

Trial Hearing
WITNESS: MLI-OTP-P-0603

(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
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Monday, 6 September 2021
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:26] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:32:49](Interpretation) Court is in session.
15 Good morning to all.
16 Mr Court Officer, could you please call the case.
17 THE COURT OFFICER: [9:33:00] 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 number ICC-01/12-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:33:25](Interpretation) Thank you very much,
22 Mr Courtroom Officer.
23 We shall now verify the various teams, starting with the Office of the Prosecutor.
24 Madam Prosecutor, please.
25 MS SCHOETERS: [9:33:39] Good morning, your Honours. Good morning,

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 colleagues. The Office of the prosecutor today is represented by Mr Gilles Dutertre,
2 sitting next to me. By Mr Lucio Garcia, sitting behind me. And by Ms Marie
3 Claudine Umurungi, sitting at the back. And by myself, Sandra Schoeters.

4 PRESIDING JUDGE MINDUA: [9:34:02](Interpretation) Thank you very much,
5 Prosecutor Schoeters.
6 Over to the Defence.

7 Counsel, please.

8 MS SUTHERLAND: [9:34:09] Good morning, Mr President, your Honours.

9 The Defence for Mr Al Hassan is this morning represented by Ms Melinda Taylor,
10 Ms Sarah Marinier-Doucet, and myself, Kirsty Sutherland.

11 PRESIDING JUDGE MINDUA: [9:34:31](Interpretation) Thank you very much,
12 Ms Sutherland.

13 I'm turning now to the Legal Representative of Victims.

14 Counsel.

15 MR KASSONGO: [9:34:30](Interpretation) Thank, Mr President. Good morning,
16 your Honours. Good morning to all.

17 The Legal Representatives for Victims today is assisted by Madam Biyéké Dipanga
18 Prisque and myself, Maître Kassongo. We'd like to thank you very much.

19 PRESIDING JUDGE MINDUA: [9:34:52](Interpretation) Thank you very much,
20 Maître Kassongo.

21 Now, this morning we shall be continuing with the testimony of P-0603 of the
22 Prosecution with of course the continuation of the cross-examination on the part of
23 the Defence.

24 I'd like to now turn to Madam Witness.

25 Good morning, Madam Witness. Are you well? Can you hear me?

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 WITNESS: MLI-OTP-P-0603 (On former oath)

2 (The witness speaks Songhai)

3 (The witness gives evidence via video link)

4 THE WITNESS: [9:35:33](Interpretation) I would like to greet you also.

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

6 Madam Witness.

7 On behalf of the Chamber, I would like to welcome you again.

8 Interpretation, please.

9 I would like to remind you that you are still under oath and that you should speak the
10 truth, the whole truth, and nothing but the truth.

11 THE WITNESS: [9:36:26](Interpretation) I do know that I am under oath and I will
12 only speak the truth.

13 PRESIDING JUDGE MINDUA: [9:36:31](Interpretation) Thank you very much,
14 Madam Witness.

15 I would like to also remind you of my practical advice with regard to addressing the
16 Court.

17 Please express yourself clearly and at a moderate pace, maybe even slowly, in order
18 to facilitate the work of the interpreters and the court reporters.

19 Finally, I would like to ask you to continue to answer the questions with goodwill, the
20 questions from the Defence that is.

21 So, without further ado, I shall hand over to Ms Sutherland for the continuation of the
22 cross-examination.

23 Ms Sutherland, please.

24 MS SUTHERLAND: [9:37:55] Thank you, Mr President.

25 QUESTIONED BY MS SUTHERLAND: (Continuing)

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 Q. [9:38:02] Madam Witness, are you able to hear me and see me?

2 A. [9:38:05] Yes, I can hear you and see you as well.

3 Q. [9:38:09] I hope you had a restful weekend.

4 A. [9:38:28] Yes.

5 Q. [9:38:28] Madam Witness, as the Judge has just reminded you, I'd like to also ask
6 you to keep your answers as concise and precise as you can, please.

7 I can see that you're nodding.

8 And as before, if anything I say is unclear to you or you're uncomfortable, please let
9 me know immediately.

10 A. [9:39:51] Yes, God willing.

11 Q. [9:39:53] Thank you.

12 Madam Witness, we're going to show you a short video without sound.

13 And that will be Defence tab 30. The reference is MLI-OTP-0069-3707. And I
14 believe that will be shown on evidence channel 2. The video is confidential.

15 (Viewing of the video excerpt)

16 MS SUTHERLAND: [9:41:05] We'll stop there.

17 Q. [9:41:11] Madam Witness, just answering yes or no without identifying anyone,
18 do you recognise this person?

19 A. [9:41:36] No.

20 Q. [9:41:39] Thank you.

21 For the record, we stopped the video at 00:00:21:13.

22 Madam Witness, I'm going to ask you a series of names. And again, if you could just
23 answer whether you recognise them or not.

24 Have you heard of somebody called Niamoye Alidji?

25 A. [9:42:46] I didn't really understand. Is it a gentleman or a lady?

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 Q. [9:43:03] Do you know somebody by the name of Niamoy or Niamoye?

2 A. [9:43:28] Niamoye. No, I don't know that person off the top of my head.

3 Q. [9:43:42] Do you know an organisation called *L'Association Malienne pour la*
4 *Survie au Sahel*, or AMSS?

5 A. [9:44:19] No, I don't have any information about associations.

6 Q. [9:44:46] Madam Witness, I'm not asking you for information about them at this
7 stage, just whether you know the names.

8 ADVERMA or HINNI (phon).

9 A. [9:45:14] No.

10 PRESIDING JUDGE MINDUA: [9:45:27](Interpretation) Ms Sutherland --

11 MS SUTHERLAND: [9:45:28] I'm moving on.

12 PRESIDING JUDGE MINDUA: [9:45:28](Interpretation) Yes, absolutely.

13 The Chamber is under the impression that you are investigating or starting your
14 investigation all over again in the presence of the judges, because you are asking the
15 witness to identify an individual from a photograph, then you make mention of a
16 name, and then the acronym of an association, and in every case the witness says that
17 it doesn't ring a bell. So I do not know what you are driving at. Maybe you need to
18 put your question directly to the witness or your case to the witness. Otherwise,
19 we're going to be wasting time, are we not?

20 Please go ahead.

21 MS SUTHERLAND: [9:46:16] Mr President, I was moving on in any event. But also
22 I would note that we are fully entitled - in fact, obligated - to conduct an investigation
23 on the stand, especially when the witness's identity was disclosed to us so late.

24 Q. [9:46:37] Madam Witness, we were discussing a case of a couple who were
25 flogged. Do you remember?

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 A. [9:47:12] I haven't really understood what you just said.

2 What flogging are we talking about?

3 Q. [9:47:19] Madam Witness, last week we were talking about a specific incident
4 relating to a couple, a man and his girlfriend. Does that help you?

5 A. [9:47:58] Yes, yes.

6 Q. [9:47:59] Madam Witness, I just have one question really.

7 Do I understand correctly that the flogging took place on the same date that *the
8 announcements were made by loudspeaker? Yes or no?

9 A. [9:48:45] No.

10 Q. [9:48:46] Madam Witness, I'll read you the transcript from last week. At
11 transcript 125 -- real-time English transcript 125 at page 67, lines 2 to 5, it says:
12 "On that day, they issued a *communiqué*. They went around with loudspeakers
13 saying, 'Come along. We are going to apply the Sharia.'"

14 I'll stop for the interpretation.

15 PRESIDING JUDGE MINDUA: [9:49:44](Interpretation) Madam Prosecutor, please.

16 MS SCHOETERS: [9:49:43] Just if you could also make reference to the edited
17 version of the transcript, please.

18 MS SUTHERLAND: [9:49:52] I don't have the edited version. So I'm unable to do
19 that. I think -- I really think that's completely unnecessary.

20 PRESIDING JUDGE MINDUA: [9:50:23](Interpretation) Please continue.

21 (Microphone not activated)

22 THE INTERPRETER: [9:50:24] Presiding Judge's microphone is off. Microphone,
23 please.

24 MS SUTHERLAND: [9:50:32] That hasn't, I believe, been interpreted to the witness
25 yet.

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 THE WITNESS: [9:50:56](Interpretation) Yes.

2 MS SUTHERLAND:

3 Q. [9:50:59] And it continues: "So they made an announcement over loudspeakers.

4 That is how we got to know of it."

5 A. [9:51:21] Yes.

6 Q. [9:51:23] Then at lines 11 to 13, you were asked: "What time of day did the

7 flogging take place?"

8 And you answered: "It was in the morning before midday."

9 A. [9:51:53] Yes.

10 Q. [9:51:55] So was this on the same day?

11 A. [9:52:01] You mean the flogging?

12 Q. [9:52:21] Yes, the flogging took place on the same day as the announcements; is

13 that correct?

14 A. [9:52:29] They made the announcement on one day and then the following day

15 the flogging was administered.

16 Q. [9:53:00] Thank you for clarifying.

17 Mr President, I need to ask to go into private session for a brief series of questions on

18 a more delicate point.

19 PRESIDING JUDGE MINDUA: [9:53:18](Interpretation) Courtroom officer, private

20 session, please.

21 (Private session at 9.53 a.m.)

22 THE COURT OFFICER: [9:53:34] We're in private session, Mr President.

23 PRESIDING JUDGE MINDUA: [9:53:34](Interpretation) Thank you very much.

24 Ms Sutherland.

25 MS SUTHERLAND: [9:53:40]

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Private Session)

ICC-01/12-01/18

1 Q. [9:53:40] Madam Witness, as you know, we're now in private session so we can
2 discuss freely. You previously mentioned somebody called [REDACTED] Do
3 you remember?

4 A. [9:54:12] Yes.

5 Q. [9:54:20] Can you tell us more about [REDACTED] please. Is it correct that
6 [REDACTED]?

7 A. [9:54:59] [REDACTED]

8 Q. [9:55:04] [REDACTED]

9 A. [9:55:32] No, I do not know her husband's name.

10 Q. [9:55:44] I understand that there was a mistranslation. I'll ask her openly.

11 Do you recognise the name [REDACTED]?

12 A. [9:56:18] [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 Q. [9:56:45] [REDACTED]
16 [REDACTED]?

17 A. [9:57:07] Yes.

18 Q. [9:57:07] And does he now [REDACTED]?

19 A. [9:57:33] I don't know anything about that.

20 Q. [9:57:36] Thank you. And [REDACTED] is that
21 correct?

22 A. [9:57:44] I do not know. All that I do know is that [REDACTED]
23 [REDACTED]

24 Q. [9:58:15] [REDACTED]
25 [REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Private Session)

ICC-01/12-01/18

1 A. [9:58:55] I do not know.

2 PRESIDING JUDGE MINDUA: [9:58:59](Interpretation) Ms Sutherland, the
3 Chamber is wondering what the relevance of this line of questioning is. How will
4 you answer that question?

5 MS SUTHERLAND: [9:59:25] We are seeking to establish the real relationship
6 between [REDACTED] or the real nature of the relationship between [REDACTED]

7 [REDACTED]

8 PRESIDING JUDGE MINDUA: [9:59:47](Interpretation) You can see that the
9 Chamber is perplexed. But please go ahead.

10 MS SUTHERLAND: [10:00:06]

11 Q. [10:00:07] You said you saw [REDACTED]

12 [REDACTED]?

13 A. [10:00:45] *

14 [REDACTED]

15 Q. [10:01:01] [REDACTED]?

16 A. [10:01:19] No, not at all.

17 Q. [10:01:32] Is it fair, given what you've told us, to say that you don't really know
18 her?

19 A. [10:01:39] You're talking about [REDACTED]? *I don't know what [REDACTED] does for a
20 living, but otherwise I know her well. But to say what she does for a living, or to say
21 that [REDACTED], I don't know anything about that, but otherwise I know her well.

22 Q. [10:02:41] Thank you.

23 Madam Witness, you also told us a long story about the women's march, but in fact
24 things happened a little bit differently, didn't they?

25 PRESIDING JUDGE MINDUA: [10:03:04] *Ms Sutherland, are we continuing in

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 private session or shall we go into open session?

2 MS SUTHERLAND: [10:03:09] You're right, Mr President, we may indeed return to
3 public session. My apologies.

4 PRESIDING JUDGE MINDUA: [10:03:15](Interpretation) Courtroom officer.
5 (Open session at 10.03 a.m.)

6 THE COURT OFFICER: [10:03:18] We're back in open session, Mr President.

7 PRESIDING JUDGE MINDUA: [10:03:21](Interpretation) Thank you very much.
8 Ms Sutherland.

9 THE WITNESS: [10:03:46](Interpretation) What is different from what?

10 MS SUTHERLAND: [10:03:53]

11 Q. [10:03:54] We are going to discuss the women's march and the differences
12 between what we believe to be what really happened and your account.

13 Can you describe what time of day it was when you started the march, please.

14 A. [10:04:43] It was early in the morning when we left for the market. It was in
15 the morning when people would go or leave for the market.

16 Q. [10:05:22] Madam Witness, how early? Was it before the first prayer? Or was
17 it still dark? Was light coming up? Can you give us details, please.

18 A. [10:06:13] You mean the time? It was 10 in the morning. By then the women
19 are already at the market. So we began at about the market.

20 THE INTERPRETER: [10:06:30] Correction: We began the march at about 11.

21 THE WITNESS: (Interpretation) Why would we be marching at night?

22 MS SUTHERLAND: [10:06:50]

23 Q. [10:06:51] Madam Witness, were you at the front?

24 A. [10:06:55] Yes. *Yes, I was somewhat in their midst. I was with them.

25 Q. [10:07:34] And you were walking. Did you start walking at 11?

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 A. [10:07:44] We didn't think about that. It was spontaneous. We came to the
2 market to shop, and from there we planned everything. And as soon as we had the
3 time, we started the march. We thought that it would solve our problem.

4 Q. [10:08:47] So the market -- there were many people at the market doing their
5 normal business.

6 A. [10:09:15] Yes, many people were going about their business. There were
7 many people at the market.

8 Q. [10:09:24] And at some point some of you spontaneously decided to start
9 walking; is that correct?

10 A. [10:09:36] Yes, that's right. We women amongst ourselves made that proposal.

11 Q. [10:10:14] We've seen from the images that there were trees along the road. Is
12 that the case at the time?

13 A. [10:10:23] Yes, that's right.

14 Q. [10:10:33] So you'd agree that it's very difficult for you to assess how many
15 people were with you if they were in the market, there are trees in the way.

16 A. [10:11:13] Yes, to tell the number of people, the exact number, that is difficult.
17 But there were many people.

18 Q. [10:11:28] And including many people who were on their way to and from or
19 just at the market.

20 A. [10:11:38] Yes.

21 Q. [10:11:54] Madam Witness, how long were you marching for, or walking? The
22 time, not the distance.

23 A. [10:12:10] Our march left the market to head to the BMS. It was not long. We
24 left the market and we immediately got to the BMS. So it really wasn't very far away
25 from the market.

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 Q. [10:12:54] Is it correct that the BMS is about 200 metres away?

2 A. [10:13:16] No, not even that. It's not far from the market, not far at all. You
3 leave the market, and a little bit of time, and then you're at the BMS.

4 Q. [10:13:42] Were you shouting as you walked?

5 A. [10:13:48] Nothing else. We were just saying: "Long live Mali. Long live Mali."

6 Q. [10:14:16] What were you wearing?

7 A. [10:14:22] In actual fact, we were wearing our usual clothing and saris. *But
8 when we got to.... there are warehouses.... when we got to the warehouses, we
9 removed our saris and we set them down at the warehouse on the way to the BMS.
10 Once we got to the BMS, they shot into the air, and we dropped to the ground. Each
11 time they shot into the air, we dropped to the ground until Talha came out. Talha told
12 them to stop shooting and said to us, "Listen" -- Talha asked them to stop shooting
13 and to listen to us to see what we had to say.

14 Q. [10:16:09] Madam Witness, were you trying to provoke a reaction by taking off
15 your saris?

16 A. [10:16:18] We took off our saris because we wanted to show them that we did
17 not agree with what they were asking us to do. It was up to us to wear what we
18 wanted to, not what they wanted us to. *Even if we went to the market and didn't
19 wear a sari, they would whip us. We didn't agree with that. Truly, we went through
20 some very bad times. We had some very bad times.

21 Q. [10:17:17] So some people headed up the road from the market in the direction
22 of the BMS, making a lot of noise and taking off their clothes. That's right?

23 A. [10:18:02] Yes.

24 Q. [10:18:05] Some of the women --

25 THE INTERPRETER: [10:18:05] Overlapping. If the Songhai interpreter could

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 finish.

2 PRESIDING JUDGE MINDUA: [10:18:09] (Interpretation) The witness had not
3 finished giving -- Songhai interpreter.

4 THE WITNESS: [10:18:25](Interpretation) Yes. Sometimes our clothing would drop
5 down because they -- when they shot into the air, our clothing would slip down.
6 Our clothing would slip down.

7 PRESIDING JUDGE MINDUA: [10:18:38](Interpretation) Counsel Sutherland.
8 Madam Prosecutor.

9 MS SCHOETERS: [10:18:47] Your Honours, I just wanted to draw your attention to
10 the fact that the witness said at line -- page 14, line 20: "But once we got to the shed,
11 we removed our saris."

12 So it's a bit different from the question posed by the Defence where it said: "So some
13 people headed up the road from the market in the direction of the BMS, making a lot
14 of noise and taking off their clothes." So it's 10:17:46.

15 MS SUTHERLAND: [10:19:42] Mr President, the witness has now given another also
16 contrary description that was unprovoked. She said voluntarily that the saris were
17 slipping off due to the commotion.

18 PRESIDING JUDGE MINDUA: [10:20:22](Interpretation) Go ahead, Counsel. Go
19 ahead.

20 MS SUTHERLAND: [10:20:25]

21 Q. [10:20:26] Madam Witness, some of the women were holding rocks as they
22 walked; is that correct?

23 A. [10:20:58] Not rocks. We had nothing. We were carrying nothing. We were
24 walking with our hands empty. We did not have any such things.

25 Q. [10:21:15] So you deny that you were holding a rock.

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 A. [10:21:29] We had nothing in our hands. Why would we have stones? Those
2 people were stronger than us. Why would -- well, how could we have rocks or
3 stones with us?

4 Q. [10:21:44] The shots, these were fired high into the air in order to disperse the
5 crowd, weren't they?

6 A. [10:21:53] Yes, that's right. But people did not disperse. We dropped to the
7 ground. We dropped down to the ground.

8 Q. [10:22:51] The march finished -- I want to say 50 metres.

9 The march finished before you got to the BMS, well before you got to the BMS, didn't
10 it?

11 A. [10:23:13] The march ended in front of the BMS. In front of the BMS is where
12 the march ended. When they shot into the air, we dropped to the ground. Then we
13 got up.

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 Q. [10:24:49] Madam Witness, we're sticking close to the BMS. Can you please
20 just answer the questions that you're asked.

21 A. [10:25:05] You mean the place where the march ended?

22 Q. [10:25:27] Yes. Thank you, Madam Witness. You've answered that question.
23 I was asking you to make sure that you stick to the questions you're being asked,
24 please.

25 Madam Witness, you've just told us that Talha came out to speak to you.

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 A. [10:26:25] Talha came and said to stop shooting, and they were going to listen to
2 us to see what we had to say.

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 PRESIDING JUDGE MINDUA: [10:28:21](Interpretation) Prosecutor.

11 MS SCHOETERS: [10:28:23] Your Honours, the witness cannot answer for what
12 Talha's purpose was of asking questions. So I think it should be reformulated. And
13 it's also repetitive and she cannot tell*, the witness, really.

14 PRESIDING JUDGE MINDUA: [10:28:55](Interpretation) Ms Sutherland, what is
15 your response to the Prosecution's remark?

16 MS SUTHERLAND: [10:29:13] I'm happy to reformulate.

17 PRESIDING JUDGE MINDUA: [10:29:18](Interpretation) Very well. Go ahead.

18 MS SUTHERLAND: [10:29:19]

19 Q. [10:29:20] Madam Witness, did you identify amongst yourselves who would
20 speak to Talha, or to whomever, about remedies?

21 A. [10:30:20] Talha, we did not speak to Talha. I want to make that point clear.
22 We did not talk with Talha. Talha came out and he was -- he spoke only to his
23 officers. He told them to stop firing and to listen to us. [REDACTED]

24 [REDACTED]

25 Q. [10:30:52] [REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Private Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [10:31:13](Interpretation) Madam Prosecutor.

2 MS SCHOETERS: [10:31:15] If we continue this line of question, perhaps it may be
3 wiser to go into private session at this point. Thank you. Because otherwise we
4 may run into problems with the amount of redactions.

5 PRESIDING JUDGE MINDUA: [10:31:41](Interpretation) I think that is indeed the
6 case.

7 Mr Courtroom Officer, private session, please.

8 (Private session at 10.31 a.m.)

9 THE COURT OFFICER: [10:31:54] We're in private session, Mr President.

10 PRESIDING JUDGE MINDUA: [10:31:58](Interpretation) Thank you very much,
11 Mr Courtroom Officer.

12 Ms Sutherland.

13 MS SUTHERLAND: [10:32:15] I believe the witness was -- has given an answer. It
14 just hasn't been translated.

15 PRESIDING JUDGE MINDUA: [10:32:21](Interpretation) Madam Prosecutor.

16 MS SCHOETERS: [10:32:24] Now that we are in private session, could perhaps the
17 question be formulated more clearly.

18

19 MS SUTHERLAND: [10:32:35] There's no need to do that. She's given the answer
20 repeatedly. She knows what we're talking about.

21 PRESIDING JUDGE MINDUA: [10:32:52](Interpretation) So what is the witness's
22 answer?

23 Ms Sutherland, you asked whether

24 Is that the question?

25 What was the question?

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Private Session)

ICC-01/12-01/18

1 MS SUTHERLAND: [10:33:12] Are you asking me to re-ask it, Mr President? I will.

2 Although we still haven't had the translation.

3 PRESIDING JUDGE MINDUA: [10:33:32](Interpretation) Yes, that's precisely it.

4 The witness has not answered, or we have not received the interpretation. So please
5 put the question again and then the response will be interpreted to us. Thank you.

6 MS SUTHERLAND: [10:33:45]

7 Q. [10:33:46] Madam Witness, forgive me, I have to repeat because we haven't
8 received the interpretation of your answer.

9 I asked: [REDACTED] did you?"

10 PRESIDING JUDGE MINDUA: [10:34:15](Interpretation) Mr Prosecutor, let's listen
11 to the answer first, otherwise we'll start all over again.

12 MR DUTERTRE: [10:34:23](Interpretation) But I would like to say, Mr President,
13 that the witness -- the question has to be precise and simple. You know, [REDACTED]
14 [REDACTED] when and what exactly. So this is very vague for the
15 witness. There was assessment. The witness says yes -- the Defence says, yes, she
16 does understand the context. We need to be clear and simple in these questions so
17 that the witness knows exactly what is happening with these questions without
18 having to make inferences, et cetera. No, it has to be in the question and it has to
19 correspond to the instructions on the part of the Chamber. That will make things
20 easier.

21 MS SUTHERLAND: There is no lack of clarity. The only lack of clarity --

22 THE INTERPRETER: [10:35:01] Overlapping speakers.

23 MS SUTHERLAND: [10:35:03] There is no lack of clarity. The only lack of clarity is
24 coming from the Prosecution's interruptions before we get the answer. The witness
25 clearly understands. She's able to give a full answer. They interrupt. We then

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Private Session)

ICC-01/12-01/18

1 have a lengthy discussion that she then forgets, or the interpreters can't then give the
2 answer. It's coming from the Prosecution. This is deliberate obstruction.

3 PRESIDING JUDGE MINDUA: [10:35:33](Interpretation) Very well. Let's calm
4 down.

5 Interpretation, please, of the witness's response.

6 THE WITNESS: [10:36:01](Interpretation) [REDACTED]

7 PRESIDING JUDGE MINDUA: [10:36:16](Interpretation) Madam Witness, [REDACTED]
8 [REDACTED]

9 THE WITNESS: [10:36:33](Interpretation) [REDACTED]

10 PRESIDING JUDGE MINDUA: [10:36:39](Interpretation) There you are,

11 Ms Sutherland. Earlier on I was saying that [REDACTED] and you

12 said they -- that wasn't the case. * The witness just said [REDACTED]
13 [REDACTED]

Please continue.

14 MS SUTHERLAND: [10:37:02]

15 Q. [10:37:02] Madam Witness, on Friday -- and the reference is transcript 126.

16 And that's the real-time English transcript. I know that we've just received the

17 edited transcript, but I have not had time to go through it. The reference is page 56,

18 lines 25, to page 57, line 2.

19 Madam Witness, you said: [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 Do you remember? Yes or no?

23 Madam Witness, I was asking you if you remembered what you said on Friday. Yes
24 or no?

25 PRESIDING JUDGE MINDUA: [10:39:18](Interpretation) No.

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Private Session)

ICC-01/12-01/18

1 Songhai interpreter, please let's interpret what the witness said. We haven't heard
2 the interpretation of what she said.

3 THE INTERPRETER: The Songhai interpreter: Thank you.

4 THE WITNESS: [10:39:34](Interpretation) No, it's not a question of yes or no. You
5 should not make me say what I did not say. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 So since that day, we haven't marched again. That's what I wanted to say.

12 PRESIDING JUDGE MINDUA: [10:40:20](Interpretation) There we are. That's
13 crystal clear.

14 So, Ms Sutherland, please go -- please move on.

15 MS SUTHERLAND: [10:40:32]

16 Q. [10:40:33] Madam Witness, is it correct that you only gave Hassan's name when
17 you were interviewed by the Prosecution?

18 Forgive me, we can return to public session, Mr President.

19 PRESIDING JUDGE MINDUA: [10:40:50](Interpretation) Mr Courtroom Officer,
20 please.

21 (Open session at 10.41 a.m.)

22 THE COURT OFFICER: [10:41:00] We are back in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [10:41:11](Interpretation) Thank you very much
24 indeed, Mr Courtroom Officer.

25 Ms Sutherland.

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Open Session)

ICC-01/12-01/18

1 THE WITNESS: [10:41:17](Interpretation) What are you saying? The month?

2 Who asked me?

3 MS SUTHERLAND: [10:41:44]

4 Q. [10:41:45] Madam Witness, I'm asking if it's correct that you only gave Hassan's
5 name [REDACTED] after you learned of his arrest.

6 A. [10:42:36] I didn't say his name in the way that you have just said. I said that
7 [REDACTED] Sanda, Hamed Mossa, and Hassan.

8 Nobody asked me the name of Al Hassan, you know. Nobody asked me to give his
9 name.

10 Q. [10:43:01] Did you hear his name on the radio when he was arrested?

11 A. [10:43:13] I didn't even know he had been arrested because we weren't asking
12 for news of him.

13 Q. [10:44:28] Madam Witness, do you remember, when you were being
14 interviewed by the Prosecution, the investigators telling you that Mr Al Hassan had
15 been arrested by the ICC.

16 And the reference is her witness statement at paragraph 14, that's

17 MLI-OTP-0059-0 -- page 0361. And it's -- sorry, it's 0361 at page 0363.

18 A. [10:45:28] Yes.

19 Q. [10:45:29] And it was only after that that you mentioned the name Hassan [REDACTED]
20 [REDACTED]

21 A. [10:45:57] You're saying that that's when I spoke about Al Hassan, during the
22 meeting? Who said that to me?

23 I haven't understood the question.

24 Q. [10:46:27] Madam Witness, we were discussing how you'd previously [REDACTED]
25 [REDACTED] and you'd mentioned the name Sanda and Mossa,

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Private Session)

ICC-01/12-01/18

1 but you hadn't mentioned the name Hassan. Do you remember?

2 A. [10:46:45] I didn't say Al Hassan's name because he didn't do anything to me.

3 But that doesn't mean to say he hasn't done things to others. What I saw is what I said.

4 He didn't do anything to me. I can't lie about him because he didn't do anything

5 to -- to me. *As to people who did something to me, I have provided their names.

6 PRESIDING JUDGE MINDUA: [10:47:52](Interpretation) Ms Sutherland, I believe

7 that we have already heard this answer on a number of occasions. Madam Witness

8 said Al Hassan [REDACTED] and he didn't do her any harm.

9 So what are we driving at?

10 MS SUTHERLAND: [10:48:15] Mr President, I know we've heard her recount her

11 narrative repeatedly. But I'm asking a slightly different question. I'm asking why

12 the introduction of Al Hassan's name happened only after she was interviewed by the

13 Prosecution and not in her previous accounts. It's a different question. But we can

14 move on.

15 Q. [10:48:47] Madam Witness, you mentioned a man called --

16 Mr President, first a brief line of questioning, I'll have to, out of an abundance of

17 caution, ask to go into private session, please.

18 PRESIDING JUDGE MINDUA: [10:49:20](Interpretation) Courtroom officer, please.

19 (Private session at 10.49 a.m.)

20 THE COURT OFFICER: [10:49:24] We're in private session, Mr President.

21 PRESIDING JUDGE MINDUA: [10:49:36](Interpretation) Thank you very much,

22 Mr Courtroom Officer.

23 Ms Sutherland.

24 MS SUTHERLAND: [10:49:40] Thank you, Mr President.

25 Q. [10:49:42] Madam Witness, you were telling us about a man [REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Private Session)

ICC-01/12-01/18

1 [REDACTED] Do you remember?

2 A. [10:50:06] Yes, of course.

3 Q. [10:50:09] Do you know what he did? Can you tell us what he did as a
4 profession.

5 A. [10:50:44] I do not know what he did. I don't know what his profession is,
6 apart from the fact that [REDACTED] That's all I know.
7 Otherwise, I do not know his profession.

8 Q. [10:51:09] [REDACTED]

9 A. [10:51:13] [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. [10:52:35] Can you describe in as much detail as you can how [REDACTED]

15 [REDACTED]

16 A. [10:52:55] I can't give you any further description, apart from the fact that [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q. [10:53:52] And what about what they were wearing? Each individually, please.

21 PRESIDING JUDGE MINDUA: [10:54:05](Interpretation) Ms Sutherland, are we still
22 in private session?

23 MS SUTHERLAND: [10:54:12] Yes, Mr President, we are. My apologies.

24 Although this will be very identifying of the witness.

25 PRESIDING JUDGE MINDUA: [10:54:34](Interpretation) So it is your wish that we

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Private Session)

ICC-01/12-01/18

1 continue in private session?

2 MS SUTHERLAND: [10:54:44] I'm looking to the Prosecution, if they believe that
3 this is too identifying. I'm happy to continue openly.

4 MS SCHOETERS: [10:55:03] Well, we also don't know what the witness is going to
5 answer, and it could be identifying because she is talking about [REDACTED]

6 [REDACTED]

7 PRESIDING JUDGE MINDUA: [10:55:18](Interpretation) Very well. Okay, let's
8 continue in private session.

9 MS SUTHERLAND: [10:55:25]

10 Q. [10:55:26] Madam Witness, what was Hamed Mossa wearing, in as much detail
11 as possible, please?

12 A. [10:55:38] Well, tell her that I'm not a pupil nor a journalist to notice all of these
13 things. And we -- we wouldn't have [REDACTED] even with all that was
14 done to us. You know, I am the kind of person who - something is done to me, then
15 we talk about it and we move on.

16 THE INTERPRETER: [10:56:52] From the English booth: Very unclear.

17 MS SUTHERLAND: [10:56:55]

18 Q. [10:56:56] Madam Witness, we need your help because you say that you were
19 there. None of us in the courtroom was there.

20 What was Hamed Mossa wearing, if you can remember? Try and remember, please.

21 PRESIDING JUDGE MINDUA: [10:57:17](Interpretation) Mr Prosecutor.

22 MR DUTERTRE: [10:57:20](Interpretation) I think you know what I'm going to say,
23 Mr President, your Honours. This question has been put and the witness has
24 responded with the capacities that she has. I think that we're not going to get any
25 more by putting the question again.

Trial Hearing
WITNESS: MLI-OTP-P-0603

(Private Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [10:57:36](Interpretation) Ms Sutherland, the
2 witness has already answered. She said that she does not recall. Move on to
3 something else, please.

4 MS SUTHERLAND: [10:57:46] Mr President, if she cannot recall what they were
5 wearing, how is she able to identify them?

6 PRESIDING JUDGE MINDUA: [10:58:12](Interpretation) Mr Prosecutor.

7 MR DUTERTRE: [10:58:14](Interpretation) I think that Ms Sutherland should keep
8 her remarks for her closing brief but not here in front of the witness.

9 MS SUTHERLAND: [10:58:23] Out of fairness to the witness, I'm putting the
10 questions to her so that we can elicit a response. That's out of fairness to her. So I
11 should be allowed to ask the questions. The Prosecution can't have it both ways.

12 PRESIDING JUDGE MINDUA: [10:58:44](Interpretation) Yes, indeed. But you
13 have put the question already. She says she does not recall, that she's not a journalist,
14 she's not a student. So there you go.

15 MS SUTHERLAND: [10:58:57] I'll ask her a very specific question.

16 Q. [10:59:00] Madam Witness, was Hassan wearing anything special on his head?

17 A. [10:59:15] Tell her I don't notice all these things. I don't notice what he was
18 wearing or had on his head. And people [REDACTED] how
19 are they going to be noticing all these things?

20 PRESIDING JUDGE MINDUA: [11:00:17](Interpretation) Ms Sutherland, it is
21 11 o'clock, so I would like to ask you how long you need to wrap up your
22 cross-examination of this witness?

23 MS SUTHERLAND: [11:00:34] I'd like to confer with the rest of the team as to the next
24 lines of questioning, but I can -- can say it won't be too long, possibly about half an hour.

25 PRESIDING JUDGE MINDUA: [11:01:13](Interpretation) Very well.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

- 1 We will now suspend the hearing and resume at 11.30 as we usually do. The
2 hearing is now suspended.
- 3 THE COURT USHER: All rise.
- 4 MS SUTHERLAND: [11:01:29] Mr President, we are still in private session.
- 5 (Recess taken at 11.01 a.m.)
- 6 (Upon resuming in open session at 11.34 a.m.)
- 7 THE COURT USHER: [11:34:46] All rise.
- 8 Please be seated.
- 9 PRESIDING JUDGE MINDUA: [11:35:06](Interpretation) The hearing shall now
10 resume.
- 11 Court officer, I believe we suspended in private session, did we not?
- 12 THE COURT OFFICER: [11:35:26] Your Honours, we are back in open session.
- 13 PRESIDING JUDGE MINDUA: [11:35:35](Interpretation) Very well. We are now
14 in open session. We continue with cross-examination by the Defence.
- 15 Ms Sutherland.
- 16 THE INTERPRETER: [11:35:49] He said in -- Judge Mindua corrects: We go back
17 into --
- 18 THE COURT OFFICER: Your Honours, we are currently in open session.
- 19 PRESIDING JUDGE MINDUA: [11:35:46](Interpretation) A little bit of confusion
20 there. We are in open session.
- 21 Ms Sutherland, please proceed.
- 22 MS SUTHERLAND: [11:36:09] Thank you.
- 23 Q. [11:36:10] Madam Witness, in the meeting that you described and we've been
24 discussing, were any of them wearing spectacles?
- 25 A. [11:36:45] I didn't notice that.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 Q. [11:36:47] Thank you. Madam Witness, we know that you have asked the
2 Prosecution for financial help on a number of occasions.

3 A. [11:37:19] Yes.

4 Q. [11:37:20] And for the benefit of the Court, I'll just give a number of references.
5 So please bear with me.

6 It's Defence tab 13, which is MLI-OTP-0074-2052. It's also Defence tab 14, which is
7 MLI-OTP-0074-2054. Defence tab 15, which is MLI-OTP-0074-2055. Defence tab 17,
8 which is MLI-OTP-0078-9955. And that's R01.

9 Madam Witness, the Prosecution's records show that it has provided you with 329,000
10 CFA. Is that accurate?

11 A. [11:38:48] They gave me that, truly.

12 Q. [11:39:12] Madam Witness, we also understand that part of that was a loan.
13 Have you repaid the loan?

14 A. [11:39:20] Not yet. I haven't paid it back.

15 Q. [11:39:41] Madam Witness, why did you turn to the Prosecution for this
16 assistance?

17 A. [11:39:51] Because I don't have anything. I have nothing. That's why I asked.
18 I was in need.

19 Q. [11:40:18] But why the Prosecution? Did you see them as a source of
20 assistance?

21 A. [11:40:25] It was because it was at that time that we were working together and I
22 made that request. And they told me that they didn't have it there, in their part of
23 the world. But I made the request.

24 Q. [11:41:44] Madam Witness, could you clarify what you just told us. Did you
25 mean that they didn't have it at the time and that they would process it later?

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 A. [11:42:09] I haven't understood the question.

2 THE INTERPRETER: [11:42:35] Inaudible.

3 MS SUTHERLAND: [11:42:40]

4 Q. [11:42:40] You said it was at the time that you were working together.

5 [REDACTED]

6 [REDACTED]

7 Q. [11:43:29] Well, Madam Witness, we have a number of documents which show
8 you've made requests at the end of 2018, in October 2019, in December 2019, and in
9 November 2020. Is that accurate?

10 A. [11:44:00] That's correct. I did make the request and they gave it to me.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 PRESIDING JUDGE MINDUA: [11:45:27](Interpretation) Mr Prosecutor.

17 MR DUTERTRE: [11:45:29](Interpretation) There are various notes that are quite
18 clear about all this, including the loan in question. We don't yet know the reason
19 because the question was not put. *The Defence has a choice to provide or not provide
20 notes. So, reading the transcript now it is still somewhat confusing and I wonder what
21 the Chamber will do with all this information.

22 MS SUTHERLAND: [11:45:58] Mr President, he's testifying.

23 MR DUTERTRE: [11:45:59] No, I'm not.

24 PRESIDING JUDGE MINDUA: [11:46:02](Interpretation) The Judge has
25 understood -- correction: The Bench has understood what you mean. No need to

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 continue.

2 Judge Sutherland (sic), once again, the questions you are putting to Madam Witness
3 are such that she can't quite follow.

4 So where are we going with this?

5 MS SUTHERLAND: [11:46:25] It was simply to clarify something that the witness
6 herself said, because it was unclear to me. She said it was when -- "the time we were
7 working together" that she made requests.

8 PRESIDING JUDGE MINDUA: [11:46:45](Interpretation) It seemed clear to me.

9 But -- well, "working together", "work", what does that mean? It's quite -- it's quite
10 clear. We understand that. It's not that the witness was an officer within the OTP,
11 no.

12 So conclude on this matter, Ms Sutherland.

13 MS SUTHERLAND: [11:47:16]

14 Q. [11:47:16] Madam Witness, you agree that you saw the Prosecution as a source
15 of financial assistance?

16 A. [11:47:25] What I meant -- what I meant was that they are people who would
17 come and ask me questions. They would go back and forth. And then I took
18 advantage to ask. I felt in the -- I was in -- I needed to ask them for help. And they
19 told me that it was not part of their work. Providing loans to people, it wasn't part
20 of their work. But I was -- I had this need to ask them and they gave me some
21 money. And it truly warmed my heart.

22 Q. [11:48:54] Thank you very much, Madam Witness. I have no further questions.
23 Mr President, that concludes our cross-examination.

24 PRESIDING JUDGE MINDUA: [11:49:05](Interpretation) Thank you very much,
25 Ms Sutherland, for your cross-examination. And I thank you as well for keeping

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 your word.

2 I now turn to the Office of the Prosecutor.

3 Have you additional questions?

4 MS SCHOETERS: [11:49:23] Your Honours, Mr President, we have no further
5 questions.

6 PRESIDING JUDGE MINDUA: [11:49:39](Interpretation) Very well. We have
7 come to the end of Madam Witness's testimony, namely Witness P-0603.

8 Madam Witness, I now turn to you.

9 We have come to the end of your testimony. On behalf of the Chamber, I would like
10 to, once again, thank you very much for answering the questions clearly and with
11 such goodwill.

12 Your testimony has now ended and I wish you every success in the future and great
13 courage.

14 (The witness is excused)

15 PRESIDING JUDGE MINDUA: [11:51:16](Interpretation) I now turn to the OTP.

16 We have our upcoming witness, Witness P-0654, but I don't know whether the
17 Registry is ready for us to begin at 2.30.

18 Registry?

19 THE COURT OFFICER: [11:51:36] Your Honours, arrangements are being made to
20 have the witness ready to testify at 2.30.

21 PRESIDING JUDGE MINDUA: [11:51:43](Interpretation) Thank you very much.

22 Very well.

23 We will now adjourn for the morning and resume at 2.30 this afternoon. The
24 hearing is adjourned.

25 THE COURT USHER: All rise.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 (Recess taken at 11.51 a.m.)

2 (Upon resuming in open session at 2.32 p.m.)

3 THE COURT USHER: [14:32:22] All rise.

4 Please be seated.

5 PRESIDING JUDGE MINDUA: [14:32:40](Interpretation) Court is in session.

6 As we have a new witness, for the transcript, I would ask the court -- I would ask the
7 court clerk to introduce the case.

8 THE COURT OFFICER: [14:33:22] Your Honours, this is the situation in the

9 Republic of Mali, in the case of The Prosecutor versus Al Hassan Ag Abdoul Aziz Ag

10 Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.

11 And for the record, we are in open session.

12 PRESIDING JUDGE MINDUA: [14:33:38](Interpretation) Thank you very much,

13 Court Officer.

14 We shall continue with the appearances, starting with the Office of the Prosecutor. I
15 think indeed there are new faces here.

16 MS LUPING: [14:33:53] Good afternoon, Mr President. Good afternoon, your
17 Honours. Appearing on behalf of the Prosecution this afternoon are Mr Gilles
18 Dutertre, Raymond Sandoval, and myself, Dianne Luping.

19 PRESIDING JUDGE MINDUA: [14:34:08](Interpretation) Thank you very much,

20 Madam Prosecutor. And of course good afternoon.

21 I now turn towards the Defence.

22 MS TAYLOR: [14:34:19] Good afternoon, Mr President. Good afternoon, your

23 Honours, and to everyone in the courtroom and outside the courtroom. The Defence

24 of Mr Al Hassan is represented today by Maître Julia Basile, and myself, Melinda

25 Taylor. Thank you.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [14:34:35](Interpretation) Thank you very much,
2 Ms Taylor. And welcome to Maître Julia Basile.

3 I now turn towards the legal representatives.

4 MR KASSONGO: (Interpretation) Thank you, your Honour, your Honours. The
5 victims are represented by Maître Kassongo for the Legal Representative of Victims.
6 Thank you very much.

7 PRESIDING JUDGE MINDUA: [14:35:02](Interpretation) Thank you very much,
8 Maître Kassongo. I've taken good note of the change within your team. It's going
9 to be the most simple form of team. Thank you.

10 I now turn towards the witness. As I said, this is Witness P-0654.

11 Good morning, Witness. Can you hear me?

12 WITNESS: MLI-OTP-P-0654

13 (The witness speaks French)

14 (The witness gives evidence via video link)

15 THE WITNESS: [14:35:20](Interpretation) Yes, I can hear you, your Honour.

16 PRESIDING JUDGE MINDUA: [14:35:20](Interpretation) Thank you very much,
17 Witness.

18 On behalf of the Chamber, I would like to welcome you.

19 THE WITNESS: [14:35:36](Interpretation) Thank you.

20 PRESIDING JUDGE MINDUA: [14:35:43](Interpretation) As you know, you are
21 going to testify with a view to aiding the Chamber establish the truth in the case
22 concerning Mr Al Hassan. Witness, protective measures have been put in place so
23 that your identity is not revealed to the public. Whenever you must give details
24 which could reveal your identity, we will speak about that in private session. As
25 such, nobody, with the exception of people who are in this courtroom, will be able to

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 hear you.

2 I see that you have understood that well.

3 I shall now turn to your solemn undertaking under Rule 66(1) of the Rules of
4 Procedure and Evidence.

5 So on your table you certainly have a document in front of you which has the solemn
6 undertaking.

7 THE WITNESS: [14:37:04](Interpretation) Yes.

8 PRESIDING JUDGE MINDUA: [14:37:05](Interpretation) Very well. Solemn
9 undertaking according to which you must swear to tell the whole truth. I would,
10 therefore, ask you to read aloud this solemn undertaking.

11 THE WITNESS: [14:37:15](Interpretation) I solemnly declare that I will tell the truth,
12 all the truth, and nothing but the truth.

13 PRESIDING JUDGE MINDUA: [14:37:32](Interpretation) Thank you, Witness. You
14 are now under oath. The representatives of the Victims and Witness Unit, as well as
15 the representatives of the Prosecution, have already explained to you what that
16 means.

17 I have some advice of a practical nature to give to you with regard to taking the floor.
18 You should always throughout your testimony bear in mind that everything that is
19 said in this courtroom is transcribed by court reporters and it is translated
20 simultaneously into several languages by the interpreters.

21 It is therefore important to speak clearly and slowly. Do not start to speak until the
22 person who is putting the question to you has finished putting that question. Count
23 up to three in your head before answering the question. This pause is essential so
24 that your testimony can be duly taken down.

25 Of course, if you have a question, please raise your hand to indicate that you wish to

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 intervene.

2 Have you well understood?

3 THE WITNESS: [14:39:24](Interpretation) Yes, I've understood well.

4 PRESIDING JUDGE MINDUA: [14:39:27](Interpretation) Thank you, Witness.

5 So you will be firstly questioned by the Office of the Prosecutor and thereafter
6 possibly by the Legal Representative of Victims, and subsequently by the Defence,
7 and finally possibly by the Chamber.

8 Without further ado, I shall give the floor to the Office of the Prosecutor for the start
9 of the examination-in-chief.

10 Madam Prosecutor, you have the floor.

11 MS LUPING: [14:40:02] Thank you, Mr President.

12 QUESTIONED BY MS LUPING:

13 Q. [14:40:06] And good afternoon, Mr Witness. My name is Dianne Luping and I
14 am asking you questions today on behalf of the Prosecution. And I just wanted to
15 remind you of some additional points as well, in addition to what the Presiding Judge
16 has explained.

17 I would like to remind you that if there's any question that I or anybody asks you that
18 is not clear, if you could please simply say you do not understand and ask the person
19 to repeat it.

20 A. [14:40:45] Very well.

21 Q. [14:40:46] Secondly, if you do not know an answer to a question or if you cannot
22 remember, please simply say so.

23 If there are any questions that might reveal your identity, I will ask the Presiding
24 Judge to go into private session which, as you know, means that nobody outside the
25 courtroom can hear what information you're providing that might identify you.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 I would now ask, Mr President, for authorisation to move into private session for
2 some questions of an identifying nature regarding this witness's background. It may
3 be approximately 10 to 15 minutes. I will try to be as concise as possible.

4 PRESIDING JUDGE MINDUA: [14:41:41](Interpretation) Very well.

5 Court officer, please take us into private session.

6 (Private session at 2.41 p.m.)

7 THE COURT OFFICER: [14:41:56] We're in private session, Mr President.

8 PRESIDING JUDGE MINDUA: [14:42:01](Interpretation) Thank you very much,
9 Court Officer.

10 Madam Prosecutor.

11 MS LUPING: [14:42:07] Thank you, Mr President.

12 Q. [14:42:11] Mr Witness, could you provide your full name.

13 A. [14:42:14] My name is [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 And I am from the Songhai ethnic group. I speak French, Bambara, and Songhai,
17 which is my original ethnic group.

18 I was born on [REDACTED] in Timbuktu. I'm married and I am the father of [REDACTED]
19 children currently.

20 Q. [14:43:03] Thank you, Mr Witness. You have indeed pre-empted quite a
21 number of questions that I've asked -- that I was intending to ask. It's not a problem,
22 but I would ask to remind you to listen precisely to the question that is being asked of
23 you.

24 And you provided your full name. Could you also explain if you have any
25 nicknames.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 A. [14:43:42] Yes, I have a nickname which is [REDACTED] Also there's another
2 name, [REDACTED] Friends from my youth call me that.

3 Q. [14:44:00] Thank you. [REDACTED]
4 [REDACTED]

5 A. [14:44:22] [REDACTED]
6 [REDACTED]

7 Q. [14:44:46] [REDACTED]
8 [REDACTED]

9 A. [14:44:58] [REDACTED]
10 [REDACTED]

11 Q. [14:45:23] Now, you've already mentioned that you are -- have been working [REDACTED]
12 [REDACTED]

13 A. [14:45:46] [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 Q. [14:46:18] [REDACTED]
18 [REDACTED]

19 A. [14:46:27] [REDACTED]
20 [REDACTED]

21 MS LUPING: [14:46:45] Mr President, with your leave, the Prosecution would like to
22 show its first item of evidence. I understand it's going to be shown on evidence
23 channel 2.

24 PRESIDING JUDGE MINDUA: [14:47:02](Interpretation) *Are we still in private
25 session, Madam Prosecutor?

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 MS LUPING: [14:47:09] Yes, it still needs to be shown in private session.

2 Q. It is at tab 8, Mr Witness, of your binder. And it is MLI-OTP-0012-1963. I
3 would just ask you, Mr Witness, just to silently read this to -- this document to
4 yourself. It's just over -- just over a page. And I note the date, 24 May 2013, was
5 when it appears to have been created.

6 Could you confirm that this is your curriculum vitae.

7 A. [14:48:15] Yes. If you could go up a bit.

8 Q. [14:48:16] And I would also ask that you do look at the version of this document
9 in your binder. It's the first binder at tab 8.

10 A. [14:48:30] Okay. Yes, indeed, it's my curriculum vitae, my CV, although it has
11 to be said that it hasn't been updated.

12 Q. [14:48:46] And am I correct that the information that needs to be updated relates
13 to [REDACTED] is that correct?

14 A. [14:48:57] Exactly.

15 Q. [14:49:05] Now, Mr Witness, [REDACTED]
16 [REDACTED]

17 A. [14:49:19] [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 Q. [14:50:17] Thank you. [REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1

[REDACTED]

2

A. [14:50:32]

[REDACTED]

3

[REDACTED]

4

[REDACTED]

5

[REDACTED]

6

[REDACTED]

7

Q. [14:51:12]

[REDACTED]

8

[REDACTED]

9

A. [14:51:19]

[REDACTED]

10

[REDACTED]

11

[REDACTED]

12

[REDACTED]

13

Q. [14:52:00]

[REDACTED]

14

[REDACTED]

15

A. [14:52:10]

[REDACTED]

16

[REDACTED]

17

[REDACTED]

18

[REDACTED]

19

[REDACTED]

20

[REDACTED]

21

Q. [14:52:58]

[REDACTED]

22

[REDACTED]

23

[REDACTED]

24

[REDACTED]

25

A. [14:53:25]

[REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1

2

3

4

5

6

7

8

Q. [14:54:13]

9

10

A. [14:54:26]

11

12

13

14

15

16

17

18

Q. [14:55:30] I just want to make sure the names are recorded correctly for the

19

record.

20

The first name you mentioned is [REDACTED] Could you please

21

briefly spell that for us.

22

A. [14:55:47]

23

Further, [REDACTED]

24

Q. [14:56:23] And you mentioned -- I just want to clarify this. As I understood it,

25

[REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 A. [14:56:35] [REDACTED]

2 Q. [14:56:37] Thank you. And the second name you mentioned was [REDACTED]

3 [REDACTED] Could you spell his name.

4 A. [14:56:45] [REDACTED]

5 [REDACTED]

6 Q. [14:57:16] And the spelling for [REDACTED]

7 A. [14:57:21] Yes. [REDACTED]

8 Q. [14:57:46] And [REDACTED]?

9 A. [14:57:50] [REDACTED]

10 Q. [14:58:13] Thank you. And you've explained that you did work for [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 A. [14:58:39] [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q. [15:00:01] [REDACTED]

25 [REDACTED]

26 [REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 A. [15:00:12]

2

3

4

5

6

7 Q. [15:01:03]

8

9 A. [15:01:26]

10

11

12

13

14

15

16

17

18

19

20

21

22 Q. [15:02:38] Thank you.

23 Mr President, I am mindful of the Chamber's rightful concern to avoid lengthy

24 sessions in private session. It may -- it would be more logical for me now to move

25 on to the topic of getting information from the witness about

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 [REDACTED] It's highly
2 identifying. I estimate these additional questions would take approximately 10
3 minutes. But I am guided by your Honours.
4 With your leave, I would now go into this next topic and then move immediately
5 after that into public session.

6 PRESIDING JUDGE MINDUA: [15:03:21](Interpretation) Please try and reduce the
7 duration of these private sessions as much as possible. So ...

8 MS LUPING: [15:03:41] Thank you, Mr President.

9 Q. [15:03:42] Now, Mr Witness, [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 A. [15:04:07] [REDACTED]
13 [REDACTED]

14 Q. [15:04:20] And I'm now going to ask you to turn to tab 9 of your first binder.
15 And it is MLI-OTP-0012-1371. You can also see it on evidence channel 2 in front of
16 you.

17 [REDACTED]
18 [REDACTED] was assigned this ERN, 0012-1317? Sorry, 1371.

19 A. [15:05:14] [REDACTED]

20 Q. [15:05:16] [REDACTED]

21 A. [15:05:34] [REDACTED]
22 [REDACTED]
23 [REDACTED]

24 Q. [15:05:45] [REDACTED]
25 [REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 [REDACTED]
2 [REDACTED]
3 A. [15:06:04] [REDACTED]
4 [REDACTED]
5 Q. [15:06:16] [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 A. [15:06:42] [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 Q. [15:07:34] Thank you.
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 A. [15:08:49] [REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 Q. [15:08:57] [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 A. [15:09:15] [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 Q. [15:10:38] [REDACTED]
13 [REDACTED]
14 A. [15:10:49] [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 Q. [15:11:41] [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 A. [15:12:01] [REDACTED]
24 [REDACTED]
25 [REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1

2

3 Q. [15:12:38]

4

5

6 A. [15:13:06]

7

8

9 Q. [15:13:29]

10

11

12

13

14

15

16 A. [15:14:26]

17

18

19

20

21

22

23

24 Q. [15:15:11] Thank you.

25 Mr President, I believe we can move now into public session.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [15:15:16](Interpretation) Thank you very much.

2 Mr Court officer, open session, please.

3 (Open session at 3.15 p.m.)

4 THE COURT OFFICER: [15:15:23] We're back in open session, Mr President.

5 PRESIDING JUDGE MINDUA: [15:15:32](Interpretation) Thank you very much.

6 Madam Prosecutor.

7 MS LUPING: [15:15:35] Thank you, Mr President.

8 Q. [15:15:47] Mr Witness, were you present in Timbuktu city when -- sorry, during
9 the events in 2012?

10 A. [15:16:00] Yes, indeed. I was there from the first day of the occupation until the
11 town was freed. I only made two or three journeys to Mopti. These were just me
12 moving around on a temporary basis.

13 Q. [15:16:23] And could you -- can you recall when it was, the first day, that groups
14 entered Timbuktu city.

15 A. [15:16:43] It was 1 April 2012. That was when Kidal had fallen, before *vendredi*,
16 and then Gao on the Saturday. And on Sunday it was the turn of Timbuktu. That
17 was 1 April 2012 and it was a Sunday.

18 Q. [15:17:09] And how do you recall that date?

19 A. [15:17:24] Well, from about 6 a.m. we had been woken up by gunfire.

20 Q. [15:17:40] And can you recall when the groups left Timbuktu?

21 A. [15:17:51] Yes. It was in 2013. I think it was the beginning of January. And
22 there had been attacks since the end of December, but in January the groups left
23 Timbuktu entirely. 2013.

24 Q. [15:18:24] And before the groups entered Timbuktu, can you describe what the
25 security situation was like in Timbuktu region.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 A. [15:18:36] Well, before the groups arrived we had the feeling that there was a
2 threat lurking, since January 2012, with the clashes between the separatists and the
3 Malian army in Aguelhok and then in Menaka. And then there was a *coup d'état*
4 following that. And you will have seen that this weakened the country. *So it was
5 an opportunity for the Islamists to get involved, and they were fighting. This meant
6 there were two fronts against the Malian army: the separatists and the Islamists
7 against the Malian army, could not resist against those two forces. So the country was
8 weakened and the northern part fell into their hands.

9 Q. [15:19:57] Now, you've mentioned separatists. To which group are you
10 referring? Which armed group or groups?

11 A. [15:20:14] *The separatists were the MNLA, the *Mouvement National pour la*
12 *Libération de l'Azawad*. I was just -- they wanted independence for Azawad limited to
13 Douentza. Regions of Timbuktu, Gao, Kidal, a part of Mopti, as I said, and then up
14 to Douentza. They had requested that.

15 But the others did not want independence as such. They wanted to have a territory
16 where there was no frontier between the individuals. That was the vision of the
17 Islamists. They said God has not created borders or boundaries between men. And
18 that, for them, was the application of the Sharia.

19 Q. [15:21:16] And when you refer to the Islamists, to which groups are you
20 referring?

21 A. [15:21:23] I'm referring to Ansar Dine, which was officially known. It was -- it
22 could be seen everywhere, on flags, on stamps, and wherever they went out and
23 about.

24 Q. [15:21:44] You mentioned an attack on Aguelhok. Can you recall what, if any
25 other, cities were attacked in that similar time period?

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 A. [15:22:11] Aguelhok woke the country up and people realised that the country
2 was under threat. Just after that, we saw the confrontations that started from March.
3 The army wanted to keep a hold over Kidal, but at the end of March Kidal came
4 under attack. And then it was Gao's turn, which did not resist either. And then
5 finally Timbuktu and the armed forces left the city. So it was easy for them. That
6 was in Timbuktu on 1 April. The two other localities was in the month of March.
7 That was Kidal and Gao.

8 Q. [15:23:23] And starting first with Aguelhok, can you recall roughly when that
9 was?

10 A. [15:23:32] Well, I wasn't out in the field myself. It's difficult for me to provide
11 you with any specific details about the attack on Aguelhok.

12 Q. [15:23:53] Do you recall the dates in Kidal and Gao? The month, if you can
13 recall it.

14 A. [15:24:11] Yes. Kidal was on 29 March, and Gao was on the 30th, I think, and
15 Timbuktu was on 1 April. So, you know, it was one after another. Friday, Kidal, I
16 think it was the 29th. And then on the 30th it was Gao. And on 1 April it was
17 Timbuktu.

18 Q. [15:24:41] And do you know which groups were involved in the attacks on
19 Kidal and Gao?

20 A. [15:24:48] Well, initially, it was the MNLA that started it all off. And this was
21 foreseeable because they had come to talk to the population, after which, before
22 starting military hostilities, they had reached an agreement with part of the
23 population. And that is how they started the hostilities. And then the other groups
24 followed, such as Ansar Dine, which also came to join the confrontations or clashes.

25 Q. [15:26:05] And in addition to Ansar Dine, which other groups followed?

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 A. [15:26:09] Well, in Timbuktu, for example, *there were elements of AQMI, but
2 they fell under Ansar Dine. When I talk of AQMI, there were elements that have been
3 recruited. When I talk about AQMI, I talk about Abou Zeid. He was the leader of
4 AQMI because he's an Algerian. Everyone has followed his background. We know
5 that he was a big leader of the FIS who turned it down in favour of the armed wing
6 with Mokhtar Belmokhtar. They were in the armed branch. But they weren't in
7 cahoots with the government. And that is how they came to set up the AQMI group.
8 In Gao, there was another group called the MUJAO, the *Mouvement pour l'unicité et le*
9 *jihaad en Afrique de l'Ouest*, and I was lucky enough to meet one of its leaders and ask
10 him why that group had been set up, because he said he did not want to put the -- his
11 black brothers to one side because all the other groups were made up of
12 lighter-skinned peoples, Tuaregs, Arabs, et cetera, so *in order to create a symbiosis or
13 dynamic in which all ethnic groups were to be found, the MUJAO was set up.
14 And this is another Islamist group.

15 Q. [15:27:52] Now, just going back one bit, you mentioned that Abou Zeid was a
16 big leader of the FIS, together with Mokhtar Belmokhtar. Could you please provide
17 the full name for the FIS, what that is.

18 A. [15:28:17] The FIS is the *Front Islamique pour le Salut*, which is a movement which
19 has been active in Algeria since the 1970s. I don't really know these movements very
20 well, but I do know that at a given moment in time they were up for election. They
21 won the election, but the power did not want -- those in power did not want this
22 Islamist group to take over power.

23 So some revolutionaries took up arms and created the GSPC. So it is no longer the
24 FIS. Once they became an armed branch, they became the GSPC, the Salafist Group
25 for Predication and Combat. That was the first group when they left Algeria.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 So from there, that is where they sought allegiance with AQMI, the international
2 AQMI, that is, before setting up the Al-Qaeda in the Islamic Maghreb group, AQMI,
3 or AQIM in English.

4 Q. [15:29:37] Now, you have explained that there was also an attack on Timbuktu
5 from 1 of April. In this time period, who was responsible for the military security of
6 Timbuktu before the groups entered the city?

7 A. [15:29:58] Before the groups entered the city, it was the same people in charge of
8 security. There was a militia set up and it was an Arab militia that the population
9 did not at all appreciate. Those were the two that provided security. So that was
10 the Malian army and the militia, the Arab militia.

11 Q. [15:30:36] And when you said that it was the same people in charge of security,
12 who were you referring to then?

13 A. [15:30:53] I'm sorry, could you put the question again.

14 Q. [15:30:55] You said that before the groups entered the city it was the same
15 people in charge of security. What people were you referring to? Which group?

16 A. [15:31:16] No, I said before the occupation the Malian army was there and they
17 were the ones responsible for ensuring the security of people and property. Now,
18 before we saw the scale of the situation, it was at that time that there was a militia, an
19 Arab militia, which was set up which had to support the army. That's -- that's it.

20 Q. [15:31:40] Thank you. And I apologise, Mr Witness. I see now the
21 French transcript has indeed captured that. But we had something else in the
22 English transcript.

23 Now, you've mentioned the Arab militia and you said that the population didn't
24 appreciate it. Could you explain what you meant.

25 A. [15:32:01] Well, a militia has to be composed of all different ethnic groups in the

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 locality when it comes to defending the interest of the population. But when it's only
2 one ethnic group, then that's what the population detested. They wanted a mix,
3 whether it be Songhai, Tamasheq, Peuhl, all the different ethnic groups, and then at
4 that time it could be a good militia in service of the community.

5 Q. [15:32:46] And who created the Arab militia?

6 A. [15:32:52] I don't know who initiated it, but at a particular time the economic
7 operators collected money. They asked the population to support this militia.
8 People made contributions. And this was before the occupation. And they
9 supported it, taking into account that they were there for the population. But I don't
10 know who was the creator of it, who set it up. Was it an initiative from the Arabic
11 community -- Arab community? Was it an army initiative, they found themselves to
12 be weak? I wouldn't be able to give a satisfactory answer to that question.

13 Q. [15:33:37] All right. And you have -- sorry.

14 In terms of the time period just before the armed groups entered Timbuktu on 1 April,
15 did all of the population remain in Timbuktu? Did anybody leave? And if so,
16 who?

17 A. [15:34:01] Well, some were sure that on 1 April Timbuktu was going to fall,
18 because after Kidal and Gao, which was meant to be the major base in the north, that
19 didn't escape either. And certainly it would be Timbuktu's turn. As far as we were
20 concerned in Timbuktu, we had taken administrative decisions, because since 26 or 27
21 of March, we were -- the administration had been informed that, given the
22 developments in the situation, those who wished to go towards the south could leave.
23 So that made a lot of people leave, the civil servants. Well, certain civil servants
24 who -- certain officials who got the information.

25 But on the other hand, some didn't have this information and they stayed. And then

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 it was only when it came to the occupation, that was a rout. They were surprised by
2 the events that took place. So those who left on the road, some people left by river.
3 As I said, it was an absolute rout.

4 Q. [15:35:29] Turning back to the day of 1 April, you described how you could hear
5 the sounds of gunfire. Could you please describe exactly what you saw or you
6 heard when the groups entered Timbuktu?

7 A. [15:35:50] Well, on 1 April, the first shots to be heard were not from the groups
8 from outside. It was the militia itself that had started shooting. And so the military
9 was all ready to leave -- at the point of leaving. The last soldiers were leaving and
10 they took the military camp. Or they went -- they withdrew to the military camp
11 where there were explosions, some major explosions. And it was only towards
12 11 o'clock in the day. It was following -- there was a person in Timbuktu had been
13 killed by a stray bullet. And then he had lost -- then -- well, there was the burial at
14 11 o'clock. And when we saw him, there was a pickup which went with the MNLA
15 flag, with the flags of the MNLA. So that was at 11 o'clock that the MNLA went
16 back to Timbuktu, and that was with the first movement.

17 Now, when it came to the next day, if I could continue ...

18 Q. [15:37:16] Yes, if you can continue. And I will ask questions again of what
19 you've said. But you can continue.

20 A. [15:37:25] So the next day, on 2 April, I was surprised to see that there were
21 vehicles which were covered in mud. There were pickups and there were new
22 combatants there. And -- from the MNLA, because I recognised them with their flag,
23 firstly, and I recognised them with their military uniform that they wear.
24 But for this new movement that was coming to block everything, blocking the
25 crossroads in Timbuktu, they had black flags and it was written "Allah Akbar" on

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 them. So these were black flags with white writing on them. First of all, well, they
2 were on pickups which were covered in clay. So that was where I understood that,
3 in addition to the separatists, there were also Islamists.

4 Q. [15:38:48] Now, turning to the -- going back to the first day, you said that "The
5 last soldiers were leaving and they took the military camp." Who is "they"? Who
6 took the military camp?

7 A. [15:39:11] Well, I was speaking, first of all, about the militia, the militia who took
8 materiel, ammunitions, and arms. And those were within the camp. And at 11
9 o'clock, after having gone around, the MNLA came and they set themselves up in the
10 camp.

11 Q. [15:39:32] And you said there were some major explosions.
12 Where were these major explosions? And do you know who the cause were of these
13 explosions?

14 A. [15:39:51] Yes. There were shops where they had stocked shells. And I think
15 that these shops had been hit and that's why there were these explosions inside the
16 camp, inside the military camp.

17 Q. [15:40:08] And you said the shops had been hit. Hit by whom? By which
18 group?

19 A. [15:40:24] Well, I think it was the militia, firstly, because afterwards at 11 o'clock
20 we didn't hear any longer the sound of fire, the sound of weaponry.

21 Q. [15:40:44] Now, you explained that you knew on this first day that they were
22 MNLA because you recognised their flag and their uniforms. Can you just describe
23 what the MNLA flag looks like.

24 A. [15:40:57] Well, so you've got a black flag, and it's red and green. So when you
25 see it, black, red, and green, I recognise it.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 Now, with regards to the Islamists, they have a black flag with white writing on it.

2 That's in Arabic.

3 Q. [15:41:32] And the MNLA uniforms that you said you recognised. Can you
4 describe their uniforms.

5 A. [15:41:40] Well, most of the combatants are also deserters from the army. So
6 every time that they win a fight in a barracks, they also get hold of the uniform and
7 then they fight with it. Most of the combatants had the same uniform as the Malian
8 army, unless there were certain combatants who also had Libyan uniforms.

9 Q. [15:42:10] And what were the ethnicities of the people within the MNLA?

10 A. [15:42:16] Well, there were a lot of different people. There were Songhai.
11 There were Tuaregs. The majority were Tuareg. There were Arabs as well.

12 Q. [15:42:47] I'm now going to show a very short clip on video. It can be shown
13 publicly. I'll be displaying it on evidence channel 2. It is -- it can be played without
14 sound. No interpretation is required. I'll be playing it without sound. And the
15 tab number is tab 417. It is MLI-OTP-0015-0495. I'll be playing a short extract
16 starting from 00:07:13:05.

17 (Viewing of the video excerpt)

18 MS LUPING: [15:43:47] And I paused at 00:07:25:08.

19 Q. [15:44:00] And I ask if you recognise this flag.

20 A. [15:44:02] Yes, that's the MNLA flag.

21 Q. [15:44:07] I'll continue to play for another 10 seconds.

22 (Viewing of the video excerpt)

23 MS LUPING: [15:44:22] And I'm pausing at 00:07:38:04.

24 Q. [15:44:35] Do you recognise the armed group shown in this short video extract?

25 A. [15:44:41] It looks -- as I said, it looks like the MNLA. Generally, most of them

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 wore the Malian army uniform and -- but some of them had soldiers' uniform, foreign
2 soldiers' uniform.

3 Q. [15:45:07] I'm now going to keep playing for a few more seconds.

4 (Viewing of the video excerpt)

5 MS LUPING: [15:45:29] I'm again stopping at 00:07:49:18.

6 Q. [15:45:34] Can you confirm whether you recognise the flag shown on this
7 vehicle.

8 A. [15:45:40] Yes, that's the MNLA flag.

9 Q. [15:45:50] And I just note for the record that I've stopped now at 00:07:54:18.

10 Now, you described the arrival on 2 April, the next day, of a new group, and you
11 described them as Islamists. Do you know to what group or groups they belonged?

12 A. [15:46:27] Well, the first ones who arrived were Ansar Dine because they had
13 the jackets on which it was written "Ansar Dine".

14 Q. [15:46:52] And you stated that they were wearing jackets with "Ansar Dine"
15 written on it. And were you able to recognise the words?

16 A. [15:47:10] No, it was afterwards that I asked. People told me that "Ansar Dine"
17 was written on them. Otherwise, I couldn't read it or translate it.

18 Q. [15:47:21] And could you describe when this group of Ansar Dine - and you
19 describe them as Islamists - arrived in Timbuktu. Could you describe what you saw
20 or what you heard as they entered Timbuktu. What happened?

21 A. [15:47:38] Well, first of all, I said that they occupied the crossroads. And at that
22 time, the people who went past, they would explain to them that they had come to
23 make the population secure, to provide for safety and security. And in the
24 MNLA -- the next day, they had asked the MNLA to leave the camp for the airport
25 and to go and set itself up there. So now they made the camp into a base, and that's

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 how they then started, and they were explaining to the population what they wanted
2 to do. The objective of -- they were explaining what the objective of their mission
3 was, what they wanted.

4 Q. [15:48:44] And when you state that they explained to the population what the
5 objective of their mission was, what they wanted, could you explain what precisely
6 was said.

7 A. [15:49:06] Well, they said that within the framework of re-establishing calm they
8 would give back to Timbuktu all its values, values linked to the Muslim religion.
9 And so they had come with this in view for the application of Sharia. And it was in
10 this context that the population, everybody had to basically take on this notion so that
11 it would be for the benefit of the population. That was the main message that they
12 had addressed to everybody. And that was presided over by the imam. That was
13 the first or the main message that they said to the notables.

14 Q. [15:49:58] You said that this was the first or main message that they said to the
15 notables or notable.

16 Which -- sorry, was there a specific meeting that you learnt about of the group with
17 *notables* during which this message was given?

18 A. [15:50:36] Yes. It was this -- at this meeting. I didn't participate in it because I

19

20

21 Q. [15:50:51] And what did you learn about this meeting of *notables* with members
22 of the groups? Who were the leaders from the armed groups that attended this
23 meeting with the *notables*?

24 A. [15:51:16] Well, the chief of the group, Mohamed Najim. And he was the
25 leader of the MNLA and he was the person who met the town notables, the

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 politicians, the people who were refusing the Islamists. But the MNLA met them,
2 the political authorities, the customary authorities, and civil society in a general way
3 to explain to them what they wanted. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. [15:52:03] Now, you mentioned that there was a meeting where the objective
7 was explained, "to give back to Timbuktu all its values, values linked to the Muslim
8 religion. So they had come with this in view for the application of Sharia."

9 Could you clarify which of the groups was passing on this message.

10 A. [15:52:48] Ansar Dine. So it was Ansar Dine, with the imam, because they only
11 had one interlocutor, the marabout, the imam. They only -- they don't recognise the
12 political authorities.

13 Q. [15:53:05] And you stated that their interlocutor was the marabout or the imam.
14 What was the name of the imam who was acting as their interlocutor?

15 A. [15:53:17] No, Ben Essayouti was the grand imam. And after this meeting he
16 was setting up a crisis committee which would then -- then represent the community.
17 Now, it wasn't through him that he would be their direct interlocutor, but it was Hallé
18 Ousmane who was president -- or he was designated the president of this crisis
19 committee.

20 And taking into account his status as a mayor, Diadie Hamadoun would therefore
21 take over the reins of this crisis committee and he would discuss everything with the
22 occupiers.

23 Q. [15:54:15] Now, there were two names that you have mentioned, first the name
24 of the imam. Could you please provide the spelling for the name of the imam that
25 you gave.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 A. [15:54:32] Abderrahmane, A-B-D-E-R-H-A-M-A-N-E, Abderrahmane. B-E-N.

2 Next word, E-S-S-A-Y-O-U-T-Y. Abderrahmane Ben Essayouti.

3 Q. [15:55:09] And you also gave the name of the mayor who headed the crisis
4 committee, Hallé Ousmane. Could you provide the spelling for that, please.

5 A. [15:55:19] H-A-L-L-É with an accent. Next word Ousmane, O-U-S-M-A-N-E.

6 Q. [15:55:49] And at this meeting that you said took place between members of
7 Ansar Dine and the *notables*, could you let us know who was present. Who did you
8 learn was present at the meeting?

9 A. [15:56:09] The imam was there. There were -- Baba Sékou was there as well.
10 The imam of Sidi Yahya was there as well. These are the people who had the first
11 meeting. And it was after the meeting that I asked what it was about and they said
12 that they just explained the objective of their presence in Timbuktu and -- and today,
13 they were reviewing it. That's it.

14 Q. [15:56:39] And did they --

15 THE INTERPRETER: [15:56:40] Their vision, corrects the interpreter.

16 MS LUPING: [15:56:44]

17 Q. [15:56:44] Did they explain who was speaking to them from amongst the
18 Islamists who were -- who were present?

19 A. [15:56:59] Iyad Ag Ghaly was there, the one who organised the first meeting.
20 And then there were others who he didn't know, but he did know Iyad, who is
21 Malian.

22 Q. [15:57:22] And could you explain who is Iyad Ag Ghaly.

23 A. [15:57:30] Iyad, he was the initiator of Ansar Dine, the creator of Ansar Dine.
24 He's the spiritual leader of it. And at the same time, he was a Malian officer who
25 occupied several different posts of responsibility. And today too he's the person

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 who is at the head of a trio called JNIM, which is composed of AQIM, the Front for
2 the Liberation of Macina, FLN, and Ansar Dine. So he's the one who responds on
3 behalf of these three, this trio. That's what Iyad Ag Ghaly does.

4 Q. [15:58:21] And in addition to Iyad Ag Ghaly, do you know of any other leaders
5 from amongst the Islamists were present?

6 A. [15:58:32] I couldn't answer that, because not only was I not there, but those
7 who left also didn't know them. They only spoke about Iyad.

8 Q. [15:58:40] And do you know where this meeting took place with Iyad Ag Ghaly
9 and *notables*.

10 A. [15:58:55] It took place within the military camp.

11 Q. [15:59:01] Now, Mr Witness, I'm just going to note, we have about two -- one
12 minute left, actually, before the end of this session. I obviously have a number of
13 questions.

14 But my last question before we break: You described the Islamists coming from
15 Ansar Dine. Could you explain what their ethnic groups were, the ethnicities of the
16 people that you saw coming from Ansar Dine.

17 A. [15:59:40] Ansar Dine, for the most part it was a Tuareg group. But there were
18 also Bambara among them, Songhai, Peuhl. It was a group that was somewhat
19 mixed which had a lot of different components. Over time that the label was used,
20 you didn't find it just with nationals, but you also had some international. Even
21 Algerians call themselves, Mauritaniens as well, Lebanese, Pakistanis, all of them who
22 were in the group, who were active within the group, came under the name Ansar
23 Dine.

24 Q. [16:00:26] Thank you, Mr Witness.

25 Thank you, Mr President. Those are my questions for today.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [16:00:33](Interpretation) Thank you very much,

2 Madam Prosecutor Luping.

3 Court officer, we are going back into open session I presume.

4 THE COURT OFFICER: [16:00:44] We are currently in open session.

5 PRESIDING JUDGE MINDUA: [16:01:02](Interpretation) Witness.

6 THE WITNESS: [16:01:03](Interpretation) Yes.

7 PRESIDING JUDGE MINDUA: [16:01:05](Interpretation) We're coming to the end of

8 our day and your testimony has not been finished yet. You will be coming back

9 tomorrow morning for the follow-up thereto.

10 Between now and then, please do not forget that you are prohibited from speaking

11 about your testimony to anyone at all, neither to members of your family, nor to any

12 friends, if you would happen to be in contact with them this evening.

13 Very well. So before finishing the session, I would like to express my gratitude to

14 the parties and participants, to the court reporters and to the interpreters, and to our

15 security officers, and obviously to our public following us. I wish you all a very

16 good evening. We shall be back tomorrow at 9.30.

17 Court is adjourned.

18 (The hearing ends in open session at 4.02 p.m.)

19 CORRECTION REPORT

20 The following correction, marked with an asterisk and included in the audio-visual

21 recording of the hearing, is brought into the transcript.

22 Page 9 line 25 to page 10 line 1

23 "PRESIDING JUDGE MINDUA: [10:03:04](No Interpretation)" Is corrected to

24 "PRESIDING JUDGE MINDUA: [10:03:04] Ms Sutherland, are we continuing in

25 private session or shall we go into open session?

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 SECOND CORRECTION REPORT

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

4 Page 6 lines 7-8

5 "the announcements by loudspeaker?" Is corrected to "the announcements were
6 made by loudspeaker?"

7 Page 15 line 13

8 "the witness" Is corrected to ",the witness,"

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

11 Page 9 lines 13-14

12 [REDACTED]

13 [REDACTED] Is corrected to [REDACTED]

14 [REDACTED]

15 Page 9 lines 19-21

16 "I don't know [REDACTED] I don't know what kind of work she does. I know her. But to
17 say what she does or to say that [REDACTED] I don't know anything about that." Is
18 corrected to "I don't know what [REDACTED] does for a living, but otherwise I know her
19 well. But to say what she does for a living, or to say that [REDACTED] I don't know
20 anything about that, but otherwise I know her well."

21 Page 10 line 24

22 "Yes, I was with them. [REDACTED]" Is corrected to "Yes, I was somewhat in
23 their midst. I was with them.

24 Page 12 lines 7-9

25 "But once we got to the shed, we removed our saris. We set them down at the shed

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 to go to the BMS." Is corrected to "But when we got to.... there are warehouses....

2 when we got to the warehouses, we removed our saris and we set them down at the
3 warehouse on the way to the BMS."

4 Page 12 lines 18-19

5 "Even if at the market we -- if we did not wear saris, they would whip us." Is

6 corrected to "Even if we went to the market and didn't wear a sari, they would whip
7 us. We didn't agree with that."

8 Page 18 line 12

9 "The interpreter said this on a number of occasions." Is corrected to "The witness just

10 said [REDACTED]

11 Page 21 line 5

12 "As to people he did do things to," Is corrected to "As to people who did something
13 to me,"

14 Page 23 lines 13-15

15 ". You know, if something is done to me, then we talk about it and we move on." Is

16 corrected to ", even with all that was done to us. You know, I am the kind of person
17 who - something is done to me, then we talk about it and we move on."

18 Page 27 lines 19-21

19 "The OTP has a choice to provide or not provide notes and I think this is --" Is

20 corrected to "The Defence has a choice to provide or not provide notes. So, reading

21 the transcript now it is still somewhat confusing and I wonder what the Chamber will
22 do with all this information."

23 THIRD CORRECTIONS REPORT

24 The following corrections, marked with an asterisk and not included in the

25 audio-visual recording of the hearing, are brought into the transcript.

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 Page 35 lines 9-10

2 "So if I'm designated, somebody else -- well, that's possible." Is corrected to [REDACTED]

3 [REDACTED]

4 Page 35 lines 13-16

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 Page 35 lines 24-25

13 "Could you take us into private session -- still in private session." Is corrected to "Are
14 we still in private session, Madam Prosecutor?"

15 Page 36 lines 19-20

16 "But taking into account the occupation, it was decided that I would go." Is corrected
17 to "But in view of the occupation, (inaudible name) decided to leave."

18 Page 37 lines 15-17

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Page 38 lines 13-17

25 [REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 Page 38 line 22

9 [REDACTED]

10 Page 39 line 17

11 [REDACTED]

12 Page 39 line 22

13 [REDACTED]

14 [REDACTED]

15 Page 46 lines 4-7

16 "And it was an opportunity for the Islamists to get involved and they were fighting
17 two fronts against the Malian army, that was the separatists and the Islamists, and the
18 Malian army" Is corrected to "So it was an opportunity for the Islamists to get
19 involved, and they were fighting. This meant there were two fronts against the
20 Malian army: the separatists and the Islamists against the Malian army,"

21 Page 46 lines 11-12

22 "The separatists were the MNLA, the *Mouvement National pour la* –" Is corrected to
23 "The separatists were the MNLA, the *Mouvement National pour la Libération de*
24 *l'Azawad.*"

25 Page 48 lines 1-6

Trial Hearing
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 "there were elements of AQMI, but they fell under Ansar Dine. When I talk of AQMI,
2 there were elements that have been recruited. When I talk about AQMI, I talk about
3 Abou Zeid. He was the leader of AQMI because he's an Algerian. Everyone has
4 followed his background. We know that he was a big leader of the FIS and -- with
5 Mokhtar Belmokhtar." Is corrected to "there were elements of AQMI, but they fell
6 under Ansar Dine. When I talk of AQMI, there were elements that have been
7 recruited. When I talk about AQMI, I talk about Abou Zeid. He was the leader of
8 AQMI because he's an Algerian. Everyone has followed his background. We know
9 that he was a big leader of the FIS who turned it down in favour of the armed wing
10 with Mokhtar Belmokhtar."

11 Page 48 lines 12-13

12 "in order to create a symbiosis or dynamic in which all ethnic groups were created,
13 the MUJAO was set up." Is corrected to "in order to create a symbiosis or dynamic in
14 which all ethnic groups were to be found, the MUJAO was set up."