one I would go to was the one close to the BMS and it was the new
17 market of Koroboro. It was close to the BMS. And so at that time, I would leave
18 the police centre and I would go to that market and there, I met a person on the way
19 to that market toward the souk, and this person used insulting words when
20 addressing me.

21 I returned to the police station very angry and I told Al Hassan what had happened.
22 And I told him that on the way to the market, I met a given person who used very
23 insulting words when addressing me. And Al Hassan said to me, "Do not take this
24 personally." And he calmed me down. He appeased me. He said, "Well, those
25 are things that happen often -- several times, so you must not take it to heart."

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 Q. [10:46:15] Can you help us to understand what it was that the bad -- the person
2 said to you. Not Mr Al Hassan, but the person that said things to you when you
3 were on your way to the market.

4 A. [10:46:30] Words that were not very proper. Insults, addressing me.
5 Blasphemous insults addressing me. Any other ordinary person who would have
6 heard these insults would have had an altercation with that person and would have
7 insulted that person in turn, but I -- at that time, I was so angry that I had to go back
8 to the police station in order not to have irresponsible behaviour.
9 So I returned to the police station and I told Al Hassan what had happened. And he
10 said, "Don't take it personally. There's nothing personal in this." And then, "The
11 person who said these things, well, these words are going to fall back on that person,
12 and they should not affect you."

13 Q. [10:47:32] Do you feel comfortable telling us what the exact words were from
14 that person?

15 A. [10:47:40] I have already said these are indecent words. It would not be very
16 proper of me to repeat them. I do not want to. I do not wish to do this. I don't
17 want to say these words.

18 As I said, these were insults. And in Koroboro -- in the Koroboro language, these
19 words were said. And, truly, these were words that are really not proper addressing
20 me and I do not see the purpose of saying these words, which were not very elegant,
21 not very beautiful words.

22 Q. [10:48:30] (Overlapping speakers) From what the person was saying --

23 A. [10:48:32] So when --

24 Q. [10:48:32] Oh, sorry.

25 A. [10:48:33] -- I'm insulted, I know I'm being insulted.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 Q. [10:48:41] From what the person was saying, were you able to understand why
2 he was insulting you?

3 A. [10:48:49] He was trying to provoke me, I think. That's what I understood
4 subsequently. He was trying to provoke me so that I would respond with
5 behaviour -- perhaps that I'd hit him so that he could then come and file a complaint
6 saying an officer of the police that -- had attacked him or he wanted me to insult him
7 as he had insulted me. He wanted an altercation or some kind of a fight between us
8 so that he could then file a complaint.

9 I think it was a provocation. And several people were doing this with police officers
10 for their reasons, which I don't know anything about, just to provoke.

11 Q. [10:49:43] Going back to my questions about locations, so moving away from the
12 person who said bad things to you, you told us that the market that you used to go to
13 was the one close to BMS.

14 Did you see women at that market?

15 A. [10:50:23] Yes, there were women at that souk.

16 Q. [10:50:29] Are you able to describe how those women ... (Overlapping
17 microphones)

18 MS GERRY: [10:50:31] The translation ...

19 THE WITNESS: [10:50:31] (No interpretation)(Overlapping microphones)

20 MS GERRY: [10:50:38] The translation stopped for me just for a moment.
21 (Overlapping microphones)

22 Q. [10:50:46] Are you able to tell us how those women were dressed?

23 A. [10:51:02] It was -- well, they were clothes.

24 Do you want me to go on?

25 THE INTERPRETER: [10:51:22] Asks the witness.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 MS GERRY: [10:51:23]

2 Q. [10:51:24] Yes, please.

3 PRESIDING JUDGE MINDUA: [10:51:24](Interpretation) Go ahead.

4 THE WITNESS: [10:51:28](Interpretation) I was saying there were women and the

5 women were clad in clothes, which we call in Arabic, *malahef*, and, in Tuareg,

6 *tassaghnist*, *hassanya*. It's a traditional type of dress, which covers the head and the

7 body and keeps open the hands, the face and the feet. So most women were dressed

8 in this fashion. Some with the hijab, that is, a dress that covers -- or a robe that

9 covers the head, but that keeps the face, hands and feet exposed.

10 MS GERRY: [10:52:28]

11 Q. [10:52:30] And in a -- in a market, some people buy things and some people sell
12 things. Can you help us to understand what the women were doing in your market.

13 A. [10:52:57] The women, as everyone -- as all women at all markets, some have

14 their own boutiques where they sell objects and other women come to do their

15 shopping. There was no prohibition for women to buy or sell. But the duty of

16 every woman was to be covered and to be modest in her dress as -- by using the hijab

17 or the *tassaghnist*.

18 Q. [10:53:40] So you told us some women had their own boutiques and some

19 women came to do their shopping. Have I understood you correctly?

20 A. [10:54:02] Yes, yes, yes.

21 Q. [10:54:04] And were you able to observe the movement of the women who came
22 to do their shopping?

23 A. [10:54:30] I was not very interested in that because I did not see anything. I did

24 not see any changes in the markets. As compared to prior to 2012, people were

25 living their lives. Some were selling spices, others were selling coal and other objects,

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 children's clothes. Everyone was living his or her own life.

2 THE INTERPRETER: [10:55:05] We didn't hear the last part of the sentence.

3 MS GERRY: [10:55:10]

4 Q. [10:55:11] Mr Witness, I don't think we heard the last part of what you were

5 saying. We got up to, Everyone was living their own life.

6 Could you repeat the end of what you were saying, please.

7 A. [10:55:31] I was saying -- I was saying that each person was living his or her

8 own life. No one had their life stopped. Everybody was buying and selling, just as

9 all markets, women, men, children. It was an ordinary life at the market.

10 Q. [10:55:55] And again, just in case we missed something in translation, the

11 translation for me is that you said:

12 "As compared to prior to 2012, people were living their lives." Can you help us as to

13 the -- your -- can you help us as to how people were living their lives in the markets

14 before 2012 compared to how people were living their lives in the markets during

15 2012, please.

16 PRESIDING JUDGE MINDUA: [10:56:39](Interpretation) Prosecutor.

17 MR DUTERTRE: [10:56:41](Interpretation) Okay, I think we have covered the

18 market from all directions - north, south, east, west - we've been talking about the

19 market for a long time. The questions have been asked. He's answered. I think

20 he's been clear enough.

21 We are repeating questions that have already been asked and I think that everyone

22 here in this room is very amply informed of this matter.

23 PRESIDING JUDGE MINDUA: [10:57:06](Interpretation) Yes.

24 Counsel Gerry, this is also the conviction of the Chamber. The witness has described

25 how people lived their lives, that they sold spices et cetera; so I think we can go on to

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 something else.

2 MS GERRY: [10:57:23] That's -- Mr President, that's great. I just want to be sure
3 that the Chamber understood that he had given that comparison. It wasn't clear to
4 me on the translation. I'm grateful that that's been understood - that it was the same
5 before as it was in 2012 - I certainly don't need to ask the question again.

6 Thank you for the confirmation.

7 Q. [10:57:46] Mr Witness, going back to the location that you -- that we have called
8 the ATM room outside of BMS.

9 Excuse me.

10 (Counsel confers)

11 MS GERRY: [10:58:10]

12 Q. [10:58:11] Mr Witness, are you able to tell us when that ATM room started to be
13 used by the police?

14 A. [10:58:22] Yes. This booth, ATM room, began to be used when Adam arrested
15 some women, but subsequently I do not remember whether it was used, and even if
16 that had been case, I was not present, so I did not see it. But I know that it was
17 dedicated to that use, but the police rarely dealt with women. Rarely did we see
18 women, rapists or thieves or highway robbers cutting off roads. So the police did
19 not deal with women a lot.

20 It was more women coming to file complaints and to claim their rights at the police
21 station, without anything more.

22 Q. [10:59:38] Just to be clear, you told us about an occasion when Adam arrested
23 women and that led to Adam being dismissed. Are those the women that -- is it the
24 same women that you're telling us about that were held in the ATM room or different
25 women?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 A. [11:00:14] No. I was talking about the women who had been arrested. I had
2 told you that this room was used for the first time at that point. The first time it was
3 used was when these women were arrested. That's what I had said.

4 Q. [11:00:33] To your knowledge, was that room used at any other time to detain
5 women?

6 MR DUTERTRE: [11:00:41](Interpretation) Mr President, the witness has already
7 answered this question. We're going around in circles.

8 PRESIDING JUDGE MINDUA: [11:00:48](Interpretation) Indeed. In any case, it is
9 11 o'clock.

10 Counsel Gerry, we are going to take a half-hour break, and we will start up again at
11 11.30.

12 The hearing is suspended.

13 THE COURT USHER: [11:01:04] All rise.

14 (Recess taken at 11.01 a.m.)

15 (Upon resuming in open session at 11.32 a.m.)

16 THE COURT USHER: [11:32:45] All rise.

17 Please be seated.

18 PRESIDING JUDGE MINDUA: [11:33:03](Interpretation) Court is in session.

19 The Defence has the floor to continue, and I hope with the end as well of the
20 examination-in-chief.

21 Maître Gerry, you have the floor.

22 MS GERRY: [11:33:29]

23 Q. [11:33:38] (Microphone not activated) ... local people.

24 Sorry. I'll start again. I apologise, again I forgot to press the microphone button.

25 I'm so sorry.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 Mr Witness, were you aware of marriages between members of the Islamic police and
2 local people in Timbuktu in 2012?

3 A. [11:33:59] Yes. I knew cases of marriage between members of the Islamic
4 police and -- even Ansar Dine -- and members of the local population. By way of
5 example, Abu Zhar married a Tuareg girl. Abu Zhar married a Tuareg girl. His
6 father is Tuareg. There was also Abdallah who got married to a girl of the Koroboro
7 ethnic group, Songhai. Talha as well, he got married with a girl who was Arab from
8 one of the Arab tribes of Timbuktu. There's also a third person --

9 THE INTERPRETER: [11:34:58] Whose name the interpreter didn't catch.

10 THE WITNESS: [11:35:13](Interpretation) -- who married an Arab girl from
11 Timbuktu.

12 MS GERRY: [11:35:15]

13 Q. [11:35:16] Thank you.

14 I will attempt to take those in turn.

15 You told us that Abu Zhar married a Tuareg girl. Did I understand you correctly?

16 A. [11:35:32] Yes, indeed.

17 Q. [11:35:39] Can you tell us your own personal knowledge of that marriage,
18 please.

19 A. [11:36:01] As far as I know, Abu Zhar proposed to the brother of the girl, the
20 brother accepted and they organised the preparations and they got married -- he got
21 married to this girl - according to the precepts of Islam, that is to say, with the
22 agreement of the family - and they lived together.

23 And when the situation changed, and when the group withdrew, they sent the girl to
24 her family's house in Douentza, and he came back afterwards.

25 Q. [11:36:50] Did you have the opportunity to observe the relationship between

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 Abu Zhar and his wife?

2 A. [11:37:10] No. But the brother of the married person - it was he who
3 communicated all these details to me - he said Abu Zhar proposed to him, made the
4 proposal to him. The brother accepted this marriage. And I found out about it
5 from the brother that Abu Zhar had sent -- he had sent the girl to the house of the
6 mother, because the situation had got worse and he sent her in a dignified way to the
7 house of her family, that is to say, her mother's house in Douentza.

8 Q. [11:38:00] How did you come to know the brother of Abu Zhar's wife?

9 A. [11:38:06] As I said, he was a Tuareg. I am as well -- (Overlapping
10 microphones)

11 Q. [11:38:23] What did the brother of Abu Zhar's wife tell you --

12 A. [11:38:25] -- he belongs to the -- he's from the same region.

13 Q. [11:38:30] Thank you. I apologise.

14 What did the brother of Abu Zhar's wife tell you about that marriage?

15 MR DUTERTRE: [11:38:39](Interpretation) Your Honour, we've had a question that's
16 been put and we've had the answer.

17 PRESIDING JUDGE MINDUA: [11:38:47](Interpretation) Maître Gerry, did you hear
18 the objection?

19 MS GERRY: [11:38:52] Yes. To me it wasn't so clear that it had been completely
20 answered. I just want -- the information that it came from the brother came after the
21 general description of his understanding. So what I'm asking now is what he was
22 specifically told by the brother. That's, in my submission, a proper question.

23 PRESIDING JUDGE MINDUA: [11:39:14](Interpretation) Prosecutor.

24 MR DUTERTRE: [11:39:15](Interpretation) I would repeat, that it was perfectly
25 answered on page 37, lines 9 to 15, in French:

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 No, but the brother of the married person, it was he who communicated all these
2 details. He told me that Abu Zhar proposed to him ...

3 Et cetera, et cetera. So this question has already been answered.

4 MS GERRY: [11:39:32] I'll accept that objection.

5 PRESIDING JUDGE MINDUA: [11:39:33](Interpretation) So we've got the answer,
6 Maître Gerry.

7 MS GERRY: [11:39:39] Yes, I accept the objection.

8 Q. [11:39:40] You told us about someone called "Abdallah". My note is that he
9 married a Songhai. I'm not sure if that's correct. Can you help us as to who
10 Abdallah married.

11 A. [11:39:59] I don't know. But what I do know is that he married a girl who lived
12 in Timbuktu, a Songhai girl.

13 Q. [11:40:18] Can you tell us any personal knowledge that you have of that
14 marriage between Abdallah and the Songhai girl.

15 A. [11:40:28] I have no information about that. But as far as I know, he got
16 married to this Songhai girl. That's all I know on that subject.

17 Q. [11:40:50] And then you told us about a third person. I'm afraid the
18 interpreters did not get the name. Can you help us as to the third person that you
19 knew of who got married in 2012 in Timbuktu, please.

20 A. [11:41:08] That was Talha Abou Darda.

21 Q. [11:41:16] My note is that Tal- -- you said that Talha married an Arab girl. Is
22 that correct or not correct?

23 A. [11:41:27] Yes, an Arab girl.

24 Q. [11:41:34] And are you able to give us any personal knowledge that you have
25 about that marriage, please?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 A. [11:41:46] I heard it said that he got married to an Arab woman. That's all that
2 I know.

3 MS GERRY: [11:41:55] Mr President, may we briefly go into private session, please.

4 PRESIDING JUDGE MINDUA: [11:42:04](Interpretation) Court officer, private
5 session, please.

6 (Private session at 11.42 a.m.)

7 THE COURT OFFICER: [11:42:10] We are in private session, Mr President.

8 PRESIDING JUDGE MINDUA: [11:42:24](Interpretation) Thank you very much.
9 Ms Gerry.

10 MS GERRY: [11:42:28] Thank you, Mr President.

11 Q. [11:42:29] Mr Witness, I now want to ask you about [REDACTED] that you were
12 at -- worked [REDACTED] Do you remember you told us that after the [REDACTED] months, you

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 What I want to focus on now is the -- first of all, [REDACTED] Do you
17 understand?

18 A. [11:43:19] Yes, I understand.

19 Q. [11:43:22] (Overlapping speakers) [REDACTED]
20 Thank you.

21 Did you provide [REDACTED] [REDACTED] that you were at
22 [REDACTED]?

23 A. [11:43:39] I don't remember having [REDACTED] anything important. I don't
24 remember.

25 Q. [11:43:49] I will ask you about what you did [REDACTED] in

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 a moment in public session, but before we go to public session, I just want to ask you
2 about the few days that you were at Wilaya when you went back to the police.

3 Did you [REDACTED] for the police when you went back for those
4 few days?

5 A. [11:44:14] I don't remember [REDACTED] anything important. I don't
6 remember.

7 Q. [11:44:25] I will ask you your memory of those few days back in public session.
8 I won't ask you [REDACTED] in public session.

9 Mr President, may we go back into public session, please.

10 PRESIDING JUDGE MINDUA: [11:44:48](Interpretation) Indeed.

11 Court officer, please take us into public session.

12 (Open session at 11.44 a.m.)

13 THE COURT OFFICER: [11:44:55] We are back in open session, Mr President.

14 PRESIDING JUDGE MINDUA: [11:45:00](Interpretation) Thank you very much,
15 court officer.

16 Maître Gerry.

17 MS GERRY: [11:45:05] Thank you, Mr President.

18 Q. [11:45:06] Mr Witness, you told us that there was a period of time that you were
19 at BMS when *Hesbah* was back -- was at BMS. Can you tell us what you saw at
20 *Hesbah* during that time.

21 A. [11:45:29] The *Hesbah* carried out its ordinary work. The *Hesbah* wasn't
22 established for the first time -- we weren't working for the first time in Timbuktu, it
23 exists in most Muslim countries and there even was a *Hesbah* in Saudi Arabia. And
24 the work of the *Hesbah* resembles the work of the commission for the promotion
25 of -- the commission that you have in Saudi Arabia to raise awareness amongst the

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 population about illicit acts; namely, the commission for the promotion of virtue and
2 the prohibition of vice in Saudi Arabia.

3 So it informs people about illicit acts and legal acts as well. The promotion of
4 decency among people, in particular with regards to the dress code in the street;
5 namely, to observe a decent dress code in the street.

6 Q. [11:47:00] Did you take part in any of the work that *Hesbah* was doing during
7 that time that you were with *Hesbah* at the BMS? I'm not asking you what you did,
8 but did you take any part?

9 A. [11:47:17] No, not at all.

10 Q. [11:47:29] I understand that you have told us that the function of *Hesbah* was to
11 raise awareness on the issues of promotion of virtue and prohibition of vice. When
12 you were at *Hesbah* at the BMS, did -- did you observe those functions being carried
13 out by *Hesbah*?

14 A. [11:48:07] Yes. These were the functions of the *Hesbah* in the souk, in the streets,
15 in public places. When I was in the *Hesbah*, in the police -- or even as an ordinary
16 person, I could see the *Hesbah* carry out its work.

17 Q. [11:48:32] Focusing on the period of time that you were at *Hesbah* at the BMS,
18 during that period of time, were you only at the BMS building or did you go
19 anywhere else with *Hesbah*?

20 A. [11:48:50] Only the BMS. Just the BMS.

21 Q. [11:49:02] You told us that you observed *Hesbah* doing their work when you
22 were at the BMS with *Hesbah* in that period of time. What did you see the members
23 of *Hesbah* doing at BMS, focusing on that period of time?

24 A. [11:49:24] The *Hesbah* didn't have any work inside. It was -- all the work it
25 carried out was outside. All the work was done outside, that is to say, in the streets

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 with people. People didn't come to complain or to file a complaint. But the work of
2 the *Hesbah* was done outside, it was raising awareness outside in public places, in the
3 souks.

4 Q. [11:50:07] I understand.

5 Mr President, may we go back into private session, please.

6 PRESIDING JUDGE MINDUA: [11:50:16](Interpretation) Court officer, please take
7 us into private session.

8 (Private session at 11.50 a.m.)

9 THE COURT OFFICER: [11:50:22] We are in private session, Mr President.

10 PRESIDING JUDGE MINDUA: [11:50:33](Interpretation) Thank you very much.
11 Maître Gerry.

12 MS GERRY: [11:50:36] Thank you, Mr President.

13 Q. [11:50:40] Mr Witness, you told us that you did not [REDACTED]

14 [REDACTED] for *Hesbah* [REDACTED] you were at BMS. Why did you go to *Hesbah* [REDACTED]

15 [REDACTED]

16 A. [11:50:58] I was at the *Hesbah* in case they needed me. They thought that they
17 were going to need [REDACTED], but that didn't take place. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. [11:51:47] Thank you.

22 Might we go back into public session, please.

23 PRESIDING JUDGE MINDUA: [11:51:54](Interpretation) Please take us into public
24 session, court officer.

25 (Open session at 11.51 a.m.)

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 THE COURT OFFICER: [11:52:01] We are back in open session, Mr President.

2 PRESIDING JUDGE MINDUA: [11:52:10](Interpretation) Thank you, court officer.

3 Maître Gerry.

4 MS GERRY: [11:52:15] Thank you, Mr President.

5 Q. [11:52:15] Mr Witness, you told us that you went back to the police for a period

6 of time before your -- before you finished. I want you to focus on that period of

7 time when you went back to Wilaya, to the *Gouvernorat*. Can you describe to us

8 what was happening in Timbuktu in those few days when you were at Wilaya?

9 A. [11:52:50] The situation had started to get worse. There was aerial bombing

10 and the war was starting -- or had already started, and everybody was concerned

11 about their families. A lot of members of the police and Ansar Dine stopped

12 working in order to ensure their family's security and be able to get them out of the

13 town before the invasion of the Malian army and its allies, and before crimes started.

14 I was one of the first people to have tried to transport the family outside of the town

15 for a safe place outside of Timbuktu.

16 Q. [11:54:02] To your knowledge, during that period of time when you were at

17 Wilaya with the Islamic police, was any police work done at all?

18 A. [11:54:17] The police carried out their functions, but the work was relatively

19 paralysed because the citizens were perplexed. They panicked. At least some of

20 them left, some of them were trying to leave. Whether they were Arabs or Tuareg,

21 people started to leave the town and they were all trying to reach the closest frontier

22 or border at -- the closest one from their point of view.

23 Q. [11:55:10] You mentioned "bombings". Can you help us to understand what

24 the situation was like please, at that time.

25 A. [11:55:31] The situation was very dangerous. It was crazy. There was

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 bombings in certain places where the members of the group were. The bombings
2 weren't done on the tribunal or the *Hesbah*, but it was done in places that were more
3 general -
4 for example, places where the emir of Al Qaeda was in the caserns - or the
5 ammunitions centres et cetera, the barracks, a park -- a carpark where vehicles are
6 repaired and ammunitions are kept -- ammunition is kept.

7 Q. [11:56:33] And how did you feel during that period of time?

8 A. [11:56:48] As any other citizen at this time, I felt the danger getting close to my
9 family, to my closest friends and family. And what I tried to do was to transport
10 them to another place which would be safer, and particularly -- in particular, after the
11 situation got worse and the Malian army arrived and before they started with the
12 normal crimes.

13 Q. [11:57:28] Did you stay in Timbuktu or go somewhere else?

14 A. [11:57:42] No. I went to another place.

15 Q. [11:57:46] Are you comfortable to say where you went to in public session or
16 would you like us to go into private session?

17 A. [11:58:02] No. I would prefer to go into private session.

18 MS GERRY: [11:58:09] Mr President, may we briefly go into private session, please.

19 PRESIDING JUDGE MINDUA: [11:58:15](Interpretation) Indeed.

20 Madam Court Officer, please take us into private session.

21 (Private session at 11.58 a.m.)

22 THE COURT OFFICER: [11:58:24] We are in private session, Mr President.

23 PRESIDING JUDGE MINDUA: [11:58:34](Interpretation) Thank you very much.

24 Maître Gerry.

25 MS GERRY: [11:58:37] Thank you, Mr President.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 Q. [11:58:39] Mr Witness, where did you go to?

2 A. [11:58:44] I went to [REDACTED]

3 Q. [11:58:54] Why did you to [REDACTED]

4 A. [11:59:04] Perhaps because I thought that [REDACTED] was the safest place during
5 this period and [REDACTED] and because it was [REDACTED]

6 Everybody was going to a different country. Some people went to Burkina Faso,
7 other people towards Mauritania and others took refuge in Algeria. Everybody was
8 going in their direction.

9 Q. [11:59:44] Thank you.

10 Might we go back into public session, please, Mr President.

11 PRESIDING JUDGE MINDUA: [11:59:51](Interpretation) Court officer, public
12 session, please.

13 (Open session at 11.59 a.m.)

14 THE COURT OFFICER: [11:59:57] We are back in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [12:00:12](Interpretation) Thank you very much,
16 court officer.

17 Maître Gerry.

18 MS GERRY: [12:00:20]

19 Q. [12:00:21] Mr Witness, since you left and went to that other place, have you had
20 any contact between that time and now with Mr Al Hassan?

21 A. [12:00:43] No.

22 MS GERRY: [12:00:48] Mr President, that completes my examination-in-chief.

23 I do have a number of objections to the documents suggested by Mr Prosecutor. I
24 imagine that, Mr President, you would wish to cut the link to the witness whilst those
25 objections are sorted out.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [12:01:18](Interpretation) Okay, Counsel Gerry.

2 Court officer, please cut the sound to the witness.

3 THE COURT OFFICER: [12:01:37] The sound to the witness has been disconnected,

4 Mr President.

5 PRESIDING JUDGE MINDUA: [12:01:44](Interpretation) Thank you very much,

6 court officer.

7 Counsel Gerry.

8 MS GERRY: [12:01:50] Mr President, we have been provided with a list of 224 items,

9 some of which are now not relied on, and I can help you with that as I make my

10 submissions.

11 We object to most of those documents. I can take you through them in groups or

12 line by line. But I wonder if it would help you, first of all, to at least know the

13 numbers where there are objections and where there are not objections.

14 MR DUTERTRE: [12:02:46](Interpretation) Mr President?

15 PRESIDING JUDGE MINDUA: [12:02:48](Interpretation) Yes, Mr Prosecutor.

16 MR DUTERTRE: [12:02:51](Interpretation) To save the time of the Chamber and the

17 Court and to avoid lengthy debates, I would say that this discussion is premature,

18 and my learned colleague could wait for opportunities when I will or not use a given

19 document to put forth its position. That way we can go to the heart of the matter

20 right away and we can settle the questions, the matters as they come up.

21 PRESIDING JUDGE MINDUA: [12:03:31](Interpretation) Counsel Gerry?

22 MS GERRY: [12:03:35] Mr President, in my submission, you should hear these

23 objections now for two reasons. Firstly, some of them are documents that have

24 never been in evidence and have no connection to this witness, and some are

25 documents where you have specifically, as a Chamber, rejected Rule 68(1) and 68(2)

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 applications. So in our submission, they should not be on the list at all and it would
2 be an interference with the evidence of the witness for us to have this debate time and
3 time again through the course of the witness's evidence.

4 So -- for example, just to give you an example on the list, we have a number of
5 statements of witnesses. On the first page, Witness P-4 and P-65, for reasons that are
6 not explained, those statements are on the list.

7 PRESIDING JUDGE MINDUA: [12:04:39](Interpretation) Counsel Gerry, how many
8 documents do you want to have removed?

9 MS GERRY: [12:04:51] I have listed it in this way. I've not done an individual
10 calculation. I've gone through the numbers.

11 MR DUTERTRE: [12:05:01](Interpretation) Mr President?

12 PRESIDING JUDGE MINDUA: [12:05:06](Interpretation) Mr Prosecutor.

13 MR DUTERTRE: [12:05:09](Interpretation) I don't know what we are referring to
14 when we talk about Rule 68(1) and then 68(2). That could be 68(3). What we have
15 listed, we weren't even obligated to list it. It was to help the Defence and to give
16 notice of the reasonable grounds for the future. This question had already been
17 adjudicated on by another witness. The objection was posed in the same terms and
18 it was fully admitted that when there are these types of grounds and we don't want
19 to show these statements to the witness, well, this can happen. This is even an
20 advance notice as to where the cross-examination would be. So the Defence has
21 even less reason to complain.

22 PRESIDING JUDGE MINDUA: [12:06:03](Interpretation) Counsel Gerry, you see
23 that we're starting to take up the time of the Chamber for a certain number of exhibits,
24 so you don't have to give the whole number. And as the Prosecutor has said, it is
25 just a list to give notice. He is not even sure that the Prosecution will use all these

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 documents. So --

2 MS GERRY: [12:06:30] (Overlapping speakers) There is a problem, Mr President.

3 PRESIDING JUDGE MINDUA: [12:06:32](Interpretation) There -- go ahead.

4 MS GERRY: [12:06:34] Mr President, there is a problem in this sense, that

5 my -- Mr Prosecutor says that he is being helpful, but when we have asked for the

6 pinpoint references in the transcripts of those other witnesses, so that we can

7 understand and have proper notice of the topic of cross-examination, he has refused

8 to provide those pinpoint references.

9 So what we are being given is a list that - for example, there are other issues as

10 well - that includes statements of witnesses who have given evidence, but we are told

11 on the list that the Prosecution are relying on the statement, and, in some of those

12 cases, the witnesses did not give the same evidence. They deviated from those

13 statements.

14 So it is most unhelpful for us to have a statement on a list of a witness without the

15 pinpoint references to the transcripts. So in our submission, we are obligated to raise

16 these problems to the Chamber.

17 PRESIDING JUDGE MINDUA: [12:07:42](Interpretation) Yes. Indeed. You have

18 the obligation to raise these problems and I have said that for the time being, it is a list

19 as a notice as emphasised by the Prosecution. So to save the time of the Chamber,

20 we will begin the cross-examination, and, on a piecemeal basis, when you want to

21 object to a document, you will say so and each time we will take a decision on this.

22 So there.

23 So thank you, Counsel Gerry, for the examination-in-chief.

24 And now we will proceed to the cross-examination of the Prosecution.

25 Mr Witness, we will now proceed to the cross-examination and I will have the sound

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 established.

2 Madam Court Officer.

3 THE COURT OFFICER: [12:08:53] The sound to the witness has been re-established,

4 Mr President.

5 PRESIDING JUDGE MINDUA: [12:08:59](Interpretation) Thank you very much,

6 Madam Court Officer.

7 So now the Office of the Prosecutor has the floor for the cross-examination.

8 Mr Prosecutor.

9 MR DUTERTRE: [12:09:13](Interpretation) Thank you, Mr President, Madam Judges.

10 And I am sorry that I have to, right from the outset, ask to go into a private session,

11 but I have to do so because the questions I have are identifying.

12 PRESIDING JUDGE MINDUA: [12:09:32](Interpretation) For the public, just tell us

13 for how many minutes.

14 MR DUTERTRE: [12:09:38](Interpretation) Well, it could be quite long. We're not

15 talking about minutes, but it could be at least 30 minutes for the time being.

16 PRESIDING JUDGE MINDUA: [12:09:52](Interpretation) Very well. That's

17 understood.

18 Court officer, private session, please.

19 (Private session at 12.10 p.m.)

20 THE COURT OFFICER: [12:10:05] We are in private session, Mr President.

21 PRESIDING JUDGE MINDUA: [12:10:12](Interpretation) Thank you very much,

22 court officer.

23 Mr Prosecutor.

24 MR DUTERTRE: [12:10:20](Interpretation) Thank you, Mr President.

25 QUESTIONED BY MR DUTERTRE: (Interpretation)

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 Q. [12:10:24] Good day, Mr Witness.

2 A. [12:10:29] Good day.

3 Q. [12:10:32] And I'm just reminding you that my name is Gilles Dutertre. We
4 had a courtesy visit. And I represent the Prosecution, and therefore I will be asking
5 you questions on behalf of the Prosecution in the moments to come.

6 A. [12:10:57] Yes.

7 Q. [12:11:00] And as these are identifying questions, I have asked for a private
8 session to save your identity.

9 Subsequently, in an open session, if you feel that a question may be identifying, do
10 not hesitate to say so. It is not always that obvious.

11 We agree on that?

12 A. [12:11:25] Yes, I fully agree.

13 Q. [12:11:29] So, Mr Witness, we have understood that you are Tuareg, and, more
14 specifically, you belong to [REDACTED] tribe. Is that not the case?

15 A. [12:11:49] Yes.

16 Q. [12:11:52] And if you are [REDACTED] that means that your father [REDACTED]
17 from that same tribe. Is that not the case? From the [REDACTED] tribe.

18 A. [12:12:06] Yes, of course.

19 Q. [12:12:12] And your mother's tribe is [REDACTED] tribe, am I right?

20 A. [12:12:20] Yes, you're correct.

21 Q. [12:12:25] The [REDACTED] tribe is a [REDACTED] tribe in the Timbuktu region, is that not
22 the case?

23 A. [12:12:36] Yes.

24 Q. [12:12:39] And also in [REDACTED] of Mali. And we could even say that it has an
25 influence in the region of Timbuktu, could we not?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 A. [12:12:56] Yes.

2 Q. [12:13:03] And the same thing goes for [REDACTED] of your mother. It has
3 an influence in the region of Timbuktu, does it not?

4 A. [12:13:19] Yes.

5 Q. [12:13:20] And in the north of Mali, you agree with me, that there is a solidarity
6 among the Tuareg tribes, is that not the case?

7 A. [12:13:31] Yes, yes.

8 Q. [12:13:38] Now, still with what relates to you, but a bit of a different point. You
9 have indicated - and this was in -- this is transcription 93, page 10 - that you studied
10 [REDACTED], in a private school.

11 A. [12:14:04] Yes.

12 Q. [12:14:06] "Private" means a school where you have to pay to do your studies,
13 have I understood correctly?

14 A. [12:14:14] Yes, you pay to do your studies.

15 Q. [12:14:30] And does everyone in the region -- can everyone in the region of
16 Timbuktu afford to pay for studies?

17 A. [12:14:42] No.

18 Q. [12:14:49] And just for the information of the Chamber, could you specify what
19 you have studied in this school [REDACTED]?

20 A. [12:15:04] It is a private school, [REDACTED]
21 [REDACTED] It teaches civil -- civic -- Islamic civic education and the sharia
22 and the language, language and -- like all schools, language, religion and some social
23 subjects as well.

24 Q. [12:15:39] So it is a religious school, we agree?

25 A. [12:15:44] Yes.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

- 1 Q. [12:15:50] In this school, the teaching is done in what language?
- 2 A. [12:15:59] In Arabic.
- 3 Q. [12:16:05] And so must I conclude that you speak Arabic, but you also read
- 4 Arabic?
- 5 A. [12:16:17] Yes.
- 6 Q. [12:16:21] Without any difficulty?
- 7 A. [12:16:24] With -- yes, without any difficulty.
- 8 Q. [12:16:31] And [REDACTED] is not that [REDACTED] to Timbuktu. So I imagine that to
- 9 communicate with your family, you had your own phone. Is that not the case?
- 10 A. [12:16:47] Yes.
- 11 Q. [12:16:57] I now come back to your father, [REDACTED] He is a [REDACTED]
- 12 THE INTERPRETER: [12:17:08] If the interpreter heard correctly.
- 13 THE WITNESS: [12:17:13](Interpretation) Yes. Yes, he is [REDACTED]
- 14 MR DUTERTRE: [12:17:16](Interpretation)
- 15 Q. [12:17:17] And he's also [REDACTED] is that not the case?
- 16 A. [12:17:24] Yes, yes. Yes, he is also [REDACTED]
- 17 Q. [12:17:35] And can I reasonably conclude that [REDACTED]
- 18 [REDACTED] in Timbuktu?
- 19 A. [12:17:47] Yes, indeed.
- 20 Q. [12:17:49] And he is [REDACTED] [REDACTED], is that not the case?
- 21 A. [12:17:56] Yes [REDACTED]
- 22 Q. [12:18:00] And he is the head of the family?
- 23 A. [12:18:13] Yes.
- 24 Q. [12:18:22] So when you are in 2012, in Timbuktu, you were living [REDACTED]
- 25 [REDACTED] if I understand correctly?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 A. [12:18:34] Yes.

2 Q. [12:18:39] And it is in the neighbourhood called [REDACTED] is it not?

3 A. [12:18:51] Almost.

4 Q. [12:18:57] You say "almost". I see you smiling. Could you specify.

5 A. [12:19:04] The neighbourhood in which we are, it wasn't -- it's not

6 [REDACTED]

7 Q. [12:19:22] Thanks for that clarification, that enables us to understand certain
8 things.

9 And it is also in this area - [REDACTED]

10 [REDACTED] is it not?

11 A. [12:19:50] Yes.

12 Q. [12:19:53] And now I will take an interest -- and this will require your assistance
13 and cooperation, I will take an interest in the more specific sequence of the events
14 with you in Timbuktu and things that happened in your life. So your "timeline" as
15 we would say in English. Yes. That is why we will stay in a closed -- in a private
16 session.

17 So let's take things in a chronological order, with a few parentheses here and there, to
18 clarify some aspects. So you have indicated that you returned to Timbuktu after the
19 coup d'état, which has been discussed - that it was the 22nd of March 2012 - and my
20 question is the following, can you tell us how many days or weeks after the coup
21 d'état did you arrive in Timbuktu.

22 A. [12:21:31] What I know and what I'm sure of is that I arrived in Timbuktu
23 before -- three days before the groups entered Timbuktu.

24 Q. [12:21:52] That is useful. And so at that point, Mr Witness, was the Malian
25 army still in Timbuktu or had it fled Timbuktu?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 A. [12:22:08] The army -- the Malian army was still in Timbuktu, and that was
2 a few days before it fled. The militias were controlling all the checkpoints leading in
3 and out of the city.

4 Q. [12:22:30] And so, if I understand correctly, you were in Timbuktu at the time
5 where -- when Ansar Dine and AQMI entered the city, is that not the case?

6 A. [12:22:55] Yes. And before them, the MNLA.

7 Q. [12:23:07] MNLA, Ansar Dine and AQMI, and you were present there.

8 A. [12:23:14] Yes.

9 Q. [12:23:16] So you saw them, you saw AQMI and Ansar Dine enter the city of
10 Timbuktu?

11 A. [12:23:24] Yes, I heard that they had entered the city.

12 Q. [12:23:35] But you were in Timbuktu. You saw them moving around?

13 A. [12:23:46] Yes, I was in Timbuktu, but I did not see them during those days. I
14 was at -- at home, at my place and I did not want to leave home at that time. I was
15 a student. I did not want to have any problems with weapons, with armed people.
16 I was not ready or disposed to facing that situation, so I stayed at home and did not
17 go out during that period.

18 Q. [12:24:22] So you knew that Ansar Dine and AQMI had entered Timbuktu with
19 weapons. Thank you, Mr Witness.

20 A. [12:24:42] Yes.

21 Q. [12:24:44] (Microphone not activated)

22 I forgot to turn on my microphone.

23 The Defence has communicated a summary of your statement, and it is indicated
24 therein that you say that you joined the armed group approximately in June-July of
25 2012. So my question is the following, you say "approximately" because, yes, it was

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 10 years ago and you don't remember very precisely, is that it?

2 A. [12:25:37] Yes, indeed.

3 Q. [12:25:43] And at that time, you did not take notes of the date when you joined
4 the group at that time. It wasn't important at that time, right?

5 A. [12:25:58] No, it was not important.

6 PRESIDING JUDGE MINDUA: [12:26:04](Interpretation) Counsel Gerry.

7 MS GERRY: [12:26:07] Mr President, so far we have had mention of three groups,
8 Ansar Dine, AQMI and MNLA. In these questions, the Prosecutor is only referring
9 to "the group". It probably needs to be clearer. It may be obvious, but I would
10 invite him to make it clear as to which group he's referring to. Thank you.

11 PRESIDING JUDGE MINDUA: [12:26:33](Interpretation) Yes, Mr Prosecutor.

12 MR DUTERTRE: [12:26:39](Interpretation) I thank my colleague. And we are
13 talking about Ansar Dine and AQMI. We could -- we could come back to this issue
14 with regard to the MNLA, if it's important for her, but I will specify every time.

15 PRESIDING JUDGE MINDUA: [12:26:57](Interpretation) Yes, that would be much
16 better.

17 MR DUTERTRE: [12:27:00](Interpretation) Yes. So I come back to my question.

18 Q. [12:27:08] Mr Witness, at the time, you did not take note of the date you had
19 joined Ansar Dine, is that not the case? It was not important, is that it?

20 A. [12:27:21] No, it was not important.

21 Q. [12:27:30] So if I understand correctly, between the arrival of Ansar Dine and
22 AQMI, in Timbuktu, up until June or July approximately of 2012, you were in
23 Timbuktu without joining the armed groups, is that it?

24 A. [12:27:52] Yes. Exactly. I had not joined any of the groups.

25 PRESIDING JUDGE MINDUA: [12:28:00](Interpretation) Counsel Gerry?

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0605

1 MS GERRY: [12:28:02] Mr Prosecutor has just agreed to be very specific and refer to
2 the group. He did that once, he used Ansar Dine. He then referred -- reverted to
3 the language of "armed group". I would invite him to use the words "Ansar Dine" as
4 he agreed to do, please.

5 MR DUTERTRE: [12:28:26](Interpretation) I think that the witness understood my
6 reference very clearly; that I was referring to Ansar Dine.

7 PRESIDING JUDGE MINDUA: [12:28:34](Interpretation) The witness said that he
8 had not belonged to any group. Okay, you have to -- to avoid this, you have to
9 specify every time you ask a question.

10 MR DUTERTRE: [12:28:45](Interpretation)

11 Q. [12:28:48] Mr Witness, we will re-specify.

12 So over several months, you stayed in Timbuktu without joining the group,
13 Ansar Dine, is that not the case?

14 A. [12:28:59] Yes.

15 Q. [12:29:09] You say that you joined -- joined the police in June-July of 2012 and
16 this lasted four months.

17 Let's try to specify this, but prior to doing that, I have a few little questions.

18 You spoke of Abu Zhar to the police?

19 THE INTERPRETER: [12:29:42] The witness corrects the name --

20 THE WITNESS: [12:29:44] (Interpretation) Abu Zhar. Abu Zhar, *na'am*. Abu
21 Zhar.

22 THE INTERPRETER: [12:29:49] Corrects the witness.

23 MR DUTERTRE: [12:30:01](Interpretation) I thank you very much because my
24 pronunciation is horrible.

25 Q. [12:30:06] What language was Abu Zhar speaking?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

- 1 A. [12:30:13] Abu Zhar spoke Arabic, Puhl and Bambara.
- 2 Q. [12:30:19] He was not from Timbuktu, was he?
- 3 A. [12:30:24] No, he was not from Timbuktu
- 4 Q. [12:30:29] He's not a Tuareg?
- 5 A. [12:30:35] No, he was Puhl.
- 6 Q. [12:30:45] And he was from AQMI, was he not?
- 7 A. [12:30:49] Yes, he was from AQMI.
- 8 Q. [12:30:55] Now, just a few open questions, I don't want to play ping-pong but --
- 9 PRESIDING JUDGE MINDUA: [12:31:07](Interpretation) So now we are going to go
- 10 back into open session.
- 11 Court officer, please take us into open session.
- 12 (Open session at 12.31 p.m.)
- 13 THE COURT OFFICER: [12:31:21] We are in open session, Mr President.
- 14 PRESIDING JUDGE MINDUA: [12:31:27](Interpretation) Thank you very much,
- 15 court officer.
- 16 Prosecutor.
- 17 MR DUTERTRE: [12:31:37](Interpretation)
- 18 Q. [12:31:39] So he was from AQIM. You didn't know him at all, you didn't know
- 19 Abu Zhar at all before 2012, did you?
- 20 A. [12:31:54] No.
- 21 Q. [12:31:57] And you had no contact with him before joining the police, the
- 22 Islamic police in Timbuktu?
- 23 A. [12:32:10] Yes.
- 24 Q. [12:32:18] When you say "yes," just to be clear, you're saying you had no contact
- 25 with him before joining the police? Is that correct?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 A. [12:32:32] No, I didn't have contact with him before joining the Islamic police.

2 Q. [12:32:48] So we can say he's also not a friend of yours, can't we?

3 A. [12:32:57] No.

4 Q. [12:33:07] But I'm right to say, am I not, that when you were in the police for
5 approximately four months, you interacted with him?

6 A. [12:33:24] Yes, I interacted with him.

7 Q. [12:33:31] And even during these four months, you contacted Abu Zhar by
8 telephone and by SMS text message. That happened, did it not, Witness?

9 A. [12:33:49] I don't remember.

10 Q. [12:33:53] You don't remember, but it's perhaps something that is possible, is it
11 not?

12 A. [12:34:06] Yes, it's possible, but I don't remember.

13 Q. [12:34:12] And more specifically, you sent two SMS -- [REDACTED]
14 [REDACTED] to Mr Abu Zhar and two calls -- two phone calls, [REDACTED] (Overlapping
15 speakers)

16 PRESIDING JUDGE MINDUA: [12:34:45] *Oui, Maître Gerry.*

17 MS GERRY: [12:34:50] May we be clear as to timings. Is that [REDACTED] in the morning or
18 [REDACTED] in the evening? I'd be grateful. If we're working on the 24-hour clock, I will
19 know, but otherwise could it be clear whether we're talking morning or evening.
20 Thank you.

21 MR DUTERTRE: [12:35:07](Interpretation) In French, it was [REDACTED] and [REDACTED]
22 It's perhaps not clear, it's p.m., post meridiem.

23 PRESIDING JUDGE MINDUA: [12:35:21](Interpretation) Very well, that's very good.

24 Now it's completely clear. It is in the record.

25 Please go ahead, Prosecutor.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 MR DUTERTRE: [12:35:30](Interpretation)

2 Q. [12:35:30] So I will continue by anticipating, so there were two phone calls,

3 Witness? First, on [REDACTED], and the second, the [REDACTED]

4 [REDACTED]

5 THE INTERPRETER: [12:36:13] Corrects the interpreter, a.m.

6 MR DUTERTRE: [12:36:19](Interpretation)

7 Q. [12:36:20] So I'm now, Witness, going to show a document, which should

8 remain confidential. You will see it on your screen. It has the [REDACTED] -- tab

9 93 - [REDACTED] at tab 43. And with regards to the call data records, you have -- I'm

10 going to show the line [REDACTED] and I will be on evidence -- the authorisation to share it

11 on evidence 2, I suppose. That's line [REDACTED]

12 MS GERRY: [12:37:57] If I may, before my learned friend --

13 PRESIDING JUDGE MINDUA: [12:37:57](Interpretation) You're asking for the floor

14 and I'll -- we'll give it to you, so you can speak.

15 MS GERRY: [12:38:01] Just very briefly --

16 PRESIDING JUDGE MINDUA: [12:38:02] Please, go ahead.

17 MS GERRY: [12:38:03] -- I want to make this objection once, rather than keep getting

18 up and down. When we get to discussions of telephone numbers, it is our

19 submission that Mr Prosecutor should not give positive attribution naming whose

20 numbers they were, unless there is evidence to conclusively deal with that, because

21 there are disputes over whose numbers were whose and who was using telephones at

22 a particular time.

23 So there will need to be a foundation for these questions for all the numbers that the

24 Prosecutor is dealing with, so that we can be confident it is not an assertion without

25 foundation.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 I make that objection now in the hope that I don't have to keep making it in relation to
2 every telephone number.

3 Thank you.

4 PRESIDING JUDGE MINDUA: [12:38:58](Interpretation) Prosecutor?

5 MR DUTERTRE: [12:39:02](Interpretation) I have three points, if I may,
6 your Honour.

7 PRESIDING JUDGE MINDUA: [12:39:07](Interpretation) Please, go ahead.

8 MR DUTERTRE: [12:39:09](Interpretation) Well, firstly, it would have been useful to
9 cut the sound because it influences the witness.

10 PRESIDING JUDGE MINDUA: [12:39:14](Interpretation) You are right.
11 Court officer -- but we can continue.

12 MR DUTERTRE: [12:39:21](Interpretation) We have a basis, secondly, and we have
13 a number and it's attributed to somebody, and the Defence can plead whatever it
14 wishes hereafter.

15 PRESIDING JUDGE MINDUA: [12:39:30](Interpretation) Well, sometimes the
16 Defence is not aware that you have a basis.

17 MR DUTERTRE: [12:39:47](Interpretation) It's on the list of evidence that we
18 disclosed to the Defence for the case of this witness. Among the 200 documents,
19 there is all this that is in it.

20 PRESIDING JUDGE MINDUA: [12:39:48] So what you're saying is that for every
21 number here, there is a basis which has been announced to the Defence?

22 MR DUTERTRE: [12:39:54] There is either a basis that is already in evidence, either
23 it's documentary and it's on the list of evidence. But we can also go through it rather
24 than making a general objection.

25 PRESIDING JUDGE MINDUA: [12:40:06](Interpretation) Indeed. In order to avoid

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 any objection, we will go on a case-by-case basis.

2 Is that okay, Maître Gerry.

3 MS GERRY: [12:40:17] Nearly, but not quite. Because with the witness, the
4 expectation would be that we would have a foundation for it, and, I agree, the witness
5 should be cut off for this part of the discussion. I didn't say anything to influence the
6 witness earlier, but the proper way to deal with this type of --

7 PRESIDING JUDGE MINDUA: [12:40:35](Interpretation) Very well.

8 MS GERRY: [12:40:36] -- evidence, the proper way --

9 PRESIDING JUDGE MINDUA: [12:40:37](Interpretation) So would you like us to
10 cut the sound?

11 MS GERRY: [12:40:39] I think it is already cut. No.

12 PRESIDING JUDGE MINDUA: [12:40:42](Interpretation) No.

13 Court officer, please cut the sound.

14 THE COURT OFFICER: [12:40:52] The sound to the witness has been disconnected,
15 Mr President.

16 MS GERRY: [12:40:58] I'm sorry for my error, I made a mistake.

17 PRESIDING JUDGE MINDUA: [12:41:04](Interpretation) Yes, Maître Gerry, but you
18 have to wait for me to give you the floor.

19 Very well. I think that we're going to proceed on a case-by-case basis because you
20 challenged whether they have the basis, the Prosecutor says that the foundation has
21 been communicated to you. Instead of having this general discussion, what we're
22 going to do, is, we're going to continue, and every time that there's a number, the
23 Prosecutor is going to tell us what the basis is for it.

24 MS GERRY: [12:41:34] But we need to be careful. I'm afraid that doesn't deal with
25 the problem. First of all, this witness has not been asked if he remembers his own

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 telephone number. So we don't know whether this witness will be able to assist on
2 any of these telephone numbers as to what was his number.

3 Secondly, this witness has not been asked whether he knows Abu Zhar's telephone
4 number.

5 Thirdly, we have not been given on the list any document that identifies each and
6 every number that we have here, nor the basis upon which each and every number is
7 relied upon. So to simply put a bunch of numbers on a screen and ask a
8 witness about them, making assertions, in our submission, is not appropriate and
9 does not lay the proper foundation for each of these numbers.

10 I anticipate that what is coming is an assertion that one number belonged to this
11 witness and another number belonged to Abu Zhar without any foundation at all.
12 We've simply had a bunch of numbers put on the screen.

13 Now whilst I understand it is cross-examination and the Prosecutor can lead, it is, in
14 our submission, totally wrong not to establish what this witness remembers - at least,
15 of his own numbers, and of those of other people - before we even get to a long list of
16 numbers.

17 So, in our submission, this is a foundation that is not laid.

18 PRESIDING JUDGE MINDUA: [12:43:00](Interpretation) Very well. We've
19 understood.

20 So Prosecutor.

21 MR DUTERTRE: [12:43:01](Interpretation) Yes, your Honour. I think it's
22 premature and obstructive at the moment. The Defence has come in without
23 knowing what I'm going to do. It's clear that I'm going to establish the number of
24 the individual, and for Abu Zhar's number, this is something that's in evidence.

25 Maître Gerry wasn't in the Defence team at the time, but through the witness, P-99,

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 0013, that was a document that was formally submitted, and if I wasn't interrupted,
2 then I would have been able to go through all these different aspects -- that's
3 document 0013-2752.

4 And I'm in cross-examination, not examination-in-chief, so I can be leading. I can do
5 a certain number of things when I have a reasonable basis and a basis in proof. And
6 I do have a reasonable basis.

7 PRESIDING JUDGE MINDUA: [12:43:50](Interpretation) I don't want to go back
8 over what the Prosecutor has said. Whatever the case, this is what the Chamber has
9 decided; so we're going to proceed in this manner.

10 Please go ahead, Prosecutor.

11 We are going to re-establish the sound.

12 Court officer.

13 THE COURT OFFICER: [12:44:08] The sound to the witness has been re-established,
14 Mr President.

15 PRESIDING JUDGE MINDUA: [12:44:20](Interpretation) Thank you very much,
16 court officer.

17 Prosecutor.

18 MR DUTERTRE: [12:44:22](Interpretation) Perhaps given the identifying elements
19 with regards to this, perhaps it would be best to go into private session.

20 PRESIDING JUDGE MINDUA: [12:44:31](Interpretation) Court officer, please take
21 us into private session.

22 (Private session at 12.44 p.m.)

23 THE COURT OFFICER: [12:44:40] We are in private session, Mr President.

24 PRESIDING JUDGE MINDUA: [12:44:47](Interpretation) Thank you very much.
25 Prosecutor.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 MR DUTERTRE: [12:44:50](Interpretation)

2 Q. [12:44:54] Thank you very much for your patience, we've had a purely legal
3 discussion and we are going back to the questions.

4 Can you see your screen clearly in front of you?

5 PRESIDING JUDGE MINDUA: [12:45:22](Interpretation) Witness, you've
6 heard -- did you hear the question?

7 THE WITNESS: [12:45:29](Interpretation) Yes, I can see the screen.

8 MR DUTERTRE: [12:45:33](Interpretation)

9 Q. [12:45:33] So here, we're talking about telephone data, which was obtained by
10 a telephone operator in Mali, Witness, and I'm particularly interested in line [REDACTED]
11 which is highlighted. Can you see it?

12 A. [12:46:00] Yes, I can see that line.

13 Q. [12:46:05] So it indicates that the number that I'm showing with my mouse,

14 [REDACTED] we'll come back to that later - received a call from number [REDACTED]

15 [REDACTED] It was a voice call, it lasted for [REDACTED] and, here, we have
16 an indication of the person whose number [REDACTED] who's [REDACTED] or
17 [REDACTED] I think that's your status - and who's from the commune of Timbuktu.

18 So Witness, [REDACTED] was indeed your number at the time, was it not?

19 A. [12:47:46] Yes.

20 Q. [12:47:59] And the description [REDACTED] Timbuktu, that
21 corresponds to you, does it not?

22 A. [12:48:19] I don't know who noted the name, but it is my number, but the way in
23 which it's written and its presentation, I don't know anything about that. And I
24 don't know if this number was in my name because I tried to get this phone back, and
25 I wasn't able to get it.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 Q. [12:48:45] But [REDACTED] in Timbuktu, that does correspond with you, does it not,
2 Witness?

3 A. [12:48:53] Yes. [REDACTED] Timbuktu, yes, that does.

4 Q. [12:49:05] And you had the number in 2012, did you not, Witness?

5 A. [12:49:12] Yes, I had a number in 2012.

6 Q. [12:49:21] And you had this number, did you not, Witness?

7 A. [12:49:28] Yes, I had this number in 2012.

8 Q. [12:49:41] So I'm going to show another document containing telephone data,
9 Witness. And this is at tab 92, and it has the [REDACTED] It is already formally
10 submitted, and I'm interested particularly in line [REDACTED]

11 MR DUTERTRE: [12:50:56](Interpretation) I'll just ask for a moment.

12 (Pause in proceedings)

13 MR DUTERTRE: [12:51:26](Interpretation) Here we are. I'm going to -- I'm going
14 to zoom in, Your Honour.

15 Q. [12:51:42] Can you see this on your screen, Witness?

16 A. [12:51:46] Yes.

17 Q. [12:51:56] So, Witness, these are calls and text messages that were received by
18 the telephone attributed to Abu Zhar -- well, the telephone number attributed to Abu
19 Zhar, which is 70601372.

20 MR DUTERTRE: [12:52:32](Interpretation) We have to cut the sound if there's an
21 objection, but we've already mentioned this objection.

22 PRESIDING JUDGE MINDUA: [12:52:37](Interpretation) Maître Gerry, what would
23 you like to say, knowing that the witness is online?

24 MS GERRY: [12:52:41] The problem is that the foundation for the number belonging
25 to Abu Zhar is not a solid foundation. So the assertion --

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [12:52:55](Interpretation) Please, wait, Maître Gerry,
2 we have the witness who's there. So this question that you want to raise and which
3 you are raising, was already resolved by the Chamber. So let the Prosecutor put the
4 questions and we will decide.

5 Please sit down, Maître Gerry, because the Chamber's already resolved this matter.
6 Prosecutor.

7 MR DUTERTRE: [12:53:25](Interpretation) Thank you, your Honour.

8 Q. [12:53:26] So, Witness, we have a document, which has been tendered into
9 evidence before this Chamber, which indicates that the number 70601372, which I'm
10 putting my marker on, that belonged to Abu Zhar. And you can see that this
11 number [REDACTED], which lasted for [REDACTED]
12 [REDACTED], from your number, that is to say, [REDACTED]

13 Is that not correct?

14 A. [12:54:45] That is to say that I have no idea, but I can see it, but I don't know.

15 Q. [12:55:02] You no longer remember, but it is indeed your number, is it not,
16 [REDACTED]?

17 A. [12:55:15] Could you please listen to me and give me the opportunity to speak?

18 What I said was, yes, I confirm that the number resembles my number, but I don't
19 know who this number belongs to, and I have no idea with regards to these calls or
20 the text messages. Even the telephone number, it's because you showed me the
21 number that I remembered and I thought perhaps it's my number, it's close to my
22 number, if not my number.

23 Q. [12:56:10] Thank you, Witness, for this clarification.

24 PRESIDING JUDGE MINDUA: [12:56:13](Interpretation) Maître Gerry.

25 MS GERRY: [12:56:15] Mr President, may we cut the connection to the witness,

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 please.

2 PRESIDING JUDGE MINDUA: [12:56:20](Interpretation) Indeed. Court officer,
3 please cut the sound.

4 MS GERRY: [12:56:27] The Prosecutor referred to me not being part of the case
5 earlier, so I can --

6 PRESIDING JUDGE MINDUA: [12:56:34](Interpretation) Maître Gerry, please wait
7 for me to give you the floor.

8 THE COURT OFFICER: [12:56:39] The sound to the witness has been disconnected,
9 Mr President.

10 PRESIDING JUDGE MINDUA: [12:56:46](Interpretation) Thank you very much,
11 court officer.

12 Maître Gerry.

13 MS GERRY: [12:56:50] Mr President, the Prosecutor referred to me not being in the
14 case earlier, so I've had the record checked by those who were in the case earlier. As
15 I understand it, [REDACTED]

16 [REDACTED] - I apologise if the pronunciation is wrong - said that this number was
17 a number connected to Abu Zhar.

18 But there was no evidence as to when this number was given to that witness, [REDACTED]

19 [REDACTED] and there is no evidence as to whether Abu Zhar was an exclusive user or not.

20 And there is also evidence that persons frequently changed numbers.

21 So in our submission, the Prosecution do have to be very careful when they're making
22 assertions to a witness that could mislead that witness as to who is using the phone.

23 I want to add that the Prosecutor used the word "belonged". That is difficult.

24 Sometimes phones are registered to an individual and sometimes phones are used by
25 an individual. It's very important, particularly dealing with technical telephone

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 evidence, to make sure that the questions are precise and have a foundation. So
2 simply asserting that this was Abu Zhar's number at that time does not have
3 a foundation in evidence at the moment.

4 So we do object to the way in which these questions are being asked and the lack of
5 precision in the language.

6 PRESIDING JUDGE MINDUA: [12:58:35](Interpretation) Prosecutor, do you want
7 to respond?

8 MR DUTERTRE: [12:58:38](Interpretation) Your Honour, I think this has been
9 decided on.

10 PRESIDING JUDGE MINDUA: [12:58:41](Interpretation) Very well.

11 Maître Gerry, this question has already been decided on by the Chamber. You know,
12 you raised yourself that it's in the case record in evidence, and your witness, who you
13 mentioned, this is what he said, he is known to the Chamber.

14 Who we have in front of us is a witness who has the opportunity now to give his own
15 version. For the first number, he said that it was his number as far as he remembers,
16 and for the other, he says he doesn't remember. The Chamber's informed. It's fine.
17 So we're going to continue.

18 Court officer, please could you reconnect the sound.

19 THE COURT OFFICER: [12:59:31] The sound to the witness has been re-established,
20 Mr President.

21 PRESIDING JUDGE MINDUA: [12:59:44](Interpretation) Thank you very much.
22 Prosecutor, I think we've got two or three minutes, we can do it in public session.

23 MR DUTERTRE: [12:59:54](Interpretation) Okay. We can go into public session
24 and because it's the same CDR, it will be okay.

25 PRESIDING JUDGE MINDUA: [13:00:05](Interpretation) So we'll have to be

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 prudent.

2 Please take us into public session, court officer.

3 (Open session at 1.00 p.m.)

4 THE COURT OFFICER: [13:00:14] We are back in open session, Mr President.

5 PRESIDING JUDGE MINDUA: [13:00:24](Interpretation) Thank you very much,
6 court officer.

7 Prosecutor.

8 MR DUTERTRE: [13:00:29](Interpretation)

9 Q. [13:00:31] Witness, I understand your point of view, 10 years ago, it's not
10 yesterday, but I'm asking a question which is quite simple. You were in contact by
11 telephone with Abu Zhar in 2012, were you not, in the four months in which you
12 were in the Islamic police?

13 A. [13:01:03] It's possible.

14 Q. [13:01:07] Very well.

15 And I am now going to go to a line, [REDACTED] still on this CDR, [REDACTED] Can you see
16 the highlighted line, Witness?

17 A. [13:01:44] Yes.

18 Q. [13:01:47] And you can see that your number [REDACTED]
19 [REDACTED] sent a text message, there's a number [REDACTED] Is that not correct, Witness?

20 A. [13:02:18] Yes.

21 (Overlapping speakers)

22 MR DUTERTRE: [13:02:24](Interpretation) Your Honour, ... (no interpretation)

23 PRESIDING JUDGE MINDUA: [13:02:35](Interpretation) Very well, it is 1:03, so we
24 can stop there.

25 We're now going to have a break for lunch and we will be back at 2.30 as usual.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

- 1 We shall therefore suspend the session.
- 2 Court is suspended.
- 3 THE COURT USHER: [13:02:56] All rise.
- 4 (Recess taken at 1.02 p.m.)
- 5 (Upon resuming in open session at 2.34 p.m.)
- 6 THE COURT USHER: [14:34:48] All rise. Please be seated.
- 7 PRESIDING JUDGE MINDUA: [14:35:15](Interpretation) The hearing has now
- 8 resumed.
- 9 Good afternoon to everyone.
- 10 The Office of the Prosecutor has the floor for the continuation of the
- 11 cross-examination.
- 12 Mr Prosecutor.
- 13 MR DUTERTRE: [14:35:33](Interpretation) Thank you, Mr President. And I see
- 14 that we have some public, so I will try my best to remain in open session, even if
- 15 some things will be slightly allusive in order not to be identifying.
- 16 PRESIDING JUDGE MINDUA: [14:35:54](Interpretation) Thank you very much.
- 17 MR DUTERTRE: [14:35:57](Interpretation)
- 18 Q. [14:36:01] Mr Witness, can you hear me well?
- 19 A. [14:36:06] Yes, I hear you.
- 20 Q. [14:36:11] Perfect. We will continue what we had begun before the lunch break,
- 21 if you will, to specify a bit more the chronology of your activities in 2012, in Timbuktu,
- 22 with the armed group Ansar Dine.
- 23 MS GERRY: [14:36:47] Mr President, if I may.
- 24 PRESIDING JUDGE MINDUA: [14:36:51](Interpretation) Yes.
- 25 MS GERRY: [14:36:52] I think we agreed before the break that my -- the Prosecutor

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 would refer to the group as "Ansar Dine." We have just had "armed group,
2 Ansar Dine." I'd be grateful if we stuck to the label "Ansar Dine." We don't need
3 the additional rhetoric.

4 MR DUTERTRE: [14:37:16](Interpretation) Mr President?

5 PRESIDING JUDGE MINDUA: [14:37:19](Interpretation) Yes, Mr Prosecutor. So
6 the Defence does not want to hear the word "armed," is that it?

7 MR DUTERTRE: [14:37:23](Interpretation) On the one hand, I did not think that it
8 was contested that Ansar Dine is an armed group. Secondly, I am in
9 cross-examination, so I can ask leading questions.

10 So I think this was just obstructive, in my understanding of it. Thank you.

11 PRESIDING JUDGE MINDUA: [14:37:50](Interpretation) Counsel Gerry.

12 MS GERRY: [14:37:52] In my submission, we are not being instructive, we are
13 inviting the Prosecution to be precise. The name of the group is "Ansar Dine." That
14 allows us to understand which group we are talking about. The Prosecutor agreed
15 to use that label and he is adding additional rhetoric, which is unnecessary and may
16 become confusing to the witness. We have agreed to use Ansar Dine. That's what
17 should happen.

18 PRESIDING JUDGE MINDUA: [14:38:31](Interpretation) Okay. Mr Prosecutor, I
19 think we can just limit ourselves to using the term "Ansar Dine" because the Defence
20 contests the use of saying "armed group".

21 MR DUTERTRE: [14:38:46](Interpretation) Okay. I will just say "Ansar Dine"
22 because it's obvious that it's an armed group. So --

23 PRESIDING JUDGE MINDUA: [14:38:51](Interpretation) Go ahead, Mr Prosecutor.

24 MR DUTERTRE: [14:38:55](Interpretation)

25 Q. [14:38:57] Now we will go ahead to specify the chronology of events with

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 the -- your activities with the group, Ansar Dine.

2 And so, to that end, I would like to use the tab 94 of folder 1, Mr President, document
3 0031-764. These are call data records that have been submitted formally to this case.

4 And in this document, there are several thumbnails in the electronic version, and I
5 take the one -- the one that ends [REDACTED] And it is
6 confidential.

7 We will not show it to the public, if you will, court officer.

8 Mr Witness, do you see this document on the screen? Do you see it sufficiently well?

9 A. [14:40:40] Yes, I see the document. I see the document.

10 THE INTERPRETER: [14:40:52] Repeats the witness.

11 MR DUTERTRE: [14:40:55](Interpretation)

12 Q. [14:40:56] And so we see in the third column, your number called the number

13 [REDACTED] And in the
14 column K, L and the ones that follow, we see the same description as we saw earlier.

15 That is the case, is it not, Mr Witness?

16 A. [14:42:01] Yes, that is what I see.

17 Q. [14:42:14] I will go to the line [REDACTED] and I reassure you that this will be the last
18 time I will use this for the time being.

19 Do you see this line [REDACTED] Mr Witness?

20 A. [14:42:53] Yes.

21 Q. [14:43:14] So in column E, we see your number called [REDACTED] on

22 [REDACTED] It's a voice call of [REDACTED] Is that not
23 the case, Mr Witness?

24 A. [14:43:55] Yes, that is what I see.

25 Q. [14:44:00] And after your four months at the police in Timbuktu in 2012, that is

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 the first time you were at the police, you no longer called Abu Zhar by phone. Is
2 that not the case, Mr Witness?

3 A. [14:44:25] I did not quite understand the question. Could you repeat the
4 question, please.

5 Q. [14:44:33] I will repeat the question. I'm sure -- I'm sorry if I was not clear.

6 So at end of the four-month period with the police in 2012, you agree with me that
7 you no longer texted or called Abu Zhar by phone. Is that not the case, Mr Witness?

8 A. [14:45:05] I do not recall having called Abu Zhar or -- and having sent him text
9 messages.

10 Q. [14:45:24] Earlier we had seen that you had said that it was possible that you
11 would have done it. But, Mr Witness, what I would suggest is that those four
12 months at the Islamic police - that was, July 2012, August 2012, September 2012 and
13 October 2012 - that is the period when there are calls between your phone and Abu
14 Zhar's phone.

15 A. [14:46:03] I told you that it was possible, but I do not remember. Perhaps that
16 did take place.

17 Q. [14:46:18] So if I understand correctly, Mr Witness, [REDACTED]
18 [REDACTED] that takes us to November or December
19 2012. Is that not the case, Mr Witness?

20 A. [14:46:49] Yes, but I don't remember the months -- the dates. [REDACTED]

21 [REDACTED]
22 Q. [14:47:17] Mr Witness, could you help us. [REDACTED]

23 [REDACTED] that was after the execution of Moussa, when the family had refused the *diya*.
24 Is that not it?

25 A. [14:47:42] Yes, after the execution of Moussa.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 Q. [14:47:49] Mr Witness, I suggest it was in the month of October. I think this is
2 not contested. [REDACTED]

3 [REDACTED] Is that not the case?

4 PRESIDING JUDGE MINDUA: [14:48:08](Interpretation) Yes, Counsel Gerry.

5 MS GERRY: [14:48:12] Mr President, may we briefly go into private session, please.

6 PRESIDING JUDGE MINDUA: [14:48:21](Interpretation) Court officer, could we go
7 into closed session -- partially closed session.

8 (Private session at 2.48 p.m.)

9 THE COURT OFFICER: [14:48:35] We are in private session, Mr President.

10 PRESIDING JUDGE MINDUA: [14:48:40](Interpretation) Thank you very much.

11 Counsel Gerry

12 MS GERRY: [14:48:46] [REDACTED]

13 [REDACTED] That is identifying material. We were
14 very specific that the pattern of his employment would also be capable of identifying
15 this witness - [REDACTED] We

16 used very neutral language in public session. Unfortunately, the Prosecutor has
17 directly referred to that type of private material.

18 The way in which we approached it was to say, "The four months," then, "the period
19 of time that you were with -- that you were at *Hesbah*", and then "the additional
20 period of time that you were with the police at Wilaya".

21 Those were the phrases that we used in public session and we would be grateful if
22 those same phrases were used by the Prosecutor. [REDACTED]

23 [REDACTED] I didn't want to immediately
24 jump up and draw attention to that issue. So some of it is already on the public
25 session transcript and my team will make the appropriate communications.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 Thank you.

2 PRESIDING JUDGE MINDUA: [14:50:10](Interpretation) Thank you very much,

3 Counsel Gerry. I think you are right. So I would ask the court officer to make the
4 requisite preparations. Prosecutor, please pay attention to this.

5 MR DUTERTRE: [14:50:35](Interpretation) But that's why I went in to a private
6 session, because I didn't need generalities about four months et cetera. And we have
7 to know exactly when it happened. If we have to go into a closed session, we can do
8 that.

9 I can -- I think we can go back into open session and be careful that there will be -- no
10 identifying elements will be mentioned now that we know that this part will be
11 redacted.

12 PRESIDING JUDGE MINDUA: [14:51:04](Interpretation) Okay. Court officer,
13 please bring us back into open session.

14 (Open session at 2.51 p.m.)

15 THE COURT OFFICER: [14:51:10] We are back in open session, Mr President.

16 PRESIDING JUDGE MINDUA: [14:51:22](Interpretation) Thank you very much,
17 court officer.

18 Mr Prosecutor.

19 MR DUTERTRE: [14:51:26](Interpretation)

20 Q. [14:51:28] So after this two-month period, you joined *Hesbah*. And could you
21 help us, at that time, the groups, AQMI and Ansar Dine, had already left or were
22 preparing to leave to go to the battle of Konna. It was at that time that you joined
23 the *Hesbah*, is it not?

24 A. [14:52:04] Yes. At that point, I joined the *Hesbah*, but Ansar Dine did not leave
25 Timbuktu. The Ansar Dine partisans did not leave Timbuktu, but some members of

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 Ansar Dine went to this battle, the Konna battle. And with regard to AQMI, I don't
2 have any information on this topic.

3 Q. [14:52:48] Okay. So I understand that you joined *Hesbah* when some members
4 of Ansar Dine had gone to the Konna battle. Is that it? I've understood well?

5 A. [14:53:03] Yes.

6 Q. [14:53:09] Thank you, Mr Witness.

7 So then you only spent a few days at the -- with the Islamic police, it was a very brief
8 period?

9 A. [14:53:30] Yes.

10 MR DUTERTRE: [14:53:38](Interpretation) Mr President, Madam Judges, I would
11 need us to go into private session for a few moments.

12 PRESIDING JUDGE MINDUA: [14:53:46](Interpretation) Court officer, please take
13 us into a private session.

14 (Private session at 2.53 p.m.)

15 THE COURT OFFICER: [14:53:52] We are in private session, Mr President.

16 PRESIDING JUDGE MINDUA: [14:54:04](Interpretation) Thank you very much.
17 Mr Prosecutor.

18 MR DUTERTRE: [14:54:08](Interpretation)

19 Q. [14:54:14] Mr Witness, the Defence, I had mentioned it, gave us a summary of
20 your statement which has the ERN MLI-D28-0006-3094. And in paragraph 4, on the
21 first page, it is indicated, and I quote, in English:

22

[REDACTED]

23 (Interpretation) We are referring to Ansar Dine to satisfy the concerns of my
24 colleague.

25

[REDACTED]

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 [REDACTED]

2 A. [14:55:29] No, no. [REDACTED]

3 [REDACTED] Nobody suggested that I join Ansar Dine. I joined

4 Ansar Dine based on my own personal convictions. It was my decision.

5 Q. [14:56:15] Mr Witness, I need you to help me clarify something somewhat.

6 First of all, what convictions are you talking about? Could you expound on this a

7 bit?

8 A. [14:56:36] Yes, I will explain things very clearly. I was convinced of the

9 Ansar Dine doctrine. When Ansar Dine got to Timbuktu, they came as an Azawadi

10 movement of Muslims claiming the legitimate rights of the Azawadi people, but

11 according to the method of the Islamic parties. So any Azawadi person would have

12 been convinced of this. Among its claims was to establish a state in the north of Mali,

13 and this state would be of a Muslim nature. And, as a student in an Arab school, I

14 find this very motivating because there would be an opportunity to work. And this

15 is what pushed me, what convinced me to join Ansar Dine. So it's a Tuareg

16 movement of people of the Azawad region, Muslims, and I was convinced on that

17 basis.

18 Q. [14:58:19] Mr Witness, I understand that you agreed with all the prohibitions

19 imposed by the group Ansar Dine and AQMI in Timbuktu in 2012. Is that it?

20 A. [14:58:40] And what would be the prohibition you are referring to? I know

21 a movement that was working on the basis of something and I don't see any

22 prohibitions. It is the sharia of God -- of Allah and it was applied before Ansar Dine

23 got there. The judges were the ones adjudicating. Before Ansar Dine got there and

24 after they left, we all studied in Koranic schools. And today we continue to study in

25 Koranic Islamic schools, and that would be the same in the future.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 So what prohibitions are you talking about?

2 MR DUTERTRE: [14:59:34](Interpretation) We are not to go into this in open session,
3 but we will come back to -- for now, yes, an open session is possible.

4 PRESIDING JUDGE MINDUA: [14:59:46](Interpretation) Court officer, please take
5 us into an open session.

6 (Open session at 2.59 p.m.)

7 THE COURT OFFICER: [14:59:55] We are back in open session, Mr President.

8 PRESIDING JUDGE MINDUA: [15:00:03](Interpretation) Thank you very much.

9 MR DUTERTRE: [15:00:16](Interpretation)

10 Q. So we are going to be precise, Witness. I'll put a precise question to you.

11 Before the arrival of Ansar Dine and AQIM in Timbuktu in 2012, women were not
12 obliged to wear a veil in Timbuktu, were they?

13 A. [15:00:39] (No interpretation)

14 THE INTERPRETER: [15:00:56] Message from the French booth: There is no
15 interpretation.

16 PRESIDING JUDGE MINDUA: [15:01:13](No interpretation)

17 THE WITNESS: [15:01:33] Yes, of course. I forgot what was the question. Yes, I
18 said it was the hijab or the veil as the -- the veil on the head to cover the head, the
19 covering of the head was not mandatory before the Ansar Dine arrived in 2012.

20 However, it was inappropriate and indecent in the community for a woman not to
21 cover her head in villages and in the deserts where the Tuareg was living. That was
22 shameful.

23 MR DUTERTRE: [15:02:25](Interpretation)

24 Q. [15:02:27] Indecent for you, wasn't it, Witness?

25 A. [15:02:39] For the whole community. For the whole community and not only

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 myself.

2 Q. [15:02:52] Witness, before 2012, a woman who did not wear a veil was not
3 arrested, was not put in prison, that's correct, isn't it, in Timbuktu?

4 A. [15:03:08] Yes, in the centre of Timbuktu that was not happening. Why?

5 Q. [15:03:34] Before 2012, in Timbuktu, a man and a woman could have
6 a relationship without being married, couldn't they, Witness?

7 A. [15:03:44] Even if they had a sexual relationship outside the marriage, they
8 would be outcasted by the community. Even their children -- even if they have
9 children, they would not inherit. The community would consider that their children
10 are not -- are illegitimate.

11 Q. [15:04:21] In Timbuktu, before 2012, before the arrival of the armed groups,
12 AQIM and Ansar Dine, people were not flogged in Sankoré Square. Men and
13 women who had a relationship without being married were not flogged on Sankoré
14 Square.

15 A. [15:04:46] This is true, they were not flogged in squares. However, this is not
16 the decision of Ansar Dine. This is the decision of the Islamic sharia. And this is
17 a decision of the Islamic sharia and not an Ansar Dine decision.

18 Q. [15:05:16] And you are in agreement with this type of sanction and treatment,
19 are you not, flogging people who are not married?

20 A. [15:05:33] If the person was a Muslim and would be subjected to said sharia, he
21 should be -- he should act upon this just like any other Muslim. We should not deny
22 that.

23 Q. [15:05:52] So I'll repeat my question. You were in agreement with this type of
24 sanction, were you not, Witness?

25 A. [15:06:01] I told you that if the person was Muslim and following the sharia,

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 this -- I would accept that he would be punished like that because this is subjected to
2 sharia law. However, if he was not Muslim, he should not be subjected to this law or
3 to these rules.

4 Q. [15:06:26] Witness, you explained to us this morning that you yourself, you
5 could not participate in the sanctions inflicted upon the people.

6 A. [15:06:50] Yes, it's true.

7 Q. [15:06:53] And that's because it was something very violent, is it not?

8 A. [15:07:02] I did not wish to participate or to go there. Sometimes I do not wish
9 to participate in certain things.

10 Q. [15:07:16] Could you explain a bit more why you didn't want to participate in it
11 or see it?

12 A. [15:07:29] (No interpretation)

13 PRESIDING JUDGE MINDUA: [15:07:50](Interpretation) So once again, there is no
14 interpreting from Arabic towards English. What's happening?

15 THE INTERPRETER: [15:07:59] The English interpreter signals that he was -- that
16 there was no interpret- --

17 THE ARABIC INTERPRETER: [15:08:05] The message from the interpreter: The
18 microphone was off. Could you please ask --

19 PRESIDING JUDGE MINDUA: [15:08:19](No interpretation)

20 THE ARABIC INTERPRETER: [15:08:21] Could you --

21 PRESIDING JUDGE MINDUA: [15:08:22] (No interpretation)

22 THE ARABIC INTERPRETER: [15:08:23] The interpreter can repeat the answer.

23 PRESIDING JUDGE MINDUA: [15:08:31](No interpretation)

24 THE WITNESS: [15:08:37] (Interpretation) Sometimes I did not -- I did not wish to
25 participate in certain things that I did not like. I would -- I would rather stay in calm

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 situations at that age and at that time.

2 MR DUTERTRE: [15:08:51](Interpretation)

3 Q. [15:08:53] You didn't like to because it was too violent and too humiliating, isn't
4 that the case, Witness?

5 A. [15:09:08] I told you I will -- I will be clear with you. These acts, some of them
6 are *hudud*. They were -- they were pinpointed by God. Some of them are also at the
7 discretion of the understanding of the *sheiks* and judges. I cannot criticise that.
8 However, what I can say is that I did not want to participate or to go there, and this
9 was my own decision and my own wish at the time.

10 Q. [15:09:57] Witness, before 2012, in Timbuktu, before the arrival of Ansar Dine
11 and AQIM, you could consume alcohol, could you not?

12 A. [15:10:17] Yes, it was possible to drink alcohol. Even when Ansar Dine were
13 present, alcohol was allowed but you had to stay at home. However, if it was
14 known in the community that you were drinking alcohol, everybody would look
15 down at you, and they would see you -- that you are not respecting the traditions and
16 the precepts -- and the precepts of the sharia.

17 Everyone who used to drink alcohol would not be respected by the community.

18 Q. [15:11:04] Witness, I'm repeating my question. It was prohibited to -- was it
19 prohibited to drink alcohol in 2012? It was prohibited to drink alcohol in Timbuktu
20 in 2012, when Ansar Dine and AQIM controlled the town, wasn't it?

21 A. [15:11:38] (No interpretation)

22 PRESIDING JUDGE MINDUA: [15:11:57](Interpretation) Arabic booth,
23 please -- could you repeat the answer of the witness, please.

24 THE ARABIC INTERPRETER: [15:12:04] Excuse me. There is a technical error here.
25 Every time I'm pressing for the English, the microphone is going off on its own.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 That's a bit weird.

2 Okay. I will repeat the answer.

3 The witness said:

4 Like just as I told you, drinking alcohol was -- is still -- is still prohibited -- was still
5 prohibited at the time Ansar Dine was present as it was -- as it is prohibited today.

6 So the community does not respect any person who would drink alcohol.

7 MR DUTERTRE: [15:12:38](Interpretation)

8 Q. [15:12:41] Witness, when you were caught drinking alcohol in Timbuktu in 2012,
9 when Ansar Dine and AQIM were in control of the town and you -- in that case, you
10 were arrested and flogged, were you not?

11 A. [15:13:16] Yes, he was flogged. This is according to the sharia, because
12 drinking alcohol -- if a Muslim were to drink alcohol, he should be flogged, according
13 to the sharia. And then for 40 days, his prayers would not be responded. This is
14 according to the precepts of the Islamic law and according to the community.

15 Q. [15:13:51] And you, Witness, you're in agreement with that, aren't you?

16 A. [15:14:07] Everything that was stipulated by the sharia, I respect. This is me as
17 a Muslim, as long as I say -- I believe in God, I believe in everything, and I believe in
18 all the precepts of the Islamic law. If I say anything else or if I say otherwise, I
19 would not be respecting my religion.

20 Q. [15:14:37] So if I understand, you are in agreement with people being flogged if
21 they consume alcohol; that's correct, is it not, Witness?

22 A. [15:14:54] If the person was Muslim and following the sharia, yes. As long as
23 he is Muslim, this means he believes in the sharia. If he believes in that, he should
24 accept any sanction or penalty he would be subjected to. This is to be clear.

25 Q. [15:15:22] In Timbuktu before 2012, before Ansar Dine and AQIM arrived, there

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 were bars in Timbuktu, were there not?

2 A. [15:15:39] Yes, there were prohibitions.

3 Q. [15:15:56] My question hasn't been translated correctly. I will repeat it.

4 PRESIDING JUDGE MINDUA: [15:16:01] (Interpretation) Yes, please do.

5 MR DUTERTRE: [15:16:03] (Interpretation)

6 Q. [15:16:03] Witness, in Timbuktu, before the arrival of Ansar Dine and AQIM,

7 there were bars, were there not? The question that I put was that there were bars in

8 Timbuktu before the arrival of Ansar Dine and AQIM?

9 A. [15:16:21] Yes, there were bars.

10 Q. [15:16:29] And in Timbuktu, in 2012, when Ansar Dine and AQIM were in

11 control of the town, they prohibited the practice of magic, did they not?

12 A. [15:16:51] Yes, that was prohibited.

13 Q. [15:16:56] And if, in 2012, in Timbuktu, you were caught and accused of magic,

14 you would be put into prison, would you not?

15 A. [15:17:18] Yes, he used to be imprisoned.

16 Q. [15:17:27] And before 2012, there weren't prisons -- you weren't in prison if you

17 did magic; that's right, is it not, Witness?

18 A. [15:17:46] I do not know. I cannot lie. I do not know if he used to be

19 imprisoned before 2012 or not. However, if you ask me my personal opinion, I used

20 to see performing magic as a fraud and a crime. This is -- he should be -- these

21 crimes of fraud and performing using amulets and stuff like that, this is not

22 appropriate. Probably what you understand of magic is something else than our

23 understanding of magic.

24 Q. [15:18:49] Witness, if you wore an amulet in 2012, in Timbuktu, when

25 Ansar Dine and AQIM were in town -- were in Timbuktu, it was prohibited to wear

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 an amulet, was it not?

2 MR DUTERTRE: [15:19:05](Interpretation) I think the word "amulet" wasn't well
3 translated by the Arabic booth.

4 PRESIDING JUDGE MINDUA: [15:19:24](Interpretation) Prosecutor, there is
5 a concern with regard to the interpretation.
6 Arabic booth?

7 THE FRENCH-ARABIC INTERPRETER: [15:19:47] (No interpretation)

8 PRESIDING JUDGE MINDUA: [15:19:52] Because it seemed that there was
9 a problem with the word "amulet."

10 Very well. We are going to continue. There's no problem.

11 MR DUTERTRE: [15:20:07](Interpretation)

12 Q. [15:20:08] Witness, in Timbuktu in 2012, when Ansar Dine and AQIM were in
13 control of the town, it was forbidden to have an amulet, *tamima*, was it not?

14 A. [15:20:28] In terms of magic, the amulet, there was no link with magic. But
15 there was magic -- if -- there are amulets for magic and there are amulets which had
16 no link with magic.

17 Q. [15:20:56] I'm speaking to you about amulets, not about magic. The amulets
18 were prohibited in 2012 under AQIM and Ansar Dine, were they not?

19 A. [15:21:10] Yes, it's true. That's correct.

20 Q. [15:21:20] And in 2012, in Timbuktu, when it was controlled by Ansar Dine and
21 AQIM, if you smoked, you were arrested. It was prohibited, smoking, was it not?

22 A. [15:21:36] Was it -- was smoking prohibited?

23 Q. [15:21:51] Yes, Witness, smoking and selling cigarettes was prohibited, wasn't it?

24 THE INTERPRETER: [15:22:07] The interpreter did not hear the answer of the
25 witness.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [15:22:12](No interpretation)

2 THE WITNESS: [15:22:16](Interpretation) Yes, it was prohibited.

3 MR DUTERTRE: [15:22:21](Interpretation)

4 Q. [15:22:23] And if you were caught selling cigarettes, you were arrested and you
5 were convicted to a prison sentence, were you not, Witness?

6 A. [15:22:38] No, he used to be only tortured, not taken to prison, or -- sorry, not
7 tortured, but a *ta'zir* would be applied to him.

8 Q. [15:23:04] Perhaps there was a problem with the translation, but I'm going to
9 move on.

10 A. [15:23:13] I said that *ta'zir* would be applied to him -- the *ta'zir* penalty would be
11 applied to him. He might be arrested for a short time to understand what's going on,
12 but then the *ta'zir* would be applied to him. He would not be imprisoned because
13 the sharia does not stipulate to prohibit or -- to prohibit cigarettes or to smoke.

14 Whenever there are things that are not stipulated by sharia, there won't be any prison.

15 Q. [15:23:48] You say the person could be detained. That person was detained by
16 the Islamic police, was that person not?

17 A. [15:24:21] Probably by *Hesbah*, unless he had other problems. As for smoking,
18 he -- he -- the cigarettes would be seized and he would be released. As for the seller,
19 he would be -- there was -- there would be an investigation conducted with him and
20 then released. It's mostly done by *Hesbah*.

21 MR DUTERTRE: [15:25:03] (Interpretation) I'm going to slow down so that the
22 interpreters can precisely interpret my question, because there has been a repeated
23 difficulty.

24 Q. [15:25:27] Witness, the *Hesbah* didn't carry out investigations. It was the
25 Islamic police who carried out investigations, wasn't it?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 A. [15:25:49] In which subjects? Could you please tell me which topics?

2 Q. [15:25:58] Witness, the role of the Islamic police, it was, in particular, to carry
3 out investigations. You mentioned it previously in your testimony, didn't you?

4 A. [15:26:11] Yes, it is true, but now we are talking about smoking.

5 PRESIDING JUDGE MINDUA: [15:26:20] Maître Gerry.

6 MS GERRY: [15:26:24] May we cut the line to the witness for a moment, please.

7 PRESIDING JUDGE MINDUA: [15:26:28](Interpretation) Court officer, please cut
8 the sound.

9 THE COURT OFFICER: [15:26:33] The sound to the witness has been disconnected,
10 Mr President.

11 PRESIDING JUDGE MINDUA: [15:26:44](Interpretation) Thank you very much.
12 Maître Gerry.

13 MS GERRY: [15:26:46] Mr President, it was a very broad question. The issue of
14 investigations was not made sufficiently precise. In my submission, the witness's
15 answer demonstrates how unclear the question was because the witness needs the
16 question to differentiate between was it smoking, drinking, clothing, amulets, magic.
17 Those are the topics that the Prosecutor has asked about, and he hasn't been specific
18 as to whether matters were investigated by *Hesbah* or the Islamic police.

19 So I would ask that the witness is asked more precise questions, please.

20 PRESIDING JUDGE MINDUA: [15:27:31](Interpretation) Yes, Maître Gerry, you are
21 right on this point. It could lead to confusion.

22 Prosecutor, please try to be more precise with regards to this point.

23 So we are going to reconnect the sound.

24 Court officer.

25 THE COURT OFFICER: [15:27:49] The sound to the witness has been re-established,

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 Mr President.

2 PRESIDING JUDGE MINDUA: [15:28:03](Interpretation) Thank you very much,

3 Madam Court Officer.

4 Prosecutor, please continue.

5 MR DUTERTRE: [15:28:09](Interpretation)

6 Q. [15:28:11] Witness, it wasn't the role of *Hesbah* to carry out investigations, was it?

7 A. [15:28:26] This is true, carrying out investigations in major cases was not up to
8 *Hesbah*. However, there are things related to *Hesbah*. This -- you should know that

9 there are things related to *Hesbah*. As I said before, smoking, amulets - also
10 violations that are not stipulated in the sharia and they are considered as
11 prohibited - these were under the control of the *Hesbah*.

12 Q. [15:29:04] Witness, when people are arrested -- or when people were arrested, it
13 was the Islamic police who interrogated them and carried out the investigations,
14 wasn't it?

15 A. [15:29:32] Arresting, there were many types of arresting people. It is according
16 to -- on each -- on a case-by-case law -- base, there are cases that are not related the
17 police, such -- for example, if a person -- if a person was smoking, the *Hesbah* could
18 arrest this person. However, sometimes that would happen. When the police is
19 there, he would then be arrested by the police and his cigarettes would be seized, and
20 then he would be warned by the police.

21 However, with regards to smoking, amulets or to minor cases, these are all cases
22 related to *Hesbah*. The police are mainly concerned -- or involving -- involved in
23 major crimes.

24 This is not a crime. This is a minor offence, this is a violation.

25 Q. [15:30:47] We'll come back to this point, Witness.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 But the police, they destroyed cigarettes when they were confiscated, didn't they,

2 Witness? The Islamic police.

3 A. [15:31:07] Yes, it's true.

4 Q. [15:31:17] Witness, I'll get back to the original question -- or the initial question
5 before going [...]

6 MR DUTERTRE: [15:31:33](Interpretation) [...] into private session, your Honour, if
7 you would be so kind.

8 PRESIDING JUDGE MINDUA: [15:31:36](Interpretation) Please take us into private
9 session, court officer.

10 (Private session at 3.31 p.m.)

11 THE COURT OFFICER: [15:31:46] We are in private session, Mr President.

12 PRESIDING JUDGE MINDUA: [15:31:51](Interpretation) Thank you very much.
13 Mr Prosecutor.

14 MR DUTERTRE: [15:31:57](Interpretation)

15 Q. [15:31:59] You have spoken to the Defence, and you have given information to
16 the Defence; is that not correct?

17 A. [15:32:14] Yes.

18 Q. [15:32:19] The Defence took note of this, read to you what you have said. Is
19 that not the case, Mr Witness?

20 Mr Witness, could you be clear on this? You don't know whether the Defence had
21 reread to you the statements that you had made?

22 A. [15:32:52] Yes, it reread them, but you had not mentioned this idea of rereading.
23 But yes, it was reread.

24 Q. [15:33:05] I'm sorry, it was a matter of translation.

25 Mr Witness, the summary that the Defence gave us indicates in paragraph 4 of this

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 document that ends in 94.

2 THE INTERPRETER: [15:33:26] Sorry, the English interpreter did not catch the
3 entire number.

4 MR DUTERTRE: [15:33:31](Interpretation) MLI-D28-0006-3094. And, I quote:

5 (Speaks English) [REDACTED]

6 (Interpretation) This refers to --

7 I close the quotation.

8 This refers to Ansar Dine.

9 Q. [15:34:04] Have you said this, Mr Witness?

10 A. [15:34:06] I did not understand because I did not hear it well.

11 Q. [15:34:12] Okay. I will ask the question --

12 PRESIDING JUDGE MINDUA: [15:34:16](Interpretation) Counsel Gerry.

13 MS GERRY: [15:34:21] Mr President, it may help the witness for the whole of the

14 sentence to be read. It begins with [REDACTED] and it ends with (Overlapping

15 speakers)

16 MR DUTERTRE: [15:34:28](Interpretation) We should cut the sound.

17 MS GERRY: [15:34:29] Yes, I hear you. I hear you. I ...

18 PRESIDING JUDGE MINDUA: [15:34:36](Interpretation) Mr Prosecutor, you had

19 said?

20 MR DUTERTRE: [15:34:39](Interpretation) If there's an objection or an explanation,
21 then we should perhaps cut the sound.

22 PRESIDING JUDGE MINDUA: [15:34:46](Interpretation) Here we go.

23 MS GERRY: [15:34:48] I wasn't going to read the whole sentence. It is the sentence

24 that begins with [REDACTED] It may be helpful for the witness

25 to hear the whole sentence. At the moment, the Prosecutor is asking about the first

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 seven words, and it may help the witness to hear the whole sentence.

2 PRESIDING JUDGE MINDUA: [15:35:15](Interpretation) Prosecutor, the Defence is
3 asking you to read the entire sentence, to be fair.

4 MR DUTERTRE: [15:35:23](Interpretation) No problem. I will do this.

5 Q. [15:35:45] So, Mr Witness, in the summary communicated by the Defence, it is
6 stated and I quote:

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

10 (Interpretation) End of quotation.

11 My question, Mr Witness, have you said this or not to the Defence, that is?

12 A. [15:36:26] [REDACTED] I know that I joined
13 Ansar Dine. But I don't remember this -- [REDACTED]

14 [REDACTED] Perhaps what's written is false. Perhaps there's an error
15 somewhere.

16 Q. [15:36:54] But this was reread to you, is that not the case? You just said this to
17 us a few seconds ago, when you reread what you had said to the Defence.

18 A. [15:37:08] I am not denying it, but perhaps there was an error, a mistake.
19 Perhaps there was a mistake to which I didn't pay attention.

20 Q. [15:37:23] So -- so this sentence is not accurate?

21 A. [15:37:32] I'm speaking specifically of this sentence, [REDACTED]
22 [REDACTED] I think there's maybe some kind of a typo, but I think there is
23 an error. All the rest is accurate.

24 Q. [15:37:56] So this is false, is it not, Mr Witness?

25 A. [15:38:06] Yes, this sentence is not accurate.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 MR DUTERTRE: [15:38:26](Interpretation) Could we now go back into open session.

2 PRESIDING JUDGE MINDUA: [15:38:30](Interpretation) Indeed. Court officer,
3 let's go back into open session.

4 (Open session at 3.38 p.m.)

5 THE COURT OFFICER: [15:38:37] We are back in open session, Mr President.

6 PRESIDING JUDGE MINDUA: [15:38:49](Interpretation) Thank you very much.
7 Mr Prosecutor.

8 MR DUTERTRE: [15:38:52](Interpretation)

9 Q. [15:38:54] Mr Witness, yesterday, you spoke to us about Abou Zeid who was
10 present in Timbuktu in 2012. You specified that he was from Al Qaeda.

11 (Counsel confers)

12 MR DUTERTRE: [15:39:18](Interpretation) The interpretation has been -- or the
13 translation has been inaccurate and I think there's a problem with the translation,
14 because it was not properly translated into Arabic.

15 PRESIDING JUDGE MINDUA: [15:39:32](Interpretation) So, Arabic booth -- would
16 you like us to repeat the answer?

17 MR DUTERTRE: [15:39:41](Interpretation) I can repeat the question.

18 PRESIDING JUDGE MINDUA: [15:39:45](Interpretation) The question, yes.

19 MR DUTERTRE: [15:39:48](Interpretation)

20 Q. [15:39:49] Yesterday, you said that Abou Zeid -- Abou Zeid was present in
21 Timbuktu in 2012, and he was from Al Qaeda. He was even the governor of
22 Timbuktu -- in Timbuktu when Ansar Dine and AQMI were controlling the city. Is
23 that not the case?

24 PRESIDING JUDGE MINDUA: [15:40:23](Interpretation) Mr Witness, would you
25 like to say something?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 THE WITNESS: [15:40:28](Interpretation) I did not say this.

2 MR DUTERTRE: [15:40:33](Interpretation)

3 Q. This is a question, Mr Witness. I will repeat the question. You said Abou
4 Zeid was -- was in the city. And he's from Al Qaeda, is that right? That's what
5 you said yesterday.

6 A. [15:40:46] Yes, that is what I had said.

7 Q. [15:40:48] And my question is, Abou Zeid during this period, he was the
8 governor of Timbuktu. Is that -- he was the chief. Is that not the case?

9 A. [15:41:03] Ansar Dine was in charge in Timbuktu, and the chief, at that point,
10 was Iyad Ag Ghaly and he -- he was the spokesperson for Ansar Dine. And Abou
11 Zeid, everyone knows that he was the head of Al Qaeda, but not in Timbuktu.

12 Q. [15:41:42] Mr Witness, you agree that Iyad Ag Ghaly was not always in
13 Timbuktu in 2012. Is that not the case?

14 A. [15:41:54] Yes, he would come and go.

15 Q. [15:42:04] And Abou Zeid was always in Timbuktu in 2012. Is that not the
16 case?

17 A. [15:42:16] Perhaps he was always in Timbuktu. I could not tell you. I cannot
18 specify that.

19 THE FRENCH-ARABIC INTERPRETER: [15:42:27](No interpretation)

20 PRESIDING JUDGE MINDUA: [15:42:49](Interpretation) Indeed. You have heard
21 the request. There you go.

22 MR DUTERTRE: [15:43:04](Interpretation)

23 Q. [15:43:04] Mr Witness, throughout the period when Ansar Dine and AQMI were
24 in Timbuktu, you were in Timbuktu; isn't that right?

25 A. [15:43:15] Yes.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 Q. [15:43:18] And you worked with the Islamic police, is that not correct?

2 A. [15:43:24] Yes.

3 Q. [15:43:26] And you worked with the *Hesbah* as well, is that not correct?

4 A. [15:43:32] Yes.

5 Q. [15:43:39] And so it is I who am telling you that Abou Zeid was the governor in
6 Timbuktu in 2012 when Ansar Dine and AQMI were controlling the city, if I
7 understand your testimony.

8 A. [15:44:07] Are you telling me or asking the question? I told you that the chief
9 of Ansar Dine was Iyad Ag Ghaly, and I could not tell you whether Abou Zeid was in
10 Timbuktu all the time or a part of the time. But the chief was Iyad Ag Ghaly, as I
11 had said earlier. And that's all.

12 Q. [15:44:36] Okay. So you don't know. I see.

13 Mr Witness, you have heard of Sanda Ould Boumama, is that not correct?

14 THE INTERPRETER: [15:45:06] The interpreter did not grasp the answer.

15 MR DUTERTRE: [15:45:14](Interpretation)

16 Q. [15:45:14] Could you please repeat, Mr Witness.

17 A. [15:45:18] Yes. Sanda is the spokesperson for Ansar Dine.

18 Q. [15:45:29] And he was present in Timbuktu when Ansar Dine was controlling
19 the city. Is that not the case?

20 A. [15:45:41] When Ansar Dine was controlling the city, yes, he was present.

21 Q. [15:45:48] And you saw him with your own eyes?

22 A. [15:45:51] Yes, I saw him with my own eyes.

23 Q. [15:45:57] Moreover, he was from Timbuktu himself, Sanda Ould Boumama?

24 A. [15:46:04] Yes, he's from Timbuktu.

25 Q. [15:46:08] Mr Witness, it was public knowledge that Sanda Ould Boumama

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 was -- or had been with Al Qaeda for years. Is that not the case?

2 A. [15:46:28] Honestly, I don't know. I know that Sanda was the spokesperson for
3 Ansar Dine. After Ansar Dine had left, I had heard that he was in Mauritania to sell
4 spare parts, spare parts of vehicles.

5 Q. [15:46:58] So I'm the one telling you today that Sanda Ould Boumama had links
6 to Al Qaeda. Is that how I am to understand your testimony?

7 A. [15:47:15] Yes. It's possible. I don't know.

8 Q. [15:47:19] Mr Witness, you have heard of Abdallah Al Chinguetti, have you not?

9 A. [15:47:36] Yes, I have heard of him.

10 Q. [15:47:40] He was in Timbuktu in 2012 when Ansar Dine and AQMI
11 were -- were there?

12 A. [15:47:55] Yes, he was in Timbuktu.

13 Q. [15:48:00] And he was even a member of the tribunal, was he not, Mr Witness?
14 I'm talking about the Islamic tribunal in Timbuktu in 2012.

15 A. [15:48:16] He is part of the great sheikhs. Perhaps he attends the hearings but
16 he's not a member. He simply comes to the tribunal. But the main members of the
17 tribunal are the ones I cited.

18 Q. [15:48:39] And Abdallah Al Chinguetti, he belongs to Al Qaeda, does he not,
19 Mr Witness?

20 A. [15:48:47] Yes. Yes, he belongs to Al Qaeda.

21 Q. [15:48:53] And, Mr Witness, you have heard of Omar Ould Hamaha, have you
22 not?

23 A. [15:49:11] Omar Ould Hamaha? I didn't hear this well. Yes, I have heard of
24 him.

25 Q. [15:49:33] He is also a native to Timbuktu. Is that not the case?

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 A. [15:49:40] Yes.

2 Q. [15:49:42] And he was present at least a part of the time in Timbuktu in 2012,
3 when Ansar Dine and AQMI were controlling the city. Is that not the case,
4 Mr Witness?

5 A. [15:49:58] We don't know the belonging of Omar. One day he founds the
6 sharia movement and another time with Al Qaeda. So he's someone who we can't
7 grasp. He's very vague, that is, he's a person who likes to always sort of be in the
8 limelight. At the end of the Ansar Dine period, he was present, but I don't -- I don't
9 know if he was there or elsewhere.

10 Q. [15:50:45] Yesterday, Mr Witness, you spoke to us about Abou Talha, the chief of
11 the security battalion who was from Al Qaeda. You talked to us about Adama, who
12 was the chief of the police who was from Al Qaeda. You talked to us of Khoubayb,
13 who was at the police and in the security battalion. You said he's also from
14 Al Qaeda.

15 Mr Witness, by joining Ansar Dine and the police, you were perfectly aware that you
16 were going to be working for a coalition of Al Qaeda and Ansar Dine that was
17 controlling the city, were you not?

18 A. [15:51:34] No, I was not aware of that.

19 Q. [15:51:39] Well, then later, you became aware that it was Al Qaeda and
20 Ansar Dine that were managing Timbuktu together in 2012. Is that not the case?
21 You were with the police, you were with the *Hesbah*.

22 A. [15:52:01] Yes, we had heard of the departure of foreigners and that there would
23 only be people from the country, and that is what we believed. Those were our
24 convictions.

25 Q. [15:52:20] Mr Witness, could you please repeat your answer and clarify it,

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 please.

2 A. [15:52:38] Yes. We believed that, according to what we were told, foreigners
3 were going to leave the country and there would only be people from the country,
4 from the provinces. They would be the ones who would take control of things.

5 And that is what we believed in, but unfortunately that's not what happened.

6 Q. [15:53:11] And the foreigners you are referring to, Mr Witness, are these the
7 people of Al Qaeda in Timbuktu in 2012. Is that not the case?

8 A. [15:53:23](No interpretation)

9 THE INTERPRETER: [15:53:30] The interpreter did not hear the witness's answer.

10 MR DUTERTRE: [15:53:35](Interpretation)

11 Q. [15:53:37] I'm sorry, Mr Witness, could you please repeat your answer.

12 A. [15:53:41] Yes. I am referring to Al Qaeda.

13 Q. [15:53:50] Mr Witness, you have broached the topic of the *Hesbah* yesterday, and
14 you said that Abou Bacar -- Abou Bacar Al Chinguetti, he was the chief of the *Hesbah*.
15 Is that not inaccurate, Mr Witness?

16 A. [15:54:27] You mean -- you're talking about Ahmad Al Faqi, rather, no? You're
17 talking about Ahmad Al Faqi?

18 Q. [15:54:42] Thank you for having brought that up, because yesterday, and
19 perhaps it was your mistake, yesterday or the day before, you said that Abou Bacar
20 Al Chinguetti was the first head of *Hesbah*, but it was Ahmad Al Faqi ...

21 THE INTERPRETER: [15:55:07] The English interpreter did not get the name
22 properly.

23 MR DUTERTRE: [15:55:12](Interpretation) I would like to now go into a closed
24 hearing.

25 PRESIDING JUDGE MINDUA: [15:55:25](Interpretation) Let's take this into

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 a private session.

2 (Private session at 3.55 p.m.)

3 THE COURT OFFICER: [15:55:32] We're in private session, Mr President.

4 PRESIDING JUDGE MINDUA: [15:55:44](Interpretation) Thank you very much.

5 Prosecutor.

6 MR DUTERTRE: [15:55:47](Interpretation)

7 Q. [15:55:47] Mr Witness, after -- after Ahmad Al Faqi, it was Mohamed Moussa

8 who took the head of the *Hesbah*. Is it not the case?

9 A. [15:56:08] It was Abou Bacar Al Chinguetti.

10 Q. [15:56:21] Mr Witness, Abou Bacar Al Chinguetti was never the head of the

11 *Hesbah*. You know that, no?

12 A. [15:56:34] Abou Bacar Al Chinguetti was at one point the head of the *Hesbah*.

13 Q. [15:56:43] Mr Witness, I suggest that that is inaccurate, [REDACTED]

14 [REDACTED] Is that not the case?

15 A. [15:56:56](No interpretation)

16 Q. [15:57:07] Could you please repeat your answer.

17 A. [15:57:11] I don't know. I have not quite understood. No, I had information,

18 you can look at that information, you can take that information or not, but that's all I

19 have to say.

20 Q. [15:57:33] So, Mr Witness, you want to say you did not understand my

21 question?

22 A. [15:57:42] As far as I know, I said that Ahmad Al Faqi was the first chief of the

23 *Hesbah*, and then there was Abou Bacar Al Chinguetti. During the -- this period, he

24 headed the *Hesbah*. That's all I know on that topic.

25 [REDACTED]

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

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2 A. [15:58:23] [REDACTED].

3 THE INTERPRETER: [15:58:46] The witness is abstaining from responding to that
4 question.

5 MR DUTERTRE: [15:58:52](Interpretation)

6 Q. [15:58:52] What do you mean, Mr Witness, [REDACTED]

7 A. [15:58:56] [REDACTED]

9 A. [15:59:11] [REDACTED]

10

11 PRESIDING JUDGE MINDUA: [15:59:32](Interpretation) Yes, counsel.

12 MR DUTERTRE: [15:59:40](Interpretation) I have a question.

13 PRESIDING JUDGE MINDUA: [15:59:42](Interpretation) Go ahead, Prosecutor.

14 MR DUTERTRE: [15:59:45](Interpretation)

15

16

17 A. [15:59:54] [REDACTED]

19 PRESIDING JUDGE MINDUA: [16:00:02](Interpretation) Yes, counsel, you have the
20 floor.

21 MS TERZIEVA: [16:00:08] Thank you very much, Mr President. I would just like to
22 remind counsel of the decision of the Trial Chamber [REDACTED]

[REDACTED] Thank you.

Trial Hearing
WITNESS: MLI-D28-P-0605

(Private Session)

ICC-01/12-01/18

1 And I would like to say my mandate extends to Rule 74, but in the circumstances, I
2 think that the issue has to be raised and that's why I wanted to bring it to your
3 attention. Thank you very much.

4 PRESIDING JUDGE MINDUA: [16:00:59](Interpretation) Thank you very much,
5 Counsel Terzieva.

6 I see Counsel Gerry.

7 MR DUTERTRE: [16:01:10](Interpretation) Perhaps we should cut the sound.

8 PRESIDING JUDGE MINDUA: [16:01:13](Interpretation) Yes. Court officer, please
9 cut the sound.

10 THE COURT OFFICER: [16:01:19] The sound to the witness has been disconnected,
11 Mr President.

12 PRESIDING JUDGE MINDUA: [16:01:32](Interpretation) Thank you very much,
13 court officer.

14 Counsel Gerry.

15 MS GERRY: [16:01:37] Are we in private session? I think I may have been misled
16 by a message. I'm sorry.

17 PRESIDING JUDGE MINDUA: [16:01:46](Interpretation) Yes.

18 MS GERRY: [16:01:49] I may -- I may not need to be on my feet, but I will say what I
19 was going to say, that we are restricting Rule 74 to public session a [REDACTED]
[REDACTED]. I just want to make sure that that is taking place. Thank you.

21 PRESIDING JUDGE MINDUA: [16:02:09](Interpretation) So, it is 4 o'clock and 2
22 minutes. Obviously for the time being, the witness does not want to answer the
23 question that has been asked by the Prosecution. And under the Rule 74, the counsel
24 has spoken.

25 So I think we will stop there, and we will come back to this on Monday to take

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 a decision on this point.

2 We will now come back to an open session and we will adjourn for today.

3 So, court officer, please re-establish the sound.

4 (Open session at 4.03 p.m.)

5 THE COURT OFFICER: [16:03:45] We are back in open session, and the sound to the
6 witness has been re-established, Mr President.

7 PRESIDING JUDGE MINDUA: [16:03:57](Interpretation) Thank you very much,
8 court officer.

9 It is now 4.05. We have gone over. Therefore, we will now adjourn the hearing and
10 we will continue on Monday morning.

11 I now turn to the witness.

12 Mr Witness, you will have noticed that we are coming to the end of the day, but
13 unfortunately your deposition has not been completed. So for the time being,
14 obviously, on behalf of the Chamber, I thank you very sincerely for having answered
15 the questions. But you will continue on Monday at 9.30.

16 Between now and then, as usual, do not forget that you are not allowed to talk about
17 your deposition to anyone, not to members of your family or friends.

18 Before adjourning the hearing, I would like to express my gratitude to the parties and
19 participants, to the court reporters and to the interpreters, to our security guards, as
20 well as our public here in the gallery and those following us remotely.

21 So I wish you all a very nice end to this week, and I invite you to our next hearing on
22 Monday at 9.30.

23 This hearing is now adjourned.

24 THE COURT USHER: [16:06:11] All rise.

25 (The hearing ends in open session at 4.06 p.m.)