

Trial Hearing  
MLI-OTP-P-0193

(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 Friday, 18 September 2020  
10 (The hearing starts in open session at 9.33 a.m.)  
11 THE COURT USHER: [9:33:43] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE MINDUA: [9:34:07](Interpretation) Court is in session.  
15 Good morning to one and all.  
16 Court officer, please call the case.  
17 THE COURT OFFICER: [9:34:17] Thank you, Mr President.  
18 The situation in Mali, in the case of The Prosecutor versus Al Hassan Ag  
19 Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.  
20 And for the record, we are in open session.  
21 PRESIDING JUDGE MINDUA: [9:34:37](Interpretation) My thanks,  
22 court officer.  
23 As custom dictates, we start with the appearances, the parties and the  
24 participants. We shall start with the Office of the Prosecutor.  
25 Lead counsel, could he enter his appearance and that of his team, please.  
26

- 1 MS SACCHI: [9:35:00] (Microphone not activated)
- 2 THE INTERPRETER: [9:35:03] Microphone, please. No microphone.
- 3 MS SACCHI: [9:35:08] (Overlapping speakers) Good morning, Mr President
- 4 and your Honours. Sitting for the Prosecution today, Mr Gilles Dutertre by
- 5 my side, and Lucio Garcia at my back.
- 6 PRESIDING JUDGE MINDUA: [9:35:22](Interpretation) Thank you, Madam
- 7 Prosecutor.
- 8 MS SACCHI: [9:35:28] (Overlapping speakers) Apparently I forgot to
- 9 introduce myself, Paola Sacchi.
- 10 PRESIDING JUDGE MINDUA: [9:35:36](Interpretation) That's the very thing
- 11 I was going to ask of you, your name. Paola Sacchi, my thanks.
- 12 I turn to the Defence, Counsel Montefusco.
- 13 MS MONTEFUSCO: [9:35:46] Nicoletta Montefusco appearing on behalf of
- 14 Mr Al Hassan. To my left, Mr Michael Rowse and Ms Melinda Taylor.
- 15 PRESIDING JUDGE MINDUA: [9:36:02](Interpretation) My thanks,
- 16 Counsel Montefusco.
- 17 I now address the Legal Representative of Victims, Mr Kassongo.
- 18 MR KASSONGO: [9:36:12](Interpretation) Thank you very much
- 19 your Honour, your Honours. The LRVs today is staffed by Mrs Laplace, who
- 20 assists me, and myself, Mr Kassongo. My thanks.
- 21 PRESIDING JUDGE MINDUA: [9:36:24](Interpretation) Thank you, Counsel
- 22 Kassongo.
- 23 And the Registry, I see no representative of the Registry.
- 24 And I see the accused. Good morning, Mr Al Hassan.
- 25 I now address myself to the witness. Good morning, Mr Witness, can you

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1 hear me clearly?

2 Can you please activate your microphone.

3 WITNESS: MLI-OTP-P-0193

4 (The witness speaks English)

5 THE WITNESS: [9:36:56] Yes, your Honour, I can hear you clearly.

6 PRESIDING JUDGE MINDUA: [9:36:59](Interpretation) My thanks,

7 Mr Witness.

8 On behalf of the Chamber, I welcome you here. You are going to be

9 providing evidence to assist the Chamber in the determination of the truth in  
10 the case of Mr Al Hassan.

11 Mr Witness, protective measures have been put in place to ensure that your

12 identity is not disclosed to the public, which means, in substance, that the

13 public will not be able to see your face. Every time that somebody addresses

14 you in the body of the court, that person will use the words "Mr Witness", and

15 that person will ensure that your name or any other item of information likely

16 to identify you and to divulge your identity is not disclosed to the public.

17 Consequently, every time you are to provide details that may reveal your

18 identity, we shall address such matters in private session. So, with the

19 exception of those here in the body of the court, nobody will be able to hear us.

20 Have you understood, Mr Witness?

21 THE WITNESS: [9:38:40](Interpretation) Yes, your Honour, I've understood.

22 PRESIDING JUDGE MINDUA: [9:38:47](Interpretation) My thanks,

23 Mr Witness.

24 We are now going to turn to your solemn undertaking under 66(1) of the Rules

25 of Procedure and Evidence.

1 Mr Witness, before you, you have a document, a white document; is that right?

2 THE WITNESS: [9:39:10](Interpretation) That's right, your Honour.

3 PRESIDING JUDGE MINDUA: [9:39:14](Interpretation) Thank you.

4 This is a solemn undertaking by which you must swear to tell the whole truth.

5 So would you mind now reading out loud what you see written on that

6 document, Mr Witness.

7 Off you go, please.

8 THE WITNESS: [9:39:34](Interpretation) I solemnly declare that I will speak

9 the truth, the whole truth and nothing but the truth.

10 PRESIDING JUDGE MINDUA: [9:39:44](Interpretation) My thanks.

11 So, a brief warning, Mr Witness: You are now under oath. The

12 representatives of the Victim and Witness Section, as well as the

13 representatives of the Prosecution, have already told you what that signifies.

14 It is important that you keep top of mind, Mr Witness, that by virtue of your

15 oath you are compelled to tell the truth. To provide false testimony before the

16 International Criminal Court is an offence.

17 Have you understood that, Mr Witness?

18 THE WITNESS: [9:40:42](Interpretation) Yes, your Honour. I understand.

19 PRESIDING JUDGE MINDUA: [9:40:44](Interpretation) Thank you.

20 Now one or two practical matters. You need to keep in mind, Mr Witness,

21 that throughout your entire oral evidence, everything that is said in the body of

22 the court is transcribed by the court reporters and simultaneously translated in

23 a number of languages by the interpreters.

24 Consequently, it is crucial that you speak in the microphone, that you do so

25 clearly, and that you do so slowly. Please do not start to speak unless the

1 person who is questioning you has finished putting the question to you. And  
2 when a question is put to you, Mr Witness, count up to three in your head  
3 before answering. That pause is crucial. It enables us to hear you clearly and  
4 it ensures that your oral evidence is correctly transcribed, quite obviously.  
5 If you have a question yourself, please raise your hand to indicate that you  
6 wish to take the floor.

7 Have you followed what I have said, Mr Witness?

8 THE WITNESS: [9:42:34](Interpretation) Yes, your Honour.

9 PRESIDING JUDGE MINDUA: [9:42:40](Interpretation) Thank you very  
10 much.

11 We are now going to hear your oral evidence. You shall be questioned by the  
12 parties and possibly by the Chamber. I am now, therefore, going to hand over  
13 to the Prosecution for his -- or her, rather, it's a her, examination-in-chief.  
14 Under -- well, by virtue of the decision number 987, returned by the Chamber  
15 under Rule 68(3) of the Rules of Procedure and Evidence, the examination by  
16 the Prosecution will last 50 minutes, 5-0.

17 Is that correct, Mr Dutertre?

18 Mr Dutertre, I see him nodding.

19 THE INTERPRETER: [9:43:41] Overlapping speakers.

20 MR DUTERTRE: [9:43:44](Interpretation) Yes, that is the case.

21 PRESIDING JUDGE MINDUA: [9:43:45](Interpretation) That's right.

22 Madam Prosecutor, I give you the witness.

23 MS SACCHI: [9:43:50] Thank you, Mr President.

24 QUESTIONED BY MS SACCHI:

25 Q. [9:43:53] Good morning, Mr Witness. We have met before. My name is

1 Paola Sacchi and I will be asking you questions today, on behalf of the Office of  
2 the Prosecutor.

3 I will not repeat the guidelines concerning your testimony, which Mr President  
4 just detailed to you in detail. However, do bear in mind that most of my  
5 questioning will be conducted in open session. So if you need to provide  
6 information identifying your person or that of others who might be at risk,  
7 please raise it ahead of time so that we can move on in closed session.

8 MS SACCHI: [9:44:35] Now, before proceeding with my questioning, I would  
9 like to turn the attention to the court officers to the fact that all the documents  
10 that I will be showing to the witness are of a confidential status, and, therefore,  
11 should not be publicly broadcast.

12 Your Honour, since my first questions are of an identifying nature, I would ask  
13 permission to go very briefly into closed session.

14 PRESIDING JUDGE MINDUA: [9:45:10](Interpretation) Court officer, private  
15 session, please.

16 (Private session at 9.45 a.m.)

17 THE COURT OFFICER: [9:45:32] (Interpretation) We are in private session,  
18 your Honour.

19 PRESIDING JUDGE MINDUA: [9:45:36](Interpretation) Thank you very  
20 much, court officer.

21 Over to you, Madam Prosecutor.

22 MS SACCHI: [9:45:41] Thank you.

23 Q. [9:45:42] Mr Witness, can you please state your full name, place and date  
24 of birth, please.

25 A. [9:45:49] My name is [REDACTED] My date of birth is [REDACTED]

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1 in [REDACTED]

2 Q. [9:46:03] Thank you. I understand that you are currently [REDACTED]

3 [REDACTED] is that

4 correct?

5 A. [9:46:15] That is correct.

6 Q. [9:46:17] Since when have you been working [REDACTED]

7 A. [9:46:19] Since [REDACTED]

8 Q. [9:46:26] And between [REDACTED] where did you

9 work?

10 A. [9:46:34] Between those dates I worked at [REDACTED]

11 [REDACTED]

12 Q. [9:46:42] Thank you. Can you, can you tell us what your position was

13 there?

14 A. [9:46:47] On those dates I held two positions. I was [REDACTED]

15 [REDACTED] and the [REDACTED]

16 [REDACTED] Essentially, I was [REDACTED]

17 Q. [9:47:07] Now, very briefly, can you please tell us what the focus of your

18 work was there?

19 A. [9:47:18] My work there was focused on verification of online open source

20 information and [REDACTED] of verification skills to an interdisciplinary group

21 of [REDACTED].

22 Q. [9:47:37] Very well. You mention online investigations. Again, very

23 briefly, can you tell us what they are about?

24 A. [9:47:46] Online investigation is the verification of information found

25 online, with reference to open source information. The field has developed in

1 the last 10 or 12 years in response to the increasing availability of  
2 user-generated content, geospatial information and other information which  
3 allows for this user-generated content to be questioned and verified or  
4 nullified.

5 Q. [9:48:30] Thank you.

6 MS SACCHI: [9:48:31] Your Honour, I'm done. So can you please -- can  
7 we please go back into open session.

8 PRESIDING JUDGE MINDUA: [9:48:41](Interpretation) Thank you very  
9 much, Mrs Prosecutor. Thank you very much for being so swift.

10 Court officer, open session now, please.

11 (Open session at 9.49 a.m.)

12 THE COURT OFFICER: [9:49:09] (Interpretation) We are in open session,  
13 your Honour.

14 PRESIDING JUDGE MINDUA: [9:49:12](Interpretation) Thank you very  
15 much, court officer.

16 Madam Prosecutor.

17 MS SACCHI: [9:49:16] Thank you, Mr President.

18 Q. [9:49:19] Mr Witness, I understand that in 2015, you wrote a report for the  
19 Office of the Prosecutor; is that right?

20 A. [9:49:27] That is correct.

21 Q. [9:49:30] Who instructed you to write this report?

22 A. [9:49:34] My instructions were received from senior trial attorney,  
23 Gilles Dutertre.

24 Q. [9:49:44] What were the instructions you received by Mr Dutertre?

25 A. [9:49:49] The instructions were contained in, in a letter of instruction that

1 is appended to the report. In essence, I was asked to establish the location at  
2 which a series of several dozen videos and photographs were taken, with  
3 reference to panoramic, forensically acquired imagery obtained by the Office of  
4 the Prosecutor and with reference to Google Earth satellite imagery.

5 Q. [9:50:29] Can you please look at tab 2 of your binder, which is  
6 MLI-OTP-0030-0629. Do you recognise this document?

7 A. [9:50:50] Yes, I recognise this document.

8 Q. [9:50:58] Who wrote it?

9 A. [9:50:59] I wrote this document.

10 Q. [9:51:02] Now the title of the report reads, I'm quoting: "Geolocation of  
11 Videos & Images, Republic of Mali". End of quote.

12 Can you explain what geolocation means?

13 A. [9:51:20] Geolocation is a word that is used in many contexts. In this  
14 specific context, it means determining, to the extent possible, where  
15 a photograph or video was taken in the real world.

16 Q. [9:51:44] Thank you. Can you please briefly describe the methodology  
17 you adopted in geolocating the videos and images?

18 A. [9:51:53] In geolocating videos and images, there are two sets of  
19 information. The first set of information is the questioned image or video.  
20 And in the case of the questioned image or video, we don't know the location.  
21 The second set of information available is comprised of satellite imagery, or  
22 imagery, including photographs, of which we know the location. Through  
23 a process of visual comparison, the person conducting the analysis seeks to  
24 establish where the questioned images were located. This process of  
25 comparison examines the relevant orientation, the appearance, individualising

1 characteristics of objects that are seen within the questioned imagery.

2 Q. [9:52:59] Very well. Thank you.

3 MS SACCHI: [9:53:00] Your Honour, I'm addressing to you at this stage

4 because I would need to now address the corrections and clarifications

5 provided by the witness in the context of the witness preparation session.

6 However, I need your Honours' guidance on this point. The witness provided

7 23 corrections which are purely clerical in nature. Even with your Honours'

8 guidance to lead the witness on each correction, the process would

9 approximately take 20 minutes and will be, of course, an extremely tedious

10 exercise for everybody.

11 The Prosecution has detailed the corrections in document

12 MLI-OTP-0078-05 -- sorry, it's 8542, which is no more than extraction of

13 paragraphs from the witness preparation note.

14 Your Honour, the document is not in the binder because the document was

15 registered only last night, but the Prosecution has made copies that can be

16 dispatched to everybody in the courtroom.

17 The Prosecution has agreed with the Defence that this document, so as to

18 expedite the proceedings, could be shown to the witness so that he can confirm

19 that it is an accurate reflection of the information provided to the Prosecution

20 in the context of the witness preparation.

21 THE INTERPRETER: [9:54:54] Message from the English booth: Could

22 counsel please move the microphone closer to herself or speak a little bit louder

23 for the purposes of interpretation. Thank you.

24 PRESIDING JUDGE MINDUA: [9:55:07](Interpretation) Thanks very much,

25 Madam Prosecutor.

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1 Twenty-three corrections, that's quite a lot, but as you say, that they're simply  
2 clerical in nature, it's not forbidden. So we will proceed as you suggest  
3 because I see no reaction from the Defence.

4 MS SACCHI: [9:55:39] Thank you, your Honour.

5 Q. [9:56:00] Mr Witness, can you read the document in front of you and  
6 confirm that the content of these paragraphs is an accurate reflection of what  
7 you told the Prosecution in the context of your witness preparation session.

8 (Pause in proceedings)

9 THE WITNESS: [9:59:47](Interpretation) This appears to be correct. I haven't  
10 checked every ERN number or page number, but this appears to be an accurate  
11 account of the corrections indicated by myself.

12 MS SACCHI: [10:00:11] Thank you.

13 Q. [10:00:16] I have a few more questions concerning your report, so we're  
14 still at tab 2. Can you please turn to page 0030-0634, paragraph 2.7. You  
15 refer to "Annex VIII". Did you create an Annex VIII?

16 A. [10:00:50] No, I did not create an Annex VIII. The comparison detailed  
17 in paragraph 2.7 is, instead, repeated at several points throughout the report.

18 Q. [10:01:09] Can you point us to an example of that?

19 A. [10:01:13] Yes. Could I direct your attention to MLI-OTP-0030-0629 at  
20 MLI-OTP-0030-0756, page 127.

21 Q. [10:02:47] Very well, thank you. Since we have just discussed Annex  
22 VIII, can you please move back of one page, so it would be 0633. At  
23 paragraphs 1.1, 2.2, and 2.4, you talk about other annexes to your report. Can  
24 you tell us how many they are and what they contain.

25 Mr Witness --

1 A. [10:03:55] Sorry. There are five annexes listed at paragraphs 1.1, 2.2, and  
2 2.4. However, some of those annexes comprise computer applications, so they  
3 cannot be printed on a page. The annexes, which can be printed on  
4 a page and attached to the binder, are Annex I, which is a list of the videos and  
5 images that I was asked to geolocate; Annex II, the original instruction  
6 document received from senior trial attorney, Mr Gilles Dutertre; annex -- and  
7 Annex III, which is a list of the expert reports and OTP panoramic imagery that  
8 was used for the purposes of comparison.

9 The other annexes are available in electronic format, and they are:

10 Annex VI, which is a set of screen-grabbed Google Earth imagery.

11 Annex VII, which is a Google Earth KML file. To explain, that is a collection  
12 of place marks for use in that application.

13 And, Annex IV, which contains copies of two computer applications,

14 Evernote -- sorry, one computer application called Evernote.

15 And Annex V, which is a complete set of the original annotated screen grabs.

16 So all of these items are electronic, electronic in nature.

17 Q. [10:06:35] Thank you. Were these annexes containing electronic files  
18 and programmes registered with your report?

19 A. [10:06:45] That's correct. The annexes containing electronic files and  
20 applications were registered with the report.

21 Q. [10:06:59] Now, if we can please move to the next tab in your binder, so  
22 tab 3. And this is MLI-OTP-0030-0935. Do you recognise this document?

23 A. [10:07:42] Yes.

24 Q. [10:07:48] Yes, please.

25 A. [10:07:50] This is a table that I prepared, and on the left-hand column are

1 the names of four cemeteries and two other locations in Timbuktu, Mali. And  
2 on the right-hand side are the ERNs of videos or images that I was asked to  
3 geolocate. And the purpose of the table is to show where -- which locations  
4 these questioned videos and images were geolocated to.

5 Q. [10:08:29] Thank you. Is the content of this document accurate, to the  
6 best of your knowledge?

7 A. [10:08:38] Yes, to the best of my knowledge, the content of this table is  
8 accurate.

9 Q. [10:08:48] Turning now to tab 4, which is MLI-OTP-0030-0937. Do you  
10 recognise this document?

11 A. [10:09:18] Yes, I recognise this document. This is the list that was  
12 provided to me by the Mali team, by senior trial attorney, Gilles Dutertre, and  
13 it lists the videos and images that the team wished to query, along with the  
14 reference material that they provided for the purposes of querying those videos  
15 and images.

16 Q. [10:10:00] How many lists did you receive from Mr Dutertre?

17 A. [10:10:10] To the best of my knowledge, there is, there is only one list.

18 Q. [10:10:17] Thank you. And is the content of this document accurate, to  
19 the best of your knowledge?

20 A. [10:10:31] To the best of my knowledge, this document has not been  
21 altered in any way, and the -- the geolocation of the videos and images was  
22 done without -- with, with reference to the -- to the information contained in  
23 this.

24 I should also say that the -- this document does not list the locations by  
25 cemetery, but also lists specific mausoleums. And I would rather rely on my

1 report with regard to the question of where items are located, than the list.

2 Q. [10:11:52] That is well noted. Thank you.

3 Can we please now move to tab 5 of your binder, which is MLI-OTP-0030-0941.

4 Do you recognise this document?

5 A. [10:12:22] Yes. This is a document that I prepared. And this document

6 lists three expert reports that were used in the drafting of my report. One of

7 these reports, number 3, *Étude sur les mausolées de Tombouctou*, is a UNESCO

8 report. And the other two reports titled, "*Rapport D'Expertise*" --

9 THE INTERPRETER: [10:13:03] (Interpretation) "Expert's Report".

10 THE WITNESS: [10:13:04] -- these are OTP documents.

11 MS SACCHI: [10:13:03]

12 Q. [10:13:03] Very well. Lastly, I will have to take you back to tab 2 of your

13 binder, MLI-OTP-0030-0629 at page 0633, paragraph 2.4.

14 In the first sentence it is stated, and I'm quoting:

15 "A full list of the source materials can be found at Annex III, listing the expert

16 reports and OTP panoramic photography used in this report." End of quote.

17 Now, the reference to OTP panoramic photography is made by reference to

18 point 1 in Annex III; is that correct?

19 A. [10:14:10] (Microphone not activated)

20 Q. [10:14:13] Mr Witness, if you can please switch on your microphone.

21 A. [10:14:16] That is correct. The reference to Annex III is correct, and the

22 file name on the electronic file is Annex III. But the electronic document itself

23 is titled "Annex V". So the title of the document "Annex V" is incorrect, but

24 the reference to Annex III at paragraph 2.4 is correct.

25 Q. [10:14:54] Thank you.

1 Mr Witness, can you please turn now to tab 6 of your binder,

2 MLI-OTP-0030-0620. Do you recognise this document?

3 A. [10:15:26] Sorry, could you repeat the tab number again, please.

4 Q. [10:15:33] Most certainly. Tab 6.

5 A. [10:15:40] Yes, I recognise this document.

6 Q. [10:15:46] The heading on the first page reads: "Videos Geolocated".

7 Does the list contain only videos?

8 A. [10:15:59] No. The list contains several photographs in addition to  
9 videos. The correct title should be, "Videos and Photographs Geolocated" or  
10 simply "Imagery Geolocated".

11 Q. [10:16:14] Thank you. Item 23 on the list indicates two ERNs. Did you  
12 geolocate both of these videos?

13 A. [10:16:33] Let me just double-check something here, please.

14 To the best of my knowledge, I would not have treated those two ERNs  
15 separately within the report.

16 Q. [10:17:21] Can you explain why?

17 A. [10:17:23] Yeah, the -- the line at number 23 is directly transposed from  
18 the letter of instruction and the team is indicating here that these two ERNs are  
19 to be treated as the same item. In other words, that the geolocation of  
20 MLI-OTP-0025-0113 would, you know, would be instead of  
21 MLI-OTP-0011-0459.

22 Q. [10:18:19] Thank you.

23 Can we please now move to tab 7, MLI-OTP-0030-0625. Do you recognise the  
24 document?

25 A. [10:18:39] Yes, I recognise this document.

1 Q. [10:18:45] Who wrote it?

2 A. [10:18:47] This was prepared by me.

3 Q. [10:18:50] And is the content accurate, to the best of your knowledge?

4 A. [10:18:54] To the best of my knowledge, the content is accurate.

5 Q. [10:19:02] Can we please now turn to tabs 8 and 9 of your binder, which  
6 are ERNs 0030-0627 and 0030-0628. Do you recognise these photographs?

7 A. [10:19:23] Yes, I recognise these photographs. And these are the  
8 photographs which are referred to in the document at tab 7.

9 Q. [10:19:36] Thank you.

10 I am moving on now to the last set of my questions concerning your  
11 conclusions in the report. I have two questions for you. The first is,  
12 yesterday, you sent an email to the effect that you have a correction to make to  
13 your report. Can you please explain -- the Chamber and the parties, what this  
14 correction is about?

15 A. [10:20:02] Yeah. In, in reviewing the -- in reviewing the report, I noticed  
16 an error which doesn't change any of my conclusions, but I wanted to draw  
17 your attention to it as it's a non-clerical error. I draw your attention to -- I  
18 draw your attention to the report at MLI-OTP-0030-0629, and I draw your  
19 attention to page 12, which is MLI-OTP-0030-0641.

20 The error relates to the image labelled "Figure 14" and to the first paragraph.  
21 The -- this part of the report is part of a longer section that examines whether  
22 three parts of the video were shot at the same location.

23 And if I could explain. The video at MLI-OTP-0018-0353, the geolocation  
24 report of which begins at MLI-OTP-0030-0635, this video is split into three  
25 sections.

1 And if I could draw your attention to the methodology at MLI-OTP-0030-0633,  
2 at paragraph 2.5. What this states is -- sorry, and also -- and also at  
3 paragraph 2.1, the final sentence. The final sentence reads:  
4 "Where there are one or more cuts present in a video, and the footage is not  
5 continuously filmed, [...]"  
6 Those cuts are treated separately.  
7 So the first step in geolocating any video is to examine its internal consistency.  
8 So even if I have a short video, I want to make sure that, if it hasn't been filmed  
9 continuously, that the location hasn't changed during the filming of the video.  
10 So the first step that I would take is to compare the different sections of the  
11 video.  
12 And if I could turn to MLI-OTP-0030-0635, and the page after that, you will see  
13 that this video is split into three sections. So the first few seconds comprise  
14 one section, and then there is another session lasting a few seconds and another  
15 section lasting several seconds as well.  
16 They all show what appears to be a structure in a state of disassembly, with  
17 a number of persons on top of it, and one or two trees. The first step that I  
18 took in assessing this video was to ask whether these three sections showed the  
19 same location. And a person -- you know, a person looking at this might  
20 think that that was obvious, but that's not how I would proceed. So, what I  
21 did was I related the different sections to one another.  
22 So, if I could -- if I could draw your attention to MLI-OTP-0030-0637, and the  
23 preceding two, two pages. In these two pages -- sorry, in these three pages, I  
24 test whether sections 1 of the video and sections 3 of the video show the same  
25 location. And I do so with regard to the structure that is -- or structures that

1 are seen in the video sections and surrounding objects and their relative  
2 location. And I find that sections 1 and sections 3 were filmed at the same  
3 location.  
4 If I could direct your attention to page 11 of the report, MLI-OTP-0030-0640.  
5 This page examines the question of whether section 2 of the video and section 1  
6 of the video were filmed at the same location, and it does so with reference to  
7 an examination of the structure. And the orientation of the structure is  
8 examined and also individualising features, such as its shape. You can see it's  
9 a multi-tiered structure, the pattern of destruction on the structure.  
10 And it's -- the conclusion is that section 2 and section 1 do show the same  
11 location, but that one section was filmed approximately 90 degrees away from  
12 the other section.  
13 If I could direct your attention back to the following page, MLI-OTP-0030-0641,  
14 and the first image. In this image, what I have done -- and, this is where the  
15 error occurred -- is I have flipped the image from section 1 horizontally, so on  
16 its vertical axis. And in fact, a 90-degree difference would not require this.  
17 So what I find with the examination of the two trees is that they are consistent  
18 with it being the same location. This has to -- this has to be discounted. So  
19 we cannot -- we cannot rely on this.  
20 But if I could direct you back to the methodology again. Again, this doesn't  
21 change my estimation of whether section 1 or 2 are at the same location.  
22 Rather, it's something that I want to draw your attention to and which doesn't  
23 change my, my findings.  
24 If I could direct your attention back to the methodology. At paragraph 2.1 of  
25 MLI-OTP-0030-0633, and the second last sentence reads:

1 "For the purposes of geolocation, objects that are static and do not change over  
2 time are favoured over mobile objects or objects that change over time."

3 So that includes organic objects such as trees. So I prefer to rely on buildings,  
4 I -- or the relative orientation of these trees.

5 So I wish to add two more things. So, first of all, the conclusion that the three  
6 parts of this video were filmed in the same location doesn't change for me.

7 And the wider question of where this video was located is -- you know, first of  
8 all, it's not examined, in, in that part of the question -- sorry, in that part of the

9 report. That is -- that process begins on page MLI-OTP-0030-0642. And

10 instead of comparing the video and images to themselves, what I am doing

11 here is comparing them to imagery that we know the location of; so satellite

12 imagery, OTP panoramic photography which contains metadata that tells us

13 where it was taken from.

14 And what we rely on to geolocate the video at MLI-OTP-0018-0353 are

15 a prominent antenna mast, which is indicated on MLI-OTP-0030-0643;

16 a smaller, what appears to be a electricity or a telegraph post beside it; the

17 relative orientation of four bushes or trees main stems; and the relative location

18 of all of those items.

19 An examination of seven different sites in the -- in that quadrant of the

20 cemetery, that's contained on MLI-OTP-0030-0647. And you can see these

21 are -- these are all examined individually.

22 If I could direct your attention to MLI-OTP-0030-0658, again, what we rely on

23 here at Figure 64 and Figure 65 are a tree, which appears in the video and a tree,

24 which appears in OTP panoramic imagery, and they -- the trees appear to have

25 been captured from a similar angle; so we have that comparison.

1 On the next page, MLI-OTP-0030-0659, another treetop that appears in  
2 panoramic imagery obtained by the OTP and the video is compared.

3 And then finally, at MLI-OTP-0030-0660 and the following page, I indicate the  
4 location from which the three sections of the video were filmed and also the  
5 angle of view that you can see in them.

6 So that's why I can say two things: Number one, that the error doesn't affect  
7 the overall geolocation; and number two, that it doesn't affect my estimation or  
8 my finding that that short video is internally consistent and shows the same  
9 place rather than two or possibly three places.

10 Q. [10:34:17] Thank you, Mr Witness, for a very --

11 PRESIDING JUDGE MINDUA: [10:34:21](Interpretation) Madam Prosecutor,  
12 the Chamber had allocated 50 minutes, but I think we have gone beyond that.  
13 Please keep that top of mind.

14 MS SACCHI: [10:34:36] I'm guided, your Honour. If I may have leave to  
15 extend my examination for briefly a few minutes. I have just a few questions  
16 more to pose to the witness.

17 PRESIDING JUDGE MINDUA: [10:34:53](Interpretation) How many  
18 minutes?

19 MS SACCHI: [10:34:59] It will be less than 10 minutes.

20 PRESIDING JUDGE MINDUA: [10:35:03](Interpretation) Very well. Please  
21 proceed.

22 MS SACCHI: [10:35:09] Thank you, your Honour.

23 Q. [10:35:11] Mr Witness, in the context of the witness preparation, you  
24 explain that the report that you wrote was five years ago and then, if you have  
25 to be writing it today, you would use a slightly different language and take

1 steps to make it easier to understand as a reader. But in terms of the  
2 substantive findings, you remain confident. You added that today, you  
3 would not speak about certainty, but about confidence and use a different  
4 confidence rating, which is the specific confidence rating used in OTP reports  
5 now.

6 Very briefly, can you explain what you mean by that?

7 A. [10:36:03] Yeah, certainly. So, first of all, there are several places in the  
8 report where I use the word "unique", and, you know, I speak about a unique  
9 pattern or a unique building. I would prefer to use the word "distinctive"  
10 now, as it's more neutral.

11 And the confidence versus certainty relates to the question of whether a report  
12 is objective and scientific, or subjective. And, you know, an analytical report  
13 such as this, which is -- you know, which doesn't present itself as a forensic  
14 report is a subjective report. It's based on my analysis, based on my  
15 experience. And for that reason, today I would speak of -- I would use  
16 a different system to indicate varying levels of confidence.

17 You'll see in, in some sections of the report I urge caution. And this is where  
18 there isn't a lot of visual information. And in other -- in other parts of the  
19 report, I talk about a high degree of certainty. I think it would be more  
20 appropriate to talk about a high degree of confidence, because this takes  
21 account of the fact that I wasn't there when the video was being filmed.

22 Q. [10:37:51] Thank you.

23 And you explained the change in the terminology. Which impact, if any,  
24 would it have on your findings?

25 A. [10:38:01] There is no impact on the findings. I think it's, it's a matter of

1 presentation.

2 Q. [10:38:14] Thank you. If I can please take you to some examples from  
3 your report, and, specifically, page 0030-0929. Now, on the top of the page,  
4 there is a screenshot of one video you had to geolocate; that is, video  
5 MLI-OTP-0004-0741. At the bottom, there is a screenshot from a 360  
6 panoramic based on pictures taken in 2003 by the Prosecutor.

7 Now, on the next page -- no, at the bottom, I beg your pardon, at the bottom of  
8 the same page, you state that, I'm quoting:

9 "[...] it is possible to conclude with certainty that these sections show an area [...]  
10 at the Djingareiber mosque."

11 Can I clarify what you mean by "certain section"?

12 A. [10:39:34] Yeah, today I would use a high degree of confidence and I  
13 would leave your Honours to make your own -- to draw your own conclusions  
14 based on the visual information.

15 So you can see that in the top image, we have -- you know, we have one, two,  
16 three, four, five, six, seven points of verification, all of which are substantial  
17 and not subject to change over time.

18 In the bottom image, which was captured by the Prosecutor, you know, using  
19 forensic approach with full metadata, we see the, the similarities are pointed  
20 out. And, you know, even if this is a very compelling indication that these  
21 two images show the same location, if I was writing this report in 2020, rather  
22 than in 2015, I would use the word "high degree of confidence" or I would say  
23 that it -- the information strongly tends to include the site as that shown in the  
24 OTP imagery.

25 Q. [10:40:57] Thank you.

1 MS SACCHI: [10:40:59] Your Honour, this brings me to the end of my  
2 questioning. I have one last question for the witness.

3 Q. [10:41:05] Do you consent to have the documents admitted into evidence  
4 that we discussed today?

5 A. [10:41:12] Yes.

6 Q. [10:41:14] Thank you.

7 A. [10:41:15] Thank you.

8 MS SACCHI: [10:41:19] I have no further question, your Honour.

9 PRESIDING JUDGE MINDUA: [10:41:25](Interpretation) Thank you, Madam  
10 Prosecutor. Thank you.

11 I recall that this witness comes under 68(3) of the Rules of Procedure and  
12 Evidence. The Chamber finds that the procedure thereunder are met and that  
13 we can now move on with potential questions from the Legal Representatives  
14 of Victims.

15 So, Mr Kassongo, I note that on 10 December, the LRVs entered a request to  
16 question this witness. Once again, this is document 1043, that's the number.

17 So having heard the examination-in-chief from the OTP, do the Legal  
18 Representatives maintain their request to question this witness?

19 MR KASSONGO: [10:42:35](Interpretation) Thank you very much,  
20 your Honour, members of the Bench.

21 After having heard the examination-in-chief from Madam Prosecutor and the  
22 answers provided by Mr Witness, we no longer wish to put questions to the  
23 witness.

24 PRESIDING JUDGE MINDUA: [10:42:55](Interpretation) My thanks,  
25 Mr Kassongo.

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- 1 MR KASSONGO: [10:42:58](Interpretation) Thank you to you, your Honour.
- 2 PRESIDING JUDGE MINDUA: [10:43:01](Interpretation) So now I turn to
- 3 the Defence for the cross-examination.
- 4 Counsel Montefusco.
- 5 MS MONTEFUSCO: [10:43:16] Good morning, your Honour, your Honours.
- 6 Could we request to begin the recess at this time and return at 11.30, so that I
- 7 may have the opportunity to consult with the team in regards of the new pages
- 8 of analyses that we've been given?
- 9 PRESIDING JUDGE MINDUA: [10:43:39](Interpretation) Yes, we shall
- 10 proceed in that way.
- 11 I will put the question to the court officer.
- 12 Normally we break for 30 minutes, but I think for the purposes of the Defence,
- 13 we shall reconvene at half past 11; so that's 47 minutes for the mid-morning
- 14 break; is that right?
- 15 THE COURT OFFICER: [10:44:05] (Interpretation) There's no problem
- 16 whatsoever in proceeding in that way.
- 17 PRESIDING JUDGE MINDUA: [10:44:11](Interpretation) So we shall rise for
- 18 45 minutes.
- 19 We are adjourned.
- 20 THE COURT USHER: [10:44:17] All rise.
- 21 (Recess taken at 10.44 a.m.)
- 22 (Upon resuming in open session at 11.43 a.m.)
- 23 THE COURT USHER: [11:43:28] All rise.
- 24 Please be seated.
- 25 PRESIDING JUDGE MINDUA: [11:43:56](Interpretation) Court is in session

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1 once again.

2 Now, for the record, I note that the accused is not present in the courtroom.

3 The witness is present.

4 The Chamber was informed that Mr Al Hassan is not feeling well. And

5 the Chamber is duty-bound to respect his right to attend his hearing, his trial.

6 So, in view of the fact that there is an agreement between the parties to

7 suspend the examination of this witness and to continue with the

8 cross-examination on Monday, and mindful of the fact that this belated

9 continuation of testimony would not have any effect on our schedule,

10 the Chamber will then -- has then decided to adjourn the testimony of Witness

11 P-0193 until Monday, 21 September 2020 at 9.30 a.m.

12 That is the Chamber's decision.

13 So, Mr Witness, you will please come back on Monday at 9.30 a.m. for the

14 cross-examination on the part of the Defence.

15 Have you understood?

16 THE WITNESS: [11:45:52] Yes, your Honour.

17 PRESIDING JUDGE MINDUA: [11:45:59](Interpretation) It is my duty to

18 remind you that you are still under oath and that, of course, you cannot discuss

19 your testimony with other individuals, whether it be your friends or your

20 family members, or whomsoever.

21 So, we are reaching the end of today's hearing and I would like to thank the

22 parties and the participants. I would like to thank the court reporters and the

23 interpreters. I would also like to thank the security guards. And, of course, I

24 am not forgetting those present in the public gallery and those who are

25 following us from further afield.

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- 1 So, we shall rise now, unless anyone would like to take the floor.
- 2 Mr Prosecutor?
- 3 Ms Montefusco?
- 4 Very well. So Court is adjourned until Monday, and I wish you all a very nice
- 5 weekend.
- 6 THE COURT USHER: [11:47:36] All rise.
- 7 (The hearing ends in open session at 11.47 a.m.)