

Trial Hearing
WITNESS: MLI-OTP-P-0646

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Wednesday, 21 April 2021
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:55] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:33:26](Interpretation) The Court is in session.
15 Good morning, everybody.
16 Court officer, please call the case.
17 THE COURT OFFICER: [9:33:37] Good morning, Mr President, your Honours.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 We are in open session.
21 PRESIDING JUDGE MINDUA: [9:33:58](Interpretation) Thank you, court officer.
22 For the record, we will start with the presentations.
23 Madam Prosecutor.
24 MS CORBIN: [9:34:11](Interpretation) Good morning, Mr President, your Honours.
25 Prosecution is represented again today by my colleague, Dianne Luping and myself,

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1 Nelly Corbin.

2 PRESIDING JUDGE MINDUA: [9:34:24](Interpretation) Thank you very much,

3 Madam Prosecutor.

4 Defence.

5 MR VEY: [9:34:28](Interpretation) Good morning, Mr President and your Honours,

6 good morning to everybody. I am honoured to speak for the first time before this

7 Court.

8 Today the Defence of Mr Al Hassan is represented by Maître Melinda Taylor,

9 Sarah Marinier-Doucet, Damia Taharraoui and myself, Antoine Vey, in Paris.

10 PRESIDING JUDGE MINDUA: [9:35:04](Interpretation) Thank you very much,

11 Mr Vey. When you started speaking, I was automatically looking at Ms Taylor, but

12 welcome.

13 And now the Legal Representative of Victims.

14 MR KASSONGO: [9:35:23](Interpretation) Thank you, your Honours. Good

15 morning, everybody. The Legal Representative Victims team is still

16 Ms Prisque Dipanga, with Ms Ludivine Tixier-Dunet and, myself, Maître Kassongo.

17 PRESIDING JUDGE MINDUA: [9:35:46](Interpretation) Thank you very much.

18 Thank you, Mr Kassongo.

19 Today we will continue to hear the 29th Prosecution witness. This is P-0646.

20 So, Mr Witness, good morning. Can you hear me?

21 WITNESS: MLI-OTP-P-0646 (On former oath)

22 (The witness speaks French)

23 (The witness gives evidence via video link)

24 THE WITNESS: [9:36:12](Interpretation) Yes, I do, Mr President.

25 PRESIDING JUDGE MINDUA: [9:36:17](Interpretation) Thank you very much,

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1 Mr Witness.

2 Once again on behalf of the Chamber, welcome, and I thank you for your cooperation.

3 I would remind you that you are still under oath and that you should speak the truth,
4 the whole truth and nothing but the truth. I would also remind you of my
5 recommendations regarding taking the floor, but I have no concerns there, you are
6 doing this extremely well.

7 In that case, I'm now looking at Maître Kassongo and I would like to know whether
8 the Legal Representative of Victims wishes to speak following the Prosecution
9 examination?

10 MR KASSONGO: [9:37:15](Interpretation) Thank you, your Honours. The team of
11 Legal Representative of Victims very much appreciated the very clear examination by
12 the Prosecution, but nevertheless we do have a few questions for Mr Witness for
13 reasons of clarity and complementary information for our needs. We will do it
14 under your -- with your observation, we will not take very long, and these are
15 questions linked to the operation of the services represented by Mr Witness,
16 particularly at the bottom of the chain, the information chain, where we find
17 the victims within the population.

18 This is why we would like to ask a few questions for reasons of clarification.

19 PRESIDING JUDGE MINDUA: [9:38:32](Interpretation) Thank you,
20 Maître Kassongo.

21 So I turn to Ms Taylor or Mr Vey for the usual question, do you have any objections?

22 MS TAYLOR: [9:38:46] Thank you, Mr President. In principle, the Defence does
23 not object on the understanding that the questioning stays within the remit of the
24 estimation that was provided to us of around 10 to 15 minutes.

25 PRESIDING JUDGE MINDUA: [9:39:07](Interpretation) Maître Kassongo, you have

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1 the floor.

2 MR KASSONGO: [9:39:20](Interpretation) Thank you, Mr President, your Honours.

3 So with your authorisation, I turn now to Mr Witness.

4 QUESTIONED BY MR KASSONGO: (Interpretation)

5 Q. [9:39:36] Good morning, Mr Witness.

6 A. [9:39:49] Good morning.

7 Q. [9:39:50] I will say once again that I am Maître Kassongo and I have some
8 questions for you. We are all speaking the same language, French, of course. I
9 would ask with your permission, and the permission of the Chamber of course, to
10 remember to keep a short pause in our exchanges in order to facilitate the work of the
11 interpreter working into English.

12 Mr Witness, in your role you were in the army, you were in the intelligence system,
13 documented by your service, and that leads us to ask an initial question in order to
14 get into the subject. Could you please assist us or clarify for us the question of
15 carrying weapons. Under what conditions is an agent of the army or the armed
16 forces -- under what condition is it allowed to carry weapons, according to the way
17 your service operates?

18 A. [9:41:51] Thank you, Maître Kassongo.

19 In normal times, a soldier has his weapon, that's normal times. During operations,
20 the soldier's weapon is a part of his mission and often of his place in the military
21 hierarchy.

22 There are some soldiers who have collective weapons and others who have their own
23 individual weapons. But in all cases, all soldiers have a weapon during operations.
24 That's what I'd like to say on this subject.

25 Q. [9:43:53] Thank you, Mr Witness. Along the same lines, you referred over

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1 the past few days to meetings between services of internal security, your service, with
2 regard to selection or discussion of messages, be they *messages portés* or information
3 notes.

4 So I'd like to take this opportunity to ask you a simple question, is there a distinction
5 between the weapon or weapons carried or authorised for agents of the armed forces
6 and those authorised for urban police? Bearing in mind that the urban police force is
7 perhaps under the -- that they may be carrying out surveillance tasks for schools or
8 educational institutions or administrative services in the urban area or the town itself.

9 A. [9:46:16] Well, I had the honour and advantage of running a special service,
10 a particular service, and my mission as head of this service was to gather all
11 the intelligence and to communicate it to military authorities. So, so in this role I had
12 meetings not with the services of the interior, but with those responsible for
13 intelligence from the ministry of security. These meetings had one purpose only and
14 that was to exchange intelligence so that all those in charge of intelligence would have
15 the same level of information.

16 As to carrying weapons, with regards to the urban police, which was the object of
17 your question, well, that was not really part of the mission of my service. I would
18 point out that the service of the interior is -- is a different department, is not the same
19 department under which I worked.

20 However, what I can say is that carrying weapons as a function of the mission -- it is
21 a function of the mission. The rank of the soldier, that is how
22 the arms -- the weapons are allocated. The weapons carried by the police is
23 not -- well, it's not a mission that I as -- that I held as -- or that I was in charge of as
24 head of the DSM.

25 Generally speaking, in my personal point of view for maintaining law and order - and

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1 certain educational institutions, as you mentioned - well, the maintaining of order did
2 not involve weapons of war. Thank you.

3 Q. [9:51:51] Thank you very much, Mr Witness.

4 Your service set up an intelligence system. At the bottom of this chain was
5 the civilian population. So my question refers to the terms used by the population to
6 give the information to your *capteurs*, to your agents, relating to the presence or
7 persistence of threats they were suffering.

8 So my question is to -- that I would like to know whether you can give us, as in
9 summary, a few words or a few cases which would allow you to be aware of a threat
10 being felt by the population and which was then relayed to you in the information
11 you received?

12 A. [9:53:47] In reply to your question, I said indeed that the population was an
13 important link in the intelligence chain. I understand that the population had not
14 been trained to -- for this role in most cases, but the situation in which we found
15 ourselves meant that that was where the threat was most keenly felt within
16 the population. You've asked me for a concrete example, so a population that sees
17 every day -- well, let me take one case. A neighbour. A neighbour who every day
18 fills 20 jerrycans with diesel or petrol to take them to a place unknown to him for
19 somebody whom he doesn't know. If one thinks about it, one might wonder why,
20 every couple of days, this man is filling up a dozen jerrycans when he doesn't even
21 have a motorbike. That might give the idea that these goods could be being sold to
22 elements that might make use of them.

23 When the population sees vehicles driven by foreigners driving around a village for
24 a day or two, and seeing unknown faces in the village, the atmosphere that reigns
25 may alert the population to events. And this population, as I said, has within it

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1 certain elements who in the course of their career have been military. So they might
2 have a little idea, they might have some sort of idea that there is a threat at that point.

3 Q. [9:59:10] Thank you very much, Mr Witness, for this information and this
4 clarification. I now have one, one final quick question.

5 My apologies to the Chamber and the parties.

6 You gave us a quick summary of the increase or the implementation in strength of the
7 Sharia. I'm interested particularly in Timbuktu and I have one quick question about
8 that. What is or was the fate of people who did not comply with Sharia, if you were
9 aware of such things, through your information documents either in the form of
10 a *message porté* dispatch or through information bulletins or notes?

11 PRESIDING JUDGE MINDUA: [10:00:40](Interpretation) Ms Taylor.

12 MS TAYLOR: [10:00:42] I've been hesitating to object, but this is a very broad
13 question which duplicates entirely the examination-in-chief of the Prosecution.

14 The Prosecution has gone through these *messages portés* with the witness and this
15 question is not introducing any new element that has a specific nexus to the interests
16 of the victims. And I do believe it will result in a very lengthy duplicative answer.

17 PRESIDING JUDGE MINDUA: [10:01:12](Interpretation) Mr Kassongo, perhaps you
18 could reword your question because I think Ms Taylor may be right.

19 MR KASSONGO: [10:01:22](Interpretation) I will reword it and make my question
20 shorter.

21 Q. [10:01:29] Mr Witness, on the question of fundamental freedoms and major
22 violations committed in Timbuktu, do you have any case or cases other than those
23 you have already mentioned?

24 A. [10:02:19] Thank you, Maître Kassongo. I can say that, from memory, it would
25 be very difficult for me to give any precise information regarding date or location of

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1 any particular event against the population.

2 THE INTERPRETER: [10:03:05] Message from the interpreter: There seems to be
3 background noise somewhere.

4 THE WITNESS: [10:03:12](Interpretation) The -- as well as the cases already
5 mentioned, in one of our *messages portés* - I'm thinking particularly of the thief who
6 received 40 lashes - I can recall that there was a couple who were also flogged simply
7 because they were not married, but they had had sexual relations.

8 I also recall that in Gao the -- there were amputations performed among
9 the populations of the foot and the hand. There was one case of stoning also. So
10 this information was obtained also from open sources, radio and also via social
11 networks. That's what I can say in answer to your question and this is the sort of
12 information that we also got out with the intelligence chain under my command.

13 Thank you.

14 Q. [10:05:49] Thank you very much, Witness.

15 The legal representative that I am has finished with the questioning. I would like to
16 thank you on behalf of the entire team.

17 I now turn to the Presiding Judge.

18 Your Honour, your Honours, the team of legal representatives would like to thank
19 you for this time and your patience. Our questioning of the witness is now
20 complete.

21 PRESIDING JUDGE MINDUA: [10:06:19](Interpretation) Thank you very much,
22 Mr Kassongo.

23 We are now going to the cross-examination of the Defence. As I imagine, it's Mr Vey
24 who's going to take the floor.

25 Maître Vey, you have the floor.

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1 QUESTIONED BY MR VEY: (Interpretation)

2 Q. [10:06:47] Good morning, Witness, I am Antoine Vey and I am a member of
3 the Defence team of Mr Al Hassan. I'm currently in Paris. I hope you can hear and
4 see me well. I'm going to carry out your cross-examination and put questions to you
5 on behalf of the Defence today and tomorrow.

6 Witness, we've tried to prepare precise questions to make it possible for you to
7 complete your testimony and I would kindly ask you to make an effort to ask (sic) in
8 the most succinct way as possible so that we can finish within the time accorded to us.

9 I would also ask you to be so kind to tell me when you consider that you have
10 sufficiently taken into account the documents that we mention, also in order to save
11 time.

12 So, your Honour, your Honours, not unfortunately being in the courtroom, I shall
13 leave Melinda Taylor answer any observations that there might be in this
14 cross-examination.

15 But, Witness, I will ask the first question to you -- ask you to look at the document,
16 the 3-page document, ERN number MLI-OTP-0012-0154, 0156 -- and 0156 in the -- in
17 the Prosecution binder, and that's 204.

18 A. [10:09:31] Good morning, Maître. I've got the document in question in front of
19 me.

20 Q. [10:09:39] This is a table of six columns which starts at page 0155 and it finishes
21 at 0156. * It indicates in the first column the neighbourhoods of Timbuktu, and in the
22 sixth column the alleged chiefs of these neighbourhoods.

23 Does Mr Al Hassan appear as one of the supposed chiefs or leaders of one of the
24 neighbourhoods in question?

25 A. [10:10:39] When I read this document, I don't see Al Hassan's name figuring

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1 anywhere.

2 Q. [10:11:03] Do you remember, among all the DSM documents that were
3 presented to you by the Office of the Prosecutor during your preparatory session and
4 since the start of your testimony, do you remember having seen the name of
5 Mr Al Hassan?

6 A. [10:11:38] No.

7 Q. [10:11:41] I'm going to ask you to look at the document MLI-OTP-0012-0949 in
8 the Prosecution binder at tab 118.

9 A. [10:12:36] Yes, I'm listening.

10 Q. [10:12:37] So I'm going to mention the document.
11 According to the information that was received on May, 47 recruits of Ansar Dine and
12 26 others of the MNLA finished with their basic training in Timbuktu. After this
13 training, the 26 recruits of the MNLA, they rallied Ansar Dine.

14 So my question is as follows: In May 2012, according to the best of your knowledge,
15 did -- and the troops of Ansar Dine and MNLA, were they in the same training camp?

16 A. [10:13:30] According to the information that we received here, it's not a case of
17 training in the same centre or not of the troops of MNLA and Ansar Dine.

18 Q. [10:14:07] So according to you, could the men go from one group to another?
19 That's to say, were these groups porous?

20 A. [10:14:26] It's possible.

21 Q. [10:14:30] I'm going to ask you to consult document MLI-OTP-0012-0952,
22 Prosecution binder tab 124, 6 June 2012.

23 A. [10:15:12] Yes, I've got it in front of me.

24 Q. [10:15:15] I'm going to quote the document:

25 "Colonel Assalat and the Lieutenant Colonel M'Bareck are said to have left the MNLA

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1 to join Ansar Dine on the incitation of a lot of other elements of the MNLA who have
2 defected in the last days."

3 Is it true that these leaders of the MNLA as referred to in the document, left
4 the MNLA following the example of a lot of other MNLA troops?

5 A. [10:16:03] According to the information that we had available to us, yes.

6 Q. [10:16:09] I'm referring to a third document, which is MLI-OTP-0012-0879,
7 tab 166 Prosecution binder.

8 I'm going to read you the first line:

9 "Colonel Hassan Fagaga is said to have revealed to Kidal his intention to rally
10 Ansar Dine."

11 * Could you deduce from this document that even the people of an allegedly
12 significant rank within these groups could easily go from one to the other?

13 A. [10:17:34] Yes, it is possible.

14 MR VEY: [10:17:42] I would now for the next presentation, your Honour, ask you to
15 say in place of MLI-OTP, I'll just say the ERN and the number to save time.

16 So I'm referring to the document 0012-0147, and that's tab 244 in the Prosecution
17 binder, and that refers to an incident of firing in Sévaré and that incident took place.

18 It refers to the second document. There's ERN 0012-0948, and that's in
19 the Prosecution binder tab 117, and that refers to clashes between a GTIA patrol and
20 group of rebels 18 kilometres from Koro on 21 May 2012.

21 So I'm listing all the documents which support my question. The document ERN
22 012-0207, Prosecution tab 225, and that refers to direct clashes between Ansar Dine
23 and the MNLA near to Kidal on 8 June 2012.

24 The document is ERN 0012-0955, Prosecution tab 129, and that refers to clashes,
25 violent clashes between MUJAO and the MNLA in Gao on 27 June 2012.

26 There's document 0012-0971, Prosecution binder 150, and that refers to clashes

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1 between the MNLA and MUJAO in Ménaka on 7 September 2012.

2 And finally, there's a last document, ERN 0012-0982, Prosecution binder tab 158,

3 which refers to clashes between the MNLA and MUJAO in -- on 7 -- on

4 15 November 2012 -- sorry, on 15 and 16 November 2012.

5 THE INTERPRETER: [10:21:39] Corrects the interpreter.

6 MR VEY: [10:21:42](Interpretation)

7 Q. Do you remember seeing these documents?

8 PRESIDING JUDGE MINDUA: [10:21:45](No interpretation)

9 MS CORBIN: [10:21:46](Interpretation) Your Honour, it's with regards to the first

10 reference given by my colleague, the document 244, 0012-0147. I don't see

11 the reference to firing in Sévaré there. So perhaps my colleague could give me more

12 clarification as to whereabouts that is in the document, I'd be very grateful for that.

13 PRESIDING JUDGE MINDUA: [10:22:13](Interpretation) Ms Taylor, do you want to

14 answer the question?

15 MS TAYLOR: [10:22:18] I can assist my colleague. It is at line 6 on the document.

16 MS CORBIN: [10:22:35](Interpretation) I'm sorry --

17 PRESIDING JUDGE MINDUA: [10:22:40](Interpretation) Madam Prosecutor, we

18 can see that there is an incident of firing which is pointed out.

19 MS LUPING: [10:22:50] Mr President, just a --

20 PRESIDING JUDGE MINDUA: [10:22:51](No interpretation)

21 MS LUPING: [10:22:51] -- an objection. The Defence has stated, "and that incident

22 took place". If the witness could be simply left to respond to whether, you know,

23 confirmation or not that the incident took place. It is -- we see it now, that it is a

24 confirmation of an incident in Sévaré, but we would ask that counsel not give

25 evidence on this basis. It should be left to the witness.

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1 PRESIDING JUDGE MINDUA: [10:23:23](Interpretation) Ms Taylor.

2 MS TAYLOR: [10:23:25] (Overlapping speakers) respect, these are *messages portés*
3 which the Prosecution has submitted in examination-in-chief, and at this point in time
4 the Defence is merely referring to information in these documents so that the witness
5 can be directed to what to read in the documents. So I believe that we will take a lot
6 of time if we have to ask the witness each time before the witness has a chance to
7 actually see or hear what the question is.

8 PRESIDING JUDGE MINDUA: [10:24:00](Interpretation) Madam Prosecutor.

9 MS LUPING: [10:24:01] We're of course cognisant of the fact these are
10 the *messages portés* that we have submitted through this witness. It's simply a request
11 that when the -- when counsel is referring to the documents, that they are quoted
12 from and that there isn't simply additional comments about the accuracy or not.
13 The witness can confirm it himself as to whether specific incidents took place.

14 PRESIDING JUDGE MINDUA: [10:24:35](Interpretation) Well, we have to save time
15 here. I don't understand the objection from the Prosecutor, because when Mr Vey
16 quoted the document he gave us the reference and he said that there was an incident.
17 He didn't say line 6. I don't know why there's this objection.
18 Mr Vey's disappeared.

19 MR VEY: [10:25:06](Interpretation) No, I'm still there, your Honour.

20 PRESIDING JUDGE MINDUA: [10:25:08](Interpretation) Okay, please continue, if
21 you would be so kind.

22 MR VEY: [10:25:14](Interpretation)

23 Q. [10:25:15] Witness, on the basis of the document and the documents that we
24 have shown, it can be seen that between April 2012 and January 2013, the document
25 signed by the director of the DSM which were in the possession of the Office of the

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1 Prosecutor report that there were these clashes between different groups and that
2 they were in different geographical areas.

3 Can you confirm that there's a lack of continuity with regards to the clashes that were
4 reported?

5 A. [10:25:59] Thank you very much, counsel. I can say that the document at
6 tab 244, the document at tab 244, which I have in my hand, just has the list of soldiers
7 deceased in operations and so, as such, it does not refer to explosions. Perhaps
8 there's some errors with regards to classification at that level.

9 But now, to go back to your precise question, the different clashes that there were
10 between MUJAO -- the MNLA, MUJAO, Ansar Dine, in different places, are certainly
11 not the only clashes that took place during this period. There were different clashes.
12 There were other clashes. They might not have been at the same level as the ones
13 which were referred to. It can't be ruled out that there were skirmishes in certain
14 zones of which the intelligence services were not aware.

15 With regards to the clashes that were mentioned, those are ones which were noted
16 down and they were transmitted by the troops to the directorate.

17 That's what I can give by way of answer to this question.

18 Q. [10:28:55] Witness, I'm going to refer to document MLI-OTP-0012-0959,
19 Prosecution binder tab 126.

20 A. [10:29:33] Yes, I have it before me.

21 Q. [10:29:37] So I'm going to read this document:

22 "There was clashes in Timbuktu between the MNLA and Ansar Dine." That's the only
23 document which mentions that, 14 June 2012, and which refers to this clash.

24 Could you confirm to us that this clash took place?

25 A. [10:30:10] Yes, I confirm it.

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1 Q. [10:30:21] Mr Witness, I would now like to refer to a document

2 MLI-OTP-0012-0975, tab 153 of the Prosecution binder.

3 A. [10:31:21] Yes, I have it.

4 Q. [10:31:23] This document refers to 6 October 2012 from 11 to 12, demonstration

5 by women in Timbuktu requesting the departure of the police commissaire -- Islamist

6 police commissaire, Mr Mohamed, also stopping the need to wear the veil and

7 the closure of the women's prison.

8 On 6 October 2012, the women demonstrating denounced the use of the veil and

9 the women's prison but didn't speak of rape or forced marriage.

10 Do you agree with this observation?

11 A. [10:32:27] Before replying to your question, I would like to ask the President's

12 permission to suspend the hearing after I have answered the question.

13 PRESIDING JUDGE MINDUA: [10:32:49](Interpretation) Very good, Mr Witness.

14 You wish to reply first?

15 THE WITNESS: [10:32:57](Interpretation) I think we could perhaps break now.

16 PRESIDING JUDGE MINDUA: [10:33:03](Interpretation) Indeed, that's what we

17 will do. Eight minutes. We will start again at 10.40.

18 The hearing is suspended.

19 (Recess taken at 10.33 a.m.)

20 (Upon resuming in open session at 10.41 a.m.)

21 THE COURT USHER: [10:41:45] All rise.

22 Please be seated.

23 PRESIDING JUDGE MINDUA: [10:42:07](Interpretation) The hearing will

24 recommence.

25 Maître Vey, you have the floor.

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1 Mr Vey, you have the floor in order to continue your cross-examination.

2 MR VEY: [10:42:44](Microphone not activated)

3 PRESIDING JUDGE MINDUA: [10:42:52] Mr court officer.

4 (Interpretation) It now seems that all is sorted.

5 Mr Vey, you have the floor.

6 MR VEY: [10:43:34](Interpretation) I do -- I do apologise, but I don't know whether

7 I ... Can you hear me now?

8 PRESIDING JUDGE MINDUA: [10:43:43](Interpretation) I can indeed hear you now

9 and you have the floor for the remainder of your cross-examination.

10 MR VEY: [10:43:51](Interpretation) I can't see the image of the witness and I was

11 wondering whether the witness could perhaps now answer the question asked before

12 the break.

13 PRESIDING JUDGE MINDUA: [10:44:06](Interpretation) Mr Witness, can you reply

14 to the question asked before the break.

15 THE WITNESS: [10:44:13](Interpretation) I would -- can, but perhaps my memory

16 could be refreshed. Perhaps Mr Vey could repeat his question.

17 PRESIDING JUDGE MINDUA: [10:44:24](Interpretation) Indeed, Mr Vey, could you

18 please repeat the question.

19 MR VEY: [10:44:29](Interpretation)

20 Q. [10:44:31] The question was to know whether, given the document that you

21 have in front of you, where it appears that on 6 October in Timbuktu women

22 demonstrators asked or referred to no longer wearing the veil and closing

23 the women's prison, but didn't mention rapes or forced marriages.

24 Are you in agreement with this observation?

25 A. [10:45:08] In the message we received, there is no mention of rape. There are

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1 three elements mentioned: The police commissioner leaving, the rule relating to
2 the veil and the closure of the women's prison. No other facts were mentioned here.

3 Q. [10:45:53] Thank you, Mr Witness. Could you tell us the source of your agent
4 for this message?

5 A. [10:46:14] When we receive information from our *capteur*, from our agent, we are
6 only concerned about the source if we have doubts relating to the information sent.
7 In this particular case, all I can say is that the source of our agent can only be
8 the civilian population.
9 That's all I can say on this question.

10 Q. [10:47:26] On reading this message, can you confirm that the source considered
11 Mr Mohamed as the commissioner of the Islamic police?

12 A. [10:47:54] The message is very precise. It requests the departure of the police
13 commissioner stop Mohamed, as well as the closure of the prison and the need to
14 wear veils.

15 Q. [10:48:36] I would now like to refer to a document, MLI-OTP-0012-0989, which
16 is tab 165 in the Defence -- in the Prosecution binder.

17 A. [10:49:20] Yes, I have it.

18 Q. [10:49:23] This document speaks of "30 vehicles and two BRDM-2 on
19 29 November 2012 around 14:00 at Goundam to escort Iyad Ag Ghaly to Niafunké, a
20 reinforcement of the Ansar Dine troops to the Niafunké and Léré sector. This is
21 a menace for our units. It would be desirable to invite Diabaly, Nioro and Nara to
22 increase vigilance."

23 My first question is, what is meant by BRDM-2?

24 A. [10:50:27] This BRDM-2 are combat vehicles used by the armies. They are
25 Soviet vehicles, Russian Soviet vehicles with a Russian name.

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1 Q. [10:51:02] Could you tell us exactly who used these combat vehicles?

2 A. [10:51:23] These combat vehicles were generally used by or exclusively by
3 the armed forces.

4 Q. [10:51:39] Were these combat vehicles readily accessible to the rebels?

5 A. [10:52:02] Easily accessible? Well, I would say that they weren't, no. But I
6 should add that we were an army in difficulties. We had lost some of our equipment
7 and therefore it is not impossible for these vehicles to have been in the hands of
8 the rebels. You will note that -- that to a great extent these rebels were military
9 leaders who had served under our flag, and when they had defected they took with
10 them the vehicles that they had in order to use them. That is my reply to your
11 question.

12 Q. [10:53:42] Thank you, Mr Witness.

13 The document MLI-OTP-0012-0803, 24 in the Defence binder, is a document which
14 gives -- of 22 January which contains a list of 17 deserters from the Malian army.
15 Are you aware of this document?

16 A. [10:54:42] The document at tab 24 does not mention deserters, at least not in
17 the file that I have in front of me.

18 Q. [10:55:09] It refers to them in the second line, so perhaps I can give you
19 the reference of the document again. It's the Defence binder, tab 14,
20 MLI-OTP-0012-0803.

21 PRESIDING JUDGE MINDUA: [10:55:30](Interpretation) Ms Taylor.

22 MS TAYLOR: [10:55:31] Just to assist the witness, I'm not sure he has a printout of
23 the Defence binder, so it should be showing on the screen on the evidence channel.
24 So if the witness could look at the evidence channel on the screen as the Defence
25 binder has not been printed, as I understand it.

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1 PRESIDING JUDGE MINDUA: [10:55:57](Interpretation) Mr Witness, I don't think
2 you have a copy of the Defence binder. I think in this case you need to look at
3 channel evidence 1 -- sorry, no, evidence 2. Evidence 2. And there you will see
4 the document on the screen, Mr Witness.

5 THE WITNESS: [10:56:35](Interpretation) Thus far I see nothing on the screen.

6 PRESIDING JUDGE MINDUA: [10:56:48](Interpretation) The court officer is
7 resolving the problem. Please be patient.

8 THE WITNESS: [10:56:55](Interpretation) Thank you, Mr President.

9 PRESIDING JUDGE MINDUA: [10:57:46](Interpretation) I understand that there is
10 a technical issue. Maybe we should have our break now and the problem can be
11 resolved, enabling you to see the document on your screen. I think that would be
12 the best solution, otherwise we would have to read it out, but I don't think that would
13 be ideal.

14 Ms Taylor, do you want the document to be read out rather than have the break,
15 or ...?

16 MS TAYLOR: [10:58:18] I believe it might be an opportune moment for the break.

17 PRESIDING JUDGE MINDUA: [10:58:31](Interpretation) That's better. So we will
18 have our break now and we will recommence at 11.30.

19 The hearing is suspended.

20 THE COURT USHER: All rise.

21 (Recess taken at 10.58 a.m.)

22 (Upon resuming in open session at 12.01 p.m.)

23 THE COURT USHER: [12:01:44] All rise.

24 Please be seated.

25 PRESIDING JUDGE MINDUA: [12:02:13](Interpretation) Court is in session.

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1 Court officer, is everything in order?

2 THE COURT OFFICER: [12:02:22] Your Honour, we have managed to print all
3 documents, however, the assignment of tab numbers is still pending. We have
4 tab numbers 15, 16, 17, 18, 20, 21, 22, 23 and 27 assigned, they may be used by counsel.
5 The remaining documents will be tabbed at the break. Thank you.

6 PRESIDING JUDGE MINDUA: [12:02:57](Interpretation) So the Defence binder, that
7 has 27 tabs exactly; that's correct, is it not?

8 MS TAYLOR: [12:03:07] Yes, it is.

9 PRESIDING JUDGE MINDUA: [12:03:12](Interpretation) That's it. So we can start
10 without any problems.

11 Maître Vey, you have the floor to continue with your cross-examination.

12 MR VEY: [12:03:30](Interpretation) (Microphone not activated) all the remaining
13 questions. Thank you, your Honour.

14 Your Honour --

15 Q. Witness, I would like to refer, as before, prior to the break, to document
16 MLI-OTP-0012-0803 which appears in the Defence binder at tab 24.

17 PRESIDING JUDGE MINDUA: [12:04:15](Interpretation) One minute, Counsel.
18 It would seem to me that the accused is not there. Ms Taylor.

19 MS TAYLOR: [12:04:23] That's correct. A member of our team has called
20 the detention unit to alert them that we've started again and we're not aware of why
21 he's not there.

22 PRESIDING JUDGE MINDUA: [12:04:41](Interpretation) Very well.
23 We'll continue.

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1 THE COURT OFFICER: [12:04:47] Your Honour, he should be making his way to
2 the seat.

3 PRESIDING JUDGE MINDUA: [12:04:54](Interpretation) Thank you very much,
4 court officer.

5 So, Maître Vey, please continue.

6 MR VEY: [12:05:01](Interpretation) Thank you very much, your Honour. I would
7 like to go into private session to read the document which figures on tab 24 because
8 apparently it wasn't copied.

9 PRESIDING JUDGE MINDUA: [12:05:13](Interpretation) Court officer, please take
10 us into private session.

11 (Private session at 12.05 p.m.)

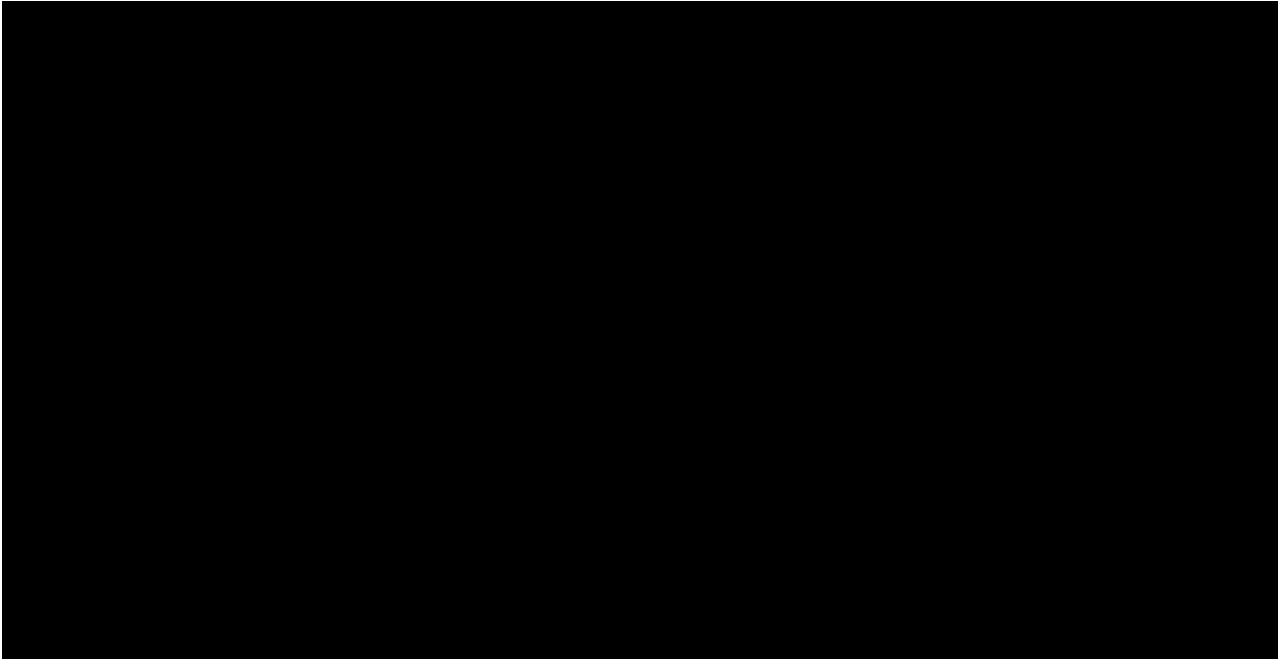
12 THE COURT OFFICER: [12:05:25] We're in private session, Mr President.

13 PRESIDING JUDGE MINDUA: [12:05:28](Interpretation) Thank you very much.

14 MR VEY: [12:05:34](Interpretation)

15 Q. [12:05:35] Witness, I'm going to read the document in question which is
16 a *message porté* which states -- well, it's:

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1 Witness, this document has a list of 17 deserters from the Malian army, Aguelhok, do
2 you know this document? Deserters from the Aguelhok camp. What do you know
3 about this document?

4 A. [12:07:10] Yes, it's not in front of me, but I do know about this document
5 (Overlapping speakers)

6 PRESIDING JUDGE MINDUA: [12:07:15](Interpretation) Just a minute, Counsel.

7 Ms Taylor, I think that the answer can be given in open session, can it not? Question
8 and Answer.

9 MS TAYLOR: [12:07:26] Yes.

10 PRESIDING JUDGE MINDUA: [12:07:32](Interpretation) Mr Vey, we're going to go
11 into open session for the answer to the question.

12 Court officer, if you would be so kind.

13 (Open session at 12.07 p.m.)

14 THE COURT OFFICER: [12:07:45] We are back in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [12:07:47](Interpretation) Thank you very much,
16 court officer.

17 Counsel Vey, you have the floor.

18 MR VEY: [12:07:53](Interpretation) Thank you, your Honour. I'm referring to
19 document MLI-OTP-0012-0632 which is in the Defence binder at tab 23. This is
20 a document of 14 March 2012 and it has a list of 11 deserters from the Malian national
21 guard in Kidal. Do you know of this document?

22 A. [12:08:32] Yes.

23 Q. [12:08:36] So I'm finally going to refer to the document MLI-OTP-0012-0364
24 which is in the Defence binder at tab 21. This is a document from 30 April 2012
25 which lists 23 soldiers, Malian soldiers who are deserters who were present at

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1 a meeting with the MNLA. Are you aware of this document?

2 A. [12:09:27] Yes, without having it in front of me.

3 Q. [12:09:36] From these three documents it would seem that one could deduce that
4 the -- that there were frequent defections from the -- or frequent desertions from
5 the Malian army. Would you agree with that statement?

6 A. [12:09:52] Yes, I would agree with that.

7 Q. [12:09:58] Witness, I am going to refer to the document MLI-OTP-0012-023 (sic),
8 which is in the Prosecution binder at tab 211.

9 Now, in this document, the last paragraph here of the first page indicates that a lot of
10 deserters from the armed forces and the security forces would be discouraged and
11 they would have -- they joined -- they are said to have joined their families at the
12 camps and they are in camp 1 in Gao with the movement of Ansar Dine.

13 Reading this sentence, you can understand that some of the deserters from the Malian
14 army were living in Gao in the same place as Ansar Dine. A lot of the deserters from
15 the security and armed forces are said to be discouraged. Would you agree with
16 that?

17 A. [12:11:12] Yes.

18 PRESIDING JUDGE MINDUA: (Interpretation) Prosecutor.

19 MS CORBIN: [12:11:14](Interpretation) Before counsel continues, I think it would be
20 fair to draw the witness's attention to the last page, this is a document that is not
21 signed.

22 PRESIDING JUDGE MINDUA: [12:11:30](Interpretation) That is correct.

23 Counsel, the Prosecutor is right about that. This document is not signed and
24 the Office of the Prosecutor shouldn't use it with that -- with this witness.

25 Please continue.

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1 MR VEY: [12:11:47](No interpretation)

2 THE INTERPRETER: [12:11:48] Correction: The Office of the Prosecutor did not
3 use it with this witness. Please continue.

4 MR VEY: [12:11:58](Interpretation)

5 Q. [12:11:58] Did certain deserters from the Malian army join the ranks of
6 Ansar Dine?

7 A. [12:12:03] Yes, I confirm that.

8 Q. [12:12:06] If we look at document which is MLI-OTP-0012-0413, Defence binder
9 tab 22, it's dated 19 June, could you confirm if you have -- 19 June 2012, could you
10 confirm if you have this document in front of you?

11 A. [12:12:42] Yes, I have this document in front of me.

12 Q. [12:12:49] Could you identify who wrote this document from the signature at
13 the end of the second page which ends 0414?

14 A. [12:13:01] The director.

15 Q. [12:13:03] Is this your signature?

16 A. [12:13:07] Correct, that's my signature.

17 Q. [12:13:12] The first line of the second paragraph MLI-OTP-0012-0413 indicates:
18 "Since the attacks restarted of the insurgents against military barracks in
19 mid-January 2012, there have been numerous cases of desertions which have been
20 recorded within the regular units and defence positions."

21 Are you in agreement with this, that there were numerous cases of desertions which
22 were recorded between January 2012 and June 2012?

23 A. [12:14:07] Yes, I agree with that.

24 Q. [12:14:10] In 2012, while you were the director of the DSM, the DSM -- did
25 the DSM collect information on crimes committed by members of the FMA -- FAMa?

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1 A. [12:14:46] No.

2 Q. [12:14:46] Could you look at the document referring

3 MLI-OTP- -- correction -- D28-004-077 (sic) in tab 5 of the Defence binder. That's
4 going to be shown on the screen.

5 Witness, this is an article published on 10 September by France 24 and it talks about
6 a shooting in the north of Mali which provokes ire or anger in Mauritania.

7 This -- this talks about shooting on the night of Saturday, 8 September in the north of
8 Mali which caused the death of eight Malians and eight Mauritians. I quote more
9 specifically the paragraph 7 hereof.

10 * "So a night of shock, it speaks about a barbarous massacre perpetrated by a unit of
11 the Malian regular army against 16 peaceful Muslim preachers, who for the most part
12 were Mauritians on their way to Bamako."

13 When you were director of the DSM, do you remember having drafted and signed or
14 approved in any form a note for the minister of defence reporting on this attack?

15 A. [12:17:28] I don't remember.

16 Q. [12:17:36] How can you explain that an event which is so important and
17 sensitive was not subject to a note which was written to the DSM?

18 A. [12:17:51] The DSM mission --

19 PRESIDING JUDGE MINDUA: [12:17:59](Interpretation) Prosecutor.

20 MS LUPING: Mr President, the Prosecution would object to this type of question,
21 it's simply argumentative. The witness has already explained he has no recollection
22 of this. This is a media article regarding the event. So we'd object to the manner in
23 which the question has been posed.

24 PRESIDING JUDGE MINDUA: [12:18:27](Interpretation) Ms Taylor, a reply.

25 MS TAYLOR: [12:18:28] Thank you, Mr President.

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1 The witness was in the DSM at the time and is in a position to explain the
2 methodology as concerns what information was collected and which information was
3 not collected. Now the mere fact that he didn't collect information does not answer
4 the question as to why that information might not have been collected, which is
5 the follow-up question being asked by my colleague, and he's perfectly entitled to put
6 questions concerning the methodology to this witness.

7 PRESIDING JUDGE MINDUA: [12:19:02](Interpretation) Prosecutor, have you
8 heard? The Defence is speaking about methodological issues.

9 MS LUPING: [12:19:07] Yes. Mr President, we would have no objection if that was
10 the question put --

11 PRESIDING JUDGE MINDUA: [12:19:11](Overlapping speakers) Okay. Please.

12 MS LUPING: [12:19:13](Overlapping speakers) It was just simply the manner.

13 THE INTERPRETER: Overlapping speakers.

14 PRESIDING JUDGE MINDUA: [12:19:18](Interpretation) Very well.

15 Counsel Vey, you've followed the exchange, so please continue.

16 THE INTERPRETER: [12:19:23] Overlapping speakers.

17 MR VEY: [12:19:25](Interpretation) I'm going to continue with the witness.

18 Q. [12:19:27] Witness, given the numerous defections that there were within
19 the army, and in particular in the north, and while you have indicated that
20 the intelligence sources came from this area, how can you consider that your
21 intelligence sources were still reliable sources?

22 A. [12:20:00] Because they were under my directorate and they were trained.
23 Firstly, they had military training, they were officers, and thereafter they were
24 formed -- trained to carry out intelligence work. So there's no reason why I could
25 not have confidence or not trust the work that these officers were carrying out.

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1 Q. [12:20:43] After your answer, the Office of the Prosecutor -- to the Office of the
2 Prosecutor, we understood that these intelligence sources were your primary source
3 of information and these intelligence sources were collecting intelligence through
4 their own networks of people who they trusted. Do you have access to the identity
5 of the sources who -- who were giving information to your intelligence sources or
6 intelligence source persons?

7 A. [12:21:21] Yes, we had the identities of certain sources of our intelligence source
8 persons, so we had the identity of certain sources used by our intelligence sources.

9 MR VEY: [12:21:46](Interpretation) Could we go into private session for five
10 minutes, your Honour.

11 PRESIDING JUDGE MINDUA: [12:21:53](Interpretation) Court officer, please could
12 you take us into private session?

13 (Private session at 12.22 p.m.)

14 THE COURT OFFICER: [12:22:02] We are in private session, Mr President.

15 PRESIDING JUDGE MINDUA: [12:22:06](Interpretation) Thank you very much.

16 THE INTERPRETER: [12:22:09] Overlapping speakers.

17 PRESIDING JUDGE MINDUA: [12:22:14](Interpretation) Please go ahead, Mr Vey.

18 MR VEY: [12:22:17](Interpretation)

19 Q. [12:22:18] Witness, could you now look at document MLI-OTP-0012-0271, which
20 is at tab 150 in the Prosecution binder.

21 A. [12:23:13] Yes.

22 Q. [12:23:17] Could you confirm to us what the source of the intelligence sources
23 was which provided this information?

24 A. [12:23:31] No, I can't confirm the source from our intelligence source person.

25 * Q. [12:23:43] [REDACTED]

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1 A. [12:23:58] I cannot confirm that.

2 Q. [12:24:05] [REDACTED]

3 A. [12:24:16] I cannot confirm that either.

4 Q. [12:24:19] [REDACTED]

5 A. [12:24:32] I can't confirm that.

6 Q. [12:24:34] [REDACTED]

7 [REDACTED]

8 A. [12:24:50] I can't confirm it.

9 Q. [12:24:52] Is the fact that you cannot confirm, does that mean no?

10 A. [12:25:02] No.

11 Q. [12:25:05] [REDACTED]

12 [REDACTED]

13 A. [12:25:19] I cannot confirm that.

14 Q. [12:25:24] [REDACTED]

15 [REDACTED]

16 A. [12:25:38] I cannot confirm that.

17 Q. [12:25:50] What was the identity of the sources for the information concerning
18 Timbuktu?

19 A. [12:26:14] In the framework of our mission -- first of all, we don't reveal
20 the identity of our sources and we do not even require from our intelligence source
21 persons to identify their sources to us. And that's why whenever you ask
22 the question, I would say that I cannot confirm it. That's it.

23 MR VEY: [12:27:00](Interpretation) Your Honour, I would like to go back into open
24 session.

25 PRESIDING JUDGE MINDUA: [12:27:05](Interpretation) Court officer, please, could

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1 you take us back into open session.

2 (Open session at 12.27 p.m.)

3 THE COURT OFFICER: [12:27:14] We are back in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [12:27:19](Interpretation) Thank you very much.

5 Mr Vey.

6 MR VEY: [12:27:24](Interpretation)

7 Q. [12:27:25] Is it possible that sources that were physically in Bamako however
8 gave you information with regards to events in the north of Mali?

9 A. [12:27:45] That is possible, yes.

10 Q. [12:27:48] During your examination-in-chief by the Office of the Prosecutor, you
11 indicated that the civilian population was one of your sources of intelligence. Do
12 you consider that the intelligence had the same level of reliability at this time as that
13 gathered under the normal conditions?

14 A. [12:28:17] Yes, this was reliable intelligence.

15 Q. [12:28:27] How did you know that only the local population who were
16 favourable to the authorities would communicate information to you?

17 A. [12:28:44] The population that was favourable to the authorities I don't know,
18 but it was the population who were suffering the abuses who gave the information.

19 Q. [12:29:15] The fact that the population who communicated information to you
20 were favourable to the authorities, could that influence the information that they
21 transmitted to you or not?

22 A. [12:29:35] With regard to the information that we got from the population, as all
23 source of information, it couldn't be a hundred per cent reliable. That's why we
24 carried out cross-checking to ensure that any information that we transmitted was
25 credible.

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1 Q. [12:30:23] How did the local population know how to get hold of you?

2 A. [12:30:43] In normal times our agents in the area would have had time to build
3 up a network of informers. And the information was transmitted up the line by
4 telephone.

5 Q. [12:31:26] I'm going to ask this question again, how did the local population
6 know how to get in touch with you?

7 A. [12:31:44] I will make it clear that the transmission of information was done
8 using telephone.

9 Q. [12:31:58] How did the population know which telephone number to use?

10 A. [12:32:11] I think it would be worth making clear that I'm not talking about
11 the whole population when I talk about the population. What I mean is the usual
12 sources or the networks put in place by our agents once they arrived in the field, in
13 the area.

14 Q. [12:32:53] How could you appreciate the credibility and reliability of these
15 people yourself?

16 A. [12:33:10] These people were often unknown to the director. As I said, it is
17 our -- was our agents, our *capteurs*, who were in contact with them as sources of
18 information. We have -- we trust our agents and we have no reason not to have
19 confidence in them, no reason not to trust them. So -- and the information that they
20 provide, we say that these agents, we trust them to make a good choice amongst
21 the population when they choose people to give them information.

22 Q. [12:34:25] The deserters were of course aware of the way the DSM collected
23 intelligence. Could they have influenced the information gathered?

24 A. [12:34:53] As soon as they were declared as deserters, they would automatically
25 be classified as invaders. So they would no longer have been part of our DSM

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1 intelligence chain.

2 Q. [12:35:24] A number of *messages portés* repeats word for word the content of
3 international press. For example, document MLI-OTP-0012-0187, which is tab 18 of
4 the Defence binder, which includes an article from France 24; the document
5 MLI-OTP-0012-0238, which is in the Prosecution binder at 229, includes an article
6 from *Jeune Afrique*, Young Africa; MLI-OTP-0012-0241, 238 in the Prosecution binder,
7 has an article by -- from RFI; and MLI-OTP-0012-0299 includes dispatches from
8 *France-Presse*, and that's at tab 19 of the Defence binder.

9 Can you confirm that the international press was a source of military intelligence in
10 Mali between 2012 and 2013?

11 A. [12:37:23] Yes, I can confirm that.

12 Q. [12:37:29] Did you receive information from foreign states?

13 A. [12:37:40] Yes, I can confirm this.

14 Q. [12:37:44] Who were these foreign partners?

15 A. [12:37:52] We have military cooperation relations with countries, particularly
16 neighbouring countries.

17 Q. [12:38:09] Could you state which countries?

18 A. [12:38:17] We have military cooperation arrangements with all the countries
19 which border Mali, with -- and also with European countries.

20 THE INTERPRETER: [12:38:48] Overlapping speakers.

21 MR VEY: [12:38:51](Interpretation)

22 Q. [12:38:51] Please could you state which European countries?

23 A. [12:38:56] I don't know whether I am authorised to give the identity of
24 the countries with whom we had military cooperation arrangements.

25 Q. [12:39:20] Did you get information from Algeria?

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1 A. [12:39:35] I think I have already answered this question.

2 Q. [12:39:48] Could you please repeat your answer.

3 A. [12:39:54] I said I think I have already answered this question.

4 Q. [12:40:03] For reasons of clarification, could you please repeat the reply that you
5 believe you have already given.

6 PRESIDING JUDGE MINDUA: [12:40:11](Interpretation) Madam Prosecutor.

7 MS LUPING: [12:40:12] Mr President, we are still in public session. The witness
8 has already indicated that he does not know if he's authorised to provide this
9 information. He has -- basically this is asked and answered. He has already
10 provided a clear response on this.

11 PRESIDING JUDGE MINDUA: [12:40:31](Interpretation) Mr Vey, the reply to this
12 question has already been given two or three times.

13 MR VEY: [12:40:40](Interpretation) Thank you, Mr President.

14 Q. [12:40:42] Could you be sure that the information received via these channels
15 had been obtained by legitimate means?

16 A. [12:40:58] I cannot confirm that.

17 Q. [12:41:05] Did your agents have foreign sources?

18 A. [12:41:26] Often, yes, in certain cases.

19 Q. [12:41:33] Did you communicate information to foreign states?

20 A. [12:41:43] Yes.

21 Q. [12:41:50] Did you communicate information with a view to triggering an
22 intervention by France?

23 A. [12:42:07] No. My level of authority and action was limited to the -- to
24 intelligence for the ministry of defence, who, in my view, was not in a position to
25 trigger any foreign intervention.

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1 Q. [12:42:51] During your testimony on Monday, 19 April, you mentioned other
2 Malian intelligence services, in particular the general directorate of state security.
3 Could you please explain the difference between the DSM and the general directorate
4 of state security.

5 A. [12:43:34] The DSM manages intelligence of a strictly military nature for
6 the security and protection of our troops. The general directorate of state security
7 manages all forms of intelligence linked to the security of the state, including military
8 intelligence.

9 Q. [12:44:40] Did the directorate general collect information on what was
10 happening in the north of Mali in 2012?

11 A. [12:44:55] Yes, I can confirm that it did.

12 Q. [12:45:01] What were their sources for the DGSE, the state security directorate?

13 A. [12:45:17] I cannot give direct information about the identity of the sources of
14 the DGSE.

15 Q. [12:45:31] Did the DGSE use prisoners as sources of information?

16 A. [12:45:45] I can't confirm that the DGSE obtained information from prisoners.

17 Q. [12:46:05] Did the DSM get information from the DGSE?

18 A. [12:46:15] Yes.

19 Q. [12:46:18] Did the DSM take precautions to ensure that the information received
20 from the DGSE had been obtained legitimately?

21 A. [12:46:37] No.

22 Q. [12:46:45] Among all the *messages portés* shown by the Prosecution in the last
23 couple of days, were any of these written on the basis of information received from
24 the DGSE?

25 A. [12:47:17] It's possible. It's possible.

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1 Q. [12:47:27] Did the DSM pay its informers?

2 A. [12:47:33] Yes.

3 Q. [12:47:41] Was the population informed that a remuneration was available for
4 those who agreed to provide information?

5 A. [12:47:55] No.

6 Q. [12:48:01] What were, concretely speaking, the conditions for this remuneration?

7 A. [12:48:19] There were no fixed conditions for paying the population -- not
8 the population, but our sources.

9 Q. [12:48:35] Did the remuneration depend on the type of information
10 communicated?

11 A. [12:48:44] No.

12 Q. [12:48:50] How, in concrete terms, did you perform the triage of the information
13 received?

14 A. [12:49:08] We had a briefing session attended by all the directors and deputy
15 directors of the DSM and, depending on the knowledge of the participants, we carried
16 out the cross-checking of information and carried out this triage process on the basis
17 of a lot of knowledge that was available. Information provided by a source may have
18 already been given a long time previously. In such conditions, there is no point in
19 passing on the same information.

20 We may also have received information which in our judgment and our
21 knowledge - when I say "our" I mean the whole of the directorate - we may have
22 received information which we believed not to be compliant with -- with reality. In
23 these cases, we would return -- that the head of the operations division would return
24 to the source to get confirmation or reconfirmation, if necessary. And this in order to
25 ensure that we were only passing on reliable information.

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1 Q. [12:52:07] During your testimony, which is MLI-OTP -- which is
2 MLI-OTP-0078-3802, in the Prosecution binder tab 1 at 3807, paragraph 33, lines 5 and
3 6, you said: "If we had to -- we had to use our commonsense to make sure that
4 information that seemed unreliable would be put apart."

5 So if you had a situation where you were unable to ensure the reliability of the
6 information from the field as you are in Bamako, and you couldn't identify
7 the credible sources of information, what do you mean by "commonsense"?

8 A. [12:53:15] We can have -- we may have information which doesn't reflect
9 the reality of the situation in the field. And so we could thus conclude that
10 the information communicated was not credible.

11 Q. [12:54:19] And can you explain what you mean by frivolous information?

12 A. [12:54:35] An example, just an ordinary example, if in a sector we sent out
13 troops with specific military equipment, if we deployed them to that sector, and we
14 got information saying that in the same sector there was equipment of a different type
15 that had been destroyed, I think that with our commonsense we could say that this
16 was that type of -- of information.

17 Q. [12:56:00] Who carried out the triage of the information received?

18 A. [12:56:09] It was carried out as part of the daily briefing session which was
19 chaired by the head of division, often the head of the operations division or by
20 the deputy director.

21 Q. [12:56:33] During your testimony, which is MLI-OTP-0078-3802, tab 1 of
22 the Prosecution binder, in paragraph 34, lines 2 to 4, you say:
23 "The head of the division has a secretariat which puts this information into writing
24 and communicates it to the deputy director of military security. He then carries out
25 a triage of the information received depending on its credibility."

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1 When you were deputy director, what were your triage criteria for the information
2 received?

3 A. [12:57:38] The triage criteria as deputy director involved one's own knowledge
4 of the information and the situation. I could make -- wish to make it clear that -- that
5 the triage itself was done as part of the briefing session. Bringing together all
6 the documents that arrived for the director assumes that the initial triage has been
7 carried out. And the director or the deputy director would simply add their touch, if
8 necessary, and not necessarily have a triage mission.

9 Q. [12:59:04] Were there objective criteria in place for this triage procedure?

10 A. [12:59:15] This was a cross-checking of information.

11 Q. [12:59:23] What were the -- when you were director, what were the triage
12 criteria for your deputy director with relation to this information?

13 A. [12:59:40] My deputy director was part of the chain of command when I was
14 the director -- deputy director myself, and therefore he was in the same mould as
15 I was and the criteria had not changed.

16 MR VEY: [13:00:18](Interpretation) Mr President, it seems to me that we have
17 reached the end of the morning session. Would you like me to stop my questions at
18 this moment?

19 PRESIDING JUDGE MINDUA: [13:00:30](Interpretation) Maître Vey, you are quite
20 correct, it is 1 o'clock. We will now take our lunch break for one hour and we will
21 recommence at 2 o'clock.

22 We will start at 2 and this afternoon's session will continue until 4 o'clock.

23 The hearing is suspended.

24 (Recess taken at 1.00 p.m.)

25 (Upon resuming in open session at 2:01 p.m.)

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- 1 THE COURT USHER: [14:01:26] All rise.
- 2 Please be seated.
- 3 PRESIDING JUDGE MINDUA: [14:01:37](Interpretation) Court is in session.
- 4 We shall continue with the cross-examination by the Defence. I see the witness is
- 5 available.
- 6 Mr Vey, you have the floor. Counsel Vey, you have the floor.
- 7 Ms Taylor.
- 8 MS TAYLOR: [14:02:17] I have received a message that they can't hear us and they
- 9 can't see the witness.
- 10 PRESIDING JUDGE MINDUA: [14:02:27](Interpretation) Court Officer, it appears
- 11 that the Defence can't hear or see the -- can't hear us or see the witness.
- 12 THE COURT OFFICER: [14:02:39] The issue is being resolved.
- 13 Yes, the sound should be available. Counsel should be able to hear us.
- 14 PRESIDING JUDGE MINDUA: [14:03:14](Interpretation) Maître Vey, can you hear
- 15 us?
- 16 Ms Taylor?
- 17 MS TAYLOR: [14:03:25] No, they can't.
- 18 PRESIDING JUDGE MINDUA: [14:03:32](Interpretation) Court Officer, what's
- 19 happening?
- 20 THE COURT OFFICER: [14:04:03] Your Honour, from our end --
- 21 MR VEY: (Interpretation) Hello?
- 22 THE COURT OFFICER: -- (Overlapping speakers) is unmuted, but he may need to
- 23 check and -- yes. Thank you.
- 24 PRESIDING JUDGE MINDUA: [14:04:13](Interpretation) Maître Vey, can you hear
- 25 us now?

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1 MR VEY: [14:04:17](Interpretation) Good afternoon.

2 PRESIDING JUDGE MINDUA: [14:04:18](Interpretation) Yes, okay. We've
3 restarted and you've got the floor for the follow-up of your cross-examination.

4 MR VEY: (Interpretation) Thank you, your Honour.

5 Q. [14:04:28] Good afternoon, Witness. Now during your cross-examination -- or
6 during your examination-in-chief, rather, by the Office of the Prosecutor --

7 THE INTERPRETER: Corrects the interpreter.

8 MR VEY: (Interpretation)

9 Q. [14:04:35] -- you indicated that you had used a means of triage, and here I quote
10 you:

11 "The same information that we received from our intelligence source X, if it was not
12 the same -- or if it is the same as we receive from intelligence officer Y, who is not in
13 the same zone but who doesn't know him, we can conclude, therefrom that the
14 intelligence is credible."

15 And that is on T -- transcript T-66, line 9 -- page 66, line 9.

16 Can you confirm that?

17 A. [14:05:18] I confirm it.

18 Q. [14:05:18] However, two people in two different zones who don't know each
19 other, they might have access to the same information on social media, for example.
20 So how in this case can you be sure that this was not the case where you have two
21 people in two different zones who have access to the same information on social
22 media?

23 A. [14:05:49] We were in a situation where every case could be considered a
24 particular case. When it comes to the solutions, you have to avoid generalising them.

25 So you can't just take a case, for example, as in our cases. What's invaluable for us

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1 when it comes to our case, it's not pure mathematics we're talking about here. You
2 can't take a case and then just draw a conclusion from that.

3 Q. [14:07:01] So as a director, when a document came to you, what would you do if
4 you had any doubts with regards to the content of that document?

5 I'll read your testimony, MLI-OTP-0078-3802, Prosecution binder tab 1, page 3807,
6 paragraph 34. And I'll read that to you:

7 "The intelligence sources communicate their information generally by telephone to
8 the chief of the operations division. And the chief of the operations division has a
9 secretariat which makes this information -- who writes down this information and
10 then provides it to the deputy director of military security. This person then carries
11 out a triage of the information that is received with regards to its creditability and
12 then prepares a compilation of this information. The result is discussed during daily
13 briefings of the DSM and it is then brought to the level of the DSM director. The
14 director may ask that the document be reviewed if he has any doubts. Once the
15 director has given his accord, an intelligence bulletin is drafted by his general
16 secretariat. This bulletin is sent to: The minister of defence, to the general staff, and
17 to the commander of the military region concerned."

18 When you were director, what type of doubt could you have with regards to the
19 information that was communicated?

20 A. [14:09:11] If I take a recent example, a concrete example, as I say, this is just an
21 example like any other. When you have information that you receive about which I
22 could have doubts, what I did was I used my knowledge with regards to this
23 information and see how it linked to the reality in the field.

24 Q. [14:10:12] Would you often ask that documents be reviewed?

25 A. [14:10:17] Not quite often.

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1 Q. [14:10:26] When you were in Bamako, what means did you have available to
2 you if you had doubts in order to check or have checked what events took place in
3 Timbuktu or Gao or Kidal?

4 A. [14:10:54] The checking was carried out within the unit. We could ask -- we
5 could ask the chief of the operations division to -- during the briefing to share this
6 information and to check via another source, to get it checked via another source.
7 That is it.

8 Q. [14:11:38] With regard to the document which is at MLI-OTP-0012-0278,
9 Prosecution binder tab 136, which relates to an event which occurred in Timbuktu,
10 and there is a mention -- a handwritten mention adding a whole sentence which I
11 shall read to you: "This situation created a lot of emotion among the population who
12 revolted." Have you read this document? Do you have it in front of you?

13 A. [14:12:33] Could you tell me the number?

14 Q. [14:12:38] It's 136.

15 A. [14:12:45] (No interpretation)

16 Q. [14:12:55] Would you agree that the handwritten mention that I read to you at
17 the end of the text changes the sense of the *message porté*?

18 A. [14:13:13] It is a message which isn't signed, so I don't wish to speak on that.

19 Q. [14:13:33] Is it commonplace to add phrases or sentences after reception from
20 the deputy director?

21 A. [14:13:46] It's possible, yes.

22 Q. [14:13:49] In your opinion, in what context and why would this sentence have
23 been added?

24 A. [14:14:01] As director, according to my knowledge with regards to the area, and
25 perhaps also in accordance with the information that the director might have from his

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1 own network.

2 Q. [14:14:53] I'm now going to refer you to two documents. The first which is at
3 MLI-OTP-0012-058 -- 0158, that's in the Defence binder at tab 17. And the second
4 document which figures at same reference is on page 0159, tab 17, 0158.

5 You can read that: "The insurgents having got fuel stocks, then threaten to go to
6 Mopti to avenge the six Tuaregs who were killed in Sévaré on 2 April 2012."

7 And in the following document, 0158, it is written: "By way of reprisal for the six
8 Tuaregs who were killed, the insurgents then got supplies of fuel from Diré and to go
9 to Mopti to avenge their death."

10 Now the first question is, is this the same messages which has been rewritten or has it
11 been corrected?

12 A. [14:16:29] I would ask what message are you talking about?

13 Q. [14:16:35] The rewritten message. The message I'm referring to firstly is the
14 one that is at 0158 and it's accompanied by the message which figures at 0159. These
15 are two *messages portés*.

16 A. [14:17:00] Could you please be so kind as to give me the tab.

17 Q. [14:17:04] The tab number is tab number 17.

18 A. [14:17:58] Yes, I'm listening for the question. Because I've just seen the
19 message.

20 Q. [14:18:07] It's the -- does the second message correspond with a rewritten or
21 corrected version of the first message?

22 A. [14:18:37] Here I note that these two messages are not signed. Well, at least
23 what I'm seeing here. So I would like to say that I keep to my position that any
24 document that has not been signed should not be subject to commentary with regards
25 to non-signed documents.

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1 Q. [14:19:04] Can you confirm that the handwriting which is on document 0159, the
2 second document, corresponds with your handwriting or is your handwriting?

3 A. [14:19:20] I think I've already answered this question.

4 Q. [14:19:27] According to your protocol for collecting information, the first version
5 which is at 58, tab 17, was written by the deputy director and it was submitted to you
6 for signature, afterwards, you proposed changes thereto, is that correct?

7 A. [14:20:03] I think the question has already been answered.

8 Q. [14:20:06] Would you consider that to say "they threatened to go to Mopti" and
9 to say "they decided to go to Mopti", does that have the same meaning?

10 A. [14:20:34] If we're still on the comments with regard to the message, I keep to
11 my first proposition.

12 Q. [14:20:43] How can you explain the changes or the amendments that have been
13 made between the two documents?

14 A. [14:21:07] The question has already been answered by me.

15 PRESIDING JUDGE MINDUA: [14:21:12](Interpretation) Maître Vey, I think
16 the -- that the witness has said he will not answer these questions because they have
17 not been signed.

18 MR VEY: (Interpretation)

19 Q. [14:21:24] Before being written on a DSM document, information can go via how
20 many relays between the --

21 THE INTERPRETER: Could counsel be asked to slow down for the interpretation,
22 please.

23 THE WITNESS: [14:21:49] (Interpretation) You could have information from the
24 intelligence source, the chief of the operations division, the deputy director and the
25 director.

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1 MR VEY: (Interpretation)

2 Q. [14:22:14] In the capacity of director, have -- have you usually or do you usually
3 read attentively a document before signing?

4 A. [14:22:41] Yes.

5 Q. [14:22:43] I, therefore, note that on 11 July you signed 22 *messages portés*.

6 Among these messages, three documents are reproduced on three occasions dated
7 and signed on the same day. The documents in question are at reference

8 MLI-OTP-0010-0701, Defence binder tab 6; MLI-OTP-0010-0705, Defence binder tab 9;
9 and MLI-OTP-0010-0709, Defence tab 12. These three documents are identical.

10 Furthermore, the documents that are at reference MLI-OTP-0010-0703, Defence binder
11 tab 7, MLI-OTP-0010-0707, Defence binder tab 11, and MLI-OTP-0010-0711, Defence
12 binder tab 14 are identical.

13 And concerning the third series of documents, MLI-OTP-0010-0704, Defence binder
14 tab 8; MLI-OTP-0010-0706, Defence binder tab 10; and MLI-OTP-0010-0710, Defence
15 binder tab 13, these documents are also identical between them.

16 Now the question is, how can you explain?

17 A. [14:25:36] I haven't had the time to follow well or I haven't had the time to read
18 the documents in question.

19 Q. [14:25:52] You've got three series of three identical documents, Witness, which
20 are three documents which have been reproduced on three occasions, which have
21 been dated and signed the same day: Tabs 6, 9, 12 of the Defence binder for the first
22 series; 7, 11, 14 for the second series; and tab 8, 10 and 13 for the third series.

23 Could you explain -- are you able to explain how these documents were able to be
24 reproduced on three occasions, dated and signed on the same day?

25 A. [14:26:35] It is possible that in certain cases - and, where there is an exchange of

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1 information that we have - that a message is transmitted to certain counterparts,
2 certain units, which are responsible for intelligence and under these conditions, it
3 cannot be ruled out that the same message that I send to the minister, which I share
4 with other units. That's it.

5 Q. [14:27:54] Can you clarify by way of example the units which could be
6 concerned?

7 A. [14:28:03] These are units which are responsible for intelligence, such as the
8 DSM.

9 Q. [14:28:35] With regard to the document in question alongside "TO:" addressee,
10 you've got, "MDAC", the initials. On each of the three documents, it's identical.
11 Does the fact that these documents are all three addressed to MDAC, does that
12 change the nature of your evaluation of them?

13 A. [14:29:05] If the content of the document doesn't change, if it does not change
14 one iota, then the assessment or evaluation thereof would be -- would not change by
15 way of consequence.

16 Q. [14:29:40] You started explaining in answer to the Office of the Prosecutor what
17 an intercepted message was.

18 Could you clarify what technical means was used in order to intercept messages?

19 A. [14:30:09] The interception of messages was done by other services with whom
20 we had cooperation agreements for exchanging information, and, as such, the DSM
21 did not have the means to carry out inter- ...(Overlapping speakers)

22 Q. [14:30:45] What were the technical tools by which these messages were
23 intercepted?

24 A. [14:30:54] These were tools and resources made available to other services which
25 were not under my control and which I had no command over. I am, therefore,

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1 unaware of the quality and nature of course of those tools.

2 Q. [14:31:26] Who would listen in on those messages?

3 A. [14:31:30] The intercepting services.

4 Q. [14:31:44] In what format did you become aware of this information before
5 sending -- before signing the *message porté* relating to those messages? Was it in
6 writing by way of a recording or by transcript or summary or what have you?

7 A. [14:32:17] Ah...

8 Q. [14:32:19] What is the value of a document that is not signed by the director of
9 the DSM?

10 A. [14:32:24] A document that is not signed has no value.

11 Q. [14:32:36] Could we take it that the -- a document of the DSM which is not
12 signed by the director has a probative value?

13 A. [14:32:57] A document not signed by the director has no -- does not commit the
14 director nor the DSM itself.

15 PRESIDING JUDGE MINDUA: [14:33:08](Interpretation) Ms Luping, please.

16 MS. LUPING: [14:33:11] Mr President, the issue of probative value is one for the
17 judges to make. This is not the appropriate witness to respond on a question
18 regarding a legal term. He can, as a -- as this witness has already commented in his
19 prior testimony - and, including during the witness preparation - he is able to
20 comment on the value of the document based on his own expertise and
21 knowledge -- and area of knowledge.

22 This is not an appropriate question for this witness. The Prosecution would ask that
23 the counsel rephrase his question and not use a legal term.

24 PRESIDING JUDGE MINDUA: [14:33:50](Interpretation) Ms Taylor, I don't think
25 you have to answer, because I also have the answer myself.

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1 Mr Vey, the witness has already said that any document from his department which
2 does not bear any signature has no value.

3 Now, if you move on to ask about probative value, that is a matter for the Chamber to
4 decide, not yours.

5 MR VEY: [14:34:19](Interpretation) Thank you, Mr President.

6 Q. [14:34:27] Document MLI-OTP-0012-0880, in Prosecutor binder tab 167, that
7 document is dated 10 December 2012 and indicates in its single paragraph, as follows:
8 "Iyad Ag Ghaly invited all the Tamasheqs in Kidal region to join the Ansar Dine
9 movement. Otherwise, they would have to leave the region. Furthermore, the
10 Farach assembly had the same goal, namely to bring together all the Tamasheqs of the
11 region." Furthermore, document MLI-OTP-0002-0193 at Prosecution binder tab 224,
12 you see a message of 6 December 2012, that is, some four days before the previous
13 message which I read from tab 167, AQMI is presented in that document as being
14 the dominant force in Kidal.

15 Now, you have those two documents before you. Going by them, can you tell the
16 Court which was the dominant group in Kidal in early December 2012?

17 A. [14:37:14] In December 2012, at that time, I am not in a position to -- to tell you
18 exactly which group was dominant over which other group. What one could say
19 simply, is that there were attempts to implant and to carry out outreach in order to
20 attract a maximum number of members, and this was done by the various groups.
21 Therefore I am not able to tell you that at this specific point in time, a particular group
22 was the dominant group over any other group.

23 Q. [14:38:51] The documents at MLI-OTP-0012-0238, Prosecution binder tab 229,
24 and the second one, MLI-OTP-0012-0223, Prosecution binder tab 211 - so documents
25 229 and 211, those are the tab numbers - these documents provide estimates as to the

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1 strengths or numbers of the armed groups. Those estimates appear to be very
2 different.

3 If we look at page 0223 of tab 211, page 1, third paragraph, provides that AQMI had
4 500. "Ansar Edine: 300, MNLA: 500." Whereas, the other document in Prosecution
5 binder tab 229, second paragraph, refers to AQMI as 500 to 1,000, Ansar Dine 500,
6 MNLA 10,000, and MUJAO 300.

7 How can you explain such discrepancies, particularly when it comes to the MNLA,
8 where the estimates appear to have been done within three days from each other?

9 A. [14:41:23] Document 211, which I have just glanced at, is not a signed document.

10 Q. [14:41:37] Document MLI-OTP-0012-0157, Prosecution binder tab 106, 106, states
11 as follows:

12 "The discrepancy between the MNLA and the Ancardine groups is quite perceptible.

13 On 1 April 2012, the MNLA invaded the city and raised their flags on all the public
14 buildings. When Ancardine entered Timbuktu, they drove MNLA out of the city."

15 But then, we have another document at MLI-OTP-0012-0934, Prosecution binder tab
16 107, which provides as follows:

17 "On 5 April 2012, 47 soldiers from Timbuktu attempted to escape in a civilian vehicle,
18 but were arrested and held prisoner -- prisoners by the MNLA rebels."

19 This is my question, if the MNLA had been effectively driven out of Timbuktu on
20 1 April - as mentioned in the document in Prosecution binder 106 - how, then, was it
21 possible for them to take 47 prisoners four days later on 5 April, that is, 5 April, 2012?

22 A. [14:44:05] Counsel, my answer to that question does not change. I think that
23 the document in tab 211 is an unofficial message.

24 Q. [14:44:23] The fact that the document is not signed, does it raise any issues about
25 the reliability of the *capteurs* or your intelligence agents?

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1 A. [14:44:43] The fact that the document is not signed makes it mandatory not to
2 comment on it.

3 Q. [14:44:58] Let me take the following document, MLI-D28-0004-7656, which is in
4 Defence binder at tab 2. It is an article, a press article from the *Le Point* newspaper,
5 published on 1 April 2012, captioned, "North Mali: Tuareg rebels have entered
6 Timbuktu".

7 On page 2 of that article, page 7657, there is a first paragraph, which I would like to
8 quote to you:

9 "According to concurring -- or concordant sources, the rebels attacking the city
10 negotiated their entry into the city. They made contacts with a loyalist Arab militia,
11 which had taken up position on Sunday morning in the city after defecting -- after
12 most of the soldiers of the Malian army had defected."

13 Now, Mr Witness, when one reads this article, it would appear that the soldiers of the
14 Malian army in Timbuktu had defected and that the rebels negotiated their way in on
15 1 April 2012.

16 Do you agree with that?

17 A. [14:47:03] I can confirm that the Malian armed forces experienced several
18 difficulties and had trouble holding their ground. They were therefore obliged to
19 withdraw strategically. That's my answer.

20 Q. [14:47:40] Were you aware of the existence of this quote/unquote, loyalist Arab
21 militia, which had taken up position in Timbuktu after most of the Malian army
22 soldiers had defected as mentioned in this article?

23 A. [14:48:06] No.

24 Q. [14:48:12] Let me now refer to a document at MLI-D28-0004-7658, which is in
25 tab 3 of the Defence binder.

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1 This is an article in RFI newspaper on 1 April 2012, titled, "Tuareg rebels enter
2 Timbuktu".

3 On page 7659, first line, we see the following:

4 "Heavy arms were fired on this Sunday morning in Timbuktu but there was no real
5 fighting. Since the arrival this morning of Tuareg rebels, it is in fact an Arab militia,
6 the Berabich, which has taken control of the city, whereas several soldiers of the
7 regular army dressed up in civilian attire to leave their barracks for shelter."

8 Then we go to the third paragraph, which reads as follows: "Following a long day of
9 negotiations between rebels and militia, the Tuaregs entered into Timbuktu by
10 midday after having been stationed outside to the east -- outside the city to the east in
11 the morning."

12 Now, when we read such an article dealing with the events of the day, they -- it
13 emerges that there was -- there were no clashes in Timbuktu, that the city had been
14 abandoned by the legitimate forces and that the rebel troops had negotiated their
15 entry into the city.

16 Would you agree with that?

17 A. [14:51:06] What I can say in relation to that event to which I referred a short
18 while ago, is that we were focused on the activities or actions that were to be
19 undertaken by the Malian armed forces in difficult circumstances. Therefore, at such
20 times, one cannot afford to be distracted by anything else.

21 Q. [14:52:16] This article refers to an Arab militia, the Berabich. Do you know
22 about that militia?

23 A. [14:52:27] I know that there were armed groups in Timbuktu, Tuareg and Arab
24 groups, and that these groups existed. That's it.

25 Q. [14:53:20] Were you aware of the identity of someone who may have been at the

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1 head of those militias or armed groups to which you refer?

2 A. [14:53:38] No. From memory, no.

3 Q. [14:53:47] Do you know how long that militia or those armed groups you
4 referred to remained in Timbuktu?

5 A. [14:53:58] No.

6 Q. [14:53:59] Do you know what they did in Timbuktu?

7 A. [14:54:04] Off the cuff, no. Off memory, no.

8 Q. [14:54:25] We have just referred to a press article from the RFI newspaper, and
9 that's at tab 3. There is an interview by Hallé Ousmane, which lasts 52 seconds. He
10 was the mayor of Timbuktu, and was interviewed by Charlotte Idrac, journalist.
11 That interview is at Defence binder, tab 4.

12 We would like to listen to it.

13 THE INTERPRETER: [14:55:30] (Interpretation of audio excerpt) It cannot be said
14 that Timbuktu was attacked, there was no opposition, there were no soldiers to face
15 them. There were people there whom we met, we've had a discussion, and agreed.
16 You agree that there should be no violence?

17 Answer: Yes, yes. So we said that we would have a discussion. We will meet on
18 Wednesday, and, as soon as they came into Timbuktu, they said they just wanted to
19 secure the population. They didn't hurt anyone. They didn't touch anybody's
20 property, and that's how we are planning to meet them to find out what they expect
21 of us.

22 Question: Do you expect that Mali will be divided?

23 Answer: I cannot really answer that question because I think it is other competent
24 authorities that can answer that. Our concern today is about security and it's
25 important for agreement to come for our population.

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1 MR VEY: [14:56:30](Interpretation)

2 Q. [14:56:30] Mr Witness, you have heard that excerpt in which the interviewed
3 individual says that one cannot say that there were attacks on Timbuktu because
4 there was no opposition.

5 Do you agree with that?

6 A. [14:57:06] I don't share that point of view.

7 Q. [14:57:21] One observes, going through the documents that you were shown and,
8 more generally speaking, from all DSM documents that were collected by the OTP,
9 one observes the use of a number of terms in an interchangeable manner, in a manner
10 that is not specific enough to identify who is actually involved.

11 For example, the term "Islamist" is used to refer to three different groups. On the
12 one hand, to MUJAO, as you can see in document MLI-OTP-0012-0956, Prosecution
13 binder tab 131. On the second hand, to Ansar Dine, as you can see in document
14 MLI-OTP-0012-0884, Prosecution binder tab 170. And finally to AQMI, as can be
15 seen in document MLI-OTP-0002-0236, Prosecution binder tab 186.

16 When DSM uses the word "Islamist", who is DSM referring to?

17 A. [14:59:45] At the time, the term "Islamist" referred to all rebel forces or attackers
18 who were in favour of self-determination, independence or Sharia law.

19 Q. [15:00:26] The DSM documents also use recurrently the expression, insurgents,
20 rebels, enemies, mujaheddin, without being clearly specific as to which groups those
21 terms refer.

22 Can you tell the Court, when you were deputy director and then director of DSM, can
23 you tell the Court whether it was possible for you to distinguish between the various
24 actors on the ground and how you did that?

25 PRESIDING JUDGE MINDUA: [15:01:42](Interpretation) Prosecutor.

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1 MS. LUPING: [15:01:42] Yes, Mr President, just simply out of fairness to the witness,
2 could we have references to the documents of the DSM to which counsel is referring
3 for this latter question, please.

4 PRESIDING JUDGE MINDUA: [15:01:56](Interpretation) Ms Taylor.

5 MS TAYLOR: [15:01:58] In the interests of saving time, I do note that the question
6 from Maître Vey is a stand-alone question and can be answered without reference to
7 the documents. It's an open question asking the witness how he as the director or
8 the deputy director was able to distinguish between the different actors on the
9 ground.

10 The witness is capable of answering that question without referring to any
11 documents.

12 MS. LUPING: [15:02:28] Mr President, it's just simply the prior context provided by
13 counsel before asking the question. The DSM documents used recurring terms, such
14 as, insurgents, rebels enemies, mujaheddin, without clearly indicating to which
15 groups these terms make reference. It was simply out of fairness to the witness to
16 have the context and to be able to clarify whether that is in fact the case or not.
17 We would just simply prefer to have those references.

18 PRESIDING JUDGE MINDUA: [15:03:01](Interpretation) Prosecutor, Ms Taylor,
19 you're both right. Mr Vey, is going to share them with us. And why? Because
20 obviously, the witness is a specialist of the armed forces, and an intelligence specialist
21 can explain all these different terms, but before Mr Vey gave us precise references.
22 So out of fairness, if Mr Vey would like the witness to answer with regards to the
23 document, then he has to tell us exactly where these terms come from.
24 Mr Vey.

25 MR VEY: [15:03:40](Interpretation) Thank you, your Honour. These terms as I've

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1 indicated - and, perhaps the witness can confirm it - these appear in numerous
2 documents and in particular, I could give references so that he can confirm them once
3 again. The term "insurgents" appears in the document MLI-OTP-0012-0722. The
4 term "rebel" appears --

5 PRESIDING JUDGE MINDUA: [15:04:10](Interpretation) Please wait, counsel.
6 We'll just have to give the witness time to see these sources.

7 THE INTERPRETER: [15:04:15] Overlapping speakers.

8 MR VEY: [15:04:16](Interpretation) I don't have the file that he has in front, but if
9 you think it's important, then perhaps we could take three minutes to gather together
10 these different element items. But as Ms Taylor said, this was a general question of a
11 general nature, and it's not necessary to look at the document, but to see as the
12 director of the DSM, if it was possible to distinguish with regard to these
13 terms -- whether it's possible with these terms to identify exactly which group they
14 come from.

15 PRESIDING JUDGE MINDUA: [15:04:55](Interpretation) As director of the DSM,
16 these different terms -- what do these terms mean to you, Witness?

17 THE WITNESS: [15:05:05](Interpretation) Thank you, your Honour. I would say
18 that these different terms when they are applied, they're attributed to these different
19 groups, these groups which are fighting to impose Sharia in certain cases or in other
20 cases, who are fighting -- fighting for the independence of the north.

21 So these are terms which -- with regard to these different groups, which for us, they
22 were all, because you had an insurgence against the force, you had Islamists and
23 rebels.

24 MR VEY: [15:06:47](Interpretation) Thank you, your Honour.

25 Q. [15:06:52] I'd like to refer to a document, MLI-OTP-0012-0888, and that is in the

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1 binder at tab 170 of the Prosecution binder.

2 THE INTERPRETER: [15:07:32] Correction: MLI-OTP-0012-0884.

3 MR VEY: [15:07:38](Interpretation)

4 Q. [15:07:38] This is a document which is dated 10 January 2013 in which it is
5 indicated, from the fifth line, that:

6 "There were clashes which took place over several hours from 1800 hours to 2200
7 hours between our forces which were led by Commander Makan Moussa Coulibaly
8 and a column of Islamists."

9 What do you understand by "a column of Islamists?"

10 A. [15:08:38] You speak about a column of Islamists when you are faced with a
11 group or a convoy of rebels of Islamists without precisely stating the number of
12 vehicles of which the column is made up.

13 Q. [15:09:31] I would like to ask you a question with regards to the document in the
14 Defence binder at tab 1, and the reference is MLI-D28-0004-0 -- 7651. This is an
15 article published in *L'Opinion*, a newspaper, which is entitled "the 'jihadist columns
16 are heading towards Bamako' in 2013, a legend!"

17 And in this document I quote paragraph ten, the tenth paragraph: "The jihadists
18 who are concentrated in the centre of Mali do not move in columns, quite the contrary.
19 If they do -- if they did so, they would be immediately seen by the French plane (a
20 C-130, special operation C-130, a small plane rented by the DGSE and an Atlantic 2 of
21 the national marines) which is scrutinised -- which has been scrutinising the region
22 for several days. The jihadists take advantage of the arborist vegetation in order to
23 hide themselves and prudently move around in camouflage. More than
24 'columns' - the image gives -- it's an image of classical military operations in Europe
25 and it is -- it's a cloud of vehicles."

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1 And here I quote paragraph 20, MLI-OTP-66 (sic):

2 "The account about the 'columns' appears to be a 'distortion' of reality, according to

3 the word of the -- of general officer, particularly aimed at public opinion in France.

4 It will make it possible to have Operation Serval take place and the reacquiring of the

5 north of Mali by the French army, a spectacular operation carried out."

6 The group described in this document which appears, as I stated earlier, in the tab 166

7 in the Prosecution tab, in your opinion is this truly a column of Islamists?

8 THE INTERPRETER: The tab was 170, corrects the interpreter.

9 THE WITNESS: [15:13:21](Interpretation) You talk about columns when you have

10 two or three vehicles which are following each other. So if we had information

11 about columns, then I can confirm that it is a column. And I'm not commenting on

12 what was said in the press, but what I would say quite simply is that when you have

13 developments in the field, that does not necessarily mean that there's a rigid and

14 permanent structure. Forces can move in columns over three or four kilometres,

15 perhaps a lot more, and afterwards they could go into a different formation on the

16 same day. That's what I wanted to say about what I understand. So a tactical

17 development does not impose a rigid structure or a permanent structure.

18 I would also like to take this opportunity to ask the President if -- the Presiding Judge

19 if we could have a few minutes' break. Five minutes, if possible.

20 PRESIDING JUDGE MINDUA: [15:15:18](Interpretation) Indeed, witness. We're

21 going to suspended for five minutes.

22 Ms Taylor I see standing up. Ms Taylor.

23 MS TAYLOR: [15:15:27] Yes, Mr President. May I respectfully ask that this be an

24 opportune moment for Mr Al Hassan to be excused again?

25 PRESIDING JUDGE MINDUA: [15:15:36](Interpretation) That's perfect. He has

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1 leave to leave. Court is suspended.

2 THE COURT USHER: All rise.

3 (Recess taken at 3.15 p.m.)

4 (Upon resuming in open session at 3.23 p.m.)

5 THE COURT USHER: [15:23:16] All rise.

6 Please be seated.

7 PRESIDING JUDGE MINDUA: [15:23:42](Interpretation) Court is in session.

8 Maître Vey, can you see and hear us?

9 MR VEY: [15:23:51](Interpretation) I can see and hear you, your Honour.

10 PRESIDING JUDGE MINDUA: [15:23:55](Interpretation) Thank you very much.

11 Good. So you can continue with your cross-examination.

12 MR VEY: [15:24:01](Interpretation) Thank you, your Honour. However, I can't see
13 the witness anymore.

14 THE WITNESS: [15:24:13](Interpretation) I'm there.

15 THE INTERPRETER: Says the witness.

16 PRESIDING JUDGE MINDUA: [15:24:18](Interpretation) No, I think that the
17 Registry will do something about that.

18 MR VEY: Thank you, your Honour.

19 Q. [15:24:24] By way of information, were there members of the groups themselves?
20 According to your information, Witness, could this information have come from
21 members of the rebel groups themselves?

22 THE WITNESS: [15:24:47] No, probably not.

23 Q. [15:24:56] [REDACTED]

24 [REDACTED]

25 [REDACTED]

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4 A. [15:26:11] I'm sorry?

5 Q. [15:26:16] One minute, Witness.

6 MS CORBIN: [15:26:24](Interpretation) Your Honour, I think we're coming to
7 sensitive information, perhaps we can go into private session.

8 PRESIDING JUDGE MINDUA: [15:26:31](Interpretation) You're right.

9 Court Officer, please take us into private session.

10 (Private session at 3.26 p.m.)

11 THE COURT OFFICER: [15:26:44] We're in private session, Mr President.

12 PRESIDING JUDGE MINDUA: [15:26:49](Interpretation) Thank you very much.

13 Counsel Vey.

14 MR VEY: [15:26:56](Interpretation)

15 Q. [15:26:56] I'll just put the question again, Witness.

16

17

18

19 A. [15:27:14] It cannot be ruled out that my intelligence sources -- or my
20 intelligence officers, that one of them had a source that was not known to the director.

21 Q. [15:27:43]

22 A. [15:27:50]

23

24 Q. [15:28:23]

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1 A. [15:28:33] [REDACTED]

2 [REDACTED]

3 Q. [15:29:05] [REDACTED]

4 [REDACTED]

5 A. [15:29:22] [REDACTED]

6 Q. [15:29:32] [REDACTED]

7 [REDACTED]

8 A. [15:29:43] As a director, my sources of information are our intelligence officers,
9 our intelligence source persons.

10 Q. [15:30:13] [REDACTED]

11 [REDACTED]

12 A. [15:30:24] As I said earlier, each *capteur*, mindful of his or her dynamism and
13 intelligence, would set up his or her network. This, by definition, means that the
14 *capteur* would use all possible means to obtain and transmit intelligence.

15 MR VEY: [15:31:14](Interpretation) Mr President, I believe that the following
16 questions do not require that we remain in private session, so we can go back to
17 public session, if you so desire. To open session, Mr President.

18 PRESIDING JUDGE MINDUA: [15:31:25](Interpretation) Very well.

19 Can we then return to open session, Mr Court Officer.

20 MR VEY: (No interpretation)

21 (Open session at 3.31 p.m.)

22 THE COURT OFFICER: [15:31:45] We are back in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [15:31:49](Interpretation) Thank you very much,
24 court officer.

25 MR VEY: [15:31:53](Interpretation) Thank you, Mr President.

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1 Q. [15:31:55] Mr Witness, I would like to now question you on a document at
2 MLI-OTP-0012-0437, in Prosecution tab -- Prosecution binder tab 214.

3 A. [15:32:34] I'm there.

4 Q. [15:32:37] This document of 25 June 2012 publishes a document from France 24
5 in which a member of the MNLA organised a visit of journalists -- for journalists and
6 presented his arsenal and troops of 9,000 men at that event.

7 Then there is another article, MLI-OTP-0012-0238, to be found at Prosecution binder
8 tab 229. That document also carries an article from *Jeune Afrique* on the strengths of
9 the MNLA as being 10,000 troops or combatants.

10 My question then is as follows: Did you consider this information from the enemy
11 or provided by the enemy to be reliable?

12 A. [15:34:07] Information communicated or provided by the rebels or the
13 insurgents through the media is information that we forward as is. However, from
14 experience, from our experience, we -- we know that it is for purposes of making an
15 impact on people's minds. And that is why the strengths or manpower numbers
16 provided by these groups is -- the numbers are always inflated. That will be all.

17 Q. [15:35:36] According to you, information that was gathered about the enemy,
18 did most of it come significantly from the enemy?

19 A. [15:35:50] What appears in the press review is information that has been
20 transmitted by an officer who deserted. Therefore, what one can say is that that
21 information is not credible up front.

22 Q. [15:36:38] Do you believe that the rebel groups that were involved may have
23 used your information-gathering channels to disseminate their propaganda?

24 A. [15:36:59] You know, war is war. An intelligence war is part of war. There
25 might be a temptation somewhere, but we believe that using our channels for this

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1 information would have been very difficult, if not impossible.

2 Q. [15:38:01] Mr Witness, before putting the very last questions for this afternoon to
3 you, let me hop back to a matter which we already raised with you but for which we
4 do not see a very clear answer in the transcript.

5 The question that was put to you at the very beginning of this afternoon was in
6 relation to the issue of intercepted messages. In our question we had asked you
7 whether you could be specific as to the technical tools that were used for intercepting
8 these messages, and then we asked you whether as director you were aware, before
9 signing any *message porté*, of the content of these interceptions, and, if yes, in what
10 format did you become aware of it. So we want to put this question back to you so
11 that you can clarify by way of answer.

12 A. [15:39:16] I believe that I answered that question by saying that DSM as an
13 entity did not have the technical capacity to conduct interceptions. However, within
14 the context of exchange of information with other intelligence services, we had access
15 to some information that was intercepted. Therefore, I went on to say that
16 interceptions or that work of interception was conducted by other services and that I
17 was not in a position to be specific as to the tools and resources that those services
18 used for that purpose. That's my answer.

19 Q. [15:40:56] Mr Witness, however, you went on to confirm that you had become
20 aware of the content of those messages, and my question, therefore, to you was to
21 specify to the Court in what format you became aware of that information.

22 A. [15:41:20] Generally, through a written document.

23 Q. [15:41:26] Did you have knowledge or did you hear or did you listen to any
24 recordings relating to the said interceptions?

25 A. [15:41:38] Yes, from time to time.

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1 Q. [15:41:47] Did you read any transcripts of the said interceptions?

2 A. [15:42:02] Yes, quite often.

3 Q. [15:42:07] I'm sorry.

4 A. [15:42:15] You have the floor, Counsel.

5 Q. [15:42:18] Did you ever receive summaries of those interceptions?

6 A. [15:42:30] Yes.

7 Q. [15:42:31] Thank you, Mr Witness.

8 We will now hop back to our previous questions. Now, on 19 April, Monday, in
9 your examination-in-chief, you indicated that you had granted authorisation for
10 documents in the archives of the DSM to be released to members of the OTP, as we
11 can see in the French transcript on page 17, D-73, as reference.

12 So we do understand that the OTP had access to the entire archives for the year 2012.

13 Can you confirm that?

14 A. [15:43:39] I cannot confirm that.

15 Q. [15:43:52] I have a last series of questions for you, Mr Witness, starting with the
16 following: Why did you accept to testify before the ICC?

17 A. [15:44:17] I received instructions from my minister of defence who informed me
18 that the Office of the Prosecutor, after having become aware of some documents at the
19 DSM, had expressed the desire to call me as a witness and that I should prepare, I
20 should get ready to testify. As a soldier, I took that as an order.

21 And secondly, when it came to the question of actually testifying in a matter such as
22 this one, you may want to know that the relevant events occurred at a time when I
23 had a certain level of responsibility. And for that reason, I felt that it was my
24 patriotic duty to come and testify in all conscience and will in order to contribute to
25 the emergence of the truth, what we had experienced at that time in our spirit and in

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1 our bodies so that such things should never happen again.

2 That succinctly sums up the reasons for which I felt urged to accept to appear as a
3 witness before this Court.

4 Q. [15:47:35] Following up on this question, I would like to read an excerpt from
5 your statement, MLI-OTP-0078-3802, Prosecution binder tab 1:

6 "I decided to testify before the Court because I have a duty towards my army and my
7 nation and also because I had received instructions from the minister of defence who
8 told me that I was going to testify at the ICC. I was at the time attaché in Paris, at
9 least two and a half years ago. That instruction was also forwarded to me by the
10 legal counsellor from the ministry of defence."

11 So can you confirm that you received instructions from the minister of defence
12 regarding your testimony before the Court?

13 A. [15:48:51] Yes, I confirm that.

14 Q. [15:49:01] Is it correct that before the *coup d'état* of 21 March 2012, you were the
15 deputy director of the DSM?

16 A. [15:49:21] Yes, before the *coup d'état* I was deputy director.

17 Q. [15:49:28] Who was your hierarchical director?

18 A. [15:49:34] General Youssouf Goïta at the time.

19 Q. [15:49:46] Is it correct that after the *coup d'état* of 21 March 2012, you became the
20 director of the DSM?

21 A. [15:50:03] That is correct, I can confirm that.

22 Q. [15:50:11] We can, therefore, note that within one day you took over from your
23 hierarchical superior and subscribed to the new regime; is that correct?

24 A. [15:50:30] Counsel, could you be more specific in your question.

25 Q. [15:50:37] Is it correct to say that in one day you took over from your

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1 hierarchical superior?

2 A. [15:50:49] No, not in one day.

3 Q. [15:50:59] Could you provide details as to how you acceded to the position
4 occupied by your hierarchical superior? How did that happen?

5 A. [15:51:11] I had been deputy director of DSM for four years, four years. So the
6 *coup d'état* happened and after that, after the *coup d'état*, the regime changed, as you
7 mentioned. The new authorities deemed it proper to also change all the military
8 leaders, all the military leaders. And that is how some deputies were confirmed and
9 others not. My appointment does not follow any kind of subscription to any regime.

10 Q. [15:53:00] Your accession to the position of director of DSM, therefore, does not
11 mean that you subscribed to the newly installed regime; is that correct?

12 A. [15:53:17] I am a soldier.

13 PRESIDING JUDGE MINDUA: [15:53:31](Interpretation) Madam Prosecutor, you
14 have the floor.

15 MS. LUPING: [15:53:33] (Overlapping speakers) Mr President, I believe this is asked
16 and answered. The witness has responded: "My appointment does not follow any
17 kind of subscription to any regime." So the question is now being re-asked and I
18 believe it's already been asked, and it has been answered.

19 PRESIDING JUDGE MINDUA: [15:53:55](Interpretation) Mr Vey, I think the
20 witness has already answered the question.

21 MR VEY: [15:54:02](Interpretation) Thank you very much, Mr President.

22 Q. [15:54:05] Now, last question for this afternoon, Mr Witness. Document
23 MLI-OTP-0077-3260-R01, Defence binder tab 25.

24 A. [15:54:35] I am there.

25 * Q. [15:54:34] [REDACTED]

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3 A. [15:55:06] Yes.

4 Q. [15:55:22] A last question for you, Mr Witness. If we look at the document --

5 PRESIDING JUDGE MINDUA: (Interpretation) Mr Vey, sorry.

6 Prosecutor.

7 MS. LUPING: [15:55:41] (Overlapping speakers) Two points. We lost

8 interpretation at one point in time with the English transcript; although, I can see now

9 it's recorded in the French.

10 And the second point was just a concern regarding this document because at the

11 moment it's being mentioned just to ask for caution in terms of any information

12 recited because there are names of individuals in this that should be mentioned in

13 private session rather than in public. So it was just a request of counsel to exercise

14 caution.

15 PRESIDING JUDGE MINDUA: [15:56:12](Interpretation) Counsel, please proceed.

16 MR VEY: [15:56:18](Interpretation) Yes, I follow.

17 Q. [15:56:18] Mr Witness, if we look at the document which I referred to, document

18 MLI-OTP-0012-0002, which is in the Defence binder at tab 15, we can read the

19 following, it is a list of all the documents copied by the Office of the Prosecutor.

20 Now, if we look at the third column of that document, you can see the numbers, and

21 the dates in the first column. And from that we can notice that the selection of the

22 documents by the OTP is not exhaustive and corresponds, therefore, to what the OTP

23 considered to be useful and relevant.

24 Could you confirm that the OTP proceeded by way of selection of these documents?

25 A. [15:57:46] I said -- I said so --

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1 PRESIDING JUDGE MINDUA: [15:57:51](Interpretation) Madam Prosecutor,
2 please.

3 MS CORBIN: [15:57:55](Interpretation) Maybe we can disconnect the sound to the
4 witness.

5 PRESIDING JUDGE MINDUA: [15:58:03](Interpretation) Please, court officer,
6 disconnect the sound to the witness.

7 Is the sound cut off? All right.

8 Ms Prosecutor.

9 MS CORBIN: [15:59:11](Interpretation) Thank you, Mr President. I want to be
10 specific about this document, which is a product of the OTP. It is not a final product
11 of the OTP, and I don't think it is appropriate for a question to be put to the -- to the
12 witness about how this product from the OTP was put together. And by the way,
13 the witness has never seen this document.

14 PRESIDING JUDGE MINDUA: [15:59:37](Interpretation) Ms Taylor, please, for
15 (Overlapping speakers)

16 MS TAYLOR: [15:59:38] Thank you, Mr President. The witness is not being asked
17 how this document has been put together. This document lists numbers of *messages*
18 *portés*. Now, the witness is familiar with these numbers and the numbering system.
19 He is, therefore, in a position to recognise whether there's a break in continuity as
20 concerns the numbering of documents collected by the Prosecution. Given that he
21 testified in transcript 76 that he authorised access to the Prosecution after having met
22 them, and having been aware of the categories of documents that they wanted to have
23 access to, he is very well-placed to give evidence to this Court about the selection of
24 these documents given that this --

25 THE COURT OFFICER: [16:00:24] Your Honour, I'm sorry, we need to -- for some

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1 technical issue, we need to have the deliberations paused.

2 (Pause in proceedings)

3 PRESIDING JUDGE MINDUA: [16:02:07](Interpretation) Mr Vey, did you want to
4 say -- say something? I've been informed by the Court Officer that it's difficult to cut
5 the witness off right now. He cannot be taken off the transmission or the connection.
6 Court Officer, we have always done that here. The sound can be cut off and the
7 witness doesn't hear us. What's going on?

8 THE COURT OFFICER: [16:02:44] Yes, your Honour, we will need to disconnect the
9 VTC connection, and the moment we need to have the witness back, we will
10 re-establish the connection.

11 MS TAYLOR: [16:02:55] Mr President, if I may, I believe it's possible to finish my
12 submissions without addressing anything that is of revealing content to the witness
13 and then we can move forward and --

14 PRESIDING JUDGE MINDUA: [16:03:08](Interpretation) Yes, let us proceed.
15 Please do your best not to disclose anything that should not be disclosed. Please
16 proceed, Ms Taylor.

17 MS TAYLOR: [16:03:18] Thank you very much, Mr President. Put simply, the
18 document that my learned colleague is about to put to the witness is indeed prepared
19 by the Prosecution, but it lists dates and numbers of documents that have been signed
20 and put through this witness. So the witness is well-placed to look at the numbers,
21 based on the numbering system prepared by the witness himself, and indicate
22 whether there's maybe gaps in these numbers and to explain the reasons for those
23 gaps.

24 PRESIDING JUDGE MINDUA: [16:03:57](Interpretation) Madam Prosecutor, I think
25 (Overlapping speakers) --

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1 MS. LUPING: (Overlapping speakers) Mr President, we just --

2 PRESIDING JUDGE MINDUA: (Interpretation) -- it all appears to be very simple --

3 MS. LUPING: -- (Overlapping speakers) need to make sure that the information on
4 the record is accurate. This is an internal document that may be incomplete, first of
5 all. Second of all, it's an internal product of the -- produced by the Prosecution of
6 documents that were scanned, and it may be incomplete. Second of all, the witness
7 has never viewed it. Third of all -- thirdly, the witness has confirmed that he is
8 unable or not in a position to confirm what documents the Prosecution did or did not
9 have access to.

10 In the Prosecution's submission, it's simply inappropriate for the witness to be asked,
11 also, about the strategy of documents in relation to what the Prosecution decided to
12 put forward or not. The question put by Mr Vey was not simply a question, as
13 articulated by Ms Taylor. Instead, it refers to comments relating to what the
14 Prosecution's considered to be relevant or not.

15 In our submission it is completely inappropriate for this witness to be asked to
16 comment on Prosecution strategy. And he's already made it clear in the context of
17 his answer that he just doesn't know what we had access to or not from the DSM.

18 PRESIDING JUDGE MINDUA: [16:05:10](Interpretation) Okay, please, Counsel,
19 could you please sit down. Let's conclude this matter.

20 Mr Vey, I'm convinced by the Prosecutor's argument. This is a provisional or
21 temporary list put together by the OTP, there are documents which the witness has
22 never seen which appear on this list, so the witness cannot deal with this issue.

23 MR VEY: [16:05:37](Interpretation) I will continue by saying that that was my last
24 question for this afternoon, and that so far we have concluded the questions that we
25 had for the witness.

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1 PRESIDING JUDGE MINDUA: [16:05:47](Interpretation) Thank you very much,
2 Mr Vey.

3 Ms Taylor, please.

4 MS TAYLOR: [16:05:51] Thank you very much, Mr President, but I do believe the
5 question can be put to the witness without actually needing to verify that this is a
6 comprehensive list of documents. The simple question is, was there normally gaps
7 in (Overlapping speakers)

8 PRESIDING JUDGE MINDUA: [16:06:07](Interpretation) Ms Taylor, please, I have
9 already ruled on this matter. We don't return to it.

10 Now, Mr Vey or Ms Taylor, is this the end of your cross-examination or is this the end
11 of your questioning for today? Mr Vey said it was his last question for today or is
12 that the last question of the cross-examination?

13 Ms Taylor, please.

14 MS TAYLOR: [16:06:41] Yes, that ends the Defence cross-examination.

15 PRESIDING JUDGE MINDUA: [16:06:49](Interpretation) Very well.
16 Congratulations.

17 Now, I turn to the OTP if there are any additional questions which may have arisen
18 out of the cross-examination.

19 MS CORBIN: [16:07:13](Interpretation) No, we do not have any further examination,
20 Mr President.

21 PRESIDING JUDGE MINDUA: [16:07:26](Interpretation) Very well. So we are,
22 therefore, done with this witness. Let me now then turn to the witness.

23 Mr Witness, on behalf of the Chamber, I would like once again to thank you very
24 sincerely for having helped us to shed light on this case by answering very clearly
25 and very succinctly, using proper language, as we urged you to, in the course of this

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1 exercise. Once again, I thank you, I congratulate you, I hope that you will continue
2 to enjoy your retirement given that your testimony is now over.

3 (The witness is excused)

4 PRESIDING JUDGE MINDUA: [16:08:25] (Interpretation) Now, I turn to the parties
5 and participants, and I thank you, I thank you as well, as I usually do. I also now
6 turn to the court reporters and the interpreters, and I express to you my gratitude for
7 the serious work that you do. I also congratulate and thank the security forces, our
8 security units. I also thank the public.

9 We will continue tomorrow, and I'm looking at the OTP, I believe we will be taking
10 witness number 30, OTP witness number 30. Maybe there's a problem. What is the
11 problem?

12 MS. LUPING: [16:09:22] Mr President, indeed we are -- (Overlapping speakers)

13 PRESIDING JUDGE MINDUA: [16:09:26](Interpretation) Madam Prosecutor,
14 please.

15 MS. LUPING: [16:09:27] (Overlapping speakers) -- awaiting confirmation from VWS,
16 but we understand that there may indeed be a problem with the next witness
17 appearing for health reasons in terms of a potential need for quarantine. So we're
18 still awaiting that information.

19 PRESIDING JUDGE MINDUA: [16:09:49](Interpretation) Okay. So what we will
20 do then is we wait for the appropriate information from the Registry whether we
21 continue tomorrow or Friday morning.

22 I wish you all a nice evening while we wait for that information.

23 And the hearing is adjourned.

24 THE COURT USHER: [16:10:11] All rise.

25 (The hearing ends in open session at 4.10 p.m.)

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CORRECTIONS REPORT

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

Page 9 lines 21-22:

"It indicates in the first column the neighbourhoods of Timbuktu, and on the sixth column the chiefs of these neighbourhoods or the leaders of these neighbourhoods."

Is corrected to

"It indicates in the first column the neighbourhoods of Timbuktu, and in the sixth column the alleged chiefs of these neighbourhoods."

Page 63 line 25 to page 64 line 3:

"Q. [15:54:46] (No interpretation)

A. [15:55:13] (No interpretation) "

Is corrected to

"Q. [15:54:34]

[REDACTED]

[REDACTED]

A. [15:55:06] Yes."

SECOND CORRECTIONS REPORT

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

Page 11 lines 11-12:

"Could you give or could you deduce from this document that even the people who had a significant rank within this group could easily go from one to the other?"

Is corrected to

"Could you deduce from this document that even the people of an allegedly

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1 significant rank within these groups could easily go from one to the other?"

2 Page 25 lines 10-12:

3 "So a night of shock, it speaks about a barbarous massacre perpetrated ... by a unit of
4 the Malian unit against 16 Muslims who, for the most part, were Mauritians who
5 were in Bamako." is corrected to

6 "So a night of shock, it speaks about a barbarous massacre perpetrated by a unit of
7 the Malian regular army against 16 peaceful Muslim preachers, who for the most part
8 were Mauritians on their way to Bamako."

9 Page 27 line 25:

10 "Q. [12:23:43] So was -- who was the source for one of your intelligence sources?"

11 Is corrected to

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

13