

Trial Hearing
WITNESS: MLI-OTP-P-0653

(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 1
9 Wednesday, 14 October 2020
10 (The hearing starts in open session at 9.30 a.m.)
11 THE COURT USHER: [9:30:59] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:31:28](Interpretation) The Court is now in
15 session.
16 Good morning, everyone.
17 Court officer, if you would be so kind as to call the case.
18 THE COURT OFFICER: [9:31:41](Interpretation) Good morning,
19 your Honour, your Honours.
20 The situation in Mali, in the case of The Prosecutor versus Al Hassan Ag
21 Abdoul Aziz Ag Mohamed Ag Mahmoud, ICC-01/12-01/18.
22 And we are in open session.
23 PRESIDING JUDGE MINDUA: [9:31:58](Interpretation) Thank you.
24 For the record, as usual we are going to start with the introductions.
25 First of all, it's over to the Office of the Prosecutor.
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1 MR ALLAFI: [9:32:14](Interpretation) Good morning, your Honour.

2 Good morning, your Honours.

3 For the Office of the Prosecutor today, we have Gilles Dutertre on my left, and

4 Lucio Garcia behind me, and Marie-Jeanne Sardachti and myself, Mousa Allafi.

5 PRESIDING JUDGE MINDUA: [9:32:38](Interpretation) Thank you very

6 much, Mr Prosecutor, Mousa Allafi.

7 I now turn to the Defence.

8 MS SUTHERLAND: [9:32:46](Overlapping speakers) Good morning,

9 Mr President, your Honours. The Defence for Mr Al Hassan today is

10 represented by Ms Melinda Taylor, Ms Molly Thomas and myself,

11 Kirsty Sutherland.

12 PRESIDING JUDGE MINDUA: [9:33:04](Interpretation) Thank you very

13 much, Ms Sutherland.

14 For the Legal Representative of Victims, Mr Nsita.

15 MR LUVENGIKA: [9:33:12](Interpretation) Good morning, your Honour,

16 your Honours.

17 The Legal Representative of Victims team is made up of Madam Claire Laplace

18 and myself, Mr Fidel Nsita Luvengika.

19 PRESIDING JUDGE MINDUA: [9:33:29](Interpretation) Thank you,

20 Maître Nsita.

21 Today, we are going to hear the 14th witness of the Prosecution.

22 I am now turning towards the witness.

23 Good morning, Madam Witness. Can you hear me?

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25 (The witness speaks French)

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1 THE WITNESS: [9:33:54](Interpretation) Good morning. Yes, I can hear you,
2 your Honour.

3 PRESIDING JUDGE MINDUA: [9:33:58](Interpretation) Thank you.
4 on behalf of the Chamber, I would like to welcome you. You are going to
5 testify with a view to aiding the Chamber establish the truth in the case
6 concerning Mr Al Hassan.

7 Protective measures have been put in place with a view to protecting your
8 identity. Whenever you have to give details which could reveal your identity,
9 we will speak about them in private session and, in this way, nobody other
10 than those people who are in this courtroom will be able to hear you.

11 It seems that Mr Garcia has a problem -- Mousa, sorry.

12 MR ALLAFI: [9:35:04](Interpretation) No, absolutely not. Thank you very
13 much.

14 PRESIDING JUDGE MINDUA: [9:35:09](Interpretation) Thank you.
15 Witness, have you understood me well?

16 THE WITNESS: [9:35:20](Interpretation) Yes, I've understood you well.

17 PRESIDING JUDGE MINDUA: [9:35:22](Interpretation) Thank you very
18 much. We are now going to take your solemn undertaking under Rule 66(1)
19 of the Rules of Procedure and Evidence.

20 On your table, there is a paper on which the solemn undertaking is written,
21 according to which you swear to tell the truth.

22 Can you see this paper?

23 THE WITNESS: [9:35:53](Interpretation) Yes.

24 PRESIDING JUDGE MINDUA: [9:35:54](Interpretation) Thank you.

25 So I would ask you to read aloud what is written on this paper.

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1 Please, go ahead.

2 THE WITNESS: [9:36:04](Interpretation) I solemnly declare that I will tell
3 the truth, the whole truth and nothing but the truth.

4 PRESIDING JUDGE MINDUA: [9:36:11](Interpretation) Thank you very
5 much, Madam Witness.

6 You are now under oath. The representatives of the VWU and
7 the representatives of the Prosecution have already told you what that means.
8 I will therefore not repeat what has already been said.

9 I have a few instructions of a practical nature for you. You must always bear
10 in mind that everything that is said in this courtroom is being transcribed by
11 court reporters and it is being interpreted into different languages by
12 the interpreters. It is, therefore, important to speak clearly and slowly.

13 Do not start speaking until the person who is asking you a question has
14 finished that question. This break is essential to ensure that your testimony
15 can be duly noted. Obviously, if you have any questions, please raise your
16 hand to indicate that you wish to take the floor.

17 Have you understood that?

18 THE WITNESS: [9:37:47](Interpretation) Yes, I've understood that.

19 PRESIDING JUDGE MINDUA: [9:37:51](Interpretation) Thank you, Witness.

20 We are now going to hear your testimony. You will be firstly questioned by
21 the Office of the Prosecutor on my right. And thereafter, possibly, by
22 the Legal Representative of Victims. Afterwards, by the Defence on my left,
23 and perhaps by the judges of the Trial Chamber.

24 We are going to start straightaway with the examination-in-chief of the Office
25 of the Prosecutor.

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- 1 Maître Mousa, the floor is yours.
- 2 MR ALLAFI: [9:38:52](Interpretation) Your Honour.
- 3 PRESIDING JUDGE MINDUA: [9:38:58](Interpretation) Just a minute, please.
- 4 (Trial Chamber confers)
- 5 PRESIDING JUDGE MINDUA: [9:39:57](Interpretation) The Chamber has to
- 6 withdraw to deliberate an urgent matter.
- 7 I will, therefore, suspend the hearing for five minutes, approximately.
- 8 During this time, I would ask the VWU to look after the witness and to help
- 9 the witness perhaps take the mask off in order to be heard better.
- 10 So the hearing is now suspended.
- 11 THE COURT USHER: [9:40:35] All rise.
- 12 (Recess taken at 9.40 a.m.)
- 13 (Upon resuming in open session at 9.46 a.m.)
- 14 THE COURT USHER: [9:46:11] All rise.
- 15 Please be seated.
- 16 PRESIDING JUDGE MINDUA: [9:46:30](Interpretation) Court is now in
- 17 session again.
- 18 The Chamber had to deliberate on a number of different issues, which is now
- 19 done.
- 20 Now, before continuing, I have an oral decision to issue.
- 21 The Chamber notes the Prosecutor's application to add a copy of better quality
- 22 to the report of P-0653, P-653, with the number MLI-OTP-0066-2198.
- 23 The improved copy has the number MLI-OTP-0066-2252. That's it. That's
- 24 the Prosecution application.
- 25 And what does the Defence think of that? Is there any objection on your part?

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1 Counsel.

2 MS SUTHERLAND: [9:47:59] No objection, your Honour.

3 PRESIDING JUDGE MINDUA: [9:48:07](Interpretation) Thank you very
4 much, Ms Sutherland, for your cooperation.

5 Now, in accordance with the Regulation *35 of the regulations of the Court,
6 the Chamber considers that the application of the Prosecutor causes no harm to
7 the Defence and it is thereby granted.

8 Now, Prosecutor Mousa, you, once again, have the floor for
9 the examination-in-chief of the Prosecution.

10 MR ALLAFI: [9:49:05](Interpretation) Thank you, your Honour.

11 Before starting, I would just ask the court officer to pass the witness
12 the original of the report. We've made photocopies of the version, which can
13 also be distributed to help with the follow-up with the new ERN numbers,
14 which will be used.

15 PRESIDING JUDGE MINDUA: [9:49:33](Interpretation) Very well.

16 Court officer, if you would be so kind as to see to it.

17 (Pause in proceedings)

18 QUESTIONED BY MR ALLAFI: (Interpretation)

19 MR ALLAFI: [9:50:48](Interpretation) Thank you, your Honour.

20 Q. [9:50:53] Witness, good morning.

21 So, we already met during the preparatory session on 18 October. My name is
22 Mousa Allafi, and I'm going to put questions to you on behalf of the Office of
23 the Prosecutor. As has already been indicated by the Presiding Judge and,
24 above all, because we're going to speak the same language, you have to bear in
25 mind not to speak too quickly so that the interpreters can follow what we are

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1 saying and interpret us.

2 So after each question, please count to a few seconds before answering me and

3 I will also do the same before putting the following question to you.

4 Witness, another point. If, at a particular time, you don't understand

5 the question or its not precise or clear enough, then please tell me and I will

6 reformulate my question and I'll clarify it, if necessary.

7 I'm now firstly going to put questions to you on your CV and, afterwards, I'm

8 going to ask you a few questions about your qualifications and thereafter I will

9 go on to your report, the methodology that you use and, of course,

10 the conclusions that you drew.

11 So I'm now turning to you, your Honour, because I would like to start in

12 private session in order not to disclose potentially identifying elements, and

13 that should take only about 10 minutes and then we can go back into open

14 session.

15 PRESIDING JUDGE MINDUA: [9:52:38](Interpretation) It is granted,

16 Prosecutor.

17 But I would like to remind everyone that the principle is the publicity of

18 proceedings; so please spend as little time as possible on this identifying

19 information.

20 MR ALLAFI: [9:52:53](Interpretation)

21 Q. [9:52:56] Witness --

22 THE COURT OFFICER: [9:53:03] (Overlapping speakers)(Inaudible) ... yes,

23 please, now.

24 (Private session at 9.53 a.m.)

25 THE COURT OFFICER: [9:53:05] We are now in private session,

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1 Mr President.

2 PRESIDING JUDGE MINDUA: [9:53:08](Interpretation) Thank you.

3 Thank you, court officer.

4 MR ALLAFI: [9:53:13](Interpretation)

5 Q. [9:53:16] Witness, we know some of your name, but for your complete
6 identity to be figured in the record, please would you be so kind as to indicate
7 your full name.

8 A. [9:53:32] My full name is [REDACTED].

9 Q. [9:53:36] What is your date and place of birth?

10 A. [9:53:41] [REDACTED]

11 Q. [9:53:49] Where are you currently working?

12 *A. [9:53:52] I'm currently working for [REDACTED].

13 Q. [9:54:01] And since when?

14 A. [9:54:02] Since [REDACTED].

15 Q. [9:54:08] What function do you hold currently?

16 *A. [9:54:13] Currently I am an expert in image processing and comparison
17 of facial features. I have been doing that ever since I arrived. And I'm also [REDACTED]
18 [REDACTED]; so facial comparison.

19 Q. [9:54:31] And when you say that since you arrived there?

20 A. [9:54:36] That's [REDACTED].

21 THE INTERPRETER: [9:54:36] Answers the witness.

22 MR ALLAFI: [9:54:43]

23 Q. [9:54:43] Could you tell us briefly what you do in your work exactly?
24 What exactly your work consists of.

25 A. [9:54:54] So my function consists of carrying out expert reports, which are

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1 requested by [REDACTED], whether it's to improve the images or to detect faces
2 or facial recognition. So compare two individuals to enable to find
3 a correspondence or a lack of correspondence between these individuals.

4 My work also consists of [REDACTED]

5 [REDACTED].

6 Q. [9:55:32] And what is the title of your function, in fact?

7 A. [9:55:38] I am [REDACTED].

8 Q. [9:55:48] And before [REDACTED], where did you work before?

9 A. [9:55:54] Before [REDACTED], I was working for [REDACTED]

10 [REDACTED].

11 Q. [9:56:05] And when was that from?

12 A. [9:56:07] That was from [REDACTED].

13 Q. [9:56:13] And what do you do exactly [REDACTED]?

14 A. [9:56:18] [REDACTED], I was responsible for

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED].

19 Q. [9:56:52] Witness, you have the folder that's been given to you. If you
20 would be so kind as to go to tab 1 in the folder. You have the document with
21 the ERN MLI-OTP-0078-4915?

22 A. [9:57:22] I have it before me.

23 Q. [9:57:25] Do you recognise this document, Madam Witness?

24 A. [9:57:28] Yes, it's my CV.

25 Q. [9:57:32] Do you confirm the content and the accuracy of this document?

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1 A. [9:57:37] Yes, I confirm the accuracy of this document.

2 Q. [9:57:42] I see in this document, at the top, in the first paragraph, that

3 [REDACTED]. Could you very briefly
4 tell us what you mean by that?

5 A. [9:58:00] Yes, this means that [REDACTED]
6 [REDACTED].

7 Q. [9:58:18] I also see that [REDACTED]
8 [REDACTED]
9 [REDACTED]?

10 A. [9:58:37] [REDACTED]

11 Q. [9:58:43] And what do you do [REDACTED]?

12 *A. [9:58:49] [REDACTED]
13 [REDACTED].
14 [REDACTED].

15 Q. [9:59:20] Thank you. I also see that [REDACTED]
16 [REDACTED]. And could you also tell us very
17 briefly what you do [REDACTED]?

18 A. [9:59:31] [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 Q. [9:59:51] Thank you very much.

23 And the last question before I go over to public session. So you mention in
24 your CV at the top, that you are [REDACTED] and have been since
25 [REDACTED]. Is that correct?

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1 A. [10:00:06] Yes, that is correct.

2 Q. [10:00:09] These functions, are they different to other functions that you
3 have exercised, the fact that [REDACTED]?

4 A. [10:00:22] Yes, [REDACTED], yes, that's it. [REDACTED]

5 [REDACTED].

6 Q. [10:00:37] Thank you, Madam Witness. Your Honour, I have finished with
7 the questions which could identify the witness and we can of course go into open
8 session. And I would like to take this opportunity to say that all the documents that
9 I'm going to use are confidential, so they cannot be shown to the public.

10 PRESIDING JUDGE MINDUA: [10:01:01](Interpretation) Thank you, Prosecutor, for
11 your speed. Court officer, if you would be so kind as to take us into open session.
12 (Open session at 10.01 a.m.)

13 THE COURT OFFICER: [10:01:15] We are in open session, Mr President.

14 PRESIDING JUDGE MINDUA: [10:01:22](Interpretation) Prosecutor, if you
15 would be so kind.

16 MR ALLAFI: [10:01:28](Interpretation)

17 Q. [10:01:30] Madam expert, if you could turn the page in front of you and
18 have a look at the one 0078, if you'd be so kind. That's 0078-4916.

19 A. [10:01:52] Could you repeat the reference, please.

20 Q. [10:01:54] 0078-4916. It's the page directly after. We're still talking
21 about tab 1 at the moment.

22 A. [10:02:09] Yes, thank you.

23 THE COURT OFFICER: [10:02:12](Interpretation) To assist the witness --

24 THE INTERPRETER: [10:02:13] -- says the court officer --

25 THE COURT OFFICER: [10:02:12](Interpretation) -- the document presented

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1 THE INTERPRETER: [10:02:13] -- says the court officer --

2 THE COURT OFFICER: [10:02:12](Interpretation) -- the document presented is also
3 visible on your screen. If you press the evidence 1 button, you will find it. Thank you.

4 MR ALLAFI: [10:02:33](Interpretation) Court officer, we can't see
5 the document on our screens.

6 THE COURT OFFICER: [10:02:37] (Interpretation) I would like to reassure
7 the Prosecutor that all the documents are presented in a confidential way and they are,
8 however, visible on our screens for the parties and participants as well as
9 the Chamber.

10 MR ALLAFI: [10:02:52](Interpretation) Thank you very much.

11 Q. [10:02:58] Madam Witness, do you have this document in front of you?

12 A. [10:03:02] Yes.

13 *Q. [10:03:03] Now, at the top, first paragraph, you mention your education, including
14 [REDACTED], as well as [REDACTED], if I have pronounced that
15 correctly. Is that correct?

16 A: (10:03:17) Yes, that is correct.

17 Q: (10:03:19) Could you please explain what [REDACTED] are?

18 A. [10:03:29] They are the basic level of education for preparing expert assessments
19 using video processing [REDACTED]. *We learned how an image
20 works, how an image is created, how it can be changed, and how one can improve the
21 image in order to find elements that are useful for an investigation.

22 Q. [10:03:57] Could you please also explain what the GIMP image processing is?

23 A. [10:04:08] It's an open source software which allows you to process an image to
24 make it brighter, to improve the contrast, or more complex things such as
25 magnification and other forms of image processing.

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1 Q. [10:04:26] Thank you. The office of the Prosecution contacted you as an
2 expert in order to carry out a facial recognition comparison?

3 A. [10:04:44] Yes, that is correct.

4 Q. [10:04:49] Could you please now go to tab 2 in your documents and look
5 at the document, which starts with MLI-0074-0534. MLI-OTP-0074-0534.

6 A. [10:05:12] Yes, I have it in front of me.

7 Q. [10:05:16] Do you recognise this document, Madam Witness?

8 A. [10:05:20] Yes, it is the *lettre de mission*, which I received.

9 Q. [10:05:27] You mean, the letter sent to you by the Office of the Prosecutor?

10 A. [10:05:31] Yes.

11 Q. [10:05:39] Firstly, I understand that there is a spelling error in your
12 forename on this page. Madam Witness (Overlapping speakers)

13 PRESIDING JUDGE MINDUA: [10:05:49] (Interpretation)(Overlapping
14 speakers) ... could you please -- court officer, could you please do this.

15 Do we need to go into private session?

16 MR ALLAFI: [10:06:02](No interpretation)(Overlapping speakers)

17 PRESIDING JUDGE MINDUA: [10:06:03](Interpretation) Court officer, can
18 we please move into private session.

19 (Private session at 10.06 a.m.)

20 THE COURT OFFICER: [10:06:20] (Interpretation) We are in private session,
21 Mr President.

22 PRESIDING JUDGE MINDUA: [10:06:26](Interpretation) Thank you very
23 much, court officer.

24 Prosecution.

25 MR ALLAFI: [10:06:30](Interpretation)

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1 Q. [10:06:32] I am sorry that we have to do this, I just have one question.

2 A. I write my first name with a ■ rather than a ■. I am ■ and it is
3 spelt with a ■.

4 Q. [10:06:52] Thank you very much.

5 We can now return to public session.

6 PRESIDING JUDGE MINDUA: [10:06:56](Interpretation) Court officer, if you
7 would be so kind, can we move to public session.

8 (Open session at 10.07 a.m.)

9 THE COURT OFFICER: [10:07:07] (Interpretation) We are now back in public
10 session, Mr President.

11 PRESIDING JUDGE MINDUA: [10:07:12](Interpretation) Thank you very
12 much, court officer. Prosecution, please continue.

13 MR ALLAFI: [10:07:16](Interpretation)

14 Q. [10:07:18] Madam Witness, in this letter, the Office of the Prosecutor asked one of
15 your colleagues * to prepare an expert report to identify a voice. Is that correct?

16 A. [10:07:33] Yes, that is correct.

17 Q. [10:07:38] And asked you to carry out a comparison * of the faces visible in
18 the questioned videos and photographs with the faces in the reference videos,
19 is that correct?

20 A. [10:07:53] Yes, that is correct.

21 THE INTERPRETER: [10:07:52] Please, could the witness be asked to make
22 a gap between speakers.

23 MR ALLAFI: [10:08:02]

24 Q. [10:08:05] If I could now ask you to move to 0074-0537 in this document.

25 A. [10:08:24] I am there.

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1 Q. [10:08:27] This is "Annexe A", which lists the items included in your
2 expert facial recognition exercise?

3 A. [10:08:40] Correct.

4 *Q. [10:08:46] As for Annex B, it contains elements submitted to your colleague
5 for his expert opinion. Is that correct?

6 A. Yes.

7 Q. (10.08.49) I see that in this annex on the next page, 0074-0538, you received
8 from the Office of the Prosecutor three reference videos; namely, 0072-0413,
9 0073-0751, and 0074-0040; is that correct?

10 A. [10:09:29] Yes, indeed.

11 Q. [10:09:37] Thank you. A point of *vocabulaire*. Elements of comparison
12 or element of reference, are these synonyms?

13 * A. [10:09:50] The comparison video could certainly refer to the reference video or to the
14 questioned video. So here we prefer the concept of "reference video" for these three.

15 Q. [10:10:09] Thank you. Please could you now move on to the next
16 page and look at page 0074-0539, up to 0074-0541.

17 A. [10:10:33] I have these.

18 PRESIDING JUDGE MINDUA: [10:10:38](Interpretation) Prosecutor,
19 a reminder for you and the witness, please do have a break between speakers
20 for the benefit of the interpreters.

21 MR ALLAFI: [10:10:54](Interpretation) Yes, indeed. Your Honour.

22 Q. [10:10:59] Madam Witness, you received from the Office of the Prosecutor
23 28 videos and two photos *de question* for examination; is that correct?

24 A. [10:11:20] Yes.

25 Q. [10:11:41] And we mentioned that you also received three videos for

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1 reference; is that correct?

2 A. [10:11:54] Yes, the three videos mentioned earlier.

3 Q. [10:12:01] So in total, 33 elements either to be examined or for reference; is
4 that correct?

5 A. [10:12:14] Yes, indeed, that is correct.

6 Q. [10:12:18] Could you now go to the original paper version of your report which
7 was provided this morning. This is the document 0066-2198, which is now 0066-2252.

8 A. [10:12:53] I have that, that's my expert report.

9 Q. [10:12:58] You have anticipated my next question. Is this your report?

10 A. [10:13:04] Yes, it is.

11 Q. [10:13:05] Could you then go to page 55 of your report, which is 0066-2252.

12 A. [10:13:25] I am there.

13 Q. [10:13:34] Underneath your name, there is a signature. Is that your
14 signature?

15 A. [10:13:39] Yes, that is my signature.

16 Q. [10:13:47] Your report in the version that you have consulted, which
17 starts with 0066-2198, is this report complete?

18 A. [10:14:06] Yes, it is.

19 Q. [10:14:09] We will now move on to page 4, which is 0066-2201.

20 A. [10:14:27] I am there.

21 Q. [10:14:30] *In the first paragraph, you indicate that you received, by secure
22 electronic means, the file concerning the materials for your examination, with
23 their imprints MD5, SHA-1 and SH1-256.

24 Could you please briefly explain what MD5 SH-1 and SH-256 mean?

25 *A. [10:15:17] These are prints. We can also call them signatures. This means

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1 that if at some point we think that the file could have been altered, we can
2 compare the file's print with the print taken earlier to make sure that there has
3 been no alteration to these video files.

4 MR ALLAFI: [10:15:41](Interpretation) Q. [10:15:42] Thank you. *Could you go back
5 to tab 2 of the binder, and turn to pages 0074-0538, specifically to page 0074-0541?

6 A. [10:16:15] Yes.

7 Q. [10:16:16] The videos and photographs are numbered 1 to 33 in this annex
8 to the letter from the Office of the Prosecutor. Did you use this same
9 numbering system to designate the photographs and the videos in your report
10 and in your conclusion?

11 *A. [10:16:53] For the questioned videos, I used this numbering system, so
12 that's numbers 4 to 31. For the photographs, I didn't need to use any particular
13 numbering system because there are only two of them.

14 *Q. [10:17:21] But did you use the numbering of the reference videos as videos 1, 2, 3?

15 A. [10:17:32] Yes, I did.

16 Q. [10:17:37] Looking now at the methodology you used, I would like you
17 now to turn to the original paper version * and look at page 5, which is
18 0066-2202, entitled "mode of operation used"

19 A. [10:18:02] I have found that page.

20 *Q. [10:18:08] You say that you used the forensic video software and the GIMP
21 software for analysing images. We've already heard your explanation of the
22 GIMP software, but could you please explain to us what forensic video
23 software is and for what it is used?

24 *A. [10:18:33] This is software, developed internally in our department, that
25 allows us to play a video and freeze the frames so we can look at absolutely

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1 every one of the frames one by one. This allows us to make high-quality
2 enlargements of a still image from the video.

3 Q. [10:19:05] You say that it was developed in house, this software. Were
4 you part of this development process?

5 A. [10:19:17] It was developed long before I arrived, but it's continually
6 evolving to include new functionalities to take account of our day-to-day
7 requirements.

8 Q. [10:19:37] So I come back to the same point, are you part of this
9 development process when required?

10 A. [10:19:47] I express requirements for the new functionalities, but I don't
11 actually take part in the development of the software.

12 Q. [10:19:59] Thank you. On the same page, same subject, methodology,
13 could you give us a general explanation of the method of your analysis work
14 and how you -- what you did in order to produce this report?

15 A. [10:20:23] To compare faces, there are three stages: Firstly, evaluation of
16 the quality of the video. So we look at the resolution of the face, we look at the
17 brightness, the compression effects and the overall impression of the video,
18 * which allows us to establish the maximum degree of confidence possible for
19 the comparison. The second stage is to look at the number of similarities and
20 differences between the two images we have to compare, the two faces we
21 have to compare; *so to do that, we look at the overall form of the face, the eyes,
22 the nose, the mouth and all the specific elements. For example, any wrinkles,
23 scars, beauty spots. *Each one of these elements will be weighted, depending
24 on its specificity. For example, something which might be different, something
25 which can change easily - such as skin colour related to tanning or hairiness,

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1 will be given a low weighting. Just like a similarity that is shared by a large
2 part of the population, for example, eye colour, will be weighted low.

3 Following the same logic, a very specific element, such as a scar or a beauty
4 spot, will have a very high weighting.

5 And the final stage is to arrive at a conclusion for the comparison. *So,
6 depending on all the elements presented, one can conclude whether or not
7 there is a match between individuals with a varying degree of confidence.

8 *So the scale, we use ... we follow a principle that is recommended by the
9 ENFSI group, which gives us a scale going from minus 5 to plus 5. So minus 5
10 to plus 1, the observations are indicative of a lack of correspondence with
11 a degree of correspondence, which goes from very high, minus 5, to limited, to
12 minus 1. And then, from plus 1 to plus 5, the observations provide
13 correspondence between the individuals with low to very high, very high
14 being plus 5.

15 *"0" means that the observations do not support a match or a non-match
16 between the two individuals.

17 Q. [10:23:28] Thank you very much, Madam Witness.

18 On the same page, 0066-2202, paragraph number 1, you mention, if the quality
19 of the image is not good, even if there is a resemblance, it will not be possible to
20 establish a conclusion with a high level of confidence for two individuals.

21 Could you very briefly explain what you mean by that?

22 *A. [10:24:18] If the quality of the image is too poor, we will have many
23 artefacts on the video; for example, blocks, squares, which might resemble
24 beauty spots, but actually aren't beauty spots. So this poor quality of video will
25 mean we won't be able to have a high degree of confidence because I don't

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1 know whether this element comes from the poor quality video, or whether
2 there actually is this characteristic present on the face. This is why the very
3 first step is so important.

4 Q. [10:25:24] Still on the same page, paragraph 3, establishing a conclusion,
5 you say: We express a verbal conclusion on -- in the form recommended by
6 ENFSI based on a score, which can go from minus 5 to plus 5. The different
7 levels being defined as follows.

8 And on the next page, 0066-2203 there is a table. Could you please explain to
9 us this scale and the various scores that one can have on this scale?

10 A. [10:26:33] Depending on the elements presented and their weighting, one
11 can have a degree of confidence, which can be higher or lower on the various
12 observations. * If the observations support a match between two individuals,
13 we will find ourselves with a score on the positive side of the table, that is to
14 say, between +1 and +5. If the degree of detail in the videos is very limited and
15 we manage to highlight a few similarities and a few possible differences, but
16 they can be explained by the quality of the video, then we will find ourselves in
17 box +1, that is to say, a match between two people with a limited degree of
18 confidence. * For example, if you have a very good quality video with a huge
19 amount of detail and with the quality you can determine that these elements
20 are reliable, then if you can highlight an awful lot of similarities and no
21 differences, then you can be much higher on the scale, even at plus 5. That is to
22 say, the observations would support a match between two individuals with a
23 very high degree of confidence.

24 *This scale can also be transposed to the non-matching of individuals, which is
25 the negative part of the scale from -1 to -5.

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1 When the observations support neither one nor the second proposition, in that
2 case, we have a conclusion of 0.

3 Q. [10:28:15] If we can now move to page 8 of your report, 0066-2205, are
4 you there?

5 A. [10:28:31] Yes.

6 *Q. [10:28:34] This is your analysis of the two questioned photos; is that
7 correct?

8 A. [10:28:40] Yes, it is.

9 Q. [10:28:43] What was your conclusion relating to these photos?

10 A. [10:28:49] The first stage of comparison was to look at the quality of the photos. We
11 have a very poor quality, which doesn't really allow us to do a comparison; so we
12 couldn't do any facial comparison using *these two questioned photos.

13 *Q. [10:29:16] And now the questioned videos. So let's move to page 14 of your
14 report, which is 0066-2211.

15 A. [10:29:39] Yes, I'm there.

16 Q. [10:29:43] In the first two paragraphs relating to the videos, you mention
17 and say:

18 We can regroup the videos according to the type of scene they present.

19 According to which criteria did you regroup these videos?

20 *A. [10:30:11] Initially, at this stage, it was just a question of the visuals, that is
21 to say, a visual impression that the scene showed the same event. Using just
22 that, we were able to put the videos into seven groups, which we then looked
23 at individually to see whether there really was a link amongst the videos.

24 Q. [10:30:50] I would now like to go to page 34, 37 of your report, and that
25 starts with 0066-2231 and it finishes with 0066-2234.

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1 A. [10:31:23] I'm there.

2 *Q. [10:31:26] As you can read at the top of page 34, these are the questioned
3 videos, which were grouped together--so these are videos 27, 28, 29, 30 and 31.
4 Madam expert, have you compared the faces in these different questioned videos?

5 A. [10:32:10] Well, in this report we were able to put videos 27 and 31
6 together and in this phase, this is noting that the individuals of interest in 27, 31,
7 28, 29 and 30 are one and the same person, so we started by comparing
8 between these individuals of interest.

9 Q. [10:32:44] I think you're going to anticipate my question. So what was
10 your conclusion following your comparison of the videos?

11 A. [10:32:54] Well, the conclusion of this comparison was that there was
12 a correspondence of the individuals with a very high level of certainty, with
13 plus 5.

14 *Q. [10:33:10] So I was talking about the comparison between the faces in the
15 questioned videos?

16 A. [10:33:20] Yes, that's right. On all these images from the questioned videos,
17 we compared the individuals of interest with each other and we established
18 that all these people were one and the same with a very high level of
19 probability, namely, plus 5.

20 Q. [10:33:42] And did you compare these visible faces concerning the same
21 person in these videos with those that are visible in the reference videos?

22 A. [10:33:59] Yes. The next comparison was carried out and we also
23 concluded for this comparison that * the observations supported a match between the
24 two individuals with a very high level of confidence, namely, plus 5.

25 *Q. [10:34:21] Thank you. Madam expert, what morphological observations did

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1 you make and what reasons led you to those conclusions?

2 *A. [10:34:39] We have the overall shape of the face, as well as the shape of
3 the nose, the shape of the eyes. Afterwards, there are more specific elements.
4 You have the lines with the forehead and you also have the small circular
5 depression at the end of the line, which is quite specific, and you also have
6 the hairline as well. You have the form of the eyebrows, you have the form of
7 the nostrils as well, which are indented, and some moles or areas that are really
8 much darker and very localized. They are seen on page 36, reference points K1,
9 K2 and K3. These are elements that are very specific. And furthermore, for this
10 comparison, there are lots of similarities that are highlighted between the two
11 individuals, and this is what you can see on pages 37, 38 and 39.

12 Q. [10:35:52] And when you talk about these morphological observations,
13 you are referring to what was demonstrated in page 36 of your report,
14 0066-2233?

15 A. [10:36:16] Yes, that is correct.

16 Q. [10:36:24] Thank you. Madam expert, thank you. If you would be so
17 kind as to go to page 54 and 55 of your report, 0066-2251 and 0066-2252.

18 A. [10:36:48] I am there.

19 Q. [10:36:50] Now, this concerns your conclusions.

20 Madam expert, could you explain to us the differences that there are in your
21 conclusions that you mentioned in this table.

22 *A. [10:37:09] So, this table shows all the different questioned videos, as well as
23 the two questioned photographs, and shows the conclusions for each one of
24 them. So we can see that where there are eight -- for eight of the videos,
25 the conclusion is plus 5. That means the correspondence of the two

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1 individuals with a very high level of probability for videos 4, 5, 18, 27, 28, 29, 30
2 and 31. And then for eight other videos, we had the conclusion with a score
3 of plus 4. * So a match between the two individuals with a high level of
4 probability, and that's videos 8, 9, 10, 11, 12, 13, 17 and 25.

5 And we had videos for which the -- was the correspondence of the two
6 individuals with a quite good level of probability, plus 3. That's videos 6 and
7 7. * And then we had videos which substantiated a match between the two
8 individuals with a moderate level of confidence, namely plus 2. These are
9 videos 19, 20, 22, 23, 24 and 26. And then there were four videos where it
10 wasn't possible to carry out a comparison.

11 These are videos 14, 15, 16 and 21, as well as the two photos, 32 and 33, that
12 were put to us for examination.

13 Q. [10:39:03] Thank you, Madam expert. So the report has the ERN
14 0066-2198, so that is your report. Do you confirm the content and accuracy of
15 this report?

16 A. [10:39:22] Yes.

17 Q. [10:39:26] Madam expert, would you have any objections to your report
18 with the number 0066-2198, as well as the associated documents, namely,
19 the mission letter with the number 0074-0534 and your CV, which has
20 the number 0078-4915 being tendered into evidence?

21 A. [10:40:07] No objection.

22 Q. [10:40:12] Thank you, Madam Witness.

23 MR ALLAFI: [10:40:13]

24 Your Honour, I have finished with my questions and we are going to submit
25 the elements that I've just mentioned, as well as the reference videos with *the

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1 numbers 0072-0413, 0073-0751 and 0074-0040.

2 Thank you, your Honours.

3 PRESIDING JUDGE MINDUA: [10:40:51](Overlapping speakers)

4 THE INTERPRETER: [10:40:51] 0072-0413, 07 -- 0751, 0074-0040.

5 PRESIDING JUDGE MINDUA: [10:41:02](Interpretation) Thank you very
6 much for your cooperation.

7 For the items to be tendered into evidence, we're going to follow the procedure
8 as envisaged with an email. This witness, Mr Prosecutor, the expert witness,
9 has testified under Rule 68(3) of the Rules of Procedure and Evidence and
10 the Chamber is satisfied that the conditions required under Rule 68(3) of
11 the Rules have been met.

12 So I'm now going to turn towards the Legal Representatives of Victims in order
13 to ensure that they have no questions because I have the submissions from
14 October -- of 5 October. Do you confirm that, Counsel?

15 MR LUVENGIKA: [10:42:03](Interpretation) Yes, I confirm that the Legal
16 Representative of Victims have no questions to put to the witness.

17 Thank you, Madam Witness.

18 PRESIDING JUDGE MINDUA: [10:42:15](Interpretation) Thank you,
19 Mr Nsita.

20 I now turn towards the Defence. It's your turn for the cross-examination.

21 So, Ms Sutherland.

22 MS SUTHERLAND: [10:42:25] Thank you very much, Mr President.

23 To avoid going into private session, I will not cover anything from the
24 witness's CV.

25 QUESTIONED BY MS SUTHERLAND:

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1 MS SUTHERLAND: [10:42:26]

2 Q. Save as to ask, how many years of experience do you have in conducting
3 facial recognition examinations?

4 A. [10:42:57] I've been carrying out facial recognition comparison since [REDACTED]
5 [REDACTED].

6 Q. [10:43:06] Thank you. And how many years of experience do you have
7 in conducting digital evidence examinations?

8 A. [10:43:25] I've been working on the image processing since [REDACTED]
9 [REDACTED].

10 Q. [10:43:41] Thank you very much. Did you conduct the facial comparison
11 yourself?

12 A. [10:43:53] Yes, I did it myself.

13 Q. [10:43:57] Do you work in a laboratory with access to similarly qualified
14 professionals?

15 A. [10:44:09] Yes, in my laboratory there's another person who also carries
16 out facial recognition.

17 Q. [10:44:16] But they had nothing to do with this assessment?

18 *A. [10:44:25] Once my work is finished, there is a rereading phase; so this
19 other expert read over my work with a view to checking the accuracy of the
20 points that were highlighted.

21 Q. [10:44:48] Could I ask you to turn to tab -- oh, no, sorry, it's not anymore.
22 It's your report with the new number, which is MLI-OTP-0066-2198 at page 5 of
23 that report, which is 0066-2202.

24 Herein, you set out the methodology that you've already been through with
25 the Prosecution for your facial comparison, and you note that you conclude in

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1 the form recommended by the European Network of Forensic Science
2 Institutes.

3 You also note at footnote 1 that ENFSI is a group of experts promoting
4 the sharing of knowledge and the creation of a guide to best practices in
5 the fields of forensic science. And, in your conclusions at pages 54 and 55, as
6 we've just heard, you used the ENFSI scale.

7 Do you agree that it is critically important that forensic examinations are
8 conducted with as much objectivity as possible?

9 A. [10:46:17] Yes, it's correct that we use the method recommended by
10 the European group, which consists of conclusions on -- with using a scale of
11 values. And the elements have to be as factual as possible.

12 Q. [10:46:37] So you agree, therefore, especially given the professional
13 background you set out in private session, that you are committed to
14 the standards and practices recommended by ENFSI?

15 A. [10:47:00] Yes, my laboratory strives to apply the protocol of best
16 practices as closely as possible.

17 Q. [10:47:13] And you would agree, therefore, that the ENFSI standards
18 contain a number of key stipulations designed precisely to guard against
19 the introduction of any bias into your assessment?

20 A. [10:47:36] Well, it's not about regulations. Where there's a quality
21 validation process, there aren't standards in that sense, but it is a good practice
22 guide. This guide can be adapted according to need and the working method
23 of each country. There is no standard or regulation concerning facial
24 comparison in Europe or at international level.

25 Q. [10:48:12] Did you design your own case strategy?

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1 A. [10:48:26] The protocol was put in place by my laboratory. It respects
2 the best practice guide of the ENFSI of -- you have a level of probability for
3 the conclusions and values which are attributed thereto.

4 Q. [10:48:49] If I could ask you to turn to the -- tab 2 of the Defence bundle.
5 Do you have a copy? And that's MLI-D28-0004-1644. And could I ask you to
6 turn, please, to page 9, which is 004-1652.

7 A. [10:49:23] I'm sorry, I don't have the reference.

8 Q. [10:49:27] It's Defence tab 2. It's the ENFSI best practice manual and
9 I was asking you please to turn to page 9, which is 004-1652.

10 A. [10:49:49] I don't have this folder.

11 PRESIDING JUDGE MINDUA: [10:49:53](Interpretation) Prosecutor.

12 MR ALLAFI: [10:49:55](Interpretation) Yes, I think that the witness doesn't
13 have the Defence folder.

14 PRESIDING JUDGE MINDUA: [10:50:02](Interpretation) Witness, do you
15 have the folder?

16 THE WITNESS: [10:50:04](Interpretation) No, I don't have the folder.

17 PRESIDING JUDGE MINDUA: [10:50:09](Interpretation) Court officer.

18 MS SUTHERLAND: [10:50:15] My apologies, Madam Witness, I ought to
19 have checked more thoroughly before we started.

20 THE WITNESS: [10:50:41](Interpretation) I'm at tab 2. Which page would
21 you like me to look at?

22 MS SUTHERLAND: [10:50:47] Thank you very much. It's page 9, which,
23 under our numbering, is 004-1652.

24 THE WITNESS: [10:51:02](Interpretation) I'm there.

25 MS SUTHERLAND: [10:51:03]

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1 Q. [10:51:03] Thank you. Under "5. METHODS", the ENFSI best practice
2 manual recommends:
3 "Ideally the case strategy should be set by a competent member of laboratory
4 staff who does not take part in the FIC examination, to mitigate contextual bias.
5 The strategy setter can then remove non-essential sources of information -- "

6 PRESIDING JUDGE MINDUA: [10:51:26](Interpretation) Ms Sutherland,
7 the interpreters aren't able to interpret it. Please, slow down when reading
8 these documents.

9 MS SUTHERLAND: [10:51:35] My apologies to the interpreters.

10 Q. [10:51:40] "The strategy setter can then remove non-essential sources of
11 information that may cause bias (e.g. identification by other means,
12 background information of the investigation) and retain relevant information
13 that the examiners need to know (e.g. dates of image capture)."
14 What steps does your laboratory take and what steps did you take in this case
15 to uphold your independence in this regard?

16 A. [10:52:26] Could you indicate which paragraph it is in question in
17 the report? I'm not really able to understand.

18 Q. [10:52:35] My apologies, it's page 9, under "5. METHODS".

19 A. [10:53:04] If I understand the question, it's about the protocol that we've
20 set up.

21 Q. [10:53:10] It is to a degree about the protocol. It's about how you
22 guarded your independence which the protocol sets out a guide as to how to
23 do.

24 * A. [10:53:35] So I had no context about the case and I started by looking at
25 the questioned videos before I examined the reference videos so that there

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1 would be no bias there. And then, there were different people who reread my
2 report. They didn't see either the questioned videos or the reference videos; so
3 you could have an external point of view which was neutral. And we also
4 didn't have any indication as to the dates of the reference videos or the videos
5 to be examined.

6 And you should know that during my analysis, I was able to number some of
7 the different videos. I hope that that's -- I was able to put some timestamps
8 myself on the videos. I hope that that's answered your question. Date and
9 timestamps.

10 THE INTERPRETER: [10:54:28] Adds the interpreter.

11 MS SUTHERLAND: [10:54:39]

12 Q. [10:54:39] To a degree. Except, can I ask you to turn to Defence tab 5,
13 and the reference is MLI-OTP-0073-0772.

14 A. [10:55:08] I'm there.

15 Q. [10:55:09] Thank you. Which is a contact note relating to the phone call
16 that you received from members of the Prosecution in which they explain to
17 you, they say, the general context of the case against Al Hassan. You received
18 this before you were instructed. You had this conversation before you were
19 instructed by the Prosecution through a letter of instruction dated
20 19 December 2009, and that's at Prosecution tab 2, MLI-OTP-0074-0534, in
21 which you were jointly instructed, along with your supervisor.

22 You were aware, therefore, were you not, that other material relating to this
23 case was also being sent for forensic examination?

24 A. [10:56:15] Yes, I knew that other evidence was sent for examination, but
25 I didn't know the conclusions of this analysis.

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1 Q. [10:56:27] But you did have an understanding of a general context of
2 the case?

3 A. [10:56:38] Well, in that case, the very, very general context, yes.

4 Q. [10:56:48] You received the mission brief directly from the lead
5 Prosecutor in this case?

6 A. [10:57:04] What do you mean by "directly"?

7 Q. [10:57:07] The letter was addressed to you from him.

8 A. [10:57:17] Well, from my memory, it wasn't directly addressed to me,
9 because there are two of us. We're two colleagues. It was addressed to my
10 colleague and my colleague transmitted it to me. I think that's how it went.
11 I think there was also a telephone call, bearing in mind that I don't know which
12 one came first.

13 Q. [10:57:45] You agree then that you knew that the mission was coming
14 from the Prosecution at the International Criminal Court?

15 A. [10:58:02] Yes.

16 Q. [10:58:05] And would you agree that this immediately framed the task as
17 a serious prosecutorial matter before the International Criminal Court?

18 A. [10:58:26] My work is to find incriminating or exonerating evidence. So
19 the party that asked me to do the work has no final impact on the way in which
20 the comparison -- facial comparison protocol is implemented.

21 Q. [10:58:45] Except that the protocol recommends that the person
22 conducting the analysis does not know from whom the mission came.

23 A. [10:59:01] It, it would seem that it's written, "as far as possible". It's not
24 an obligation and that you do it with the means that you have in respect to
25 each case.

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1 Q. [10:59:15] The recommendation is there and easily fulfillable, one would
2 argue, because if you don't follow it, it introduces a risk of exposure to
3 prejudice.

4 PRESIDING JUDGE MINDUA: [10:59:32](Interpretation) Prosecutor.

5 MR DUTERTRE: [10:59:33](Interpretation) Your Honour, there are a certain
6 number of questions that have been put. I think we've understood the answer.
7 It's becoming argumentative with the witness and I think -- I object to this line
8 of questioning, your Honour.

9 PRESIDING JUDGE MINDUA: [10:59:46](Interpretation) I accept
10 the objection, because the expert witness already replied two or three times to
11 this question.

12 MS SUTHERLAND: [10:59:55] Okay. Well, I'll ask one final question, and I
13 recognise it's 11 o'clock.

14 Q. [11:00:07] How did you protect your assessment from contextual bias?

15 A. [11:00:26] Could you repeat the question, please.

16 Q. [11:00:30] How did you protect your assessment from contextual bias?

17 A. [11:00:49] In applying the protocol of our laboratory, carrying out
18 the comparison in the defined phases. So quality evaluation and assessment,
19 looking at the points of similarity and differences and using the different points
20 in order to establish the conclusion.

21 Q. [11:01:08] Thank you.

22 PRESIDING JUDGE MINDUA: [11:01:14](Interpretation) So it's 11 o'clock,
23 dead on. We're going to have a 30-minute break and we'll be back at 11.30.
24 I'm now going to suspend the hearing.

25 Court is suspended.

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1 THE COURT USHER: [11:01:39] All rise.

2 (Recess taken at 11.01 a.m.)

3 (Upon resuming in open session at 11.30 a.m.)

4 THE COURT USHER: [11:30:58] All rise.

5 Please be seated.

6 PRESIDING JUDGE MINDUA: [11:31:24](Interpretation) The Court is in
7 session.

8 We will continue with the cross-examination by the Defence.

9 Ms Sutherland, you have the floor.

10 MS SUTHERLAND: [11:31:39] Thank you, Mr President.

11 Q. [11:31:41] Madam Witness, could I ask you to reopen Defence tab 2.

12 And the reference is MLI-D28-0004-1644 and the page is 1674.

13 Madam Witness, could I ask you to turn to appendix A and to page 31.

14 A. [11:32:44] I'm on page 31.

15 Q. [11:32:47] Thank you. I assume that this is familiar to you from
16 the training that you have received and I understand that you've given; is that
17 correct?

18 A. [11:33:07] Are you talking of this document in particular or what is here,
19 on page 31?

20 Q. [11:33:14] The -- excuse me, the document as a whole, but in particular,
21 I'm interested in paragraph 3.2. And the first paragraph thereafter, "3.2.1
22 Objectives", sets out the training objectives regarding contextual and cognitive
23 biases.

24 A. [11:34:05] I became aware of this document during my training, but I
25 have no specific training on this notion of contextual and cognitive bias. My

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1 experience is what I base myself on here.

2 Q. [11:34:29] Thank you for clarifying. Turning to tab 3 of the Prosecution
3 bundle, at MLI-OTP-0066-2198 at 2200, Madam Witness, that's page 3 of your
4 report.

5 Sorry, not tab 3.

6 Herein your mission is outlined as, you are asked to compare the faces and
7 voices of visible/audible individuals in the questioned videos with the faces
8 and voices contained in the comparison elements for the purpose of
9 establishing, to the extent possible, if the individuals in the elements of
10 question are or are not the same person as in the elements of comparison.

11 You would agree then that your mission, if that's how we are to term it, was set
12 by the Prosecutor in this case, instead of a competent member of the laboratory
13 staff as is recommended?

14 A. [11:36:15] Yes, the mission was given to me in this mission letter.

15 Q. [11:36:22] And you would agree that you were set a binary task of
16 determining the simple question, whether the person in the questioned images
17 was the person in the reference images or not?

18 A. [11:36:44] Could you please repeat your question.

19 Q. [11:36:48] Do you agree that you were set a binary task of determining
20 whether or not the person in the questioned images was the person in
21 the reference images?

22 A. [11:37:09] *From your question, I only understand one of the questions,
23 namely the one about the comparison of the individual of interest in the
24 questioned videos with the individual present in the reference videos. I don't
25 understand the second notion to which you're referring.

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1 Q. [11:37:36] You were asked to compare the questioned images and
2 the comparison image -- the reference images or comparison images and
3 determine whether they were the same person or not. Is that right?

4 A. [11:37:54] Yes.

5 Q. [11:37:56] And would you agree with my assessment that that is a binary
6 question?

7 A. [11:38:10] Do you mean that first, I had to do a comparison between
8 the individuals of reference and then the individuals of interest? Is that what
9 you're getting at?

10 Q. [11:38:26] No. It's simply that the hypothesis was binary; it is either this
11 or it is not this?

12 A. [11:38:35] Okay. I'm sorry that I didn't understand what you were
13 saying. There were two hypotheses, either the individuals corresponded or
14 they did not.

15 Q. [11:38:55] The confusion is my fault alone.

16 Do you consider that to constitute a multiple hypothesis task?

17 A. [11:39:19] There are only two hypotheses. It's in the good practice guide.
18 There were H0 and H1, that's in that guide.

19 Q. [11:39:39] Thank you. And remaining in the same document, but at
20 page 2201, that's the next page, we can see the series of references to
21 the first -- the first three are the reference questions -- reference videos.

22 A. [11:40:27] Yes, indeed.

23 Q. [11:40:30] With all your experience of criminal proceedings, was it clear to
24 you that these were images from a courtroom?

25 A. [11:40:46] Yes, that is what I deduced from seeing the images.

1 Q. [11:40:53] Was it clear to you that these are videos of Mr Al Hassan in
2 these proceedings?

3 A. [11:41:05] Yes, it was.

4 Q. [11:41:07] Thank you.

5 And under the questioned videos, immediately below, we see a series of titles
6 of the videos and images you were given, was this the format that you received
7 them in? And, by format, I mean the titles. Were these the titles that came
8 with the material?

9 A. [11:41:35] Yes, those are the titles that I received.

10 Q. [11:41:41] These titles include at video 1, which is [REDACTED],

11 [REDACTED], number 1; and video number 2, titled

12 [REDACTED], 2; at video 3,

13 titled [REDACTED]; and 4, [REDACTED]

14 [REDACTED]. Then a series of videos containing the title [REDACTED]

15 videos containing the title, [REDACTED] Video 14, titled

16 [REDACTED] Video 15, titled [REDACTED]

17 [REDACTED]. And then a number of further videos also containing references to

18 [REDACTED]

19 What steps did you take to erase these identifying indicia from your mind in
20 undertaking your analysis?

21 A. [11:43:26] I don't really need to see these because these names can be
22 easily changed in file names, so they would have no particular value for me
23 and there's a lot of protagonists in the videos. It means that, although there is
24 a name, that person is not necessarily present in the video. But we didn't
25 always use the same long titles. *We gave all the videos a number -- so those on page

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1 9 -- so the videos in question were numbered from 4 to 31. So really, those were the
2 numbers that were used throughout the report and also for the analysis.

3 Q. [11:44:26] I understand that you told us just now that you'd had no
4 specific training in the notion of contextual and cognitive biases, but
5 the concern is that any exposure to these titles engages the risk of -- well, incurs
6 the risk of introducing contextual bias into your analysis.

7 PRESIDING JUDGE MINDUA: [11:44:59](Interpretation) Prosecution.

8 MR ALLAFI: [11:45:01](Interpretation) Mr President, I would like to object.

9 This is repetitive. It's argumentative. And it is with every cross-examination
10 with every witness and therefore we would like to raise an objection.

11 PRESIDING JUDGE MINDUA: [11:45:23](Interpretation) Ms Sutherland, I
12 think you need to be careful there in order not to start your pleadings; so
13 perhaps you could reformulate your questions.

14 MS SUTHERLAND: [11:45:43] Mr President, I hadn't got to my question, and,
15 I am under an obligation to give the witness the opportunity to respond to
16 the content of -- the thrust of our case.

17 PRESIDING JUDGE MINDUA: [11:46:08](Interpretation) Reformulate it to
18 avoid this argument and to avoid giving the impression that you are pleading
19 your case.

20 MS SUTHERLAND: [11:46:20] Thank you, Mr President.

21 Q. [11:46:32] You told us that your laboratory follows its own protocol.
22 I am concerned in considering the best practice model, not with the specifics
23 thereof, but with the underlying rationale - with their spirit rather than their
24 letter, if you will - and, with that in mind, I would like to ask you, if you
25 consider that the principle of guarding against bias is what governs the

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1 ACE -- or are you familiar with the ACE-V or the ACE-V workflow design?

2 A. [11:47:30] Yes, I know the workflow. It's in the good practice guide.

3 And I said it's a guide, it's not a standard. It has to be adapted to how
4 different countries work, because -- however, at the same time, in the general
5 methodology, we do respect the good practice guide.

6 Q. [11:47:55] Could you explain the analysis comparison evaluation
7 verification process for the benefit of the Court?

8 *A. After my report is complete, it is checked by other members of my
9 laboratory. So it is reviewed a number of times. One person who is skilled in
10 facial comparison reviews the report in depth, and checks that the points raised
11 are clearly visible on the faces of the people in the video or photograph. On
12 the various individuals present, there is also a rereading carried out by
13 a member of the team, who is specialised in image processing, who checks that
14 everything that could relate to the quality of the image has also been taken into
15 account into the report. And then again, a rereading by someone from
16 a different department to have an external view of the report as a whole and
17 then there is a rereading by the hierarchical structure.

18 Q. [11:49:31] Could you explain the rereading by a hierarchical structure in
19 a little bit more detail, please.

20 *A. [11:49:45] It's--it's a final rereading by my hierarchical superiors at the end
21 of the process to validate and check that there aren't any typing errors, but also
22 procedural errors in the document.

23 Q. [11:50:04] And by "hierarchical" what do you mean?

24 A. [11:50:15] [REDACTED]

25 [REDACTED]

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1 Q. [11:50:28] I'm not asking you to identify these individuals in open court,
2 so please don't. But could you identify those individuals for us -- not now?

3 A. [11:50:47] For each file, there is a, a sheet which sets out everybody who's
4 read the document and when and their signature. So it is available in our
5 secretariat.

6 Q. [11:51:05] Thank you very much.

7 Within your own protocol, do you have a stipulation that imagery, questioned
8 imagery should be considered before you consider the reference imagery?

9 A. [11:51:29] Could you please repeat your question.

10 Q. [11:51:32] In your national protocol, do you have a stipulation,
11 a requirement that questioned imagery is analysed first?

12 A. [11:51:53] It's not necessarily specified in the protocol, but it's what we
13 always do. We start with looking at the videos to be examined rather than
14 starting with the references.

15 Q. [11:52:10] Excuse my coughing. Why do you do that?

16 A. [11:52:17] Because usually, these images are of poorer quality than
17 the reference videos. So if you look at the reference first, you will see details
18 that we won't necessarily see in the video to be examined, and that creates
19 a bias. So if you start with the videos to be examined, you have the overall
20 view of possible elements in our possession. So it starts with our assessment
21 of the quality of the image.

22 Q. [11:52:56] Excuse me.

23 At page 7 of your report, which is MLI-OTP-0066-2198 at 2204, you state:

24 We will be able to compare this individual with the individuals in
25 the questioned pieces.

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1 Is that an indication that you compared the -- you started with the reference
2 videos and then moved to the questioned pieces?

3 A. [11:53:41] No. The report was written in a way that would allow
4 the reader to understand it as easily as possible, but it doesn't reflect the order
5 of the stages of our analysis.

6 Q. [11:53:57] Thank you. And did you consider the questioned images in
7 a varied order or in a structured way? For instance, did you consider them in
8 order of increasing quality or at random?

9 A. [11:54:19] * No. First I grouped them according to the content. So I scanned
10 all the questioned videos and then I worked in the -- what we might call the
11 chronological order of the file numbers. That's just how we did it. So I started
12 with number 4 and I looked in which group it fell, and then I took the next
13 number and then worked on that, until the end.

14 Q. [11:55:00] Following the logic of your protocol, where you consider
15 the questioned images before you consider the reference images in order to
16 mitigate against the introduction of bias, would you agree that it's good
17 practice or ideal to have another analyst grade the images and then consider
18 them in reverse order of quality, i.e., poorest quality to highest quality?

19 *A. [11:55:34] The problem is that the analysis of the quality in of itself means
20 that you analyse the face and its components. So this step takes place in an
21 instant. So we can't separate this by first choosing the quality and then looking
22 at the points on the face, because we're looking at the quality of the images of
23 the face.

24 Q. [11:56:05] So you would agree it's good practice to have another analyst
25 conduct the image quality assessment first?

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1 A. [11:56:23] Possibly. If your department has enough people to do that,
2 that would be a better practice to first look at simply the quality before doing
3 any facial comparison.

4 Q. [11:56:48] If we move to your evaluation of the specific videos, you used
5 the ENFSI grading scale. Can I also draw your attention to the Interpol facial
6 recognition fact sheet, which is at tab 5 of the Defence bundle, and that's
7 MLI-D28-0004-1696. Forgive me, it's tab 3. Sorry, the French version is at
8 tab 4, and the English version is at tab 3.

9 A. [11:57:52] I found it.

10 Q. [11:58:05] Thank you. Therein at the very last couple of lines, Interpol
11 recommends that the highest one can conclude is potential candidate.

12 Is this working?

13 *Can you hear me now? My apologies.

14 The very last couple of lines on that page, Interpol recommends that the
15 highest conclusion one can draw is potential candidate. Regarding your
16 conclusions at MLI-OTP-0066-2198 at -- it's pages 27 to 28 of the document,
17 which is 0066-2224 and 2225.

18 In your conclusion, you use words you such as "perfectly" and "identical" and
19 today you have used the word "certainty".

20 Do you agree this is inappropriately confident language for a forensic
21 professional?

22 PRESIDING JUDGE MINDUA: [12:00:41](Interpretation) Mr Prosecutor.

23 MR ALLAFI: [12:00:44](Interpretation) I'm sorry to interrupt, there are several
24 questions and in the questions there are various points. I'm having difficulty
25 following; so I would like to raise this point.

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- 1 PRESIDING JUDGE MINDUA: [12:00:59](Interpretation) Mrs Sutherland.
- 2 * MS SUTHERLAND: [12:01:02] (Overlapping speakers) I'm sorry he has
- 3 difficulty following. There is one question.
- 4 PRESIDING JUDGE MINDUA: [12:01:12](Interpretation) Does the witness
- 5 understand the question?
- 6 THE WITNESS: [12:01:16] I can only refer to the Interpol document. I don't
- 7 quite know where you can find it in the document, and I'm not sure that I fully
- 8 understood the question.
- 9 PRESIDING JUDGE MINDUA: [12:01:26] (Interpretation) So let's start again
- 10 in a systematic way.
- 11 THE COURT OFFICER: [12:01:32](Interpretation) It's under channel 1 as well,
- 12 if you want to see it there.
- 13 MS SUTHERLAND: [12:01:53]
- 14 Q. [12:01:54] You have used words such as "perfectly" and "identical" and,
- 15 today, you've used the word "certainty" in relation to your conclusion. Do
- 16 you agree that this is inappropriately confident language --
- 17 PRESIDING JUDGE MINDUA: [12:02:19](Interpretation) Mr Prosecutor.
- 18 MR ALLAFI: [12:02:20](Interpretation) The Defence is starting with
- 19 a statement as regards Interpol recommendations, but is not asking a question.
- 20 Where is the question of reference which also would lead to the second
- 21 question? If they cite a document, could they give us the reference. And
- 22 what is the particular question? Or is this merely a statement.
- 23 PRESIDING JUDGE MINDUA: [12:02:48](Interpretation) Mrs Sutherland,
- 24 the recommendation of Interpol and then your question, please.
- 25 MS SUTHERLAND: [12:02:57] Thank you, Mr President.

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1 Q. [12:02:59] The recommendation of Interpol is that no conclusion can be
2 higher than "potential candidate". Do you agree, Madam Witness?

3 A. [12:03:16] In the Interpol document, it says that it links to the facial
4 recognition by software. So there's a first step where software looks for an
5 individual on the basis of a database and after that, there's the stage of
6 verification leading to the match made by the software.

7 So here, it's not a process of face comparison as I do it, which is recommended
8 by ENFSI. Here, is an operational mode of Interpol when there's a facial
9 recognition in a file.

10 Personally, I don't know the rest of the protocol, but if there's a potential
11 candidate, a second type of identification is requested, for example, another
12 system. So the conclusions will be presented in a different form than mine
13 because it's not within the same framework.

14 Q. [12:04:21] Thank you very much for the clarification.

15 With regard to the ENFSI grading system, the highest level of confidence is
16 very high. Would you agree?

17 A. [12:04:40] Yes, it is very high. That's the highest.

18 Q. [12:04:49] So with regard to your conclusions at MLI-OTP-0066-2198 at
19 2225, do you consider that your use of the words "perfectly" and "identical" and,
20 today, your use of the word "certainty" is appropriate language for a forensic
21 analysis?

22 A. [12:05:22] Can you show me where you see "perfectly" and "identical".
23 The exact location, please.

24 Q. [12:05:46] Forgive us, there's been a number of document number
25 changes and we're operating with the English version.

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1 THE COURT OFFICER: [12:06:20](Interpretation) It's also on evidence 1
2 channel.

3 MS SUTHERLAND: [12:06:48]

4 Q. [12:06:48] So on page 0066-2224, page 27.

5 " - les sourcils sont identiques ..."

6 Forgive my pronunciation. And just above, "*parfaitement*".

7 A. [12:07:30] Yes, these are two elements, which you can see in both photos.

8 So the line, which we see on the right, you can also see on the left-hand side.

9 PRESIDING JUDGE MINDUA: [12:08:02](Interpretation) Mr Prosecutor.

10 MR ALLAFI: [12:08:03](Interpretation) On this question, the Defence has said
11 that this looks like a definite version, but she talks about aspects. This is not
12 a final, definitive conclusion, we -- put the question so that the witness can
13 follow and understand the question. It's not a final conclusion at this stage.

14 PRESIDING JUDGE MINDUA: [12:08:29](Interpretation) You said that
15 the -- you say that the (Overlapping speakers)

16 MR ALLAFI: [12:08:35](Interpretation) I understood with the question that
17 these words are used - because they are referring to the conclusion table at the
18 end - and then, came back on their words. There's a difference between
19 having a final conclusion in -- with these terms used or to talk about elements,
20 visual or other, which could appear on an image.

21 So we have to ascertain whether it's a comparison conclusion or one that is part
22 of the final conclusion.

23 PRESIDING JUDGE MINDUA: [12:09:13](Interpretation) Maître --

24 MS SUTHERLAND: [12:09:13] I think it's --

25 PRESIDING JUDGE MINDUA: [12:09:13](Interpretation) -- Sutherland.

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1 MS SUTHERLAND: [12:09:15] Thank you, Mr President. I think it's highly
2 inappropriate for the Prosecution to effectively be testifying in this case.
3 The use of the words is in the report and is used for drawing the conclusion.
4 My question is whether such language is appropriate.
5 I would like the witness to answer, rather than the Prosecution.

6 PRESIDING JUDGE MINDUA: [12:09:51](Interpretation) You're right,
7 Ms Sutherland.
8 Please answer the question, Witness.

9 * THE WITNESS: [12:09:58] (Interpretation) These words are appropriate in the
10 comparison of the two elements of the face, but not to express a conclusion.
11 The conclusion will be expressed on the basis of the number of similarities
12 highlighted and the number of differences highlighted. So it's not because two
13 elements are identical that ends up that you have a complete correspondence of
14 the individual. It's one element amongst many others which will help us
15 reach our final conclusion.

16 MS SUTHERLAND: [12:10:34]

17 Q. [12:10:34] Thank you for explaining.

18 Please could you explain the structures in place within your laboratory for
19 the verification of examinations. You've touched on it, but how is it
20 conducted?

21 * A. [12:11:06] As I've already said, a first person will carry out the comparison
22 of the faces independently. And then there's a review by various individuals,
23 generally speaking, to compare the facial features. There are, at least, three
24 separate people who look into it.

25 Q. [12:11:28] Earlier, you suggested that the person conducting the review

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1 might not consider the primary material; is that correct? Is my understanding
2 correct?

3 A. [12:11:47] The only material that you can put aside, which means that you
4 can't have any comparison of the facial features. That's the only one that is not
5 considered.

6 Q. [12:12:00] I'm sorry, it's my misunderstanding. So what is not
7 compared?

8 *A. [12:12:11] So, for example, if you look at my report on the questioned
9 images... the two photographs in question, for example, the quality was too
10 poor to make any comparison of the faces. So if that is the case, if no
11 comparison is made because of the quality, which is the first step of the process,
12 then the material cannot be used for this analysis.

13 Q. [12:12:37] So the person reviewing your report will assess the other
14 primary material that's of sufficient quality?

15 *A. [12:12:51] The person who's doing the review will rely on my work, and
16 even those elements that do not allow for comparison are presented in the
17 report. So the person rereading this has absolutely all the information in the file
18 to carry out the review.

19 Q. [12:13:11] When you mention that it's reviewed by various individuals,
20 do they have different specialties?

21 A. [12:13:23] Yes. At least, one person who specialised in the image
22 processing and another one who's competent in face comparison and that's
23 the minimum. And generally, we have another person who has an additional
24 specialty or some specialty in a completely different domain.

25 Q. [12:13:49] And -- forgive me. For the person with a specialty in

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1 a different domain, what is it that they are reviewing?

2 *A. [12:14:04] This review allows you to understand, for example, what an
3 investigator might understand when reviewing my report. The reviewer
4 checks that the words I use are explained correctly, and that there's no problem
5 of comprehension or a lack of detail in the report. So it's readings by an
6 individual who's not in the area who would be able to follow and understand
7 the report.

8 Q. [12:14:37] But the person who is competent in the field, they will review
9 the entirety of the report; is that right?

10 A. [12:14:47] All the persons will read the report in its entirety.

11 MS SUTHERLAND: [12:15:14] If you will forgive me for one moment, I am
12 just going to turn my back.

13 (Counsel confer)

14 MS SUTHERLAND: [12:15:44] Mr President, your Honours, would it be
15 possible to move into private session just very briefly, before I conclude?

16 PRESIDING JUDGE MINDUA: [12:15:59](Interpretation) Court officer, could
17 you move us into private session.

18 (Private session at 12.16 p.m.)

19 THE COURT OFFICER: [12:16:10] (Interpretation) We are in private session
20 now, Mr President.

21 PRESIDING JUDGE MINDUA: [12:16:16](Interpretation) Thank you.

22 Ms Sutherland.

23 MS SUTHERLAND: [12:16:19]

24 Q. [12:16:20] Madam Witness, would it be possible for you to identify
25 the people who reviewed your report to the Court?

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1 A. [12:16:37] There is a colleague in my team, [REDACTED]. There's
2 also my boss who looks at facial comparison, [REDACTED]. And the other
3 person who doesn't -- is [REDACTED] who's not in our area. And
4 then there's [REDACTED] who read my report.

5 I don't know what happens after the stages that I've just mentioned. I don't
6 know who reads the report next or what happens to it.

7 PRESIDING JUDGE MINDUA: [12:17:14](Interpretation) Prosecutor.

8 MR ALLAFI: [12:17:16](Interpretation) I'm on the French transcript. We
9 don't have the names appearing. We don't have all the names appearing in
10 the French transcript. So could we have the names repeated.

11 PRESIDING JUDGE MINDUA: [12:17:32](Interpretation) Could you please
12 repeat the names for the transcript.

13 THE WITNESS: [12:17:37](Interpretation) [REDACTED]
14 [REDACTED]

15 PRESIDING JUDGE MINDUA: [12:17:41](Interpretation) Thank you,
16 Ms Witness.

17 MS SUTHERLAND: [12:17:48]

18 Q. [12:17:49] And what is the name of [REDACTED]?

19 A. [12:17:56] [REDACTED]

20 THE COURT OFFICER: [12:18:05] (Interpretation) Could you spell the names
21 for the record, please. I would be very grateful.

22 THE WITNESS: [12:18:19](Interpretation) [REDACTED].
23 [REDACTED]
24 [REDACTED]

25 I don't know [REDACTED] or whether [REDACTED] signed my report, who's

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1 also one of my bosses.

2 MS SUTHERLAND: [12:19:00] Thank you very much for answering my
3 questions, Madam Witness.

4 Mr President, your Honours, I have no further questions, unless I can be of any
5 further assistance.

6 PRESIDING JUDGE MINDUA: [12:19:17](Interpretation) Thank you,
7 Ms Sutherland.

8 Move into public session, please.

9 (Open session at 12.19 p.m.)

10 THE COURT OFFICER: [12:19:36] (Interpretation) We are now in public
11 session, Mr President.

12 PRESIDING JUDGE MINDUA: [12:19:39](Interpretation) Thank you. We
13 are in public session.

14 I would like to thank the Defence for their questions.

15 I turn to my colleagues. We have no further questions from this side.

16 I now turn to the witness.

17 Madam Witness, the Chamber once again would like to thank you for having
18 assisted us by responding in a very precise and clear way to all our questions.

19 Your testimony has come to an end.

20 Once again, our thanks to you.

21 I would like to remind the parties of their obligations as regards submitting
22 evidence which is linked to this witness, this expert witness.

23 Before ending the session for today, I would like to thank all the parties and
24 participants. I would also like to extend my thanks to the stenographs and

25 the interpreters. Their work is not always that easy. And I would also like to

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1 thank the security officers. And of course our public, who's following this
2 case closely.

3 Mr Prosecutor, we will have our next witness tomorrow, the 15th, if I'm not
4 mistaken.

5 MR DUTERTRE: [12:21:33](Interpretation) That is correct, Mr President.

6 PRESIDING JUDGE MINDUA: [12:21:35](Interpretation) And it will be at
7 9.30 tomorrow morning. Thank you for that.

8 We will suspend the session and I wish you all a good afternoon.

9 The session is suspended.

10 THE COURT USHER: [12:21:54] All rise.

11 (The hearing ends in open session at 12.21 p.m.)

12 CORRECTIONS REPORT

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

15 Page 8 line 12:

16 "A. [9:53:52] I'm currently working [REDACTED]."

17 Is corrected to

18 "A. [9:53:52] I'm currently working [REDACTED]

19 [REDACTED]."

20 Page 8 lines 16-18:

21 "A. [9:54:13] I am an expert in image processing and comparison of facial
22 features and I'm also [REDACTED]; so
23 facial comparison."

24 Is corrected to

25 "A. [9:54:13] Currently I am an expert in image processing and comparison

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1 of facial features. I have been doing that ever since I arrived. And I'm also the

2 [REDACTED] so facial comparison."

3 Page 9 lines 16-18:

4

"[REDACTED]

5 [REDACTED] is corrected to

6 [REDACTED]

7 [REDACTED]"

8 Page 10 lines 12-14:

9 "A. [9:58:49] [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 "A. [9:58:49] [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 Page 12 lines 13-19:

18 "Q. [10:03:03] Now, at the top, first paragraph, you mention your education,

19 [REDACTED] if I pronounce that correctly. Is that it?

20 Could you please explain what [REDACTED] are, please?

21 A. [10:03:29] This is the basic level of education for using this video

22 processing software [REDACTED]. "

23 Is corrected to

24 "Q. [10:03:03] Now, at the top, first paragraph, you mention your education,

25 including [REDACTED], as well as [REDACTED], if I have

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1 pronounced that correctly. Is that correct?

2 A: (10:03:17) Yes, that is correct.

3 Q: (10:03:19) Could you please explain what [REDACTED] are?

4 A: [10:03:29] They are the basic level of education for preparing expert
5 assessments using video processing [REDACTED]."

6 Page 12 lines 19-21:

7 "So we need to use, how an image works, how an image is created, how it can
8 be processed, and how one can improve the image in order to define
9 the elements that it contains. "

10 Is corrected to

11 "We learned how an image works, how an image is created, how it can be
12 changed, and how one can improve the image in order to find elements that
13 are useful for an investigation."

14 Page 14 line 16:

15 "to carry out an expert examination for voice examination?" is corrected to "to
16 prepare an expert report to identify a voice. Is that correct?"

17 Page 14 lines 17-19:

18 "of faces visible in some videos with the faces in reference videos?" is corrected
19 to "of the faces visible in the questioned videos and photographs with the faces
20 in the reference videos, is that correct?"

21 Page 15 lines 5-11:

22 "Q. [10:08:46] And also elements submitted to your colleague for his expert
23 opinion. I see that in this annex on the next page, 0074-0538, you received
24 from the Office of the Prosecutor three reference videos; namely, 0072-0413,
25 0073-0751, and 0074-0040; is that correct?

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1 A. [10:09:29] Yes, indeed. "

2 Is corrected to

3 "Q. [10:08:46] As for Annex B, it contains elements submitted to your colleague
4 for his expert opinion. Is that correct?

5 A. Yes.

6 Q. (10.08.49) I see that in this annex on the next page, 0074-0538, you received
7 from the Office of the Prosecutor three reference videos; namely, 0072-0413,
8 0073-0751, and 0074-0040; is that correct?

9 A. [10:09:29] Yes, indeed."

10 Page 15 lines 14-15:

11 "A. [10:09:50] The video of comparison could be the video for reference or
12 for question. We have three videos that can be compared. "

13 Is corrected to

14 "A. [10:09:50] The comparison video could certainly refer to the reference video
15 or to the questioned video. So here we prefer the concept of "reference video"
16 for these three."

17 Page 17 lines 3-6:

18 "A. [10:15:17] These are the references which show that the file could have
19 been altered. We are able to compare these with the original to make sure that
20 there has been no alteration made to these files."

21 Is corrected to

22 "A. [10:15:17] These are prints. We can also call them signatures. This
23 means that if at some point we think that the file could have been altered, we
24 can compare the file's print with the print taken earlier to make sure that there
25 has been no alteration to these video files."

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1 Page 17 lines 7-8:

2 "Could you in your file come back to 0074 on page 0074-0041 (sic)." is corrected
3 to "Could you go back to tab 2 of the binder, and turn to pages 0074-0538,
4 specifically to page 0074-0541?"

5 Page 17 lines 14-16:

6 "A. [10:16:53] For the videos, I used this *numérotation*; so that's number 4 to
7 31. For the photographs, I didn't need to use any particular numbering
8 system because there are only two of them." is corrected to

9 "A. [10:16:53] For the questioned videos, I used this numbering system, so
10 that's numbers 4 to 31. For the photographs, I didn't need to use any particular
11 numbering system because there are only two of them."

12 Page 17 line 17:

13 "Q. [10:17:21] Did you use the videos as referenced as numbers 1, 2, 3?" is
14 corrected to

15 "Q. [10:17:21] But did you use the numbering of the reference videos as
16 videos 1, 2, 3?"

17 Page 17 lines 20-21:

18 "to look at page 5, which is 0066-2202, and the mode of operation" is corrected
19 to "and look at page 5, which is 0066-2202, entitled "mode of operation used""

20 Page 17 line 23 to page 18 line 1:

21 "Q. [10:18:08] You say that you used the forensic video software and GIMP
22 for analysing images. We've heard that you have a qualification for the GIMP
23 software, but could you please explain to us what forensic video software is
24 and for what it is used?" is corrected to

25 "Q. [10:18:08] You say that you used the forensic video software and the GIMP

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1 software for analysing images. We've already heard your explanation of the
2 GIMP software, but could you please explain to us what forensic video
3 software is and for what it is used?"

4 Page 18 lines 2-5:

5 "A. [10:18:33] This is software, [REDACTED] to have
6 a video where you can stop images so you can look at the frames one by one
7 and that allows us to make magnifications of an image on the video. "

8 Is corrected to

9 "A. [10:18:33] This is software, [REDACTED] that
10 allows us to play a video and freeze the frames so we can look at absolutely
11 every one of the frames one by one. This allows us to make high-quality
12 enlargements of a still image from the video."

13 Page 18 lines 21-22:

14 "which allows us to have a degree of confidence for the comparison"
15 is corrected to

16 "which allows us to establish the maximum degree of confidence possible for
17 the comparison"

18 Page 18 lines 24-25:

19 "so that we look at the form of face, the eyes, the nose, the mouth and all
20 the specific elements" is corrected to

21 "so to do that, we look at the overall form of the face, the eyes, the nose, the
22 mouth and all the specific elements"

23 Page 19 lines 1-7:

24 "Some of these will be weighted, depending on their specificity. For example,
25 something which might be different, which can change easily - such as,

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1 the colour of the skin if it's been in the sun and so on - will be low weighted.

2 But when it's something that is shared by the whole of the population, for

3 example, the colour of eyes, that will be weighted less. And then a very

4 specific element, a scar or a beauty spot will have a higher weighting." Is

5 corrected to

6 "Each one of these elements will be weighted, depending on its specificity. For

7 example, something which might be different, something which can change

8 easily - such as skin colour related to tanning or hairiness, will be given a low

9 weighting. Just like a similarity that is shared by a large part of the population,

10 for example, eye colour, will be weighted low. Following the same logic, a very

11 specific element, such as a scar or a beauty spot, will have a very high

12 weighting."

13 Page 19 lines 8-10:

14 "So depending on all the elements presented, one can conclude whether they

15 correspond or don't correspond with a varying degree of confidence." is

16 corrected to

17 "So, depending on all the elements presented, one can conclude whether or not

18 there is a match between individuals with a varying degree of confidence."

19 Page 19 lines 11-12:

20 "So we use the software used by the expert, who I mentioned earlier, and we

21 have a scale going from minus 5 to plus 5."is corrected to

22 "So the scale, we use ... we follow a principle that is recommended by the

23 ENFSI group, which gives us a scale going from minus 5 to plus 5."

24 Page 19 lines 18-19:

25 "And then we have a situation where we have clearly the correspondence or

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1 lack of correspondence between the individuals, that's zero." Is corrected to
2 ""0" means that the observations do not support a match or a non-match
3 between the two individuals."

4 Page 19 line 25 to page 20 line 2:

5 "A. [10:24:18] If the quality of the image is too poor, we will have a number of
6 artefacts on the videos, blocks, squares, which might resemble beauty spots,
7 but actually aren't beauty spots."

8 Is corrected to

9 "A. [10:24:18] If the quality of the image is too poor, we will have many
10 artefacts on the video; for example, blocks, squares, which might resemble
11 beauty spots, but actually aren't beauty spots."

12 Page 20 lines 15-21:

13 "If the observation presents a correspondence between the elements, you have
14 this table going from minus 5 to plus 5. If the degree of detail in the videos is
15 very limited and one can have -- one can see a few similar elements and
16 possible resemblances, then we will be in plus 1, whereas, correspondence
17 between the two individuals with a limited degree of confidence. "

18 is corrected to

19 "If the observations support a match between two individuals, we will find
20 ourselves with a score on the positive side of the table, that is to say,
21 between +1 and +5. If the degree of detail in the videos is very limited and we
22 manage to highlight a few similarities and a few possible differences, but they
23 can be explained by the quality of the video, then we will find ourselves in
24 box +1, that is to say, a match between two people with a limited degree of
25 confidence."

1 Page 20 lines 21 to page 21 line 1:

2 "If you have a very good quality video with a huge amount of detail and good
3 quality, saying that it's reliable images, if you can find an awful lot of points
4 that correspond, you can go up the scale, right up to plus 5, saying that there is
5 a correspondence with a very high degree of confidence." Is corrected to
6 "For example, if you have a very good quality video with a huge amount of
7 detail and with the quality you can determine that these elements are reliable,
8 then if you can highlight an awful lot of similarities and no differences, then
9 you can be much higher on the scale, even at plus 5. That is to say, the
10 observations would support a match between two individuals with a very high
11 degree of confidence. "

12 Page 21 lines 9-10:

13 "Q. [10:28:34] This is your analysis of the two photos in question; is that
14 correct?"

15 is corrected to

16 "Q. [10:28:34] This is your analysis of the two questioned photos; is that
17 correct?"

18 Page 21 line 15:

19 "these photos" is corrected to "these two questioned photos"

20 Page 21 lines 16-18:

21 "Q. [10:29:16] And now the videos. So now page 14 of your report, which
22 is 0066-2211." Is corrected to

23 "Q. [10:29:16] And now the questioned videos. So let's move to page 14 of your
24 report, which is 0066-2211."

25 Page 21 line 23 to page 22 line 1:

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1 "A. [10:30:11] Initially, at this stage, it was a question of simply
2 the -- the visuals, the indication to us that the scene was the same. So we then
3 broke them down to seven groups, which we then looked at individually to see
4 whether they were indeed the same video." Is corrected to

5 "A. [10:30:11] Initially, at this stage, it was just a question of the visuals, that is
6 to say, a visual impression that the scene showed the same event. Using just
7 that, we were able to put the videos into seven groups, which we then looked
8 at individually to see whether there really was a link amongst the videos."

9 Page 22 lines 5-7:

10 "Q. [10:31:26] As you can read at the top on page 34, the videos in
11 question -- so these are the videos 27, 28, 29, 30 and 31.

12 Madam expert, have you compared the faces in these different videos in
13 question?" is corrected to

14 "Q. [10:31:26] As you can read at the top of page 34, these are the questioned
15 videos, which were grouped together--so these are videos 27, 28, 29, 30 and 31.

16 Madam expert, have you compared the faces in these different questioned
17 videos?"

18 Page 22 lines 17-20:

19 "Q. [10:33:10] So I'm talking about the comparison between the faces in
20 the videos that were put to you?

21 A. [10:33:20] Yes, in all these videos, " is corrected to

22 "Q. [10:33:10] So I was talking about the comparison between the faces in the
23 questioned videos?

24 A. [10:33:20] Yes, that's right. On all these images from the questioned videos,"

25 Page 23 lines 1-2:

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1 "these -- they supported the correspondence of the individuals with a very

2 high level of probability, namely, plus 5" is corrected to

3 "the observations supported a match between the two individuals with a very

4 high level of confidence, namely, plus 5"

5 Page 23 lines 3-4:

6 "Q. [10:34:21] Thank you. Madam expert, what are the observations that

7 you make and the reasons that led you to those conclusions?"

8 Is corrected to

9 "Q. [10:34:21] Thank you. Madam expert, what morphological observations did

10 you make and what reasons led you to those conclusions?"

11 Page 23 lines 5-12:

12 A.[10:34:39] If you look at the face, the form of the nose, the form of the eyes.

13 Afterwards, there are more specific elements. You have the lines with

14 the forehead and you also have the small circular depression at the end of the

15 line, which is quite specific, and you also have the hairline as well. You have

16 the form of the eyebrows and the indented, the nasal -- and you have

17 the nostrils, the notch nostrils. And you can also see on page 36, as

18 the reference K1, K2 and K3."

19 Is corrected to

20 "A. [10:34:39] We have the overall shape of the face, as well as the shape of the

21 nose, the shape of the eyes. Afterwards, there are more specific elements. You

22 have the lines with the forehead and you also have the small circular

23 depression at the end of the line, which is quite specific, and you also have

24 the hairline as well. You have the form of the eyebrows, you have the form of

25 the nostrils as well, which are indented, and some moles or areas that are really

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1 much darker and very localized. They are seen on page 36, reference points K1,
2 K2 and K3."

3 Page 23 line 25 to page 24 line 2:

4 "A. [10:37:09] So, this table takes the -- well, all the different videos that
5 were put to us for examination and the conclusions for each of them."

6 Is corrected to

7 "A. [10:37:09] So, this table shows all the different questioned videos, as well as
8 the two questioned photographs, and shows the conclusions for each one of
9 them."

10 Page 24 lines 6-7:

11 "So a correspondence of the two individuals with a high level of probability
12 and that's 8, 9, 10, 11, 12 and 13 and 25." is corrected to

13 "So a match between the two individuals with a high level of probability, and
14 that's videos 8, 9, 10, 11, 12, 13, 17 and 25."

15 Page 24 lines 10-13:

16 "And then we had videos which would make it possible to have a moderate
17 level of confidence and that would be 29 -- 26, sorry, 22, 23, 24, 26. And then
18 there were videos where it wasn't possible to carry out a comparison."

19 is corrected to

20 "And then we had videos which substantiated a match between the two
21 individuals with a moderate level of confidence, namely plus 2. These are
22 videos 19, 20, 22, 23, 24 and 26. And then there were four videos where it
23 wasn't possible to carry out a comparison. "

24 Page 25 lines 3-4:

25 "the numbers 0072-0413 and 00 -- 0751 and 0040 as well." is corrected to "the

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1 numbers 0072-0413, 0073-0751 and 0074-0040."

2 Page 26 lines 21-23:

3 "A. [10:44:25] Once my work is finished, there will be a rereading phase and
4 then another expert reads my work and did so with a view to checking
5 the accuracy of the points that were highlighted." Is corrected to

6 "A. [10:44:25] Once my work is finished, there is a rereading phase; so this
7 other expert read over my work with a view to checking the accuracy of the
8 points that were highlighted."

9 Page 30 lines 2-5:

10 " A. [10:53:35] So I had no context about the case and I started by looking at
11 the videos to be examined before I examined the reference videos so that there
12 would be no bias there. And then, there were different people who reread my
13 report. They didn't see either of the videos; " is corrected to

14 "A. [10:53:35] So I had no context about the case and I started by looking at the
15 questioned videos before I examined the reference videos so that there would
16 be no bias there. And then, there were different people who reread my report.
17 They didn't see either the questioned videos or the reference videos;"

18 Page 37 lines 3-5:

19 "We gave them a number, these videos, which is on page 9, so they were
20 numbered 4 to 31, and those were the numberings used in the report because
21 they were the ones used for the analysis." is corrected to

22 "We gave all the videos a number --- so those on page 9 --- so the videos in
23 question were numbered from 4 to 31. So really, those were the numbers that
24 were used throughout the report and also for the analysis."

25 Page 38 lines 11-14:

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1 "A. [11:48:31] First, we have the process done by other members of my
2 laboratory, so there is a rereading of the report. One person, who is
3 competent in facial recognition, reads the report and checks that the points
4 raised are clear." Is corrected to

5 "A. [11:48:31] After my report is complete, it is checked by other members of
6 my laboratory. So it is reviewed a number of times. One person who is skilled
7 in facial comparison reviews the report in depth, and checks that the points
8 raised are clearly visible on the faces of the people in the video or photograph."

9 Page 38 line 23:

10 "A. [11:49:45] It's -- it's a final rereading at the end of the process" is
11 corrected to

12 "A. [11:49:45] It's--it's a final rereading by my hierarchical superiors at the end
13 of the process"

14 Page 40 lines 12-14:

15 "A. [11:54:19] I re- -- I grouped them in terms of location. So I -- I'd scan
16 through the whole lot and then I worked in the -- what we might call
17 the chronological order of the file numbers. That's just how we did it."

18 Is corrected to

19 "A. [11:54:19] No. First I grouped them according to the content. So I
20 scanned all the questioned videos and then I worked in the -- what we might
21 call the chronological order of the file numbers. That's just how we did it."

22 Page 40 lines 22-24:

23 "A. [11:55:34] The problem is the analysis of the quality in itself means that
24 you look at the face and the components. So we can't separate this in first"
25 is corrected to

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1 "A. [11:55:34] The problem is that the analysis of the quality in of itself means
2 that you analyse the face and its components. So this step takes place in an
3 instant. So we can't separate this by first"

4 Page 41 line 16:

5 "Can year me now?" is corrected to "Can you hear me now?"

6 Page 42 line 5:

7 "MS TAYLOR: " is corrected to "MS SUTHERLAND:"

8 Page 45 lines 12-15:

9 "THE WITNESS: [12:09:58](Interpretation) These words are appropriate in
10 the comparison of the two elements of the face, because the conclusion will be
11 expressed on the basis of numerous similar elements, which will be
12 highlighted." is corrected to

13 "THE WITNESS: [12:09:58] (Interpretation) These words are appropriate in the
14 comparison of the two elements of the face, but not to express a conclusion.
15 The conclusion will be expressed on the basis of the number of similarities
16 highlighted and the number of differences highlighted."

17 Page 45 lines 24 to page 46 line 1:

18 "A. [12:11:06] As I've already said, a first person will carry out the comparison
19 and then there's a review by various individuals, generally speaking, to
20 compare the facial features. "

21 Is corrected to

22 "A. [12:11:06] As I've already said, a first person will carry out the comparison
23 of the faces independently. And then there's a review by various individuals,
24 generally speaking, to compare the facial features."

25 Page 46 lines 11-15:

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1 "A. [12:12:11] For example, if you look at my report on the image, the two
2 questions, the quality was too poor to make any comparison of the face. So if,
3 in that case, no comparison is made because the quality, which is
4 number -- stage 1 of the process, means that it cannot be used because
5 the quality is too poor. "

6 Is corrected to

7 "A. [12:12:11] So, for example, if you look at my report on the questioned
8 images... the two photographs in question, for example, the quality was too
9 poor to make any comparison of the faces. So if that is the case, if no
10 comparison is made because of the quality, which is the first step of the process,
11 then the material cannot be used for this analysis."

12 Page 46 lines 18-21:

13 "A. [12:12:51] The person who's reading this will base on my work and even
14 those that aren't possible to compare will be available. So the person
15 rereading this has available all the information in the file to carry out their
16 review."

17 Is corrected to

18 "A. [12:12:51] The person who's doing the review will rely on my work, and
19 even those elements that do not allow for comparison are presented in the
20 report. So the person rereading this has absolutely all the information in the file
21 to carry out the review."

22 Page 47 lines 5-8:

23 "A. [12:14:04] For example, what somebody would understand if they're
24 reading my analysis, they could explain and say that there's no problem of
25 comprehension or perhaps that there are insufficient details in the report. "

1 is corrected to

2 "A. [12:14:04] This review allows you to understand, for example, what an
3 investigator might understand when reviewing my report. The reviewer
4 checks that the words I use are explained correctly, and that there's no problem
5 of comprehension or a lack of detail in the report."

6 SECOND CORRECTIONS REPORT

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

9 Page 6 line 5

10 "37" Is corrected to "35"

11 Page 16 line 21 to Page 17 line 2

12 " Q. [10:14:30] The first paragraph, you say that you received via secure
13 means. Your --

14 THE INTERPRETER: [10:14:56] I'm sorry, the interpreter has not got
15 the references.

16 MR ALLAFI: [10:14:58](Interpretation)

17 Q. [10:14:58] You said you got them with their prints, MD5 and up to -256.
18 Could you please explain to us briefly what you mean? MD5 up to -256?"

19 Is corrected to Page 16 lines 21-24 "Q. [10:14:30] In the first paragraph, you
20 indicate that you received, by secure electronic means, the file concerning the
21 materials for your examination, with their imprints MD5, SHA-1 and SH1-256.
22 Could you please briefly explain what MD5 SH-1 and SH-256 mean?

23 Page 20 line 24 to Page 21 line 2

24 "And this also works for the purpose in terms of lack of correspondence, which
25 is minus 1 to minus 5. If you don't uphold the proposals in any way with

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1 the correspondence, then there is the zero level, if you cannot establish
2 the situation." Is corrected to "This scale can also be transposed to the
3 non-matching of individuals, which is the negative part of the scale from -1 to
4 -5. When the observations support neither one nor the second proposition, in
5 that case, we have a conclusion of 0."
6 Page 34 lines 22-25
7 "You are saying that in one of the questions, the comparison with the question
8 in the video and the -- in the two videos, the video for examination and
9 the reference video, that's one notion. I don't understand the second notion to
10 which you're referring." Is corrected to "From your question, I only
11 understand one of the questions, namely the one about the comparison of the
12 individual of interest in the questioned videos with the individual present in
13 the reference videos. I don't understand the second notion to which you're
14 referring."