

Trial Hearing
MLI-OTP-P-0622

(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 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Thursday, 25 November 2021
10 (The hearing starts in open session at 9:31 a.m.)
11 THE COURT USHER: [9:31:57] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:32:22](Interpretation) The hearing shall now
15 begin. Good morning, everyone.
16 Court officer, kindly call the case.
17 THE COURT OFFICER: [9:32:38] 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're in open session.
21 PRESIDING JUDGE MINDUA: [9:32:56](Interpretation) Thank you very much,
22 court officer.
23 As is the case every morning, we shall begin with introductions.
24 Shall we begin with the OTP. I can see Madam Prosecutor.
25 Please go ahead.

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1 MS UMURUNGI: [9:33:15](Interpretation) Good morning, Mr President. Good
2 morning, your Honours. Good morning to everyone in the courtroom and in
3 Bamako.

4 The Office of the Prosecutor today is represented by Mr Gilles Dutertre, Madam
5 Sandra Schoeters, and my myself Marie Claudine Umurungi.

6 PRESIDING JUDGE MINDUA: [9:33:41](Interpretation) Thank you very much,
7 Madam Prosecutor.

8 And now the Defence. Counsel.

9 MR EDWARDS: [9:33:49] Good morning, your Honours. For the Defence of Mr Al
10 Hassan this morning, it's Maître Melinda Taylor behind me; next to me, Maître
11 Mélissa Beaulieu Lussier, directly behind me, Ms Beatrice Walton; and myself,
12 Iain Edwards.

13 PRESIDING JUDGE MINDUA: [9:34:10](Interpretation) Thank you very much,
14 Mr Edwards.

15 And now the Legal Representatives of Victims. Counsel.

16 MR LUVENGIKA: [9:34:19](Interpretation) Good morning, your Honours. The
17 victims are represented at today's hearing by Anouk Kermiche, and myself Fidel
18 Nsita Luvengika. Thank you.

19 PRESIDING JUDGE MINDUA: [9:34:32](Interpretation) Thank you very much,
20 Counsel.

21 This morning we will begin hearing the testimony of Prosecution Witness P-0622.

22 I now turn to the witness, naturally.

23 Good morning, Mr Witness, can you hear me?

24 WITNESS: MLI-OTP-P-0622

25 (The witness speaks Songhai)

1 (The witness gives evidence via video link)

2 THE WITNESS: [9:34:57](Interpretation) Good morning. Yes, I can hear you.

3 PRESIDING JUDGE MINDUA: [9:34:59](Interpretation) Thank you very much. On

4 behalf of the Chamber, I wish to welcome you.

5 THE WITNESS: [9:35:17](Interpretation) Thanks be to God, my greetings to all of

6 you.

7 PRESIDING JUDGE MINDUA: [9:35:26](Interpretation) Thank you very much.

8 You will be now testifying to help the Chamber establish the truth in the case

9 regarding Mr Al Hassan.

10 THE WITNESS: [9:35:44](Interpretation) May it please God.

11 PRESIDING JUDGE MINDUA: [9:35:51](Interpretation) Mr Witness, protective

12 measures have been implemented so that your identity is not revealed to the public.

13 THE WITNESS: [9:36:14](Interpretation) May it please, God.

14 PRESIDING JUDGE MINDUA: [9:36:18](Interpretation) Each time you have to

15 provide details that may reveal your identity, we will go into private session.

16 THE WITNESS: [9:36:37](Interpretation) May it please God.

17 PRESIDING JUDGE MINDUA: [9:36:43](Interpretation) You see, that way no one,

18 except for the people here in this room, shall hear what you are saying.

19 THE WITNESS: [9:37:03](Interpretation) Very well. May God provide that to be

20 the case.

21 PRESIDING JUDGE MINDUA: [9:37:11](Interpretation) I will now proceed with

22 your solemn undertaking under the Rules of Procedure and Evidence, Rule 66.

23 THE WITNESS: [9:37:32](Interpretation) Very well.

24 PRESIDING JUDGE MINDUA: [9:37:38](Interpretation) Please read out the

25 following after me: I solemnly declare.

- 1 THE WITNESS: [9:37:59](Interpretation) I solemnly declare.
- 2 PRESIDING JUDGE MINDUA: [9:38:02](Interpretation) That I shall tell the truth.
- 3 THE WITNESS: [9:38:09](Interpretation) That I shall tell the truth.
- 4 PRESIDING JUDGE MINDUA: [9:38:11](Interpretation) The whole truth and
- 5 nothing but the truth.
- 6 THE WITNESS: [9:38:16](Interpretation) I shall tell only the truth.
- 7 PRESIDING JUDGE MINDUA: [9:38:25](Interpretation) Thank you very much.
- 8 THE WITNESS: [9:38:33](Interpretation) Thank you.
- 9 PRESIDING JUDGE MINDUA: [9:38:35](Interpretation) Mr Witness, you are now
- 10 under oath.
- 11 THE WITNESS: [9:38:45](Overlapping speakers)
- 12 PRESIDING JUDGE MINDUA: [9:38:49](Interpretation) The staff of the Victims and
- 13 Witnesses Section and the staff of the OTP have already explained to you what that
- 14 means.
- 15 THE WITNESS: [9:39:12](Interpretation) Okay.
- 16 PRESIDING JUDGE MINDUA: [9:39:15](Interpretation) I have some practical
- 17 instructions for you.
- 18 THE WITNESS: [9:39:26](Interpretation) Okay.
- 19 PRESIDING JUDGE MINDUA: [9:39:29](Interpretation) You must remember
- 20 throughout your entire testimony --
- 21 THE WITNESS: [9:39:41](Interpretation) Very well.
- 22 PRESIDING JUDGE MINDUA: [9:39:44](Interpretation) -- that everything that is
- 23 said in this courtroom is being *transcribed by court reporters and then interpreted by
- 24 court interpreters into several languages.
- 25 THE WITNESS: [9:40:05](Interpretation) Very well.

- 1 PRESIDING JUDGE MINDUA: [9:40:07](Interpretation) Therefore, it is very
2 important to speak clearly and slowly and, please, pause from time to time.
3 THE WITNESS: [9:40:26](Interpretation) Okay.
4 PRESIDING JUDGE MINDUA: [9:40:29](Interpretation) Of course, if you have a
5 question, please raise your hand to indicate that you would like to say something.
6 THE WITNESS: [9:40:48](Interpretation) Very well.
7 PRESIDING JUDGE MINDUA: [9:40:51](Interpretation) You will first be questioned
8 by the Office of the Prosecutor, then by the Legal Representatives of Victims and
9 finally by the Defence.
10 THE WITNESS: [9:41:23](Overlapping speakers)
11 PRESIDING JUDGE MINDUA: [9:41:26](Interpretation) Without any further ado, I
12 shall now hand over to the Prosecutor.
13 Madam Prosecutor.
14 QUESTIONED BY MS UMURUNGI:
15 Q. [9:41:44] Good morning, Mr Witness.
16 How are you?
17 A. [9:41:53] Good morning. I am well.
18 Q. [9:42:05] Mr Witness, we have already met during the preparation session, and
19 we already also met last week briefly.
20 A. [9:42:39] Aha.
21 Q. [9:42:40] My name is Marie Claudine Umurungi, and I will be asking you
22 questions on behalf of the Prosecution.
23 A. [9:43:11] Okay.
24 Q. [9:43:14] (Overlapping speakers) so if any of my questions are not clear, please
25 don't hesitate to raise your hand and I will repeat and rephrase the question.

1 A. [9:43:45] Okay.

2 MS UMURUNGI: [9:43:49] Mr President, I would like to go into private session for
3 at least two minutes to ask identifying questions related to the personal background
4 of the witness.

5 PRESIDING JUDGE MINDUA: [9:44:07](Interpretation) Yes, indeed.

6 Private session, please, court officer.

7 THE INTERPRETER: [9:44:16] Message from the interpreter: Could counsel kindly
8 pause so that the interpreters may complete interpretation of the witness's responses.

9 Thank you very much.

10 (Private session at 9.44 a.m.)

11 THE COURT OFFICER: [9:44:06](Overlapping speakers) We're in private session,
12 Mr President.

13 PRESIDING JUDGE MINDUA: [9:44:06](No interpretation) (Overlapping speakers)
14 *Merci beaucoup, Monsieur le greffier.*

15 *Madame la Procureur.*

16 MS UMURUNGI: [9:44:35]

17 Q. [9:44:36] What is your full name?

18 A. [9:44:41] My name is [REDACTED]

19 Q. [9:44:57] Are you known by any other names?

20 A. [9:45:12] Yes.

21 Q. [9:45:15] Can you tell us which are the other names?

22 A. [9:45:38] I don't have any surname or nickname.

23 THE INTERPRETER: [9:45:49] Correction: I have no nickname.

24 MS UMURUNGI: [9:45:52]

25 Q. [9:45:54] (Overlapping speakers) So your name is [REDACTED] only?

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- 1 A. [9:46:02] Yes.
- 2 Q. [9:46:04] Mr Witness, is it correct you were born in [REDACTED]?
- 3 A. [9:46:23] Yes.
- 4 Q. [9:46:24] Is it correct that your ethnicity is [REDACTED]?
- 5 A. [9:46:37] Yes, I am a [REDACTED] person.
- 6 Q. [9:46:45] (Overlapping speakers) You are a Muslim, right?
- 7 A. [9:46:53] Yes, Muslim.
- 8 Q. [9:46:55] Mr Witness, you are currently married to [REDACTED]?
- 9 A. [9:47:13] Yes.
- 10 Q. Thank you, Mr Witness.
- 11 Now I ask the Chamber that we go back into open session.
- 12 PRESIDING JUDGE MINDUA: [9:47:28](Interpretation) Indeed.
- 13 Court officer, open session, please.
- 14 (Open session at 9.47 a.m.)
- 15 THE COURT OFFICER: [9:47:42] We are back in open session, Mr President.
- 16 PRESIDING JUDGE MINDUA: [9:47:48](Interpretation) Thank you very much,
- 17 court officer.
- 18 Madam Prosecutor.
- 19 MS UMURUNGI: [9:47:52]
- 20 Q. [9:47:53] Mr Witness, I have to remind you that now the public can hear what
- 21 you say. Please be careful not to mention your name, the names of your family
- 22 members, or location where they live.
- 23 A. [9:48:35] Okay.
- 24 Q. [9:48:36] Mr Witness, I would like now to ask you about your statement. That
- 25 means the one you gave to investigators of the Office of the Prosecutor.

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1 A. [9:49:18] Yes.

2 Q. [9:49:20] May I ask the court officer to please bring up the document at tab 1 of
3 the court binder. The ERN is MLI-OTP-0065-0558, the redacted version. It is
4 confidential and cannot be publicly broadcast.

5 Mr Witness, this is the statement you gave to the Office of the Prosecutor from 17
6 October 2018 to 22 October 2018. Your statement has 15 pages. We will now show
7 you page 0571 of your statement.

8 May I ask the court usher at your location to please help the witness to go to page
9 0571. Thank you.

10 Mr Witness --

11 A. [9:52:09] Okay.

12 Q. [9:52:13] (Overlapping speakers) can you see this page?

13 A. [9:52:24] Yes.

14 Q. [9:52:26] On the upper half of this page, under the big paragraph, there is a
15 mark. Do you recognise -- do you recognise (Overlapping speakers)

16 A. [9:53:02] I see -- I see something familiar. That's the only thing.

17 PRESIDING JUDGE MINDUA: [9:53:07](Interpretation) Madam Prosecutor, you
18 need to allow some time for our interpreters to interpret what is being said.

19 MS UMURUNGI: [9:53:19]

20 Q. [9:53:20] Mr Witness, do you see the mark or the signature?

21 A. [9:53:49] This is the signature I recognise. I can't recognise the rest.

22 Q. [9:53:57] Do you confirm this is your signature?

23 A. [9:54:11] Yes, it's my signature.

24 Q. [9:54:16] There is a date below the signature, which is 22 October 2018?

25 A. [9:54:38] Yes.

- 1 Q. [9:54:40] It's the date when you signed it?
- 2 A. [9:54:54] I think so, yes.
- 3 Q. [9:54:58] I'm going to read the first two sentences of the paragraph just above
- 4 your signature.
- 5 A. [9:55:18] Okay.
- 6 Q. [9:55:20] (Interpretation) "This statement in French was read and interpreted
- 7 into Songhai by an interpreter. This statement is true to the best of my knowledge."
- 8 A. [9:55:57] Okay.
- 9 Q. [9:55:57] Now, I'm going to ask you some questions.
- 10 Isn't it correct that your statement was read back to you before you signed it?
- 11 A. [9:56:42] Read it to me, how?
- 12 Q. [9:56:51] Was it correct that the investigator read the statement to you before
- 13 you signed it?
- 14 A. [9:57:24] I recognise my signature. There's no point reading it back to me.
- 15 Q. [9:57:33] I mean at the time. Not today, but when you signed it.
- 16 A. [9:57:59] I've understood.
- 17 Q. [9:58:01] Is it correct that you had an opportunity to correct or clarify what was
- 18 in the statement before you signed it?
- 19 A. [9:58:35] No, no. It's fine.
- 20 Q. [9:58:38] At the time when -- when you gave your statement, did the
- 21 investigator read it back to you before you signed it?
- 22 A. [9:59:43] Yes, they read it to me. Yes, they read it to me.
- 23 Q. [9:59:52] Mr Witness, is your statement true and correct to the best of your
- 24 knowledge?
- 25 A. [10:00:17] Yes, it is true.

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1 Q. [10:00:20] Thank you, Mr Witness.

2 Do you agree for your statement to be introduced as evidence in this case?

3 A. [10:00:51] Yes, I agree.

4 Q. [10:00:55] Thank you, Mr Witness.

5 Now, I'd like to ask you some additional questions.

6 A. [10:01:17] Very well.

7 Q. [10:01:19] I would like to clarify a certain aspect of your statement.

8 A. [10:01:35] Very well.

9 MS UMURUNGI: [10:01:37] Mr President, the first topic is of an identifying nature.

10 I'd like to go into private session for at least two minutes.

11 PRESIDING JUDGE MINDUA: [10:01:52](Interpretation) Very well, Madam

12 Prosecutor.

13 Court officer.

14 (Private session at 10.02 a.m.)

15 THE COURT OFFICER: [10:02:04] We're in private session, Mr President.

16 PRESIDING JUDGE MINDUA: [10:02:09](Interpretation) Thank you very much,

17 court officer.

18 Madam Prosecutor.

19 MS UMURUNGI: [10:02:14]

20 Q. [10:02:14] Mr Witness, I now ask the court usher to turn to the witness statement

21 at tab 1, at page 0561.

22 Do you see the page on your screen, Mr Witness?

23 A. [10:03:21] Yes.

24 Q. [10:03:21] I'm going to read an extract at paragraph 15 of your statement. You

25 stated -- I'm going to read:

1 (Interpretation)

2

3

4

5 (Speaks English) Mr Witness, I have just one question for clarification.

6 A. [10:04:56] Very well. Go ahead.

7 Q. [10:04:57] You stated that you could not recall precisely

8 but do you recall if, before,

9 during, or after Ramadan?

10 A. [10:06:01] Are you saying before or after or during the month of Ramadan?

11 Q. [10:06:05] Yes, Mr Witness.

12 A. [10:06:29] it wasn't the month of Ramadan, but I don't
13 know if it was before or after that I went.

14 Q. [10:06:40] That's fine, Mr Witness. I was just trying to clarify the date.

15 MS UMURUNGI: [10:06:59] Mr President, I will now ask that we move back into
16 public session.

17 PRESIDING JUDGE MINDUA: [10:07:07](Interpretation) Indeed.

18 Court officer, open session, please.

19 (Open session at 10.07 a.m.)

20 THE COURT OFFICER: [10:07:19] We are back in open session, Mr President.

21 PRESIDING JUDGE MINDUA: [10:07:24](Interpretation) Thank you very much,
22 court officer.

23 Madam Prosecutor.

24 MS UMURUNGI: [10:07:30]

25 Q. [10:07:31] Mr Witness, I will now show you two documents and ask you

1 questions about them.

2 May I ask the court officer to please show the document at tab 2, MLI-OTP-0012-1844.

3 It can be broadcast to the public.

4 Mr Witness, can you see it on your screen?

5 A. [10:09:08] Yes.

6 Q. [10:09:11] Do you recognise the person in the centre of this photograph?

7 A. [10:09:31] Yes.

8 Q. [10:09:34] Who is the person?

9 A. [10:09:50] It's Al Hadiyya.

10 Q. [10:09:59] Now before I ask an additional question, I will read to you the first
11 two sentences of paragraph 52, page 0568, of your statement, and I will then ask you a
12 question. In particular, Mr Witness, you stated, I quote:

13 "Demba Demba (Interpretation) is the nickname of a young man [REDACTED] who
14 is actually called Al Hadiyya. He had joined the Islamists during the crisis in 2012."

15 A. [10:11:31] (Overlapping speakers)

16 Q. [10:11:33] (Overlapping speakers) Mr Witness --

17 A. [10:11:33] Yes.

18 Q. [10:11:33] (Overlapping speakers) -- is this person in the photograph you
19 identified as Al Hadiyya, is it the same Al Hadiyya or Demba Demba that you
20 described in this extract of your witness statement?

21 A. [10:12:23] There's Al Hadiyya and there's Demba. But that's because he did
22 something that meant we spoke about Demba Demba.

23 Q. [10:12:44] The person you are describing in your statement, is it the same person
24 on the picture?

25 A. [10:13:37] That's to say that there's -- he made a musical composition and that's

1 the reason why he was called Demba Demba, but his real name is Al Hadiyya.

2 Q. [10:13:53] Is it correct that it's the same person in the picture I just showed you?

3 A. [10:14:16] The person who you showed to me, that's the person who we call Al
4 Hadiyya.

5 Q. [10:14:23] Thank you, Mr Witness.

6 I am now going to show you the last document at tab 3. It's [REDACTED]

7 I'll ask the court officer not to broadcast this to the public.

8 The court officer will zoom in on the photograph on the first page, [REDACTED].

9 Can you see it, Mr Witness?

10 A. [10:15:35] Yes.

11 Q. [10:15:37] Do you recognise the individual in this photograph?

12 A. [10:15:51] Yes.

13 Q. [10:15:51] And who is that person?

14 A. [10:16:04] This person we called Azou.

15 Q. [10:16:10] Before I ask you another question, I'm going to read an extract from
16 your witness statement. I'll be reading from paragraph 32 of your statement, at tab 1,
17 at page 0564.

18 May I ask the court officer to turn to page 0564 at tab 1.

19 A. [10:17:03] (No interpretation). *D'accord.*

20 Q. [10:17:06] Mr Witness, I am going to read the fourth sentence from paragraph
21 32.

22 A. [10:17:21] Very well. Very well.

23 Q. [10:17:27] (Interpretation) "I know the case of a young woman who was
24 locked -- arrested and locked up at the bank which was next to the Yoboutao market.
25 I only knew her by the name Azou."

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1 A. [10:17:58] Very well.

2 Q. [10:18:01] Mr Witness, my question to you is this: Is the Azou you just
3 identified on this photograph, the same person as Azou you just mentioned in your
4 extract of your statement I read to you?

5 A. [10:18:43] Azou, yes.

6 Q. [10:18:48] Thank you very much, Mr Witness, for answering all my questions.

7 MS UMURUNGI: [10:19:08] Mr President, I have no further questions to the witness.
8 This concludes my examination-in-chief.

9 PRESIDING JUDGE MINDUA: [10:19:25](Interpretation) Thank you very much,
10 Madam Prosecutor.

11 So the conditions for the proceedings under Article 68(3) of the Rules of Procedure
12 and Evidence have been met. I therefore turn towards the Legal Representative of
13 Victims to ask if he wishes to intervene.

14 Maître Nsita?

15 MR LUVENGIKA: [10:19:59](Interpretation) Thank you, your Honour,
16 your Honours. With the witness statement in this case and it's admittance, the legal
17 representatives have no further questions to put.

18 PRESIDING JUDGE MINDUA: [10:20:19](Interpretation) Thank you very much,
19 Maître Nsita.

20 I now turn towards the Defence for the cross-examination.

21 Maître Edwards.

22 MR EDWARDS: [10:20:36] Thank you, your Honour.

23 QUESTIONED BY MR EDWARDS:

24 Q. [10:20:40] Good morning, Witness.

25 A. [10:20:46] Good morning. Very well.

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1 Q. [10:20:52] My name is Iain Edwards. I'm one of the lawyers representing Mr Al
2 Hassan, who sits behind me. I'm going to be asking you questions for some of the
3 rest of today and it's important that you understand my questions. All right? So if
4 I ask you something which you want me to repeat, please don't hesitate to ask me to
5 repeat my question.

6 A. [10:21:53] Very well.

7 Q. [10:21:54] If you'd like me to reformulate a question that you don't understand,
8 please don't hesitate to ask me to reformulate a question.

9 A. [10:22:16] Very well.

10 MR EDWARDS: [10:22:17] Your Honour, with your leave, could we move briefly
11 into private session for a few minutes?

12 PRESIDING JUDGE MINDUA: [10:22:28](Interpretation) Indeed.

13 Court officer, private session, please.

14 (Private session at 10.22 a.m.)

15 THE COURT OFFICER: [10:22:40] We're in private session, Mr President.

16 MR EDWARDS: [10:22:45] Thank you.

17 PRESIDING JUDGE MINDUA: [10:22:46](Interpretation) Thank you, court officer.

18 Maître Edwards.

19 MR EDWARDS: [10:22:51] Your Honour, I am going to refer to a document at tab 21
20 of our binder. This is MLI-OTP-0076-0296. Sorry, 0269.

21 Q. [10:23:10] Mr Witness, you know, don't you, that your [REDACTED]
22 [REDACTED]? And this was back [REDACTED] right?

23 A. [10:23:51] Yes.

24 Q. [10:23:52] And you know that [REDACTED]
25 [REDACTED] right?

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1 A. [10:24:14] Yes.

2 Q. [10:24:17] You know that both [REDACTED] your number [REDACTED] passed on to
3 OTP investigators, correct? And you --

4 A. [10:24:43] Yes.

5 Q. [10:24:45] I'm sorry. And you know that the number, your number [REDACTED]

6 [REDACTED] passed on to the OTP by [REDACTED],
7 correct?

8 A. [10:25:17] (No interpretation).

9 Q. [10:25:21] I think that's a "yes", isn't it? And that [REDACTED] right?

10 A. [10:25:37] I don't know her.

11 Q. [10:25:40] Were you present when [REDACTED] met investigators of the OTP for
12 the first time?

13 Your Honour, this is tab 26, MLI-OTP-0080-4413.

14 A. [10:26:16] No.

15 Q. [10:26:19] Mr Witness, let me make it clear. I'm not suggesting that you were
16 present during the -- the several days that the Prosecutor took [REDACTED].

17 I'm simply saying that you were there when [REDACTED] first met the investigators. Is
18 that not right?

19 A. [10:27:19] I wasn't there.

20 Q. [10:27:22] When did you first meet investigators of the -- of the OTP?

21 Sorry, let me -- let me rephrase it to make it a bit easier for you. You met
22 investigators of the OTP very shortly after your phone number was passed on to them
23 with your consent, correct?

24 A. [10:28:20] Yes. After we saw -- we saw them afterwards, yes.

25 Q. [10:28:29] After what?

1 A. [10:28:47] I'm sorry, I haven't understand what you said. Could you ask it
2 again.

3 Q. [10:28:52] Okay. I'll -- I'll -- I'll rephrase.

4 You say, "we saw them afterwards." Who's the "we" in that answer?

5 A. [10:29:39] The question that you put to me, that's what I don't understand. If
6 you could put it again.

7 Q. [10:29:46] Mr --

8 PRESIDING JUDGE MINDUA: [10:29:47](Interpretation) Prosecutor.

9 MR DUTERTRE: [10:29:47](Interpretation) Perhaps to help my colleague. In the
10 French version it's put "*on s'est vu*". So it's not "we". It's -- well, it could be "we saw
11 each other." Perhaps while I've got the microphone, the witness who ...
12 ... asked for the floor on page 19, lines 11 (sic) in the French, if the number was
13 transmitted by [REDACTED] The answer is "Mm-hm." We do not know
14 if it's a yes or if it's a no. Perhaps, for the clarity of the transcript -- perhaps you
15 would like to clarify that, Mr Edwards, as well.

16 PRESIDING JUDGE MINDUA: [10:30:33](Interpretation) Indeed, Prosecutor.

17 Mr Edwards, please try to clarify that.

18 MR EDWARDS: [10:30:39] Yes. Thank you.

19 Q. [10:30:41] Mr Witness, your answers are being written down here in court. It's
20 important for you to speak as clearly as possible. And if you want to say "yes",
21 could you please use the word "yes" in your language. If you want to say "no",
22 please use the word "no" in your language. Do you understand?

23 A. [10:31:32] Okay.

24 Q. [10:31:33] Thank you very much.

25 I've been asked to get some clarification about an answer you gave a moment ago.

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1 Can that be interpreted, please.

2 A. [10:32:07] Okay.

3 Q. [10:32:07] I asked you a moment ago if your [REDACTED]
4 transmitted to investigators of the Prosecution by [REDACTED] Could
5 you answer that question, please, with a "yes" or a "no".

6 A. [10:33:01] [REDACTED] well, those people gave my number so that they
7 might call.

8 Q. [10:33:19] I'm looking to my learned friend to see if he's -- yes, there's a nod.

9 Excellent. All right. Let me move on.

10 You see, Mr Witness, we're in possession of a document from the Prosecution that
11 says - this is MLI-OTP-0080-4413, your Honour - that says that, [REDACTED]
12 investigators of the OTP met you [REDACTED] There was an introduction.
13 After that, you left the meeting and the interview was conducted [REDACTED]
14 Have you any comment to make about that note that we have?

15 A. [10:35:03] Myself, I never left [REDACTED] anywhere. We were travelling together.

16 Q. [10:35:23] Whilst [REDACTED] was being interviewed between [REDACTED],
17 are you saying that you didn't leave her? Were you in the same room during those
18 days when she was being interviewed by the OTP? Is that your evidence?

19 A. [10:36:21] No, no.

20 Q. [10:36:31] So what do you mean when you say, "Myself, I never left [REDACTED]
21 anywhere." I think alone. "We were travelling together." What do you mean by
22 that?

23 A. [10:37:37] What I meant by that was I made a mistake when I said -- when I was
24 talking -- when I said that, because I remember once I was travelling. When I left * [REDACTED]
25 and afterwards, [REDACTED] met up with me there. I took that -- I think it was that -- that

1 thing. That's all.

2 Q. [10:38:09] After the days -- well, she was interviewed over a period of days,

3 [REDACTED] I don't think there's any dispute with the Prosecution
4 about that.

5 In the evenings, did you meet up again with [REDACTED] [REDACTED]?

6 A. [10:39:12] The place where I am, we couldn't be in contact. So that was all the
7 more reason to give news to one another.

8 Q. [10:39:28] Why could you not be in contact?

9 A. [10:40:01] The network isn't good, and we don't have the money to call each
10 other all the time.

11 Q. [10:40:09] Okay. In case there is some confusion, I am talking about the
12 situation [REDACTED] All right? [REDACTED] years ago. I'm not talking about now. Do you
13 understand that I'm talking about [REDACTED]?

14 PRESIDING JUDGE MINDUA: [10:40:50](Interpretation) Interpretation.

15 THE WITNESS: [10:41:10](Interpretation) I'm talking about [REDACTED] as well.

16 MR EDWARDS:

17 Q. [10:41:16] Good. All right. We have information that you [REDACTED] were
18 in the same place, at the same time that you were introduced -- you were introduced
19 at the same time, at the same place to investigators of the OTP. You then went away
20 while [REDACTED] was interviewed by the OTP.

21 First of all -- excuse me. First of all, do you accept that?

22 A. [10:42:37] No.

23 Q. [10:42:40] And we have information that you yourself were then interviewed by
24 investigators from the OTP -- I'll just get the date. Excuse me -- about [REDACTED] months
25 later. Is that right?

1 A. [10:43:57] That's true.

2 Q. [10:43:58] So between the time when [REDACTED] was interviewed and you were
3 interviewed, were you not [REDACTED]

4 A. [10:44:44] I haven't understood. What do you mean? At the same place or
5 [REDACTED]?

6 Q. [10:44:51] No, [REDACTED]

7 PRESIDING JUDGE MINDUA: [10:44:53](Interpretation) Mr Prosecutor.

8 MR DUTERTRE: [10:44:57](Interpretation) This is not an objection, but I think
9 perhaps very short and simple questions would be a good idea. We noticed
10 that -- rather, we experienced that during examination-in-chief. Some questions, I
11 don't know whether the witness is understanding the questions.

12 PRESIDING JUDGE MINDUA: [10:45:15](Interpretation) Thank you very much,
13 Mr Prosecutor.

14 Mr Edwards, most likely we have some problems when the questions are too long.
15 Try to shorten them.

16 MR EDWARDS: [10:45:32]

17 Q. [10:45:34] I'm not talking about still being [REDACTED]
18 Can that be translated, please.

19 I'm talking about [REDACTED].

20 After [REDACTED] spoke to the OTP investigators, did you [REDACTED]
21 [REDACTED]?

22 A. [10:46:37] [REDACTED]

23 Q. [10:46:43] And I expect that during the time [REDACTED]
24 [REDACTED] spoke to you about how [REDACTED] spoke to you about [REDACTED] interview with the OTP; is
25 that right?

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1 A. [10:47:24] No [REDACTED] didn't talk to me about it.

2 Q. [10:47:29] You are telling us that [REDACTED] didn't [REDACTED] didn't tell you about the sort of
3 questions the OTP was asking [REDACTED]?

4 A. [10:47:53] I can state that [REDACTED] did not talk to me about that.

5 Q. [10:47:58] Okay. Let's -- let's focus on the here and now. Let's focus on today.

6 When did you [REDACTED]?

7 A. [10:48:33] Right now or when?

8 Q. [10:48:39] As of now, when was the last time you spoke [REDACTED]?

9 A. [10:49:15] Well, I believe three days... Four weeks, three days. It's been a
10 while. It has been a while.

11 Q. [10:49:29] Four weeks or three days? That's quite a difference.

12 A. [10:49:52] Yes, the difference is huge. Three days ago -- it's been three days.
13 Three days.

14 Q. [10:50:03] Do you know where your wife was [REDACTED]?

15 A. [10:50:21] [REDACTED]

16 Q. [10:50:22] Do you know where your wife was [REDACTED]?

17 PRESIDING JUDGE MINDUA: [10:50:30](Interpretation) Mr Prosecutor.

18 MR DUTERTRE: [10:50:32](Interpretation) Your Honour, I don't see -- perhaps we
19 could ask the interpreters not to interpret.

20 PRESIDING JUDGE MINDUA: [10:50:39](Interpretation) Very well.

21 Court officer, what is more efficient, shall we cut off the sound or ask the interpreters
22 not to interpret? What's more efficient?

23 THE COURT OFFICER: [10:50:51] We could ask the interpreters not to interpret.

24 PRESIDING JUDGE MINDUA: [10:50:56](Interpretation) Interpreters, do not
25 interpret.

1 Mr Prosecutor.

2 MR DUTERTRE: [10:51:08](Interpretation) Yes, your Honour, I don't really see

3 where we are going with this line of questioning. What's more, we see that the

4 witness is having trouble understanding the questions between now and the past, he

5 [REDACTED] So these are complicated things. And the Chamber knows

6 full well [REDACTED] So I really don't see where we are heading

7 with this entire line of questioning.

8 What is more, VWS does its work and put into effect the necessary measures, if I can

9 refer to it that way. In any event, the witness has answered, saying that [REDACTED]

10 [REDACTED] So I really don't see why we would

11 continue with [REDACTED] I don't think we are going anywhere

12 with this line of questioning. And the witness is a bit lost.

13 PRESIDING JUDGE MINDUA: [10:52:14](Interpretation) Mr Edwards.

14 MR EDWARDS: [10:52:15] I don't accept that my learned friend is that naive. He

15 knows full well why I am asking those questions. [REDACTED]

16 [REDACTED] That's not why I'm asking the

17 questions. And my learned friend knows full well that that's not why I'm asking

18 these questions.

19 I'm exploring -- perhaps I can finish before my learned friend leaps to his feet.

20 PRESIDING JUDGE MINDUA: [10:52:47](Interpretation) Quite so. Go ahead, you

21 have the floor.

22 MR EDWARDS: [10:52:50] Thank you very much, your Honour.

23 I'm exploring the possibility that this gentleman [REDACTED] have spoken over the

24 last 24 hours or more about the evidence that the witness has given. Of course VWS

25 will have given instructions that they ought not to communicate. I'm just exploring

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1 whether those instructions have been complied with. That's all. And it seems to
2 me an entirely appropriate avenue of cross-examination. I'm not going to take very
3 long with it, depending on the answers, but to suggest that it's irrelevant
4 cross-examination is -- is simply not correct.

5 PRESIDING JUDGE MINDUA: [10:53:44](Interpretation) Mr Prosecutor, would you
6 like to respond or shall --

7 MR DUTERTRE: [10:53:51](Interpretation) Just briefly to say that, in any event, we
8 have introduced the statement under 68(3), and that was what was etched in stone in
9 2018. The witness has not added much. I'm in the hands of the Chamber. The
10 witness is a bit lost, generally speaking, with all these questions.

11 PRESIDING JUDGE MINDUA: [10:54:19](Interpretation) Thank you, Counsel.

12 Mr Edwards, yes. Oh, okay. Go ahead.

13 MR EDWARDS: [10:54:24] Forgive me. It's not so much the evidence that's been
14 adduced in chief. It's teeing up. It's preparing the groundwork for answers that he
15 may give in cross-examination.

16 PRESIDING JUDGE MINDUA: [10:54:43](Interpretation) Very well, Mr Edwards.

17 Well, we all know that we are professionals here and that the victims and witnesses
18 section does its work. The instructions were provided. So you asked the witness.

19 I remember that he said that in the last three days, he has not spoken [REDACTED]

20 And what is more, we know from the case record that -- that there has been [REDACTED]

21 [REDACTED] so I think that we already have the
22 answer.

23 You can move on to something else.

24 MR EDWARDS: [10:55:37] Very well.

25 The interpreter can now recommence the interpretation, your Honour.

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1 PRESIDING JUDGE MINDUA: [10:55:49](Interpretation) Quite so.

2 Court officer, please remind the interpreters that they may resume interpretation.

3 Mr Edwards.

4 MR EDWARDS: [10:56:05] Thank you.

5 Q. [10:56:07] We know -- from your statement, Mr Witness, we know the name of

6 your village, * [REDACTED] I'm about to move into public session. Please

7 do not state the name of your village. If you want to refer to your village, please just

8 say "my village". All right?

9 A. [10:57:11] (No interpretation)

10 Q. [10:57:12] And when you refer to your [REDACTED], please refer

11 [REDACTED]. All right?

12 A. [10:57:41] Okay.

13 Q. [10:57:42] Thank you.

14 MR EDWARDS: [10:57:44] Your Honour, just before the break, can we move back

15 into public session for the next four or five minutes.

16 PRESIDING JUDGE MINDUA: [10:57:53](Interpretation) Yes, indeed.

17 Court officer, open session, please.

18 (Open session at 10.58 a.m.)

19 THE COURT OFFICER: [10:58:01] We're back in open session, Mr President.

20 PRESIDING JUDGE MINDUA: [10:58:06](Interpretation) Thank you very much,

21 court officer.

22 Mr Edwards.

23 MR EDWARDS: [10:58:11]

24 Q. [10:58:11] Paragraph 25 of your statement, I'll just read out a sentence or two

25 from it, that paragraph:

1 (Interpretation) "They were Islamists. I don't distinguish between Arabs and
2 Islamists. They were bearded men, who spoke Arabic, they went into the mosques
3 with their weapons and they themselves said that they were Islamists. There were
4 several groups, such as the MNLA and Ansar Dine, but I don't know really anything
5 about them."

6 (Speaks English) Mr Witness -- oh, forgive me. That needs to be translated.

7 PRESIDING JUDGE MINDUA: [11:00:03](Interpretation) Mr Prosecutor.

8 MR DUTERTRE: [11:00:05](Interpretation) Very quickly, a procedural matter.

9 When something is being submitted to the witness, the entire paragraph should be
10 read out. And the counsel has skipped over the first part of the paragraph. If we
11 don't have the first part of the paragraph, I don't think it's fair to the witness who will
12 not remember the context in what he was talking about.

13 So that's -- those are the instructions of the Chamber on the conduct of the
14 proceedings.

15 PRESIDING JUDGE MINDUA: [11:00:42](Interpretation) Mr Edwards, you heard
16 the Prosecution. This is the problem we have with providing context. It's better to
17 read out the entire paragraph.

18 MR EDWARDS: [11:00:51] Very well.

19 Q. [11:00:54] And, Mr Witness, this is in the context of -- this is in the following
20 context, all right?

21 (Interpretation) "At the start of the crisis, the Arabs didn't cause any problem with the
22 civilians, but we saw things change. They started to impose their sharia everywhere,
23 even in the mosque and at the market."

24 (Speaks English) So, Mr Witness, that's the context.

25 Would your Honour prefer me to read the last sentence at the -- at the end of

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1 paragraph 25?

2 THE INTERPRETER: [11:01:46] The Songhai interpretation is needed.

3 PRESIDING JUDGE MINDUA: [11:01:50](Interpretation) Maître Edwards, certainly.

4 But it's 11 o'clock now. We're going to stop there, otherwise we'll overrun.

5 And we'll come back in half an hour.

6 MR EDWARDS: [11:02:01] Would your Honour allow the interpretation to continue
7 in the field office before we rise? The first part of that paragraph has been translated
8 into French. I don't think it's been interpreted for the -- for the witness yet. Forgive
9 me.

10 PRESIDING JUDGE MINDUA: [11:02:20](Interpretation) Well, I think that the
11 witness has the text in front of him on the screen. He can be read the text.

12 Okay. So, yes, very well. So we'll save time like that.

13 Okay. So we're now going to suspend the hearing for half an hour.

14 The hearing is suspended.

15 THE COURT USHER: [11:02:36] All rise.

16 (Recess taken at 11.02 a.m.)

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

18 THE COURT USHER: [11:32:35] All rise.

19 Please be seated.

20 PRESIDING JUDGE MINDUA: [11:32:58](Interpretation) Court is in session.

21 Maître Edwards, the witness has been read the paragraph in question, so you can
22 continue with your question.

23 MR EDWARDS: [11:33:13] Thank you very much.

24 Q. [11:33:24] So that's right, isn't it, Mr Witness, you -- you didn't and you don't
25 distinguish between the different Arab-Islamist groups?

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1 Is that being interpreted?

2 A. [11:34:15] No.

3 Q. [11:34:18] In paragraph 25 that was read to you over the break, at the very end,
4 you say:

5 (Interpretation) "The major leaders were called Yahia -- the major leader was called I
6 think Yahia Ag GHALY or something like that."

7 A. [11:35:24] Yes.

8 Q. [11:35:27] Well, have you ever heard the name Yahya Abu Hammam, the leader
9 of Al-Qaeda in Mali?

10 A. [11:36:01] Yes, I've heard his name.

11 Q. [11:36:06] And have you heard of Iyad Ag Ghaly of Ansar Dine?

12 A. [11:36:31] Yes.

13 Q. [11:36:32] I mean, the fact that you sort of confused these two names, is that
14 because you didn't make the distinction between the groups, it was easy to confuse
15 the various groups?

16 A. [11:37:35] The two names that you've said, what about them?

17 Q. [11:37:41] No. I was just asking whether you agree that the fact that you
18 mistakenly combined these two names demonstrates how easy it is for you to confuse
19 these groups in your mind?

20 A. [11:38:36] Yes. I can't differentiate between the groups because I don't know
21 them. I just heard people speak about them.

22 Q. [11:38:47] And your own interaction with the groups in Timbuktu was very
23 limited. Is that right?

24 A. [11:39:19] Yes. We are close.

25 Q. [11:39:27] Can you just explain that last answer. What do you mean, "We are

1 close"?

2 A. [11:40:02] What I want to say is that where they are, we all are in the same place.

3 Q. [11:40:13] Okay. Just so that we're all clear, we're talking about 2012, nine
4 years ago, right?

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

6 Q. [11:40:44] Okay. Good. Paragraph 27 of your statement, please.

7 MR EDWARDS: [11:40:48] Perhaps that can be brought up on the screen. I think
8 not for broadcast, but that may assist the interpreters to translate to the witness.

9 Your Honour, I propose with your Honour's leave just to read the first part of the -- of
10 paragraph 27 into the record, unless my learned friend or your Honours have a
11 particular desire for the entire paragraph to be read into the record.

12 PRESIDING JUDGE MINDUA: [11:41:45](Interpretation) Counsel, isn't there a
13 means of putting your question directly to the witness, and if the witness is unable to
14 reply, is it possible to refresh the witness's memory?

15 MR EDWARDS: [11:41:59] Oh, yes, absolutely. I mean, that will save a lot of time.
16 I was just trying to comply with all the various rules.

17 All right. Well, paragraph 27, then, your Honour, is the context.

18 Q. [11:42:22] Mr Witness, you said that the Islamists annoyed everyone when they
19 traveled [REDACTED] and that -- well, let's interpret that first.

20 And you talk about the checkpoint [REDACTED] by the Timbuktu airport. The group
21 that -- the men who controlled the [REDACTED] checkpoint were from the same group that
22 controlled the [REDACTED] checkpoint, correct?

23 A. [11:44:01] Yes, that's correct.

24 Q. [11:44:20] Is it true that these people would seize goods and make people,
25 travellers, pay a sort of a toll?

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1 A. [11:45:19] Yes, that's true.

2 Q. [11:45:22] Thank you.

3 Could we please have brought up on the screen document --

4 PRESIDING JUDGE MINDUA: [11:45:31](Interpretation) Prosecutor.

5 THE INTERPRETER: Microphone.

6 MR DUTERTRE: [11:45:35](Interpretation) Thank you.

7 Could my learned friend be a bit more precise in his question to say what period

8 we're talking about, because things can evolve in the field. The groups who

9 controlled it were not necessarily the same ones at the same time in these places.

10 PRESIDING JUDGE MINDUA: [11:46:00](Interpretation) Maître Edwards.

11 MR EDWARDS: [11:46:06] Thank you. Yes.

12 Q. [11:46:07] Your experience of being controlled at these checkpoints was

13 obviously your experience when you were in Mali. It obviously wasn't your

14 experience when you're in [REDACTED] correct?

15 A. [11:46:57] I was in Mali.

16 Q. [11:46:58] All right. And, unfortunately, you've already told us that you can't

17 remember when you left Mali for the other country, but -- well, translate that first,

18 please.

19 But are you able to tell us whether your experience of these groups at these

20 checkpoints was before or after you went to the other country?

21 A. [11:48:37] Yes, that was done in front of us, and that's why we had to leave, to

22 go and get something, to come back and help our relatives. It was done in front of

23 us.

24 Q. [11:48:56] Again, just to be very clear, that was done before you went to the

25 other country; is that right? Just say "yes" or "no".

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1 A. [11:49:32] Yes. It was done in front of me before I went to another country.

2 Q. [11:49:42] And then have I got this right: When you came [REDACTED]

3 [REDACTED] ?

4 A. [11:50:36] I left and then I came back afterwards. And the French found me.

5 All that happened in front of me.

6 Q. [11:50:52] Yes.

7 So where were we? Tab 4, please. It's document MLI-D28-0005-6466.

8 Your Honour, this is an article from maliactu.net dated 19 June 2012. I'm just going
9 to read out a part of it and ask the witness for his comments. With your leave.

10 PRESIDING JUDGE MINDUA: [11:51:41](Interpretation) Please go ahead, counsel.

11 MR EDWARDS: [11:51:44] Thank you.

12 Q. [11:51:47] (Interpretation) "Koriomé is 18 kilometres from Timbuktu, it is on the
13 river port which constitutes a strategic post. Whoever controls this post, checks the
14 entries and departures of vehicles. This checkpoint brings a lot, a huge amount
15 financially. The MNLA *takes charge of vehicles crossing from the south in
16 exchange for cash."

17 (Speaks English) I'll pause there for a second.

18 THE INTERPRETER: [11:52:53] Message from the -- message from the Songhai
19 booth: We are not well situated when it comes to the document.

20 PRESIDING JUDGE MINDUA: [11:53:04](Interpretation) Can you help the
21 interpreters, please. Which paragraph is it?

22 MR EDWARDS: [11:53:11] If -- forgive me. If the screen that I'm seeing is the same
23 as the screen that is seen by the interpreters at the remote location, it's the sentence
24 immediately below the bold text. It's the sentence that starts: (Interpretation)
25 "Koriomé is 18 kilometres from Timbuktu".

1 (Speaks English) Thank you.

2 Q. [11:54:48] Mr Witness, my question is this: The people that you saw at this
3 checkpoint, Koriomé, they were light skinned, correct?

4 A. [11:55:19] The people who I saw in Koriomé, they have light skin.

5 Q. [11:55:31] And having now heard this passage from an article read to you, do
6 you accept the likelihood -- do you agree that the men at this checkpoint were likely
7 to have been from the MNLA?

8 PRESIDING JUDGE MINDUA: [11:55:55](Interpretation) Prosecutor.

9 MR DUTERTRE: [11:56:11](No interpretation)

10 PRESIDING JUDGE MINDUA: [11:56:21](Interpretation) Interpreters, please do not
11 *translate the words of the Prosecutor.

12 Please go ahead.

13 MR DUTERTRE: [11:56:29](Interpretation) This is a question by way of equity for
14 the witness, and for clarity as well.

15 First of all, I would like to stress that the date of this article, which wasn't mentioned,
16 is 18 June 2012. And it's marked.

17 PRESIDING JUDGE MINDUA: [11:56:42](Interpretation) No, Prosecutor. The
18 Defence has mentioned the date.

19 MR DUTERTRE: [11:56:50](Interpretation) Well, my point is that - and I have to
20 excuse myself, I have to apologise - but, however, what we do know is that the
21 MNLA was expelled by Ansar Dine and AQIM from the airport and from Kabara.
22 And *you have the testimony of witnesses P-0150, P-0065 and the others and that
23 happened towards the end of June.

24 And it goes back to the question of the date of the movement of this witness, who
25 says, furthermore, in paragraph 26, which has been tendered into evidence, that he

1 returned to Timbuktu - in paragraph 26, for example - to get food. So it would seem
2 that he was going there quite regularly. So you have to be very clear with the
3 witness when you're putting the question to him and, furthermore, not make a
4 generalism as it could be the case with the question of Mr Edwards. The witness was
5 able to go to Timbuktu several times and, furthermore, the MNLA wasn't in control at
6 the time. *So I would like Mr Edwards to put his questions in a different way.

7 PRESIDING JUDGE MINDUA: [11:58:14](Interpretation) Mr Edwards, have you
8 heard the objection of the Prosecutor? There is a problem because the different posts
9 were occupied by different groups, and this witness has a problem with regards to the
10 dates. So perhaps you have to reformulate your question.

11 MR EDWARDS: [11:58:37] Your Honour, the difficulty that both the Prosecution
12 and we have is that unfortunately the witness isn't able to provide any particular
13 clarity about dates. What we do know, however, is that, after his return from the
14 other country - it seems clear to me, but I can seek further clarification from the
15 witness if required - he -- he pretty much [REDACTED].

16 And I'm looking at paragraph 15: (Interpretation) [REDACTED]

17 [REDACTED] "
18 (Speaks English) That's the point.

19 So we are in some difficulties because of course the witness isn't able to give us that
20 clarification. I'm just -- I'm putting to him, and I submit that it's a valid proposal to
21 put, that when he did run into these checkpoints, earlier on in the *la crise*, chances are
22 he was coming up against members of the MNLA and not Islamic groups. That's the
23 point.

24 PRESIDING JUDGE MINDUA: [12:00:19](Interpretation) Prosecutor.

25 MR DUTERTRE: [12:00:20](Interpretation) Just an additional observation. In

1 paragraph 15, that my learned colleague has just mentioned, when the witness says
2 that [REDACTED]

3 [REDACTED], as he says in paragraph 26, to get
4 food. What that meant is [REDACTED] That's what it means.

5 He wasn't ... all the time. That's -- that goes back to the issue of dates.

6 PRESIDING JUDGE MINDUA: [12:01:00](Interpretation) Very well. I think it's
7 easy. I think we can ask the witness himself.

8 Mr Edwards, just put your question in an appropriate way to the witness.

9 MR EDWARDS: [12:01:13] Thank you, your Honour. I'll do my best.

10 Are we clear that what I am saying is being interpreted? Yes. Thank you.

11 PRESIDING JUDGE MINDUA: [12:01:31](Interpretation) That is what we are going
12 to do, Mr Edwards.

13 Interpreters, you may resume interpretation.

14 THE INTERPRETER: [12:01:41] The interpreter at the location: Duly noted.

15 PRESIDING JUDGE MINDUA: [12:01:48](Interpretation) Mr Edwards.

16 MR EDWARDS:

17 Q. [12:01:53] Is it possible that the people that you came across at the Koriomé
18 checkpoint were from the MNLA and not from an Islamic group?

19 A. [12:02:46] Well, in 2012, all of those who came for the occupation of the area, we
20 considered them to be Islamists.

21 Q. [12:03:04] All bearded, light-skinned people you considered to be Islamists,
22 right?

23 A. [12:03:37] That's what we called them. They were the one who were making
24 distinctions amongst themselves. We didn't make any distinctions amongst them.
25 That's how we saw them.

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1 Q. [12:03:50] All right. But, of course, when you arrived at these checkpoints, the
2 people that stopped you and checked what you were carrying, they weren't
3 introducing themselves, were they?

4 A. [12:04:47] Repeat your question.

5 Q. [12:04:51] On the occasions when you were travelling and came up to these
6 checkpoints, the men who stopped you and searched you and extorted from you, they
7 weren't introducing themselves to you, were they? They didn't tell you what groups
8 they belonged to, did they?

9 A. [12:05:50] No, they didn't tell us, and we didn't try to find out what groups they
10 were from. Each person was looking out for himself.

11 MR DUTERTRE: [12:06:06](Interpretation) I'm sorry to constantly interrupt, but
12 could Mr Edwards give us a reference for this concept of extortion that he used in his
13 question.

14 PRESIDING JUDGE MINDUA: [12:06:23](Interpretation) Yes, that did attract my
15 attention, the word "extortion", extorting money. Do you have a reference or were
16 you just saving yourself a few words, Counsel?

17 MR EDWARDS: [12:06:38] Yes, the word "extortion", your Honour, comes in the
18 next sentence down from the one that was just read out to the witness. So after
19 reference to the fact that this checkpoint "*apporte énormément beaucoup financièrement*",
20 (Interpretation) "brought in ..." (Overlapping speakers)

21 (Speaks English) there is a section -- there's a sentence that reads:

22 (Interpretation) "The drivers had to pay three times the normal rate. The MNLA
23 combatants did systematically search vehicles and passengers every day, extorting
24 possessions from them, (computers, motorbikes)."

25 PRESIDING JUDGE MINDUA: [12:07:37](Interpretation) Very well.

1 MR DUTERTRE: [12:07:40] (Interpretation) That is in this article, but that does not
2 mean that this witness said that he was the victim of extortion. The way the
3 question is phrased, when you would travel around and go up to checkpoints and
4 men would extort money from you, where did this idea come from that the witness
5 was being extorted, that people were asking him for money? Where did this come?
6 Here there is a media article that talks about the MNLA, and there's no indication that
7 this particular witness was a victim of extortion. So this is misleading.

8 PRESIDING JUDGE MINDUA: [12:08:28](Interpretation) Yes. This could -- this
9 could confuse or upset the witness because he has not said he was extorted. This is
10 in the article.

11 MR EDWARDS: [12:08:41] Well, the -- I think I asked -- I hope that the sound has
12 been cut because my learned friend started his objection and gave a lot of detail, and
13 my fear is that the witness has heard every word of it, and that would be a great
14 shame if that's the case.

15 PRESIDING JUDGE MINDUA: [12:09:09](Interpretation) For the time being there is
16 no interpretation, Mr Edwards. But we can always cut off the sound if you wish, but
17 there is no interpretation going on.

18 MR EDWARDS: [12:09:18] Thank you.

19 PRESIDING JUDGE MINDUA: [12:09:19](Interpretation) What would you like us to
20 do? Cut off the sound?

21 MR EDWARDS: [12:09:23] No. As long as it's not being interpreted, that will -- that
22 will suffice.

23 Your Honour - thank you - page 35 in the English transcript at line 5, my question
24 was this:

25 "Is it true that these people would seize goods" - I think - "and make people, travelers,

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1 pay a sort of [...] toll."

2 I would suggest that that is a sufficient basis to make the reference to extortion, which,
3 in any event, the witness has just accepted. My learned friend objected to the
4 question after the witness had accepted the proposition that I'd put to him. So to
5 suggest that he's confused or that there is some unfairness to the witness, I would
6 respectfully submit is without a foundation.

7 PRESIDING JUDGE MINDUA: [12:10:24](Interpretation) Well, let us say that the
8 witness may acknowledge that extortion took place, but so far, we have not heard that
9 he himself was the victim of extortion. This is what you are telling me now,
10 Mr Edwards. He has not acknowledged that, but it's not important.

11 MR EDWARDS: [12:10:51] It's not important whether he himself was extorted or not.
12 The point is to establish the possibility that the group is not the group that he refers to
13 at prima facie in his statement, but that the group could have been the MNLA. So it
14 matters not whether he himself was extorted or not.

15 PRESIDING JUDGE MINDUA: [12:11:21](Interpretation) Very well. I think this is
16 sufficiently clear now.

17 MR EDWARDS: [12:11:25] Thank you.

18 PRESIDING JUDGE MINDUA: [12:11:26](Interpretation) The interpreters may
19 resume interpretation.

20 MR EDWARDS: [12:11:34] Thank you. I'll be moving on then, your Honour, to
21 paragraph 37 of the witness's statement.

22 Q. [12:11:46] And now, Mr Witness, I'd like to ask you about the breaking or the
23 damaging of apparatus relating to the mobile phone network or networks, plural.

24 Your Honour, I'm in your Honours' hands, paragraph 37, the part that is of interest to
25 me is the sentence that starts three lines from the bottom, "*Ils ont même cassé les réseaux*

1 *téléphoniques*", I would suggest that this is a self-contained point that doesn't require
2 the reading of the entire paragraph to the witness, but so that your Honour and
3 your Honour's colleagues understand, this is the context of the next few questions.

4 PRESIDING JUDGE MINDUA: [12:13:07](Interpretation) Go ahead, Counsel.

5 MR EDWARDS: [12:13:11] Thank you.

6 Q. [12:13:15] So, Mr Witness, you remember telling the investigators about the
7 breaking of the telephone network and the burning of installations, cables and
8 antennas?

9 A. [12:13:53] That happened.

10 Q. [12:13:57] Is that something that you saw with your own eyes?

11 A. [12:14:16] I saw them with my own eyes.

12 Q. [12:14:18] What did you see with your own eyes?

13 A. [12:14:42] What I saw with my own eyes, I was not even -- I couldn't believe it.
14 Something that was so important to everyone was being broken like that and that
15 really upset us, disheartened us.

16 Q. [12:15:30] When did you see this or these incidents of the telephone network or
17 parts of the telephone network being broken?

18 A. [12:16:06] It was just after -- somewhat after the time they came in. That is
19 what they did so that people could not get in touch with one another.

20 Q. [12:16:40] I just want to be clear. You're talking about the damaging and the
21 breaking of mobile telephone hardware, are you? Like antennas and cables. I'm
22 not talking about SIM cards. I'm talking about the hardware.

23 A. [12:17:41] I've understood the question. I've answered the question. I
24 imagine the antennas being destroyed. How can the telephones work once the
25 telephones -- once the network is broken? How can the SIM cards work?

1 Q. [12:18:05] I'd like to bring up the document at tab 16, and it's

2 MLI-D28-0005-8199.

3 Your Honour, this is a press article, "maliweb.net", entitled:

4 (Interpretation) "Because of the attacks of armed bandits, Timbuktu is deprived of the
5 Internet."

6 (Speaks English) And, your Honour, the date of this document is 29 February 2012.

7 And I'm just going to read a couple of sentences for the benefit of the witness, to be
8 fair to him, so that he can answer my next couple of questions.

9 Mr Witness, this article starts with the following sentence:

10 (Interpretation) "Ever since the malitel antenna in Tomka was sabotaged and the Mali
11 Orange facilities were completely sacked, Internet connections have been cut off in
12 Timbuktu."

13 (Speaks English) A little further down, the article goes on to say this:

14 (Interpretation) "Ever since the first attack in Léré, the armed bandits, intending to
15 attack Niafunké and Tonka, sabotaged the malitel antenna and ransacked the Orange
16 Mali antenna in Tonka."

17 (Speaks English) Then a little further down, because this is the important part:

18 (Interpretation) "Ever since that time, Timbuktu has been deprived of Internet
19 connection."

20 (Speaks English) A little further down.

21 (Interpretation) "With the sabotage of the MaliTel antenna in Tonka, the people who
22 used the internet in Timbuktu are cut off from the rest of the world. There are very
23 few Orange connections in Timbuktu, but they're very unstable as well these days
24 because the antennas have been destroyed here and there by the armed bandits."

25 (Speaks English) Mr Witness, if there were attacks on telecommunications

1 installations, they happened in February 2012, long before the arrival of any groups.

2 Do you agree?

3 A. [12:23:28] The people we -- it was when they got to our area, that's when
4 everything happened. Now, what happened elsewhere can't be talked about. We
5 just know about what happened in our area.

6 Q. [12:23:53] Mr Witness, it's clear from this article that what happened elsewhere
7 had a direct impact on connections in Timbuktu. Do you follow?

8 Sorry. Let me just ask the question.

9 Do you deny that in February of 2012 the mobile telephone and the internet networks,
10 Orange and MaliTel, were not working?

11 A. [12:25:50] As I told you at first, us, all we know is that those cases happened.
12 We knew about that. And more specifically, us, we were just working with our
13 telephones. We don't know about the internet. And even with the telephones,
14 when we don't have network, we would move around to get access to the network.
15 So we don't use the internet, so we can't really talk about it.

16 Q. [12:26:23] All right. Well, we won't get into the question of similarities
17 between internet and mobile phone networks, but -- can we take this off the screen,
18 please, and bring up now the document at tab 19. Your Honour, this is
19 MLI-OTP-0012-0422.

20 While that's being brought up, your Honour, this is a document, (Interpretation)
21 Intelligence Report (Speaks English) dated 5 June 2012 to --
22 (Interpretation) to the "MINISTER OF DEFENCE AND VETERANS
23 RE: Security situation in northern Mali."

24 (Speaks English) Can we go to -- well, first of all, page 1. If we could scroll down a
25 little, please. Dealing first with the situation in Gao. There's the context. And

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1 then if we just move down to the top of page 2 of the document. And I'll read out a
2 part from this document:

3 (Interpretation) "Feeling themselves to be in a position of weakness, the MNLA
4 combatants wanted to sabotage the facilities of the Orange telephone network in Gao.
5 They were kept from doing so, tracked down and put into prison upon the
6 instructions of Iyad Ag Ghaly."

7 THE INTERPRETER: [12:29:06] Message from the Songhai booth: The letter is no
8 longer up on the screen.

9 PRESIDING JUDGE MINDUA: [12:29:11](Interpretation) Court officer, if you could.

10 THE COURT OFFICER: [12:29:21] Your Honours, the document is viewable.

11 Thank you.

12 PRESIDING JUDGE MINDUA: [12:29:31](Interpretation) Interpreters, do you have
13 the documents?

14 THE INTERPRETER: [12:29:36] Yes, we do.

15 PRESIDING JUDGE MINDUA: [12:29:38](Interpretation) Go ahead.

16 MR EDWARDS: [12:30:29]

17 Q. [12:30:30] Mr Witness, there's no dispute in this courtroom that Iyad Ag Ghaly
18 was the head of Ansar Dine.

19 Interpret that, please.

20 This document demonstrates the attitude that he took to those who were sabotaging a
21 telephone network, albeit in Gao, including imprisonment of those responsible for
22 this sabotage.

23 Would you like to reconsider your answer that that the Islamists were responsible for
24 destroying the telephone network Orange and MaliTel in Timbuktu?

25 A. [12:32:46] What we can say is that the bearded persons, when they arrived in

1 Timbuktu, they damaged our network. You can't speak about something that we
2 didn't experience or see. That is what we saw and what we can speak about.

3 MR EDWARDS: [12:33:09](Overlapping speakers) Your Honour, please, tab 20.

4 Q. [12:33:11] This is MLI-OTP-0068-4637, a document -- an Internet article, entitled:
5 (Interpretation) "Testimony of a person from Timbuktu on the role of Al Hassan Ag
6 Abdoul Aziz during the crisis of 2012."

7 MR EDWARDS: [12:33:30] Your Honour, actually, I've been advised that we don't
8 need to go into this document. It's already in evidence and it may be that it's a
9 matter for submissions in due course.

10 Okay. I'll move on because I am alive to the time.

11 My apologies. That can be taken off the screen.

12 Q. [12:34:51] I've really only got one matter left to ask you about, sir.

13 MR EDWARDS: [12:34:53] And I regret, your Honour, that for this, I think it would
14 be prudent to move into private session, but it can be done very quickly.

15 PRESIDING JUDGE MINDUA: [12:35:20](Interpretation) Very well, Mr Edwards.
16 Private session, please, court officer.

17 (Private session at 12.35 p.m.)

18 THE COURT OFFICER: [12:35:33] We're in private session, Mr President.

19 PRESIDING JUDGE MINDUA: Thank you, court officer.

20 Mr Edwards.

21 MR EDWARDS: [12:35:53] Thank you, your Honour.

22 Q. [12:35:56] In your statement to the Prosecution, you talk about what you know
23 of the detention of a woman called Azou, and you identified her photo from a
24 document during questions from the Prosecution a little earlier on this morning.

25 Are you with me?

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1 A. [12:36:51] (No interpretation). *Oui*.

2 Q. [12:36:51] And you talk about the fact that she -- and I am going to read it in

3 French:

4 (Interpretation) "Azou had a crisis and *injured herself with broken glass from the cell
5 where she was being held."

6 (Speaks English) So, first of all, you understand what it is I'm asking -- what I'm
7 talking about, right?

8 A. [12:37:35] Yes.

9 Q. [12:37:36] And the next part of the paragraph reads as follows:

10 (Interpretation) "She has this illness which means that the person has fits when they
11 are annoyed or angry."

12 A. [12:38:03] Yes.

13 Q. [12:38:04] You had heard that she had this pre-existing condition where she
14 would have these fits, these *crises*.

15 Is that right?

16 A. [12:38:35] Yes.

17 Q. [12:38:36] Have you ever heard the word epilepsy, Mr Witness? Do you know
18 what it is?

19 A. [12:38:59] Yes, yes. I know it.

20 Q. [12:39:06] (Overlapping speakers) And is that what people said? That Azou
21 suffered from epilepsy?

22 A. [12:39:23] Yes.

23 Q. [12:39:24] Okay. Now, a little earlier on you said that you *heart -- a little later
24 on in your statement, you say that you heard about this incident involving Azou
25 when [REDACTED]

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1 That's right, isn't it?

2 A. [12:40:09] Yes.

3 Q. [12:40:10] Thank you. Was that [REDACTED]

4 [REDACTED]?

5 MR EDWARDS: [12:40:34] Paragraph 50, your Honour.

6 THE WITNESS: [12:41:05](Interpretation) [REDACTED]

7 [REDACTED]

8 MR EDWARDS: [12:41:15]

9 Q. [12:41:16] Yes. I just want to be very clear [REDACTED]

10 [REDACTED] (Overlapping speakers)

11 Sorry, I'm going to repeat my question, okay?

12 The point is that [REDACTED]

13 [REDACTED] Is that right?

14 A. [12:42:15] What do you want to speak about? The woman who was injured?

15 Or, what are you speaking about? The child that was injured?

16 Q. [12:42:25] I'll pick it up again.

17 You learned about Azou's detention [REDACTED]

18 Correct?

19 A. [12:42:44] Yes. Yes, [REDACTED]

20 Q. [12:43:15] You also learned about [REDACTED]

21 [REDACTED]?

22 A. [12:43:42] Yes.

23 Q. [12:43:44] [REDACTED]

24 [REDACTED]

25 A. [12:44:40] No, no, it wasn't at the same time. [REDACTED]

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3 Q. [12:45:12] Thank you. Can you tell us how much time passed between hearing
4 about the incident involving Azou [REDACTED] ?

5 A. [12:45:46] No, I can't.

6 Q. [12:45:51] Are you able to tell the Court whether it was a matter of days, or
7 weeks, or months? Or can you simply not say?

8 A. [12:46:35] No, when it comes to calculating the days, I can't remember those.

9 Q. [12:46:46] No. Okay. Fair enough. And it was a long time ago.

10 Thank you very much for answering my questions, sir.

11 MR EDWARDS: [12:47:00] Your Honour, those are my questions.

12 PRESIDING JUDGE MINDUA: [12:47:02](Interpretation) Thank you,

13 Maître Edwards, for your cross-examination.

14 I am now turning to the Office of the Prosecutor to know if there are additional
15 questions.

16 Madam Prosecutor.

17 MS UMURUNGI: [12:47:20] No, your Honours, we don't have any question to ask.

18 PRESIDING JUDGE MINDUA: [12:47:30](Interpretation) Madam Prosecutor, you
19 have no more questions; is that correct?

20 MS UMURUNGI: [12:47:38] Indeed, we don't have any supplementary questions.

21 PRESIDING JUDGE MINDUA: [12:47:43](Interpretation) Thank you very much.

22 Court officer, we are in private session, so we need to return to open session.

23 (Open session at 12.48 p.m.)

24 THE COURT OFFICER: [12:48:01] We're back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [12:48:08](Interpretation) Thank you, court officer.

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1 Witness, we have come to the end of your testimony.

2 On behalf of the Chamber, I would once again like to thank you very sincerely for
3 having aided the Chamber by answering the questions in a clear way.

4 Your testimony is now over. I, therefore, would like to wish you a good trip home
5 and wish you all the best.

6 (The witness is excused)

7 PRESIDING JUDGE MINDUA: [12:49:17](Interpretation) I now turn towards the
8 Office of the Prosecutor.

9 So what's the follow-up going to be?

10 MR DUTERTRE: [12:49:26](Interpretation) Your Honour, we are trying to
11 accommodate the request of the Defence. Initially, we were meant to have P-4 and
12 then 538. The Defence wants us to have *0538, then P-4. So it also depends on
13 our agenda, the agenda of the witnesses, when it comes to these aspects.
14 But if it's possible, knowing that there is no possible hearing on Monday, we could try
15 to have 538 on 30 November, the 1 and 2 of December, and then P-4 on 3 December, 6,
16 7 and 8 December, subject to the reserves that it's up to the constraints on the part of
17 the witness, because there could be -- well, we will make the necessary effort.

18 Having said that, the Defence can't expect to have a list of materials in the five-day
19 deadline prior to 538, if 538 comes earlier. It would not be possible to respect the
20 five-day deadline, to respect the deadline, but I don't think that's a problem for them.
21 We will make the effort. As soon as we have the information from VWS, we will
22 come back to everyone. And, as we do every time, we will try and accommodate the
23 Defence's needs.

24 PRESIDING JUDGE MINDUA: [12:51:16](Interpretation) Very well. Thank you
25 very much, Prosecutor.

1 So we shall provisionally say that we will be back here on Tuesday, 30th, at 9.30 for,
2 possibly, P-0538. Thank you very much.

3 So before ending the session, as usual, I would like to thank most sincerely the parties
4 and participants, the court reporters and the interpreters, our security guards, and of
5 course our public. I wish you all a very good day because it is still midday, 12.30.
6 Court is adjourned.

7 THE COURT USHER: [12:52:09] All rise.

8 (The hearing ends in open session at 12.52 p.m.)

9 CORRECTIONS REPORT

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

12 Page 18 line 24

13 [REDACTED] Is translated and added

14 Page 31 line 11

15 "introduce" Is corrected to "translate"

16 Page 31 line 22

17 "you had the testimony of various witnesses" Is corrected to "you have the testimony
18 of witnesses P-0150, P-0065 and the others"

19 Page 32 line 6

20 "So Mr Edwards has to put his questions in a different way." Is corrected to "So I
21 would like Mr Edwards to put his questions in a different way."

22 Page 42 lines 4-5

23 "injured herself on the cell where she -- in -- by smashing the window in the cell
24 where she was being held." Is corrected to "injured herself with broken glass from
25 the cell where she was being held."

1 Page 43 line 25 to Page 44 line 1

2 ' [REDACTED] ' Is

3 corrected to ' [REDACTED]

4 [REDACTED]

5 Page 45 line 12

6 "138 (sic)" Is corrected to "0538"

7 The following corrections, marked with an asterisk and included in the audio-visual
8 recording of the hearing, are brought into the transcript.

9 Page 24 line 6

10 [REDACTED] Is corrected to [REDACTED]

11 Page 42 line 23

12 "hurt" Is corrected to "heard"