

Trial Hearing
MLI-OTP-P-0626

(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 Tuesday, 5 October 2021
- 10 (The hearing starts in open session at 9.31 a.m.)
- 11 THE COURT USHER: [9:31:58] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE MINDUA: [9:32:16](Interpretation) Court is in session.
- 15 Good morning to all.
- 16 Mr Courtroom Officer, could you please call the case.
- 17 THE COURT OFFICER: [9:32:40] Good morning, Mr President, your Honours.
- 18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
- 19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
- 20 And for the record, we are in open session.
- 21 PRESIDING JUDGE MINDUA: [9:33:06](Interpretation) Thank you very much,
- 22 Mr Courtroom Officer.
- 23 As every morning, we are going to check with the teams and their compositions.
- 24 Mr Prosecutor.
- 25 MR GARCIA: [9:33:19](Interpretation) Good morning, Mr President, your Honours.

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1 Lucio Garcia for the Prosecution, with Ms Sardachti, and we comprise the entire
2 Prosecution team for today.

3 PRESIDING JUDGE MINDUA: [9:33:33](Interpretation) Thank you very much,
4 Mr Prosecutor.

5 And over to the Defence.

6 Counsel.

7 MS TAYLOR: [9:33:38] Good morning, Mr President. Good morning,
8 your Honours. Good morning to everyone in the courtroom.

9 The Defence for Mr Al Hassan is represented today by Ms Sarah Marinier-Doucet, Ms
10 Dolly Chahla and myself, Ms Melinda Taylor.

11 PRESIDING JUDGE MINDUA: [9:33:51](Interpretation) Thank you very much,
12 Ms Taylor.

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

14 MR KASSONGO: [9:33:59](Interpretation) Thank you, Mr President, your Honours.

15 Good morning to all. The team of the Legal Representatives of Victims today
16 comprises Madam Prisque Dipanga Biyéke, who is assisting me and who's seated just
17 behind me, and myself, Maître Kassongo. We'd like to thank you on behalf of the
18 entire team.

19 PRESIDING JUDGE MINDUA: [9:34:22](Interpretation) Thank you very much,
20 Maître Kassongo.

21 And now I shall turn to the counsel, the Rule 74 counsel of our witness.

22 Maître.

23 MR DHIB: [9:34:29](Interpretation) Good morning, your Honours.

24 Counsel Hassen Dhib. I am with the witness who is to appear today before the

25 International Criminal Court as per Rule 74 of the Rules of Procedure and Evidence of

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1 this Court.

2 PRESIDING JUDGE MINDUA: [9:35:01](Interpretation) Thank you very much,

3 counsel.

4 Now, lastly, I shall turn to the witness. Of course, we shall be continuing with the

5 testimony of the Prosecution witness P-0626.

6 Good morning, Mr Witness, how are you this morning?

7 WITNESS: MLI-OTP-P-0626 (On former oath)

8 (The witness speaks Arabic)

9 (The witness gives evidence via video link)

10 THE WITNESS: [9:35:19](Interpretation) Good morning.

11 PRESIDING JUDGE MINDUA: [9:35:27](Interpretation) Thank you very much,

12 Mr Witness. On behalf of the Chamber, I would like to welcome you once again and

13 thank you for your availability.

14 I would like to remind you that you are still under oath and that you should speak the

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

16 Lastly, I would like to remind you of the practical advice with regard to addressing

17 the Court. As all of us in this courtroom, we need to speak slowly and clearly and

18 observe pauses.

19 Now, without any further ado, I shall hand over to the Prosecution for the

20 continuation and wrapping up, I hope, of the examination-in-chief.

21 Mr Prosecutor.

22 MR GARCIA: [9:36:20](Interpretation) Thank you, Mr President. Thank you,

23 your Honours.

24 Yes, as the OTP committed itself, it shall indeed be wrapping up the

25 examination-in-chief of this witness in this first session.

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1 Now, we were continuing yesterday, and as we are still under Rule 74, I would
2 request that we return once again for a session of approximately 30 minutes to private
3 session for questions that might elicit responses under Rule 74.

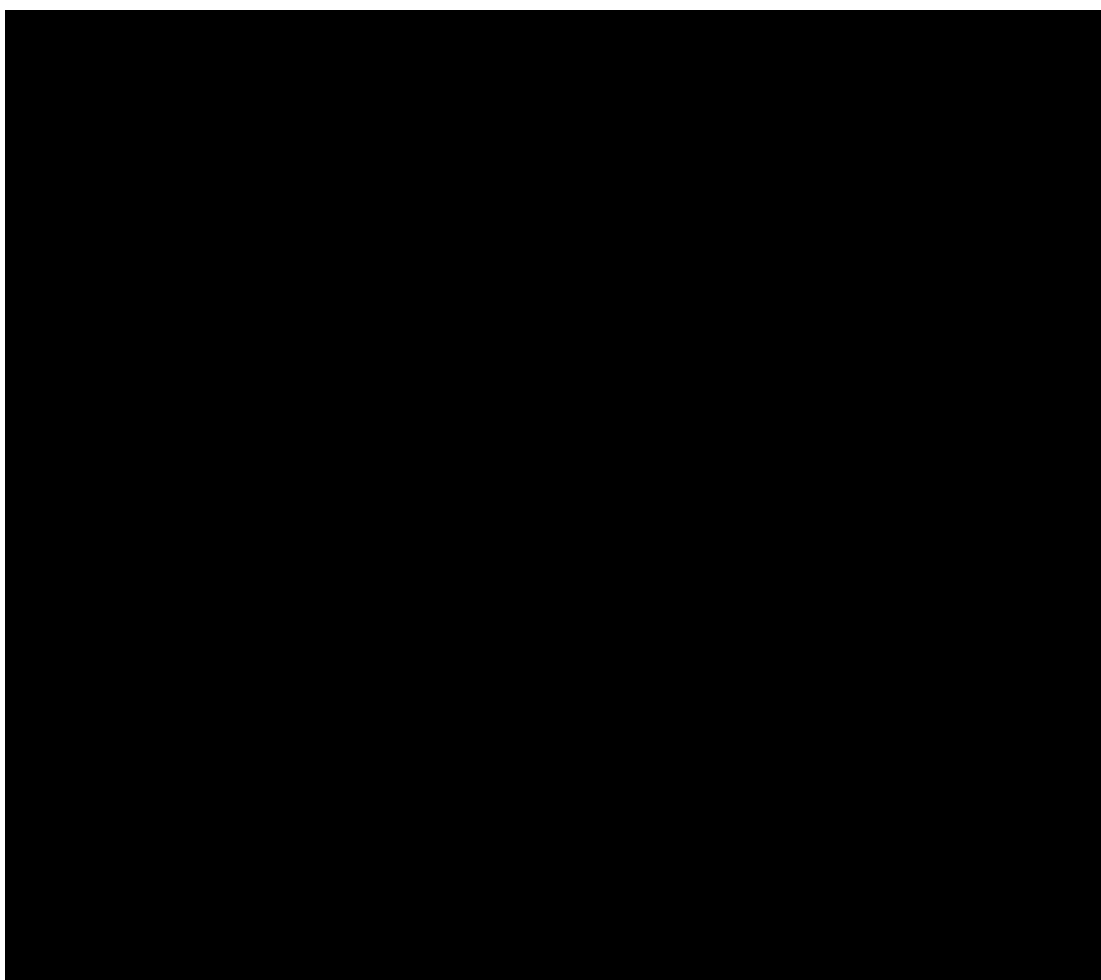
4 We have two subjects on which we will be able to put questions in public session
5 towards the end of the session this morning.

6 PRESIDING JUDGE MINDUA: [9:37:03](Interpretation) I'd like to remind the
7 members of the public that, unfortunately, we now need to go into Rule 74 closed
8 session.

9 Mr Courtroom Officer, closed session, please.

10 (Closed session at 9.37 a.m.)

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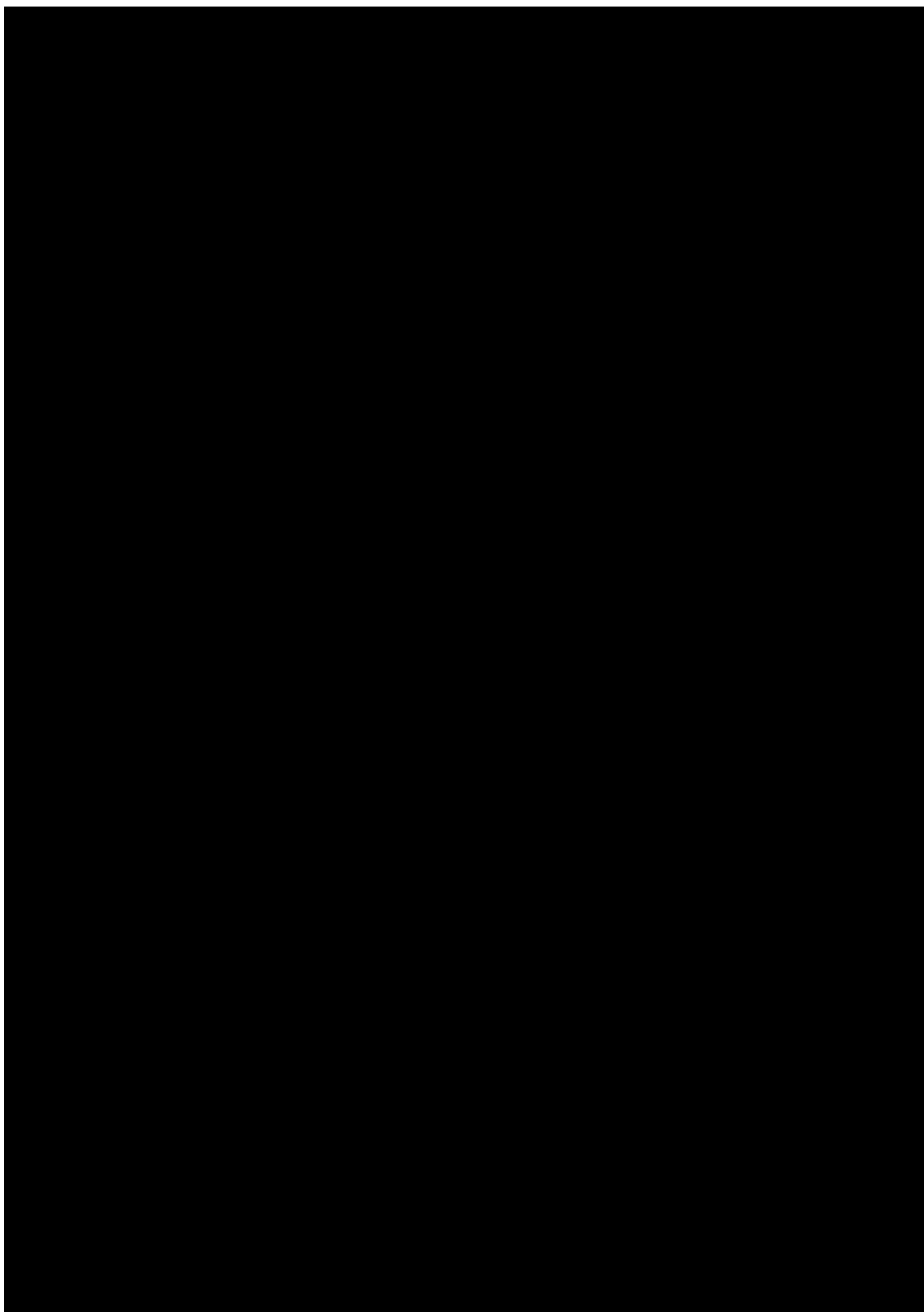
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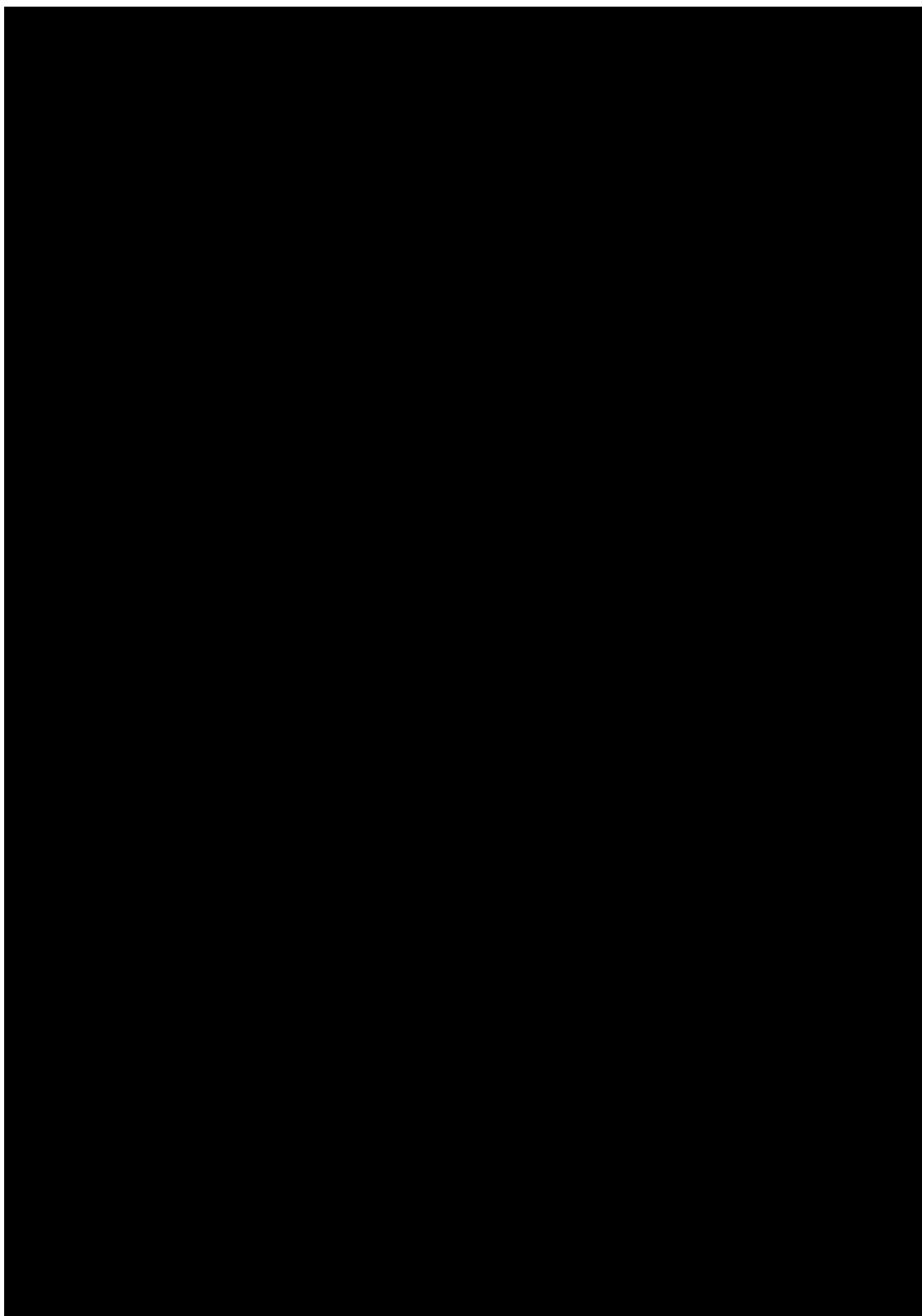
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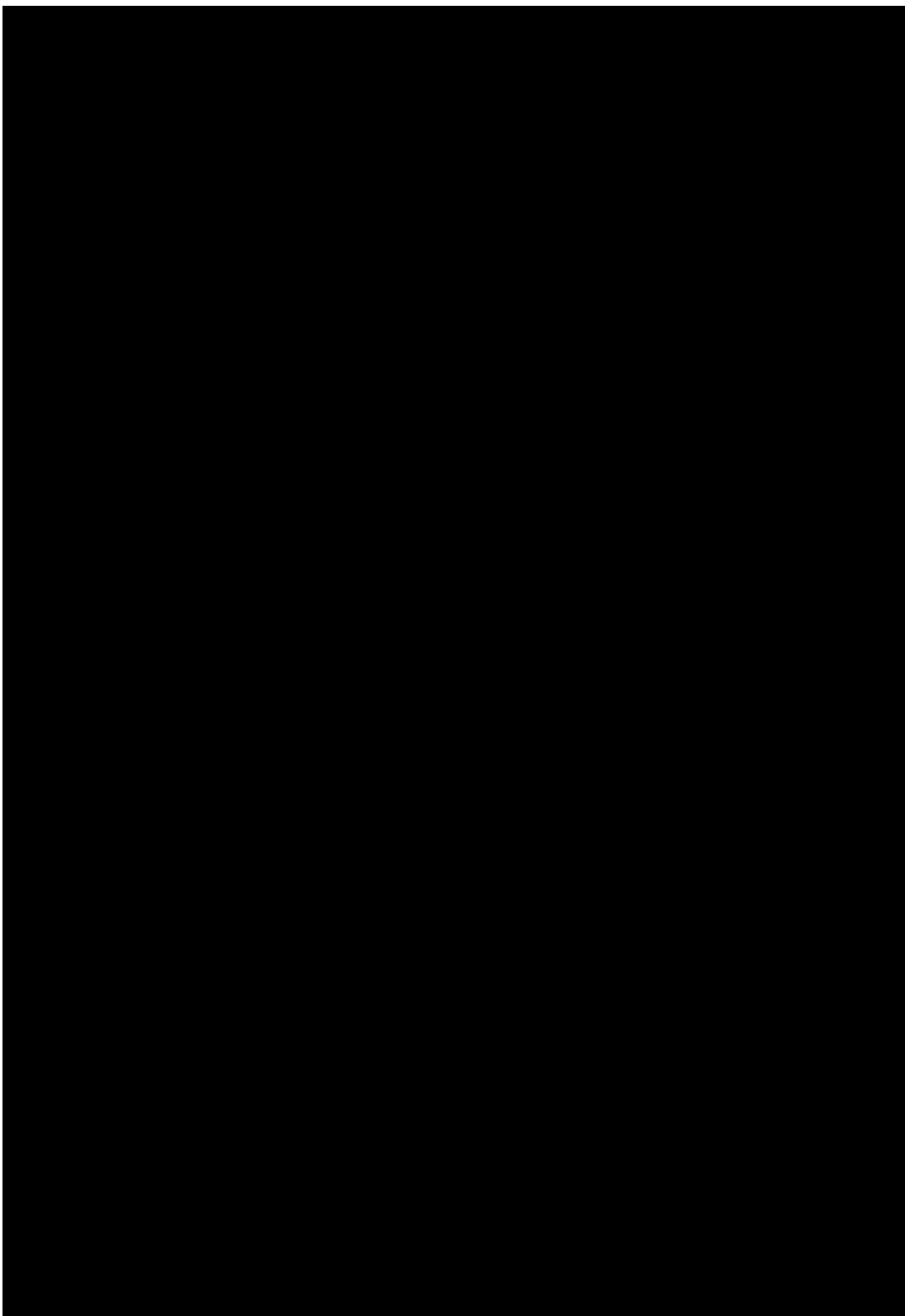
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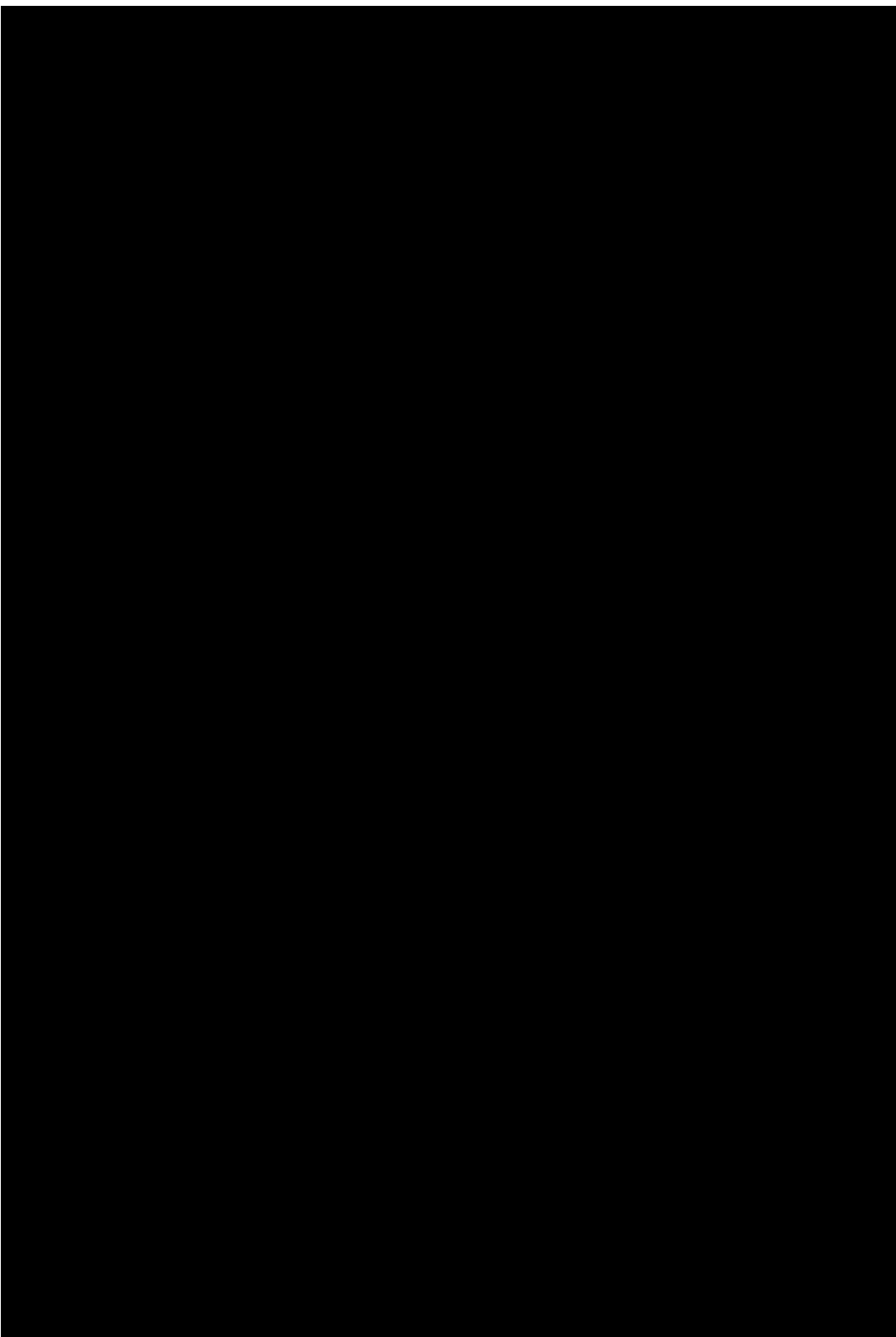
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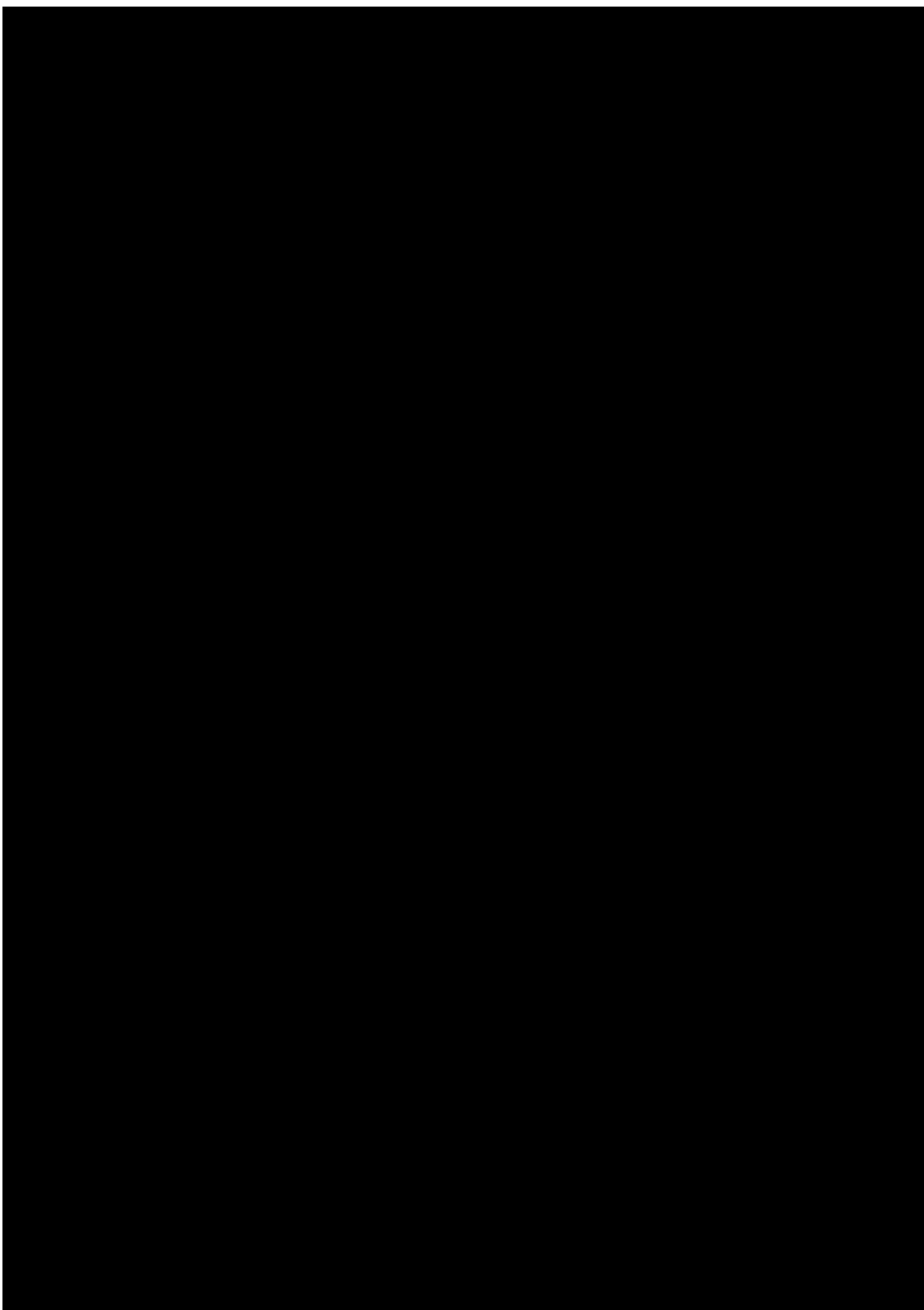
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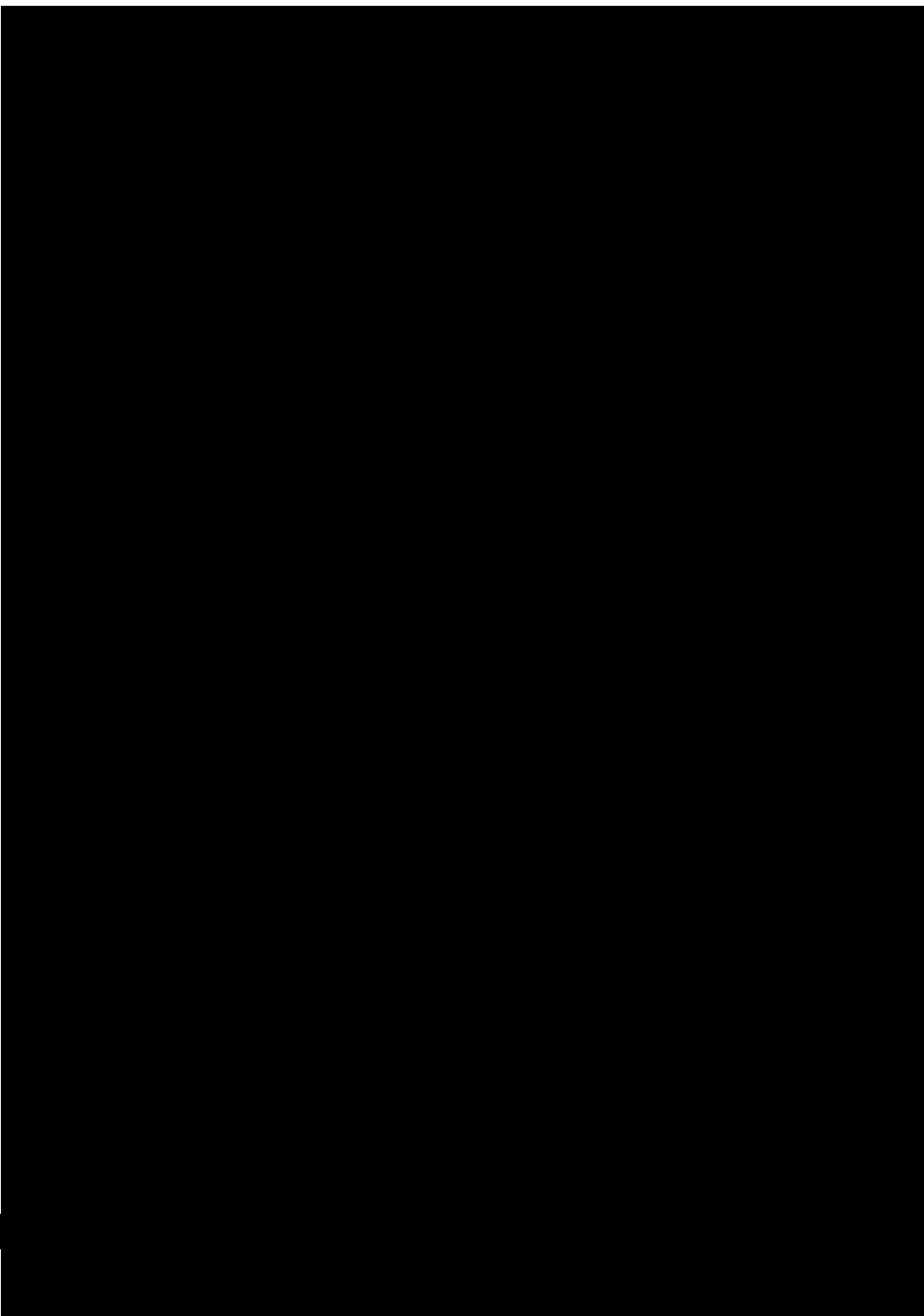
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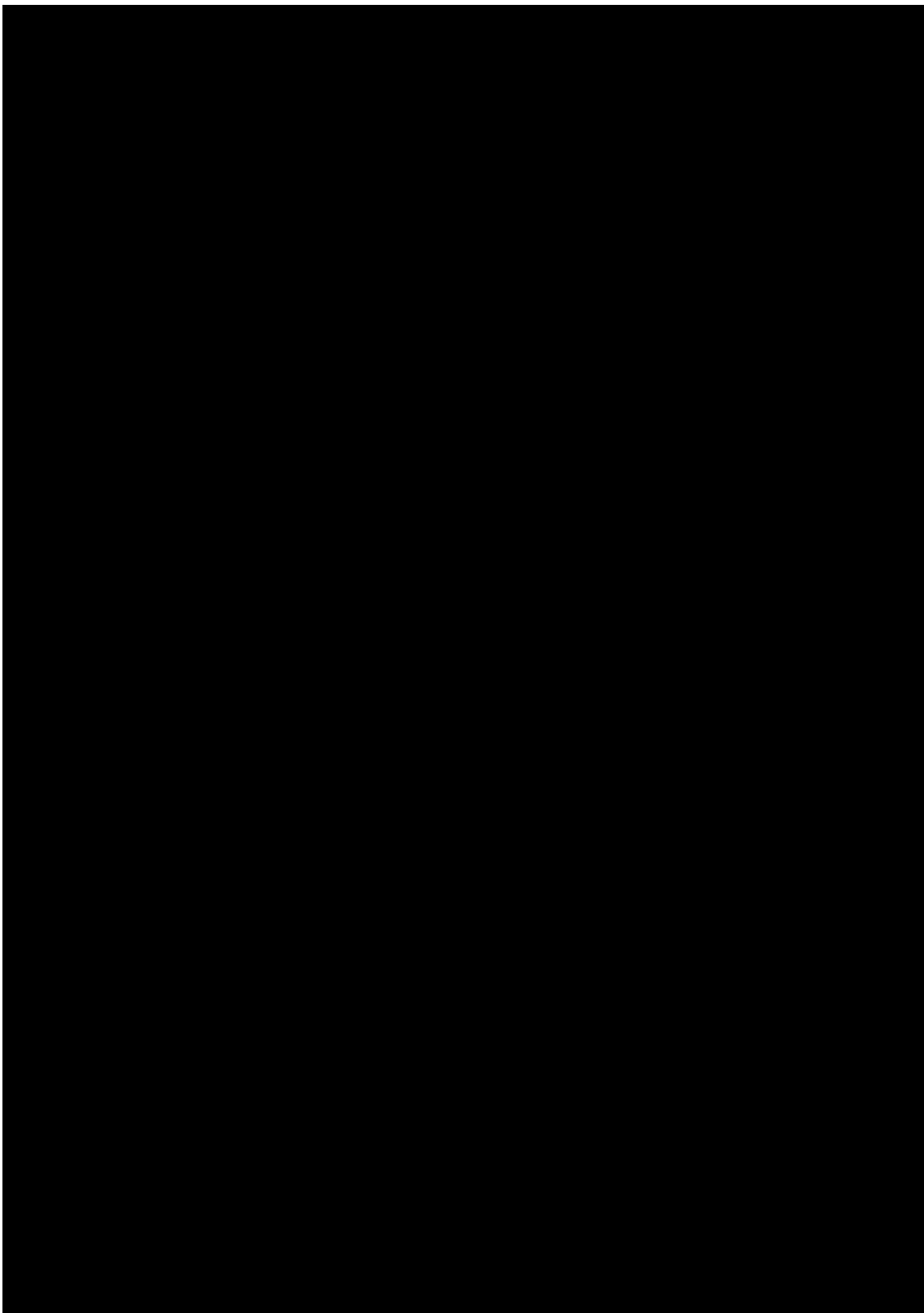
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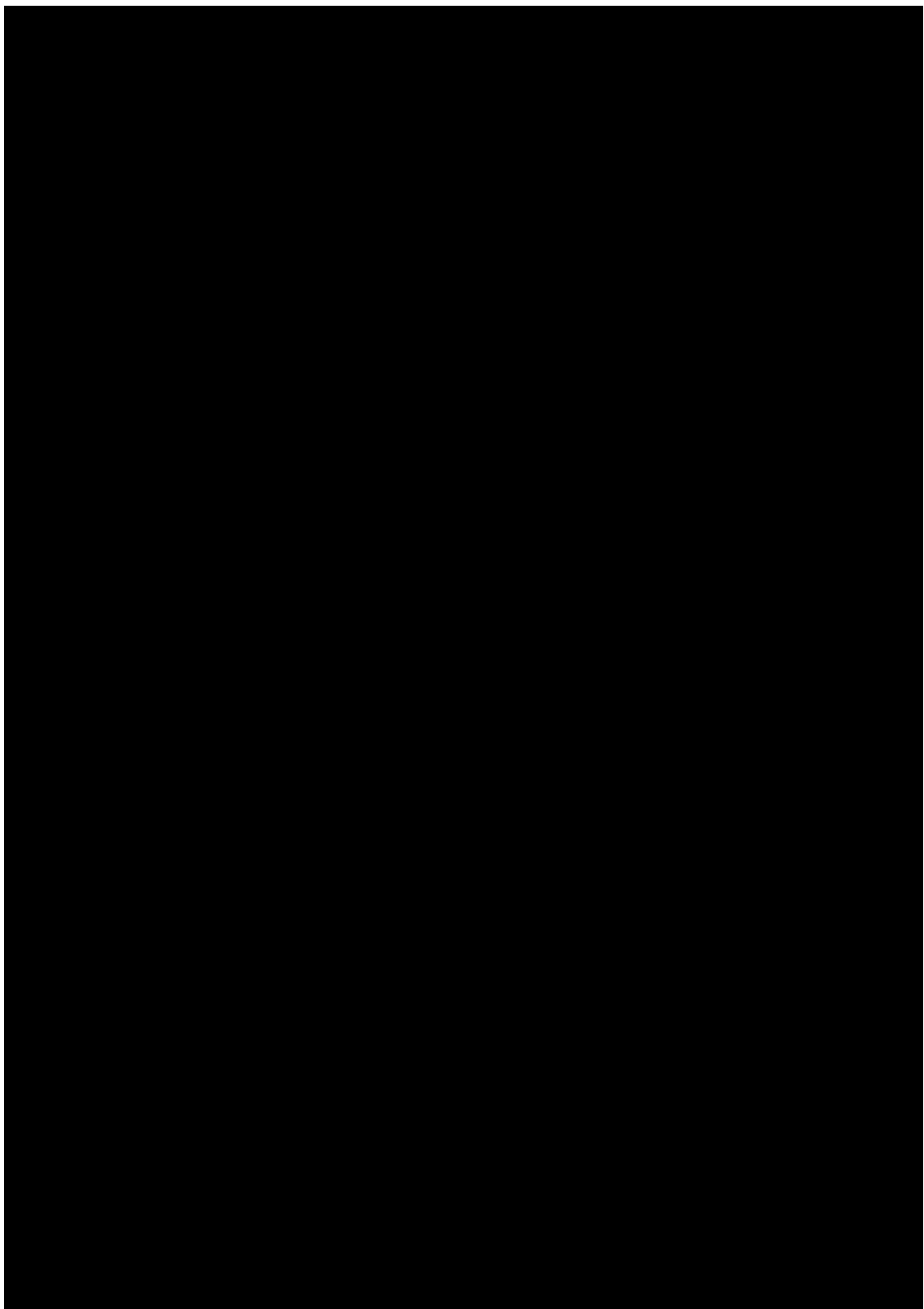
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22 THE COURT OFFICER: [10:11:21] We're in private session, Mr President.

23 PRESIDING JUDGE MINDUA: [10:11:33](Interpretation) Thank you very much.

24 Prosecutor.

25 MR GARCIA: [10:11:39](Interpretation)

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1 Q. [10:11:40] So, Witness, we're now going to go into two different subjects. I'd
2 just like to put some preliminary questions to you and then I would ask the Court to
3 go into open session; so I would ask you to pay attention when we go into open
4 session not to reveal your identity.

5 So the first point is -- goes into the question of marriage.

6 So to the best of your knowledge, were there individuals who belonged to the armed
7 groups who were married while they were in Timbuktu between 2012 and 2013?

8 A. [10:12:17] Yes. I know people who got married.

9 Q. [10:12:47] Very well. [REDACTED]
10 [REDACTED]?

11 A. [10:12:59] [REDACTED]

12 Q. [10:13:14] [REDACTED]?

13 A. [10:13:27] [REDACTED]
14 [REDACTED]

15 Q. [10:14:18] [REDACTED]
16 [REDACTED]?

17 A. [10:14:31] Her name is [REDACTED]

18 Q. [10:14:51] So you said that [REDACTED]
19 So what's the name of the person?

20 A. [10:15:06] This person's name is [REDACTED]

21 Q. [10:15:23] And this person [REDACTED] which group did he belong to?

22 A. [10:15:32] To Al-Qaeda.

23 Q. [10:15:52] Could you explain to us how it happened? You said that [REDACTED]
24 [REDACTED] How did it happen? Could you
25 explain what happened?

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1 A. [10:16:11] What happened is that they -- the members of the group always was
2 looking for women to marry, and he was married before to somebody from the
3 group [REDACTED] and I know that this lady was not married, and that's wh [REDACTED]

4 [REDACTED]
5 [REDACTED] They got married.

6 Q. [10:17:18] How old wa [REDACTED]? How old was she at this time?

7 A. [10:17:28] I don't know, but she i [REDACTED]
8 I don't know how old she was exactly.

9 Q. [10:17:48] Could you give us an approximate estimate as to her age?

10 A. [10:17:57] [REDACTED] I don't know, something around that.

11 Q. [10:18:12] When this happened, wa [REDACTED] living in
12 Timbuktu -- Timbuktu city itself?

13 A. [10:18:25] No, no. She was living in a village close to another village called
14 [REDACTED] but not Timbuktu. It wasn't Timbuktu. In a small village near another
15 village called [REDACTED]

16 Q. [10:18:58] How far is this village from Timbuktu?

17 A. [10:19:02] [REDACTED] It's located somewhere between Timbuktu and

18 [REDACTED]

19 Q. [10:19:30] Could you explain to us how it was a situation th [REDACTED]

20 [REDACTED]? Could you say how this
21 happened?

22 A. [10:19:47] [REDACTED] And this
23 person proposed to her and she accepted, and the parents also accepted, and that's
24 how they got married.

25 And he took her to Timbuktu.

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1 Q. [10:20:23] Could you explain to us before I put further question [REDACTED]

2 [REDACTED]

3 [REDACTED]?

4 A. [10:20:46] I can't remember now, really, the reason. But I only remember that
5 he was married to somebody else before and he (sic) came with him looking for a wife
6 for him. That's what I remember.

7 Q. [10:21:25] But you're not able to explain to us how it was tha [REDACTED]

8 [REDACTED]?

9 A. [10:21:57] He was looking for a woman, an [REDACTED]

10 [REDACTED].

11 Q. [10:22:09] Thank you for this clarification, Witness.

12 Now, when you [REDACTED] this man [REDACTED] was he armed at the
13 time?

14 A. [10:22:25] Yes.

15 Q. [10:22:31] What type of weapon did he have?

16 A. [10:22:37] This weapon that he was carrying is called a Kalash, but there are
17 different types of it. It's one of those light weapons. I don't know exactly which
18 one.

19 Q. [10:23:09] You said tha [REDACTED] but could you explain

20 [REDACTED] marriage proposal -- you need consent of the father and
21 the daughter? Is that's what needed? Or -- and/or circumstances? Or are there
22 circumstances where it's not necessary?

23 Could you tell us more about this, when -- when it's necessary?

24 A. [10:23:41] Yes. In our customs, marriage -- it is very important that a person
25 who wants to get married to ask for the hand of the lady from her father. But also

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1 she has a say if she wants to marry this man. She accepts, and, if she doesn't, she just
2 refuses.

3 So she has a say in it as well.

4 Q. [10:24:25] So just to be clear about this question, when you say that according to
5 our traditions, are these the traditions of your tribe?

6 A. [10:24:45] Yes.

7 Q. [10:24:53] And so it's clear - please correct me if I'm wrong - in your tribe, is the
8 girl a minor or adult? She always has something to say whether she wants to marry
9 or not? She can always say something about that?

10 A. [10:25:15] No. Only if she was married before. Only in that case. But if she
11 was a minor, sometimes she gets forced into a marriage by her father because, if she is
12 a minor, sometimes she wants to get married to a person, but she's too shy to say.
13 But this is something that we usually do amongst ourselves and not with someone
14 whose coming from outside.

15 Q. [10:26:16] And when you speak about minors - so that we are all on the same
16 page when it comes to what we understand by this - what age are we talking about?
17 Below what age?

18 A. [10:26:30] Well, 12, 13, 15, 16 and maybe up to 20, or maybe less than 20. But
19 what is important is that the woman was not married before.

20 Q. [10:27:05] Very well, Witness. Thank you for this clarification.

21 Now, when [REDACTED]

22 PRESIDING JUDGE MINDUA: [10:27:19](Interpretation) Please excuse me,
23 Prosecutor.

24 Are we still in private session?

25 MR GARCIA: [10:27:26](Interpretation) I'm just going to close this chapter with

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1 regards to this part of the account that might identify the witness, and then I'll
2 immediately ask the Chamber to go into open session.

3 PRESIDING JUDGE MINDUA: [10:27:38](Interpretation) Very well. Please
4 continue.

5 MR GARCIA: [10:27:41](Interpretation)

6 Q. [10:27:41] So, Witness, when [REDACTED] what
7 happened exactly?

8 A. [10:27:53] Nothing happened, really. The father asked the -- his daughter for
9 her opinion, she accepted, and they got married. They did the marriage ceremony,
10 and he took her to Timbuktu.

11 Q. [10:28:34] [REDACTED]

12 [REDACTED] ?

13 Could you explai [REDACTED]

14 [REDACTED].

15 A. [10:28:58] [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Q. [10:29:40] Very well. Who are we talking about? Could you give us the
19 names of the people from your tribe who got married?

20 A. [10:29:56] The names of the women -- the names of the women and the men?

21 Q. [10:30:19] Yes.

22 A. [10:30:22] I can't really remember. I forgot the names of the women. I think
23 one of them wa [REDACTED] And the other one . [REDACTED] I'm not quite sure
24 really. I can't remember.

25 Q. [10:30:53] Do you remember, Witness, the name of the people they got married

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1 to?

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

3 [REDACTED]

4 Q. [10:31:28] So you say tha [REDACTED]. I just
5 want to cast light on one point with you beforehand.

6 [REDACTED]

7 [REDACTED]?

8 A. [10:32:05] One of them got marrie [REDACTED] He went
9 there and got married there. And then he took the woman with him. [REDACTED]

10 [REDACTED] The second one, I now forget how the
11 marriage happened exactly, bu [REDACTED]

12 [REDACTED]

13 Q. [10:33:22] Very well, Mr Witness. Thank you for this clarification.

14 I shall now request that we move into open session. So please be careful not to
15 reveal any identifying information.

16 Mr President.

17 PRESIDING JUDGE MINDUA: [10:33:34](Interpretation) Mr courtroom officer,
18 open session, please.

19 (Open session at 10.33 a.m.)

20 THE COURT OFFICER: [10:33:40] We are back in open session, Mr President.

21 PRESIDING JUDGE MINDUA: [10:33:50](Interpretation) Thank you very much,
22 Mr Courtroom Officer.

23 Mr Prosecutor.

24 MR GARCIA: [10:33:53](Interpretation)

25 Q. [10:33:54] So, Mr Witness, we are still on the subject of marriage of the men from

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1 the armed groups with women from Timbuktu and the surrounding area.

2 Are you in a position to tell us whether there were many such cases in the years 2012

3 to 2013?

4 A. [10:34:17] Yes. A lot of these events happened in Timbuktu and the

5 surrounding area. Many of the armed groups' men were married in Timbuktu and

6 around it.

7 Q. [10:34:43] And according to your knowledge and your experience, Mr Witness,

8 according to what you heard, did you hear speak of a woman who refused to get

9 married with members of an armed group in the year 2012, 2013?

10 A. [10:35:12] No, I haven't heard of that. Not at all.

11 Q. [10:35:22] So you also spoke to us of certain marriages, three marriages a few

12 moments ago. I don't want to go come back to the details or these marriages again,

13 Mr Witness.

14 But did these marriages come to an end? And, if so, in what manner?

15 A. [10:35:46] In the same manner a man would ask for a hand of a woman. If she

16 agrees, he gives the dowry and the marriage happens. This is -- this is what I know

17 about those marriages.

18 Q. [10:36:19] So I shall be more specific.

19 Were there any divorces in those marriages at a given moment in time or did they

20 continue to stay together?

21 A. [10:36:30] Regarding divorce, what I know is that they -- sometimes they would

22 leave their wives and they would leave the city. Many have left their wives and left

23 the city as well.

24 Q. [10:37:05] So you say that many of them left the city and left their wives as well.

25 Now, when you say "many," who are you speaking of?

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1 A. [10:37:19] The armed group that were -- groups that were in Timbuktu.

2 Q. [10:37:30] And when you say that they left their wives, how did that come
3 about?

4 If they were married, how did that happen?

5 A. [10:37:46] Whereby through divorce. They left their wives. They divorced
6 them.

7 Q. [10:38:06] And for us to understand well, Mr Witness, what was the procedure
8 of divorce that they followed? Did they have to bring it before a tribunal? How
9 did things unfold at that time?

10 A. [10:38:21] No, no. No need for the tribunal. They just get divorced. They
11 just leave their wives.

12 Q. [10:38:34] And how did -- or where did they get divorced from? So as for us to
13 understand, how did the divorce from these women come about?

14 A. [10:38:58] I did not understand your question.

15 Q. [10:39:05] To be specific, was it sufficient enough for them to say that they were
16 divorced for it to actually be the case, or did they have to follow a procedure? Did
17 they have to consult somebody?

18 Do you see what I'm driving at?

19 A. [10:39:31] Yes, I understand. There are no procedures. This is why I said they
20 just get divorced. There are no specific measures or procedures for divorce, at least
21 not anything that I know of.

22 Q. [10:39:53] So if I understand you correctly, Mr Witness, it was sufficient for these
23 men, members of armed group -- armed groups, to just say that they were divorced
24 for that to be the case, for them to be divorced from these women that they had
25 married?

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1 A. [10:40:14] This is it. This is it. Exactly.

2 Q. [10:40:21] And when did these divorces come about? At what period? Was it
3 at the beginning, towards the middle or towards the end of the occupation of
4 Timbuktu by the armed groups?

5 A. [10:40:43] This happened before the invasion of the south and before the
6 intervention of the French groups when there was the withdrawal. So it happened
7 at that period.

8 PRESIDING JUDGE MINDUA: [10:41:14](Interpretation) Excuse me, Mr Prosecutor.
9 Please check with the witness how the woman knew that she was divorced.
10 Was it the husband who told them that? Or was it the husband who left and then
11 the wife noticed that he was no longer there?

12 MR GARCIA: [10:41:31](Interpretation) Yes. Thank you.

13 Q. [10:41:34] Mr Witness, of course you just heard what the presiding judge said,
14 Mr Witness. So I'm going to be putting the same question to you.
15 How, according to your knowledge, did the wife discover that she had been divorced
16 by her husband?

17 A. [10:41:52] If the person had taken his wife to Timbuktu,
18 he would bring her back to her parents. This is only what I know.

19 MR GARCIA: [10:42:12](Interpretation) I don't know, Mr President, whether that
20 answers your question or not.

21 PRESIDING JUDGE MINDUA: [10:42:21](Interpretation) Thank you very much.

22 MR GARCIA: [10:42:23](Interpretation)

23 Q. [10:42:25] Thank you, Mr Witness, for this clarification. I would like to now
24 change topic. This is one of the last topics I shall be broaching with you.

25 Now, to your knowledge, are you in a position to explain to us how one could join the

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1 armed groups that were part of the jihadists in the years 20- and -- 2012 and 2013?

2 A. [10:43:02] There are places, open places for training. There are people in charge
3 of the training, so anyone who wants to integrate the groups can go to them and then
4 they can have training. And then, ultimately they would join the groups.

5 Q. [10:43:44] Now, you were talking of specific locations. What locations were
6 they?

7 A. [10:43:55] I know one place in the northern part of Timbuktu. The groups were
8 there, and the place was open for training.

9 Q. [10:44:22] Did that location have a name? Do you have a description of said
10 location as to what purpose it fulfilled previously?

11 A. [10:44:39] Yes. It had buildings, large buildings.

12 Q. [10:45:04] And these large buildings you are mentioning, do you know what
13 they were used for before the occupation of Timbuktu?

14 Did they have any specific purpose?

15 A. [10:45:21] I said that it was for the gendarmes or -- or the guards and the Malian
16 state -- it was the headquarters for the Malian state.

17 Q. [10:45:50] Very well. Thank you very much for that clarification, Mr Witness, I
18 hadn't seen that in the interpretation.

19 Now, when you say that there was "training," what kind of training were people put
20 through?

21 A. [10:46:08] I have no idea.

22 Q. [10:46:16] And how are you aware of the fact that such locations existed for the
23 purposes of training for people who would then join the armed groups?

24 How are you aware of this?

25 A. [10:46:33] I knew of such places. I knew that there were training locations.

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1 MR GARCIA: [10:46:51](Interpretation) Mr President, with your leave, I need 5 to 10
2 minutes in private session.

3 PRESIDING JUDGE MINDUA: [10:46:58](Interpretation) Mr Courtroom Officer,
4 private session, please.

5 (Private session at 10.47 a.m.)

6 THE COURT OFFICER: [10:47:06] We are in private session, Mr President.

7 PRESIDING JUDGE MINDUA: [10:47:13](Interpretation) Thank you very much.
8 Mr Prosecutor.

9 MR GARCIA: [10:47:18](Interpretation)

10 Q. [10:47:20] Mr Witness, last question from me.

11 [REDACTED]
12 [REDACTED]

13 A. [10:47:37] I do not remember anything about that -- or, maybe, I did not get your
14 question completely.

15 Q. [10:48:03] [REDACTED]
16 [REDACTED]

17 A. [10:48:19] No. [REDACTED]

18 Q. [10:48:37] [REDACTED]
19 [REDACTED]

20 A. [10:48:52] [REDACTED]
21 [REDACTED]

22 [REDACTED] until the planes
23 arrived. [REDACTED] during that period at that place [REDACTED]
24 stopped working.

25 Q. [10:50:00] When you say "until the planes arrived," which planes are we talking

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1 about here?

2 A. [10:50:08] The French planes that intervened when the groups started going to
3 the south.

4 Q. [10:50:33] One moment, please, Mr Witness.

5 Thank you, Mr Witness. I have no further questions for you.

6 MR GARCIA: [10:51:07](Interpretation) Mr President, your Honours, this marks the
7 end of my examination-in-chief of this witness.

8 PRESIDING JUDGE MINDUA: [10:51:17](Interpretation) Thank you very much,
9 Mr Prosecutor. You kept your word.

10 So, Mr Courtroom Officer, we are in private session. Maybe please go back into
11 open session.

12 (Open session at 10.51 a.m.)

13 THE COURT OFFICER: [10:51:31] We are back in open session, Mr President.

14 PRESIDING JUDGE MINDUA: [10:51:39](Interpretation) Thank you very much,
15 Mr Courtroom Officer. So once again, I would like to publicly thank the Prosecutor
16 for having kept his word and for having finished the examination-in-chief.

17 We have a further 10 minutes. I shall now turn to the Legal Representative of
18 Victims to ascertain whether they retain their request to take the floor.

19 Mr Kassongo.

20 MR KASSONGO: [10:52:16](Interpretation) Thank you very much, and thank you,
21 your Honours.

22 The Legal Representative for the Victims much appreciates how -- the very clear and
23 comprehensive of the -- Prosecution's examination-in-chief, but we would like to put
24 two or three questions to the witness in public session. And now, in view of the
25 time - I think it would be after the break - these will be questions that are general in

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1 nature. But I think that we will start in private session in order to establish the
2 circumstances surrounding these questions -- with the Chamber's leave, that is, and,
3 in order to do that, I am in your hands, your Honour.

4 PRESIDING JUDGE MINDUA: [10:53:06](Interpretation) Thank you very much,
5 Maître Kassongo.

6 Now of course I'm now turning to the Defence to put the ritual question to them.

7 Ms Taylor.

8 MS TAYLOR: [10:53:16] Thank you very much, Mr President.

9 This will obviously depend on the question and whether the Legal Representatives of
10 Victims have established a foundation for putting the question to this witness. But
11 we can't object to that until we hear the question, obviously. Thank you.

12 PRESIDING JUDGE MINDUA: [10:53:37](Interpretation) Thank you very much,
13 Ms Taylor.

14 So we have another seven minutes remaining. Maybe we could continue,
15 Maître Kassongo, rather than giving up these seven minutes. We are in open session.
16 Maybe you could establish the foundations for your closed session or private session,
17 and we can move ahead.

18 MR KASSONGO: [10:54:06](Interpretation) Thank you very much, Mr President,
19 your Honours.

20 Now, in order to do so, I would like to move into private session please, in order to
21 establish the foundations with the witness.

22 PRESIDING JUDGE MINDUA: [10:54:15](Interpretation) Mr Courtroom Officer,
23 private session, please.

24 (Private session at 10.54 a.m.)

25 THE COURT OFFICER: [10:54:25] We are in private session, Mr President.

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1 PRESIDING JUDGE MINDUA: [10:54:29](Interpretation) Thank you very much,
2 Mr Courtroom Officer.

3 Mr Kassongo.

4 MR KASSONGO: [10:54:37](Interpretation) Thank you very much, Mr President,
5 your Honours.

6 QUESTIONED BY MR KASSONGO:(Interpretation)

7 Q. [10:54:40] Now, may I now turn to Mr Witness in order to introduce myself and
8 put questions with the associated contexts. Good morning, Mr Witness.

9 A. [10:54:55] Good morning.

10 Q. [10:54:59] I would like to thank you ahead of time, and I do apologise for
11 looking at you somewhat from the side because it is difficult for me to put my
12 questions to you and look at you at the same time.

13 You raised in transcript 141, page 10, lines 3 and 4, when you talked of the nature of
14 your profession and your acquaintance [REDACTED]

15 [REDACTED] - well, I am seeking
16 clarification with regard to your knowledge and your function with your leave.

17 Mr Witness, I shall not be putting questions to you that are professional in nature.

18 Rather, they will be general in nature and they will elicit responses or general
19 explanations. And I will request that you do not provide identifying -- reply

20 providing identifying information, but that you reply in a more general manner.

21 Mr Witness, on the basis of the statute of the child and the associated dress code - and
22 this is what we shall be addressing in general terms in public session, with your
23 leave - I will be seeking clarification in this regard. Thank you.

24 PRESIDING JUDGE MINDUA: [10:58:01](Interpretation) So, Mr Kassongo, are you
25 asking for us to move into open session now?

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1 MR KASSONGO: [10:58:12](Interpretation) Yes, indeed, Mr President, your
2 Honours. The Legal Representative of Victims has established the context with the
3 witness, and, as we have two minutes left before the break, it is up to you to decide.

4 PRESIDING JUDGE MINDUA: [10:58:22](Interpretation) Well, we still have two
5 minutes left.

6 So, Mr Courtroom Officer, open session, please.

7 (Open session at 10.58 a.m.)

8 THE COURT OFFICER: [10:58:34] We're back in open session, Mr President.

9 PRESIDING JUDGE MINDUA: [10:58:43](Interpretation) Thank you very much,
10 Mr Courtroom Officer.

11 So, Maître, Kassongo, we do have the time for one or two questions.

12 MR KASSONGO: [10:58:51](Interpretation) Thank you very much, Mr President.

13 I am turning now to the witness.

14 Q. [10:59:01] According to your knowledge, you might have heard about -- or you
15 might have observed young female adolescents wearing the veil. The Legal
16 Representatives of Victims would like clarification with regard to the meaning of the
17 veil, according to your knowledge, according to Islamic tradition and according to
18 jurisprudence, if you can tell us anything about that.

19 A. [11:00:00] The veil or hijab is that a woman wears ordinary clothes. And then
20 she would cover herself with something similar to the dress that she usually wears,
21 but the head has to be covered by a veil.

22 This is what I mean by a hijab or wearing the veil.

23 Q. [11:01:02] Thank you, Mr Witness, for this clarification.

24 PRESIDING JUDGE MINDUA: [11:01:12](Interpretation) Maître Kassongo, I believe
25 that the second question has taken us -- or it is eating into our time for the break. So

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1 are you opposed to that in any way?

2 MR KASSONGO: [11:01:27](Interpretation) Yes, indeed, Mr President,
3 your Honours, the Legal Representatives of Victims accepts and submits itself to your
4 decision to take this up again with the witness after the break.

5 PRESIDING JUDGE MINDUA: [11:01:48](Interpretation) Thank you very much.
6 We shall rise for now.

7 The hearing is suspended.

8 THE COURT USHER: [11:01:55] All rise.

9 (Recess taken at 11.01 a.m.)

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

11 THE COURT USHER: [11:32:28] All rise.

12 Please be seated.

13 PRESIDING JUDGE MINDUA: [11:32:48](Interpretation) Court is in session.

14 Maître Kassongo, you have the floor to continue with your questions.

15 MR KASSONGO: [11:33:12](Interpretation) Thank you very much, your Honour,
16 your Honours. I will not be long, but I do have two questions given the answers I
17 was given this morning. I will now turn towards the witness.

18 Q. [11:33:35] Good morning, Witness. I hope that all is well.

19 Prior to the break this morning -- thank you. Before the break this morning, on
20 page 31 of today's transcript, and, namely, line 12 thereof, lines 12 to 13, you told us
21 the meaning of the veil. And on lines 14 and 15, you stated, and here, I quote you:
22 "The head has to be covered by a veil."

23 And I finish the quote there.

24 My question is: What happens - if you would be so kind as to tell us - if somebody
25 refused to cover their head? If a woman or a young adolescent refused cover her

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1 head? That's my first question. Who could sanction --

2 PRESIDING JUDGE MINDUA: [11:35:04](Interpretation) Ms Taylor is standing.

3 But, Maître Kassongo, I wanted you to limit yourself firstly to a question and then go
4 to the next, but Ms Taylor is standing.

5 So, Ms Taylor.

6 MS TAYLOR: [11:35:18] Thank you, Mr President.

7 Now, the response that the -- Maître Kassongo was just referring to concerned general
8 jurisprudence and it's not clear whether his question -- his follow-up question
9 concerns general jurisprudence or is directed to specific events in Timbuktu.
10 So I do believe that that's an issue that should be clear and the question should
11 therefore be reformulated to specify exactly what it is that Maître Kassongo is putting
12 to this witness.

13 Thank you.

14 PRESIDING JUDGE MINDUA: [11:35:55](Interpretation) Maître Kassongo, I think
15 that Ms Taylor's right. You'll have to reformulate the question.

16 MR KASSONGO: [11:36:05](Interpretation) Thank you, your Honour, your Honours.
17 Once again, thank you to the Defence for making it possible to specify the time when
18 this request is made. So I will reformulate my question.

19 Q. [11:36:22] Between 2012 and 2013, if a woman or girl refused to wear a veil, if
20 that was -- if that was something that would be reported on? And if so, who would
21 be the person who would report on that?

22 A. [11:36:51] What I know is that this hijab or veil is something that was
23 commanded. It's a command on women and girls once they reach puberty. And
24 the person who was responsible for such issues during that period between 2012 and
25 2013 was the *Hesbah*. Well, again ... But I don't witness really any woman or girl

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1 who refused to cover her head and was punished. It is part of our traditions, Islamic
2 traditions anyway, hijab and being modest and to cover in front of foreign men.

3 So it's -- it's part of our tradition -- it became part of our tradition.

4 Q. [11:38:25] Thank you, Witness, for this clarification.

5 As I said, I wouldn't take a long time. You have gone into great detail at some length
6 here.

7 Now my last question was to ask if there was a sanction that was envisaged if
8 somebody refused to wear it, and, if so, what sanction was there if somebody refused
9 to wear -- if a woman or a girl refused wear a veil?

10 A. [11:39:11] I -- doesn't really come to me now. I don't really remember that there
11 was a specific sanction for a woman or a girl who refuses to wear the veil.

12 Q. [11:39:56] Thank you very much. Thank you, Witness.

13 The Legal Representative of Victims has finished with the request for clarifications
14 with these two questions.

15 I would like to wish you -- all you well for the rest of your testimony. And with the
16 leave of the Chamber, I would like to thank you.

17 I now turn towards the Chamber to thank the Chamber and the Judges. The Legal
18 Representative have finished with the questions. Thank you.

19 PRESIDING JUDGE MINDUA: [11:40:35](Interpretation) Thank you very much,
20 Maître Kassongo. I'd also like to thank you -- the Chamber would like to thank you
21 for your questions. And, of course, you have kept -- and also for having kept to your
22 word.

23 Witness, it's now the turn of the Defence for their cross-examination. I would ask
24 you to answer with care the questions that are put to you.

25 I now give the floor to Ms Taylor.

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1 Ms Taylor.

2 MS TAYLOR: [11:41:12] Thank you very much.

3 QUESTIONED BY MS TAYLOR:

4 Q. [11:41:17] Good morning, Mr Witness. How are you?

5 A. [11:41:21] I'm fine.

6 Q. [11:41:27] As the Presiding Judge announced, my name is Melinda Taylor, and
7 I'm the counsel for Mr Al Hassan, and I'll be putting questions to you on behalf the
8 Defence today.

9 Now, Mr Witness, my first questions -- I'm hoping to stay in open session, so in order
10 to do so I would ask that you not give any locations concerning your address or
11 where you live and that you don't describe any family relationships.

12 Now, if you feel you need to do so, could you please put up your hand and I will ask
13 to go into private session.

14 PRESIDING JUDGE MINDUA: [11:42:14](Interpretation) Ms Taylor, I just want to
15 state something clearly here. And, obviously, we all have to protect the witness's
16 identity and protect our witnesses, and of course, we have to be careful with regards
17 to Rule 74. But this witness has his counsel next to him, Counsel ... 74. So it's not
18 our task to encourage closed sessions and private sessions because we have a public
19 listening to us, and our principle is the publicity of proceedings.

20 I am sure you understand that, Ms Taylor.

21 MS TAYLOR: [11:43:04] Certainly, Mr President. It was simply to avoid the
22 witness having to give an explanation in open session.

23 Q. [11:43:12] Now, Mr Witness, after Ansar Dine left Timbuktu in 2013, did you
24 stay in your house [REDACTED]?

25 A. [11:43:25] Yes.

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1 Q. [11:43:41] And speaking of this time period, did French forces from Serval come
2 to your house?

3 A. [11:43:57] Yes. They came to me, and I met them. I met them in another
4 house, actually.

5 Q. [11:44:19] When was this? Approximately how many months after Ansar Dine
6 had left Timbuktu? Or days, depending?

7 A. [11:44:32] That was in [REDACTED] God willing, I think, maybe.

8 Q. [11:44:57] And were you told [REDACTED]?

9 A. [11:45:09] Yes. When they went and -- they said to me [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 Q. [11:45:35] Now [REDACTED] did the people [REDACTED] have
13 weapons?

14 A. [11:45:44] No. [REDACTED] did not have anyone
15 carrying weapons.

16 Q. [11:46:02] Now, can you describe what happened [REDACTED]
17 [REDACTED]?

18 A. [11:46:12] [REDACTED] and I

19 [REDACTED] them until they finished. And then they [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 Q. [11:46:49] [REDACTED]

23 [REDACTED]?

24 A. [11:47:03] Yes. It was related to everything that happened in that time period.

25 Q. [11:47:19] [REDACTED]?

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1 A. [11:47:24] I don't know.

2 Q. [11:47:33] [REDACTED] ?

3 A. [11:47:38] No.

4 Q. [11:47:44] [REDACTED]

5 A. [11:47:48] [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q. [11:48:10] Did they ask you to provide them any documents or items?

9 A. [11:48:17] Yes.

10 Q. [11:48:24] What did they ask you to provide them?

11 MR GARCIA: [11:48:34](Interpretation) I'm sorry.

12 PRESIDING JUDGE MINDUA: [11:48:35](Interpretation) Yes, Prosecutor.

13 MR GARCIA: [11:48:39](Interpretation) ... I don't intend to interrupt, far from that,
14 of course. But I just have concerns with regards to the direction in which these
15 questions are going, and, in particular, the last question, taking into account that there
16 are protective measures in place. So there was a question that was put, if we read
17 further up. This is on ...(Overlapping speakers)

18 MS TAYLOR: [11:49:01] Can I ask to go into private session.

19 MR GARCIA: [11:48:39](Interpretation) That would be excellent, your Honour.

20 PRESIDING JUDGE MINDUA: [11:49:10](Interpretation) Yes, Prosecutor, I think
21 that the proposal of Melinda Taylor's is very welcome.

22 Court officer, please take us into private session.

23 (Private session at 11.49 a.m.)

24 THE COURT OFFICER: [11:49:25] We are in private session, Mr President.

25 PRESIDING JUDGE MINDUA: [11:49:28](Interpretation) Thank you very much,

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1 court officer.

2 Ms Taylor.

3 MS TAYLOR:

4 Q. [11:49:35] Mr Witness, we are now in private session.

5 What items were [REDACTED]?

6 A. [11:49:43] [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q. [11:50:08] Perhaps it's an issue of interpretation, Mr Witness. My question was:

10 Did the peop [REDACTED] any

11 documents or items?

12 A. [11:50:26] [REDACTED]

13 [REDACTED]

14 Q. [11:50:54] Now, this document was given to you. [REDACTED]

15 [REDACTED]?

16 A. [11:51:03] No.

17 Q. [11:51:1] [REDACTED]?

18 A. [11:51:18] I can't remember now. It has been a very long time since that

19 happened.

20 Q. [11:51:38] So, Mr Witness, you said tha [REDACTED]

21 [REDACTED].

22 What type of problems were they referring to?

23 A. [11:51:56] What I understood is that they were referring to the [REDACTED]

24 [REDACTED] I think this is what I understood

25 [REDACTED]

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1 Q. [11:52:27] And did you us [REDACTED]?

2 A. [11:52:34] [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q. [11:53:13] And what did you reply to his text?

6 A. [11:53:18] That I didn't see anything.

7 Q. [11:53:29] Were you given gifts as well?

8 A. [11:53:34] [REDACTED]

9 [REDACTED]

10 Q. [11:54:10] [REDACTED]?

11 A. [11:54:14] That's what happened. They gave it to me.

12 Q. [11:54:26] Mr Witness, do you know yourself why they gave it to you?

13 A. [11:54:32] I don't know why, but they gave it to me.

14 PRESIDING JUDGE MINDUA: [11:54:46](Interpretation) Please excuse me,

15 Ms Taylor.

16 Prosecutor, do you think we have to continue in private session now? I don't see

17 why we would have to, given these questions?

18 MR GARCIA: [11:55:04](Interpretation) Your Honour, I alerted the Chamber just

19 when -- wel [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED] which would come outside of private session, and it would also go into

23 Article 74 -- Rule 74.

24 But with regards to the follow-up from the Defence, well, the Defence counsel knows

25 exactly what questions she's going to put and whether it's necessary to stay in private

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1 session. When I look at the questions now, it's not necessarily -- we don't need to be
2 in private session for the question she's currently put.

3 PRESIDING JUDGE MINDUA: [11:55:48](Interpretation) Ms Taylor, apparently for
4 the questions that we now have, we could go into open session. I don't know.
5 What do you think?

6 MS TAYLOR: [11:55:55] Mr President, I just have -- I would say, one or two
7 questions which are more specific in nature to individuals. And then we can go into
8 open session, I believe.

9 PRESIDING JUDGE MINDUA: [11:56:07](Interpretation) Thank you very much,
10 Ms Taylor.
11 Please go ahead.

12 MS TAYLOR: [11:56:10]

13 Q. [11:56:10] Now, Mr Witness, after [REDACTED]
14 [REDACTED]

15 A. [11:56:24] Before or after?

16 Q. [11:56:40] After.

17 A. [11:56:43] [REDACTED], no, no. But [REDACTED]

18 Q. [11:56:58] So is it correct that you [REDACTED]
19 [REDACTED]

20 A. [11:57:09] [REDACTED] before I went to them, or -- or ...

21 Q. [11:57:32] [REDACTED] afterwards.

22 A. [11:57:35] I don't remember [REDACTED]
23 [REDACTED] I don't remember.

24 MS TAYLOR: [11:57:58] I believe we can go into open session. I have a few
25 questions concerning the names of people we've mentioned, but unless the

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- 1 Prosecution sees an objection.
- 2 [REDACTED] I believe we could do this in open session. It's
- 3 been done in open session with another witness.
- 4 PRESIDING JUDGE MINDUA: [11:58:18](Interpretation) Indeed, Ms Taylor.
- 5 Court officer, please take us into open session.
- 6 (Open session at 11.58 a.m.)
- 7 THE COURT OFFICER: [11:58:26] We're back in open session, Mr President.
- 8 PRESIDING JUDGE MINDUA: [11:58:35](Interpretation) Thank you very much,
- 9 court officer.
- 10 Ms Taylor.
- 11 MS TAYLOR: [11:58:40] I'm going to play a video. It's Defence tab 26. It's
- 12 MLI-OTP-0012-1644. And I think it should not be displayed to the public.
- 13 It will be played without sound on evidence 2.
- 14 (Viewing of the video excerpt)
- 15 MS TAYLOR: [11:59:44]
- 16 Q. [11:59:45] Mr Witness, did you recognise anyone in this video?
- 17 A. [11:59:51] No.
- 18 Q. [11:59:57] You've never seen those individuals before?
- 19 A. [12:00:08] No, no.
- 20 Q. [12:00:12] Mr Witness, were you aware that Houka Houka was arrested in 2014?
- 21 A. [12:00:21] Yes.
- 22 Q. [12:00:28] And was Moustapha Ag Issa also arrested in 2014?
- 23 A. [12:00:38] Yes.
- 24 Q. [12:00:44] What do you know about the arrest of Houka Houka?
- 25 A. [12:00:50] Houka Houka --

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1 THE ARABIC INTERPRETER: [12:01:14] Note from the Arabic interpreter: The
2 first part of the witness's statement is not well understood.

3 THE WITNESS: [12:01:25](Interpretation) So he has a house where he prays on
4 Fridays. The Malian forces --

5 PRESIDING JUDGE MINDUA: [12:01:47](No interpretation)

6 MS TAYLOR: [12:01:48] Yes, yes, Mr President. I can ask the witness.

7 Q. [12:01:49] Mr Witness, the Arabic interpreter did not hear the first part of your
8 answer clearly. So could you please repeat your response about what you yourself
9 have heard or know about the arrest of Houka Houka?

10 A. [12:02:09] Houka Houka prayed at a mosque on Fridays. The Malian forces
11 went to him -- to that village on a Friday. He was arrested by them, along -- he was
12 arrested along with another person by the Malian forces.

13 Q. [12:02:38] Who was the other person who was arrested with him?

14 A. [12:02:49] That person is someone living in that village, his name is Attihi.

15 Q. [12:03:13] Now, Mr Witness, did Houka Houka or anyone else tell you about the
16 conditions of Houka Houka's detention or the circumstances under which he was
17 held?

18 A. [12:03:35] When Houka Houka was arrested by the Malian forces, he
19 called -- and, I'm not sure if he called his brother or his son [REDACTED] the
20 Malian forces had arrested him.

21 Q. [12:04:10] And did you yourself hear anything about the conditions of his
22 detention after his arrest?

23 A. [12:04:20] Do you mean -- do you mean if I heard anything about him while he
24 was in prison?

25 Q. [12:04:59] Either while he was in prison or afterwards, did you yourself receive

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1 any information about how he was treated while he was in prison?

2 A. [12:05:12] I really don't know. I don't know how he was treated in prison. I
3 know nothing about that. But I know that when he went into prison, I know that he
4 was sick. And we heard -- we had news about his condition sometimes while he
5 was in prison.

6 Q. [12:05:57] And what news did you have?

7 A. [12:06:01] I learned that he was sick. He fell ill. He underwent an operation.
8 The operation was successful.

9 Q. [12:06:28] And how is his -- are you -- do you have any knowledge about his
10 current physical or mental state?

11 MR GARCIA: [12:06:42](Interpretation) Mr President.

12 PRESIDING JUDGE MINDUA: [12:06:43](Interpretation) Mr Prosecutor.

13 MR GARCIA: [12:06:45](Interpretation) I'm just wondering as to the relevance of
14 this question as to the state of health of a third party, in view of the charges brought
15 by the Prosecution and any questions that the cross-examination might involve.

16 PRESIDING JUDGE MINDUA: [12:07:09](Interpretation) Ms Taylor, I do believe
17 that I am in agreement with what the Prosecutor just said. Why this line of
18 questioning as to the state of health of this individual?

19 MS TAYLOR: [12:07:19] Mr President, can we cut off the sound to the witness.
20 And I'd have to answer in private session.

21 PRESIDING JUDGE MINDUA: [12:07:31](Interpretation) Mr Courtroom Officer,
22 could you please cut the sound off to the witness and then move into private session.
23 (Private session at 12.07 p.m.)

24 THE COURT OFFICER: [12:07:53] We're in private session, Mr President.

25 PRESIDING JUDGE MINDUA: [12:08:01](Interpretation) And the sound has been

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1 cut off with the witness?

2 Thank you very much.

3 Ms Taylor.

4 MS TAYLOR: [12:08:11] Thank you very much, Mr President.

5 Now, as the Prosecution is aware, we have received specific documents from

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]

9 Now, he is obviously someone who has direct knowledge of the events in 2012, and
10 obviousl [REDACTED]

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 I don't intend to spend much time, it was just if he had any information.

15 PRESIDING JUDGE MINDUA: [12:09:03](Interpretation) Mr Prosecutor.

16 MR GARCIA: [12:09:05](Interpretation) With your leave, Mr President. I

17 understand Ms Taylor's response, but I think it's somewhat problematic, but she is

18 putting questions, and, this line of questioning is aiming a [REDACTED]

19 [REDACTED].

20 I leave this at your discretion, but I think it's somewhat inappropriate.

21 PRESIDING JUDGE MINDUA: [12:09:31](Interpretation) I maintain what I already

22 said, Ms Taylor. I am in agreement with what the Prosecutor just said. I do not

23 accept this line of questioning with this witness. Let's move on to something else,

24 please.

25 Mr Courtroom Officer, can we establish the connection with the witness, please, and

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1 move back into open session.

2 (Open session at 12.10 p.m.)

3 THE COURT OFFICER: [12:10:01] We are back in open session, Mr President. And
4 the sound has been re-established.

5 PRESIDING JUDGE MINDUA: [12:10:18](Interpretation) Thank you very much,
6 Mr Courtroom Officer.

7 Ms Taylor.

8 MS TAYLOR:

9 Q. [12:10:24] Mr Witness, is it correct that Moustapha Ag Issa was arrested in 2014?

10 A. [12:10:32] Yes.

11 Q. [12:10:39] And do you yourself have any information about the circumstances of
12 his arrest?

13 A. [12:10:46] All I know is that his first arrest at Serval -- do you mean -- excuse me.
14 Do you mean his arrest at Serval or at Bamako?

15 Q. [12:11:20] We can start with his arrest at Serval.

16 A. [12:11:26] Yes. He -- there was cattle, and there were planes who came and
17 went, and many persons had been arrested. I don't remember their numbers. They
18 brought back some individuals to their families. They took Moustapha and a cousin
19 of his. His name is Nadi.

20 MR GARCIA: [12:12:34](Interpretation) I do apologise, Mr President.

21 PRESIDING JUDGE MINDUA: [12:12:39](Interpretation) Yes, Mr Prosecutor.

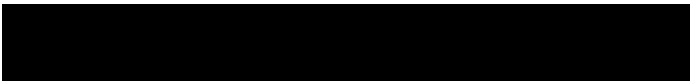
22 MR GARCIA: [12:12:41](Interpretation) I note that the French transcript has stopped,
23 page 46, line 22. It has not been moving for some time now. I don't know whether
24 the same applies to the English transcript.

25 PRESIDING JUDGE MINDUA: [12:12:59](Interpretation) Mr Courtroom Officer?

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- 1 MS TAYLOR: [12:13:01] The English is working.
- 2 THE COURT OFFICER: [12:13:06] Your Honours, the technicians have been
- 3 informed of this issue and are going to work on it shortly. Thank you.
- 4 PRESIDING JUDGE MINDUA: [12:13:18](Interpretation) In the meantime, we shall
- 5 continue, Mr Prosecutor, because we do have the English transcript.
- 6 Ms Taylor.
- 7 MS TAYLOR:
- 8 Q. [12:13:30] Mr Witness, did you hear what happened after they were taken?
- 9 A. [12:13:44] What happened to all the people? Or what?
- 10 Q. [12:13:56] Specifically -- specifically Moustapha Ag Issa.
- 11 A. [12:14:09] Moustapha Ag Issa was brought by the French forces. I don't know
- 12 what happened later. He was then given to the Malian authorities.
- 13 Q. [12:14:45] And did you yourself hear anything about the manner in which he
- 14 was arrested or the manner in which he was treated during his transfer?
- 15 A. [12:14:57] Here, in Bamako?
- 16 Q. [12:15:07] During his initial arrest and during his transfer to Bamako.
- 17 A. [12:15:12] What I know about his arrest, I said -- said that the planes came
- 18 looking for cattle. They took people. They brought back some of them, and some
- 19 people were given to the Malian authorities. And then they were released
- 20 afterwards.
- 21 Q. [12:15:50] Now, speaking of Bamako, did you hear anything about his
- 22 conditions in Bamako?
- 23 A. [12:15:56] Yes. I heard that he was in prison and he was transferred from one
- 24 prison facility to another prison facility.
- 25 Q. [12:16:2  ?

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1 A. [12:16:34] Yes. [REDACTED]

2 [REDACTED]

3 Q. [12:16:55] And to your knowledge, whe [REDACTED]

4 [REDACTED] did anyone have contact with him?

5 A. [12:17:02] There was a person who we knew. He was giving me of his news.

6 [REDACTED] And the Malian government -- he was detained in

7 similar conditions as the Malian soldiers or military.

8 Q. [12:17:46] Are you able to give the name of this individual?

9 A. [12:17:49] His name i [REDACTED] (phon).

10 Q. [12:17:59] And this is the individua [REDACTED]

11 [REDACTED]?

12 A. [12:18:07] Yes.

13 Q. [12:18:18] Now, Mr Witness, according to a Prosecution witness -- and I'm

14 referring to T-112, page 31, lines 9 to 13. This person was asked:

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 A. [12:18:56] I do not remember a specific person.

21 Q. [12:19:41] Now, Mr Witness, do you know when Moustapha Ag Issa was

22 released?

23 A. [12:19:50] I -- not sure. 2018 or ... it was between 2017 and 2018.

24 Q. [12:20:27] [REDACTED]?

25 A. [12:20:32] [REDACTED]

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1 MS TAYLOR: [12:20:40] Mr President, if I may just ask one or two questions in
2 private session.

3 PRESIDING JUDGE MINDUA: [12:20:49](Interpretation) Courtroom officer, private
4 session, please.

5 (Private session at 12.20 p.m.)

6 THE COURT OFFICER: [12:20:55] We're in private session, Mr President.

7 PRESIDING JUDGE MINDUA: [12:21:01](Interpretation) Thank you very much.
8 Ms Taylor.

9 MS TAYLOR:

10 Q. [12:21:06] [REDACTED]

11 A. [12:21:15] [REDACTED]

12 Q. [12:21:43] [REDACTED]

13 [REDACTED]

14 A. [12:21:56] I do not remember.

15 Q. [12:22:08] Do you know an individual called [REDACTED] (phon)?

16 A. [12:22:17] Yes.

17 Q. [12:22:27] Who was this individual?

18 A. [12:22:30] [REDACTED]

19 Q. [12:22:41] Was he present in Timbuktu in 2012?

20 A. [12:22:51] Was he present in Timbuktu?

21 PRESIDING JUDGE MINDUA: [12:23:28](Interpretation) Yes, Mr Prosecutor, we
22 now have the French transcript up and running.

23 MR GARCIA: [12:23:35](Interpretation) Thank you.

24 THE WITNESS: [12:23:47](Interpretation) God willing, he was -- he was there at that
25 period.

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- 1 MS TAYLOR: [12:24:03]
- 2 Q. [12:24:05] Do you know what his function was at that period?
- 3 A. [12:24:11] No. And if I knew, I forgot. I tried to remember. However, I do
- 4 not remember anything about him.
- 5 Q. [12:24:34] [REDACTED]?
- 6 A. [12:24:39] [REDACTED]
- 7 Q. [12:24:48] [REDACTED]?
- 8 A. [12:24:52] I don't know.
- 9 Q. [12:25:02] [REDACTED]?
- 10 A. [12:25:08] I don't remember.
- 11 Q. [12:25:19] Did yo [REDACTED]?
- 12 A. [12:25:25] Maybe.
- 13 Q. [12:25:35] Do you recal [REDACTED]?
- 14 A. [12:25:39] I don't remember.
- 15 Q. [12:25:48] Now, Mr Witnes [REDACTED]?
- 16 A. [12:26:02] Yes.
- 17 MS TAYLOR: [12:26:07] Mr President, I believe I can ask the following questions in
- 18 open session.
- 19 PRESIDING JUDGE MINDUA: [12:26:14](Interpretation) Mr Courtroom Officer,
- 20 public session, please.
- 21 (Open session at 12.26 p.m.)
- 22 THE COURT OFFICER: [12:26:24] We're back in open session, Mr President.
- 23 PRESIDING JUDGE MINDUA: [12:26:31](Interpretation) Thank you very much.
- 24 Ms Taylor.
- 25 MS TAYLOR: [12:26:34]

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- 1 Q. [12:26:35] Now, Mr Witness, is it correct [REDACTED] you had heard
- 2 of the Al Hassan case at the ICC?
- 3 A. [12:26:46] Yes.
- 4 Q. [12:26:52] And you knew he had been arrested by the ICC in connection with his
- 5 alleged role in the Islamic police?
- 6 A. [12:27:04] Yes.
- 7 Q. [12:27:11] Now, Mr Witness, in the period between 2013 until the beginning of
- 8 2018, did the ICC Prosecution ever try to contact you to interview you as a witness?
- 9 A. [12:27:32] I did not understand the question very well.
- 10 Q. [12:27:46] I apologise, Mr Witness. I'll reformulate.
- 11 [REDACTED] did the ICC Prosecution ever try to contact you to interview you?
- 12 A. [12:28:01] No.
- 13 Q. [12:28:08] Now [REDACTED] you were living in [REDACTED] with
- 14 your family; that's correct?
- 15 A. [12:28:18] Yes.
- 16 Q. [12:28:24] Were you in the same house that you were in in 2013?
- 17 A. [12:28:31] No.
- 18 Q. [12:28:39] So you [REDACTED] But is it correct, Mr Witness, that you weren't
- 19 hiding? That your presence was known?
- 20 A. [12:28:52] Yes, I moved a little [REDACTED]
- 21 And I lived there [REDACTED].
- 22 Q. [12:29:27] Now [REDACTED] did Barkhane search the
- 23 house of Houka Houka?
- 24 A. [12:29:46] Yes.
- 25 Q. [12:29:53] What did you hear about this?

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- 1 A. [12:29:58] This was posted by somebody on social media.
- 2 Q. [12:30:16] Did you hear whether anything was taken from his house?
- 3 A. [12:30:21] No.
- 4 Q. [12:30:29] Were [REDACTED]?
- 5 A. [12:30:35] Ye [REDACTED]
- 6 Q. [12:30:41] Wa [REDACTED]?
- 7 A. [12:30:45] Yes.
- 8 Q. [12:30:52] And [REDACTED]?
- 9 MR GARCIA: [12:30:58](Interpretation) Your Honour.
- 10 PRESIDING JUDGE MINDUA: [12:31:02](Interpretation) Prosecutor.
- 11 MR GARCIA: [12:31:04](Interpretation) Could we go into private session,
- 12 your Honour. I have a lot of concerns here. We're going into precise subjects with
- 13 precise questions which sooner or later ...
- 14 PRESIDING JUDGE MINDUA: [12:31:21](Interpretation) Court officer, please take
- 15 us into private session.
- 16 (Private session at 12.31 p.m.)
- 17 THE COURT OFFICER: [12:31:26] We're in private session, Mr President.
- 18 PRESIDING JUDGE MINDUA: [12:31:36](Interpretation) Thank you very much.
- 19 Ms Taylor.
- 20 MS TAYLOR: [12:31:43]
- 21 Q. [12:31:44] Mr Witnes [REDACTED]
- 22 [REDACTED]?
- 23 A. [12:31:57] [REDACTED]
- 24 [REDACTED]
- 25 PRESIDING JUDGE MINDUA: [12:32:26](Interpretation) Ms Taylor.

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1 Prosecutor, please sit down.

2 Ms Taylor, I let the witness answer because the witness had started, but I'm really
3 wondering whether it's relevant to ask about [REDACTED] the
4 witness.

5 What's the relevance of that to our case?

6 MS TAYLOR: [12:32:48] Mr President - and I'm aware that the witness is in front of
7 me - but this is an issue or a matter that was raised in multiple transcripts by the
8 witness.

9 And I can explain further, but I believe then I would need to cut off the sound to the
10 witness and we'd need to go into private session -- I believe we're in private session,
11 but this is of direct relevance.

12 PRESIDING JUDGE MINDUA: [12:33:18](Interpretation) We're already in private
13 session.

14 Court officer, please cut the sound to the witness.

15 Prosecutor, did you want to say something? Please wait first for the sound to be cut.

16 THE COURT OFFICER: [12:33:38] Your Honours, the sound has been cut off.

17 PRESIDING JUDGE MINDUA: [12:33:41](Interpretation) Thank you very much,
18 court officer.

19 Prosecutor.

20 MR GARCIA: [12:33:46](Interpretation) Your Honour, just to indicate that there are
21 52 transcripts made with this witness -- concerning this witness with the Prosecution,
22 and not everything in these 52 transcripts is relevant with regards to the credibility or
23 the facts involved in this case. So I think we have to have a greater explanation as to
24 whether the fact that [REDACTED] or not at the time is relevant.

25 PRESIDING JUDGE MINDUA: [12:34:17](Interpretation) That is exactly what I was

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1 going to ask Ms Taylor. Because we know that there were 52 transcripts or more, so
2 we don't have to raise all of them here.

3 What is the relevance of this question with regards to the charges with regards to this
4 witness?

5 MS TAYLOR: [12:34:32] Thank you very much, Mr President.

6 Now this is obviously a very detailed response that I will need to give you. But, now,
7 through his examination-in-chief, the Prosecution relied upon these transcripts to
8 refresh his memory -- firstly.

9 Secondly, throughout his examination-in-chief, the witness made clear that his
10 responses to various questions were based on information that was discussed during
11 his interviews with the Prosecution. Now, these interviews occurred while he was

12 [REDACTED]

13 Now, under internationally recognised human rights law, which is applicable
14 through Article 21(3), psychological pressure or fear can amount to a form of
15 inhumane treatment.

16 Now, as I'm sure this Chamber appreciates, an individual who is concerned about the
17 well-being of their family member is obviously more vulnerable and that is in itself
18 a form of mental suffering.

19 Now, throughout his transcripts with the Prosecution, he repeatedly references the

20 [REDACTED] Mr President. And he

21 specifically repeatedly states his wish t [REDACTED] and the fact he

22 [REDACTED].

23 Now, obviously, that's o [REDACTED]

24 [REDACTED].

25 This is all directly relevant to the evidence that's been elicited from this witness while

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- 1 he wa [REDACTED]
- 2 Having called this witness, having elicited evidence from him based on the evidence
- 3 that was elicited from - [REDACTED] we must be given an
- 4 opportunity to elicit information concerning his mental circumstances at that time.
- 5 And I'd be very concerned if we couldn't.
- 6 PRESIDING JUDGE MINDUA: [12:37:00](Interpretation) Prosecutor.
- 7 MR GARCIA: [12:37:03](Interpretation) Your Honour, quite simply, the Defence
- 8 needs to establish in a clear way where the link is between the detention conditions
- 9 and the reliability of this witness -- of what this witness is saying under oath.
- 10 In my colleague's submissions, I've heard them, and I would ask if such a link is
- 11 established - such that a question can be put to the witness with this argument, and,
- 12 that, when it comes to the conduct of the proceedings - the witness needs to know
- 13 exactly what the question is about.
- 14 PRESIDING JUDGE MINDUA: [12:37:50](Interpretation) Ms Taylor, I think that we
- 15 can leave this question. You've put it. The witness has answered and I think we
- 16 can move on. What do you think?
- 17 MS TAYLOR: [12:38:06] Thank you, Mr President. I'll move to my next question.
- 18 PRESIDING JUDGE MINDUA: [12:38:11](Interpretation) Thank you very much,
- 19 Ms Taylor.
- 20 Court officer, let's re-establish the sound, please.
- 21 THE COURT OFFICER: [12:38:21] Your Honours, the sound has been re-established.
- 22 PRESIDING JUDGE MINDUA: [12:38:29](Interpretation) Very well.
- 23 We're in private session. Should we stay in private session, Ms Taylor?
- 24 MS TAYLOR: [12:38:38] Mr President, I believe that these answers can be given in
- 25 open session if I don't refer to the year, but unfortunately the Prosecution objected

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1 previously. But I do believe that this is information that can be given in open
2 session.

3 PRESIDING JUDGE MINDUA: [12:38:56](Interpretation) Prosecutor.

4 MR GARCIA: [12:38:57](Interpretation) Yes, your Honour.

5 Our concern is in the amount of detail that was coming out and that was asked of the
6 witness. And with all these -- this -- details, at a particular time, once you put them
7 all together, then you would be able to identify the witness. And the Chamber
8 ordered that the identity of this witness not be revealed. So I'm going through the
9 questions and watching them with this idea in mind, and of course it depends on my
10 colleague who is controlling her cross-examination. * But you have to look at what
11 type of detail there is [REDACTED]
12 cetera.

13 PRESIDING JUDGE MINDUA: [12:39:44](Interpretation) Indeed. Ms Taylor, I
14 think that we can go back into open session, but please pay attention to details to see
15 if they are really necessary.

16 Court officer –

17 There is the counsel of the witness who wishes to speak.

18 Counsel, you have the floor.

19 MR DHIB: [12:40:05](Interpretation) Thank you, Mr President, your Honours.

20 I share what the Prosecution said regarding the continuation in private session
21 because everything that was mentioned until now are very personal details that can
22 reveal the identity of this witness [REDACTED]

23 [REDACTED] It can eventually reveal the identity of this witness, and that's why we
24 have to follow the protection measures that were given to this witness.

25 So -- and that's why I would like to ask you, your Honours, to continue in private

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1 session in order to protect the rights of this witness. And obviously, we are -- we are
2 going to follow your instructions.

3 PRESIDING JUDGE MINDUA: [12:41:07](Interpretation) Very well. The Chamber
4 has heard you, and we understand.

5 Court officer, are we staying ... Yes, let's stay in private session.

6 Court --

7 Ms Taylor.

8 MS TAYLOR: [12:41:20]

9 Q. [12:41:21] So, Mr Witness, we're in private session. Can you describe the
10 circumstance [REDACTED]

11 A. [12:41:30] The circumstances were th [REDACTED]

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 Q. [12:43:03] Now, Mr Witness, I'm just going to go back in time.

19 Whe [REDACTED]?

20 A. [12:43:13] No [REDACTED]

21 Q. [12:43:26] Did the peopl [REDACTED] have weapons?

22 A. [12:43:32] Yes, they had weapons.

23 Q. [12:43:37] What type?

24 A. [12:43:40] I don't know. I don't know.

25 Q. [12:43:51] [REDACTED]?

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1 PRESIDING JUDGE MINDUA: [12:43:56](Interpretation) Ms Taylor, I don't want to
2 intervene in your cross-examination, but do we need such details with regards to the
3 type of weapon?

4 MS TAYLOR: [12:44:10] The witness has said he doesn't know; so I'm moving on.

5 PRESIDING JUDGE MINDUA: [12:44:15](Interpretation) Please go ahead.

6 MS TAYLOR: [12:44:16]

7 Q. [12:44:16] Mr Witness [REDACTED]?

8 A. [12:44:20] Yes.

9 Q. [12:44:29] Wer [REDACTED]?

10 A. [12:44:32] Yes.

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

12 What happene [REDACTED]?

13 A. [12:44:50] [REDACTED] I didn't stay a lot -- for a long

14 tim [REDACTED]

15 Q. [12:45:20] [REDACTED]?

16 A. [12:45:26] Yes.

17 Q. [12:45:37] Could you [REDACTED]?

18 A. [12:45:44] I could se [REDACTED]

19 Q. [12:45:58] [REDACTED]?

20 [REDACTED]s?

21 A. [12:46:10] I don't know what choice, but what happened is tha [REDACTED]

22 [REDACTED]

23 Q. [12:46:39] [REDACTED] Or the events of 2012?

24 A. [12:46:47] [REDACTED]

25 Q. [12:47:14] [REDACTED]

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- 1 A. [12:47:18 [REDACTED]
- 2 Q. [12:47:36 [REDACTED]?
- 3 A. [12:47:44 [REDACTED]
- 4 Q. [12:48:00] Did you [REDACTED]?
- 5 A. [12:48:03] I don't know anything about [REDACTED]
- 6 Q. [12:48:19] Were you [REDACTED] matter of hours or days?
- 7 A. [12:48:24] Just hours.
- 8 Q. [12:48:32 [REDACTED] Can you describe the plac [REDACTED]
- 9 [REDACTED]?
- 10 A. [12:48:42] No, I can't.
- 11 Q. [12:48:50] Were you [REDACTED]?
- 12 A. [12:48:57] From the beginning [REDACTED]
- 13 [REDACTED].
- 14 Q. [12:49:23] Now [REDACTED]
- 15 [REDACTED]?
- 16 PRESIDING JUDGE MINDUA: [12:49:39](Interpretation) Prosecutor?
- 17 MR GARCIA: [12:49:42](Interpretation) I'll leave it to the discretion of the Chamber
- 18 but - it would seem that this is relevant - we are going into details concerning the
- 19 [REDACTED] at a precise moment and I do not see the link with what the
- 20 witness is doing here and what this has to do with the credibility of the witness in the
- 21 wider sense.
- 22 PRESIDING JUDGE MINDUA: [12:50:11](Interpretation) Ms Taylor, the Prosecutor
- 23 would like to know what the relevance is of this detail. But I would also
- 24 add -- because I can understand that you're questioning the witness with regards to
- 25 [REDACTED] is that correct?

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1 MS TAYLOR: [12:50:37] Yes, Mr President.

2 PRESIDING JUDGE MINDUA: [12:50:39](Interpretation) So I would add this

3 concern to that of the Prosecutor.

4 What is the relevance of all of that? If you want, we can cut the sound to the witness,

5 but the Chamber really doesn't see where you want to go with this.

6 MS TAYLOR: [12:50:52] Well, Mr Presiden [REDACTED]

7 [REDACTED] Now, that's directly relevant to any

8 information that this person provides if he's being subjected to pressure.

9 PRESIDING JUDGE MINDUA: [12:51:18](Interpretation) Of course, but that's the

10 [REDACTED] and the particular situation [REDACTED] of this

11 witness.

12 We're getting quite far from our case, are we not? The charges against the witness

13 about the -- and the questions that the witness has come to explain.

14 MS TAYLOR: [12:51:44] Mr President, if the interrogation concerns the same subject

15 matter or the same individuals, so obviously that creates a link, particularly if it

16 results in documents or evidence.

17 PRESIDING JUDGE MINDUA: [12:52:03](Interpretation) Well, as you would have

18 seen, the Judges in the Chamber have some questions. Perhaps the Bench will

19 deliberate for a few moments to see what should the next step be.

20 The Bench will consult.

21 MS TAYLOR: [12:52:16] Mr President, if it assists -- and I again would have to cut

22 off the -- the sound to the witness, but there's -- this is directed to a particular

23 document.

24 PRESIDING JUDGE MINDUA: [12:52:31](Interpretation) Court officer, please cut

25 the sound. The Defence will speak about -- wants to speak about this -- a document

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1 in particular.

2 THE COURT OFFICER: [12:52:42] Your Honours, the sound has been cut off.

3 PRESIDING JUDGE MINDUA: [12:52:48](Interpretation) Thank you very much,
4 court officer.

5 So, Ms Taylor, you were speaking about a particular document.

6 MS TAYLOR: [12:52:55] Thank you, Mr President.

7 Now, it would appear that on the basis of these interrogations [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Now, in order to assess the accuracy of this information, we would need to know

12 about the circumstances under which it was produced. This was a - [REDACTED]

13 [REDACTED] as well.

14 PRESIDING JUDGE MINDUA: [12:53:46](Interpretation) I don't know how the

15 Prosecutor is going to answer that. If I understand well, Ms Taylor, you are telling

16 us that the statement that was got from this witness [REDACTED]

17 [REDACTED], were provided to the Office of the Prosecutor and that they

18 were used by the Prosecutor.

19 That's why you're mentioning them here; is that correct?

20 MS TAYLOR: [12:54:16] No, Mr President, that's not what I said.

21 I said that it was give [REDACTED]

22 [REDACTED] while being interviewed

23 by the Prosecution.

24 Now, obviously this witness wa [REDACTED]. We don't know the

25 circumstance [REDACTED] or the reasons why, therefore. But this is all relevant

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1 given that this Prosecutor has specifically relied on the transcripts of evidence they
2 collected [REDACTED]

3 [REDACTED]
4 [REDACTED]
5 while being interviewed by the Prosecutor.

6 Now we should -- we must be given an opportunity to elicit information that's
7 directly relevant to the circumstances under which he was interviewed by the
8 Prosecutor, his concerns, his fears, anything that might have amounted [REDACTED]
9 [REDACTED] whether direct or indirect.

10 These are all matters that go directly to credibility. These are all matters that impact
11 upon the information he's provided to the Prosecution and how he recollects the
12 documents and videos that were shown to him at this time.

13 PRESIDING JUDGE MINDUA: [12:55:50](Interpretation) Very well, Counsel Taylor,
14 we've understood very easily. Okay, what I said to you at the beginning, and I'm
15 separating just one aspect, you have the [REDACTED] procedure with the procedure of the
16 ICC. So -- an [REDACTED] of course as well.

17 Now, you say that this witness [REDACTED]
18 [REDACTED] upon which the Prosecutor is basing his
19 questions. Now I put the question to the Prosecutor, and then the Bench will also
20 consult with each other if we should continue with this line of questioning.
21 Prosecutor.

22 MR GARCIA: [12:56:34](Interpretation) Your Honour, your Honours, what we're
23 doing here is we're mixing two different things. [REDACTED]
24 [REDACTED] and, on the other, the
25 interviews with the Office of the Prosecutor and the transcripts which came out of

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1 those interviews.

2 Now with the Office of the Prosecutor, a certain procedure is followed, rights are

3 given to the witness et cetera. That is all in the transcripts, in the 52 transcripts.

4 Now the Defence counsel says that there's a link, and what she's making is

5 submissions. This is something she can do. She can submit that there's a link

6 between [REDACTED] and the information that might have been

7 given to the Office of the Prosecutor. But those are submissions. There's no proof

8 in this regard. And the document that she's referring to, if I am not wrong, is the

9 document which finishes -- well, when she said that it was a document in

10 question - and, I think she can correct me if I'm wrong - MLI-D28-0005-7498.

11 And I don't know if that's the case. I'm looking at the Defence, but it would seem

12 that that is the document that she's referring to.

13 Now, if it's about -- a matter of a document [REDACTED]

14 [REDACTED]

15 [REDACTED] then just put a question to the witness about it -- about the

16 document. She can put a direct question about this document and you can see

17 if -- obviously, you have to show the document in the first place, but in doing so you

18 have the context. And in accordance with the appropriate rules, you can ask if this

19 witness made certain statements, and, if so, why. That's certainly possible for

20 a Defence counsel to do.

21 But the argument which you have before you made by the Defence counsel is, rather,

22 pleadings, submissions which should come at the end of proceedings. Because it has

23 not been established before this tribunal that [REDACTED] in which the

24 witness was at the start had any impact on the information or evidence that was

25 provided to the Prosecutor -- with the Office of the Prosecutor, and that it followed

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1 a formal and precise procedure with professional investigators.

2 PRESIDING JUDGE MINDUA: [12:59:12](Interpretation) Very well, Prosecutor.

3 That's enough.

4 Ms Taylor, it's fine.

5 MS TAYLOR: [12:59:19] Mr President, I did note that when the shoe is on the other

6 foot, when it was the Defence objecting, the Prosecution were always given a right to

7 respond. I noted that last week. So I do think that we should be given an

8 opportunity to respond to this rather fulsome intervention, now particularly, because

9 the Prosecutor's referred to a document and made a specific suggestion.

10 The Prosecutor has said that I was making pleadings concerning a link and that these

11 should be pleadings. But obviously we should be given the opportunity to elicit

12 evidence concerning the link, and if we're prevented from eliciting evidence, then

13 we're effectively being prevented from making arguments that are relevant to

14 credibility.

15 Now, this individual was me

16 [REDACTED] --

17 PRESIDING JUDGE MINDUA: [13:00:05](Interpretation) Ms Taylor, no, please don't

18 repeat this. You don't need to repeat yourself. There's no point. You stated that

19 you need to have the opportunity to react. We do that all the time. All the time.

20 And sometimes I'm concerned myself, if we're just allowing a ping-pong to go ahead.

21 And some -- if you're Presiding Judge and allow that to happen, that's not right.

22 So that's something I don't wish to see. So you -- you can have an answer and then

23 it's enough.

24 Now let's go back to the substance in the case in point. * I think that I am not even

25 going to consult the Chamber because there's no point. But with the discussion that

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1 was going on a moment ago, the Chamber has sufficiently edified -- and I, myself, am
2 sufficiently edified. We have the facts before us.

3 The witness [REDACTED]
4 you explained, which we know. [REDACTED]
5 [REDACTED] we know that.

6 Now according to you -- or according to what we know, there were statements that
7 were made [REDACTED] Now you state that the Prosecutor
8 has taken advantage of that to interview the witness himself, or the Prosecutor
9 interviewed the witness [REDACTED]
10 [REDACTED]

11 Now, the conclusion that you draw from all that, and this is -- and these are pleadings
12 as the Prosecutor has said. We haven't come to that level yet. However, if you
13 have a point to raise, you can directly put the question to this witness.

14 What is your thesis, your hypothesis which would make a link between [REDACTED]
15 [REDACTED] with the statements given to the Office of the Prosecutor?

16 Whatever the case, the exchanges were enough for the Chamber to have the
17 information it needs. There's no point in going further with this line of questioning.

18 We're going to move on to something else.

19 With regards to the facts, the Chamber has been well informed. With regards to the
20 conclusions, you can do them in your submissions and pleadings.

21 And I note that it is now 1.02. It's time for the break.

22 So that's the decision of the Chamber. Court officer, we are now going to re-establish
23 the sound and then we will go into open session.

24 (Open session at 1.03 p.m.)

25 THE COURT OFFICER: [13:03:12] We're back in open session, Mr President.

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- 1 PRESIDING JUDGE MINDUA: [13:03:28](Interpretation) Thank you very much,
- 2 court officer.
- 3 So it's now 1.03. It's time for us to have a break, to have our lunch break. We are
- 4 going to break there and be back at 2.30.
- 5 Court is suspended.
- 6 THE COURT USHER: [13:03:51] All rise.
- 7 (Recess taken at 1.03 p.m.)
- 8 (Upon resuming in open session at 2.31 p.m.)
- 9 THE COURT USHER: [14:31:47] All rise. Please be seated.
- 10 PRESIDING JUDGE MINDUA: [14:32:06](Interpretation) The hearing shall now
- 11 resume, and the Defence may proceed with continuation of -- but I see that the
- 12 Prosecutor is -- has risen.
- 13 MR GARCIA: [14:32:33](Interpretation) A mistake on my part, I did not advise the
- 14 Court that Mousa Allafi has been with us since the last session and he will be present
- 15 during this third session. I apologise to the Chamber, but I did want the record to
- 16 show that.
- 17 PRESIDING JUDGE MINDUA: [14:32:50](Interpretation) Thank you very much.
- 18 As you must realise, I do set great store by the record being completely accurate.
- 19 Ms Taylor.
- 20 MS TAYLOR: [14:33:14] Thank you, Mr President.
- 21 Q. [14:33:15] Good afternoon, Mr Witness, how are you?
- 22 A. [14:33:18] I'm fine, thanks.
- 23 Q. [14:33:19] Mr Witness, I just have a preliminary question. Do you sometimes
- 24 find it difficult to understand the Arabic words that are being used in the
- 25 interpretation?

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1 A. [14:33:42] It's not really a difficulty, but there are some sentences or phrases in
2 the questions that were surprising to me, as they were not in line with my witness
3 statement. So I received questions that sounded more like an interrogation and they
4 had to do with events that have taken place quite a while ago.

5 So this confused me and made me look like I do not understand some things.

6 Q. [14:34:54] Mr Witness, is it correct that [REDACTED] is your maternal language?

7 A. [14:35:01] Yes, this is true. [REDACTED] is my mother language.

8 Q. [14:35:11] Were you given an option to testify in [REDACTED]?

9 A. [14:35:17] No. Only I know how to speak Arabic and I can manage with an
10 Arabic interpreter as I can speak Arabic.

11 Q. [14:35:44] Do you understand or find it easier to follow [REDACTED]?

12 A. [14:35:52] Yes, it is easier.

13 MS TAYLOR: [14:36:01] Mr President, is there any possibility of having Tamasheq
14 interpretation?

15 THE INTERPRETER: [14:36:22] Microphone.

16 * PRESIDING JUDGE MINDUA: [14:36:26](Interpretation) Ms Taylor, you are
17 entitled to ask the question, but before all courts and tribunals, we usually give the
18 person the opportunity to speak in the language that is suitable. It is not necessarily
19 the person's mother tongue. If the person chooses a language -- if the person says
20 that he does speak Arabic and that he is at ease speaking that language, why do you
21 want a [REDACTED] interpreter?

22 MS TAYLOR: [14:36:58] Mr President, I do note that the statute refers to - under
23 Article 67 - to a language that the person perfectly understands, or *parfaitement*, and
24 that this is a -- a witness who is appearing under Article 55 and Rule 74, and I'm
25 raising it for that reason.

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1 And we have had witnesses testify previously with [REDACTED] interpretation, so
2 obviously it is something that is available.

3 PRESIDING JUDGE MINDUA: [14:37:36](Interpretation) Yes, it could be made
4 available, but I would have to ask the Registry. But you're not going to change -- or
5 choose the language in which the witness speaks.

6 Did the witness ask to speak in [REDACTED]? Perhaps you should check that.

7 Mr Prosecutor.

8 MR GARCIA: [14:37:59](Interpretation) Your Honour, I obviously don't see the
9 grounds for this request from the Defence. The witness has been testifying in Arabic.
10 If there had been problems, we can always go back to questions and answers to shed
11 light on what was said.

12 The witness never said he would prefer to speak [REDACTED] That's nowhere to be
13 found on the record. And what I see in his response to the question from the
14 Defence is that it was the way that the questions were put to him during
15 examination-in-chief. It was not a matter of him not understanding.

16 * In actual fact, at pages 74 and 75, you can ... (Overlapping microphones)
17 (Speaks English) "It's not really a difficulty, but there are some sentences or phrases in
18 the questions that were surprising to me as they were not in line with my witness
19 statement. So I received questions that sounded more like an interrogation [...]"

20 (Interpretation) So the witness's concern is not about language, it's about the way in
21 which questions were put.

22 PRESIDING JUDGE MINDUA: [14:39:19](Interpretation) Ms Taylor, the witness has
23 not expressed the need to speak in Tamasheq and this is not required under the
24 statute or the rules. The Chamber does not see the need to switch to the [REDACTED]
25 language.

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1 Naturally, if there are problems with the questions, the interpreters are here to repeat.
2 And the witness himself said that there were questions that seemed - well, I wouldn't
3 say absurd - questions that he did not understand.
4 I see that the witness's counsel would like to address the Court.
5 Counsel?
6 MR DHIB: [14:40:13](Interpretation) Thank you. I would like to clarify some things.
7 The witness before you is fluent in Arabic. He understands it. He writes it. And
8 let us not forget tha [REDACTED] and
9 the Arabic language is the language of the Koran. So every time I spoke to him in
10 Arabic, I was certain that he understood me perfectly. And all the questions that
11 were posed by the OTP, they were understood by him. He answered the questions.
12 So there is no way that we have to change the language, especially that the witness
13 did not express any wish to spea [REDACTED] or to give his witness statement in
14 [REDACTED] So we insist on using Arabic, which is one of the languages that are used
15 by the Court, and we concur with the OTP's request.
16 PRESIDING JUDGE MINDUA: [14:41:41](Interpretation) Thank you very much,
17 Counsel, for your remarks. Of course, this is not the Prosecution that has made the
18 request -- the Prosecutor contributed, it's the Defence that has asked fo [REDACTED]
19 So, Counsel, the Chamber has been edified. There is no need to request a
20 [REDACTED] speaking interpreter and the interpreter --
21 THE INTERPRETER: [14:42:11] Correction.
22 THE WITNESS: [14:42:11](Interpretation) -- the witness will continue in Arabic.
23 MS TAYLOR: [14:42:15] Thank you very much, Mr President. Just as a matter of
24 procedure, we would request that the counsel respectfully be directed not to testify,
25 and, particularly, not to do so in front of his client. His client is here to testify. It's

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1 not appropriate for the counsel to give evidence as to what his client wants or the
2 capacity of his client.

3 Now, we've had this issue before and it's not appropriate for lawyers to give evidence
4 on behalf of their clients.

5 PRESIDING JUDGE MINDUA: [14:42:58](Interpretation) Very well, Ms Taylor.

6 The Chamber will monitor that point closely, but I'm not so sure we're talking about
7 evidence in this particular case.

8 Go on, please.

9 MS TAYLOR: [14:43:14] Mr President, if we could go into closed session, as I do
10 have a couple of questions that relate to Rule 74.

11 PRESIDING JUDGE MINDUA: [14:43:25](Interpretation) Certainly, Ms Taylor.

12 Court officer, private (sic) session.

13 (Closed session at 2.44 p.m.)

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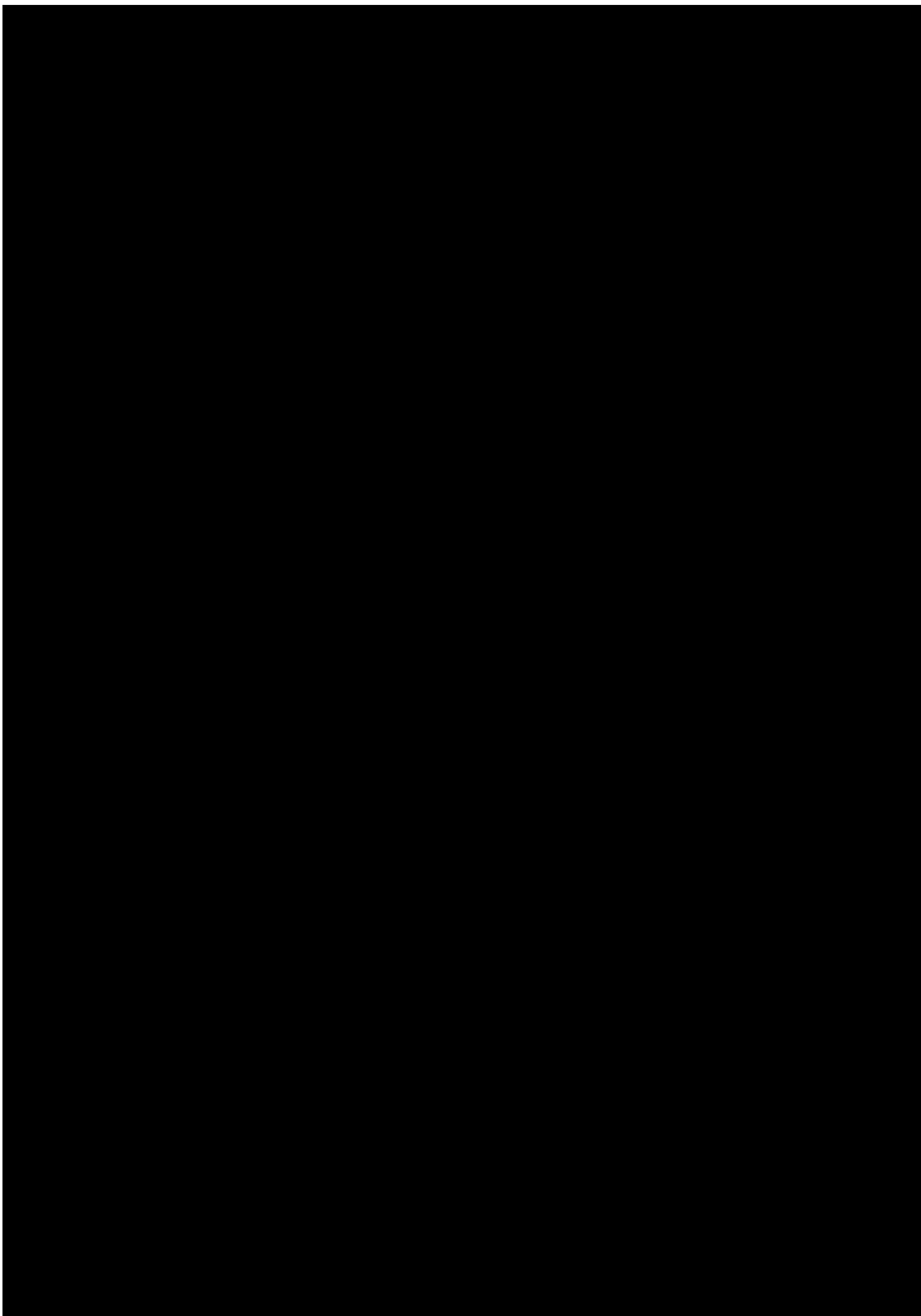
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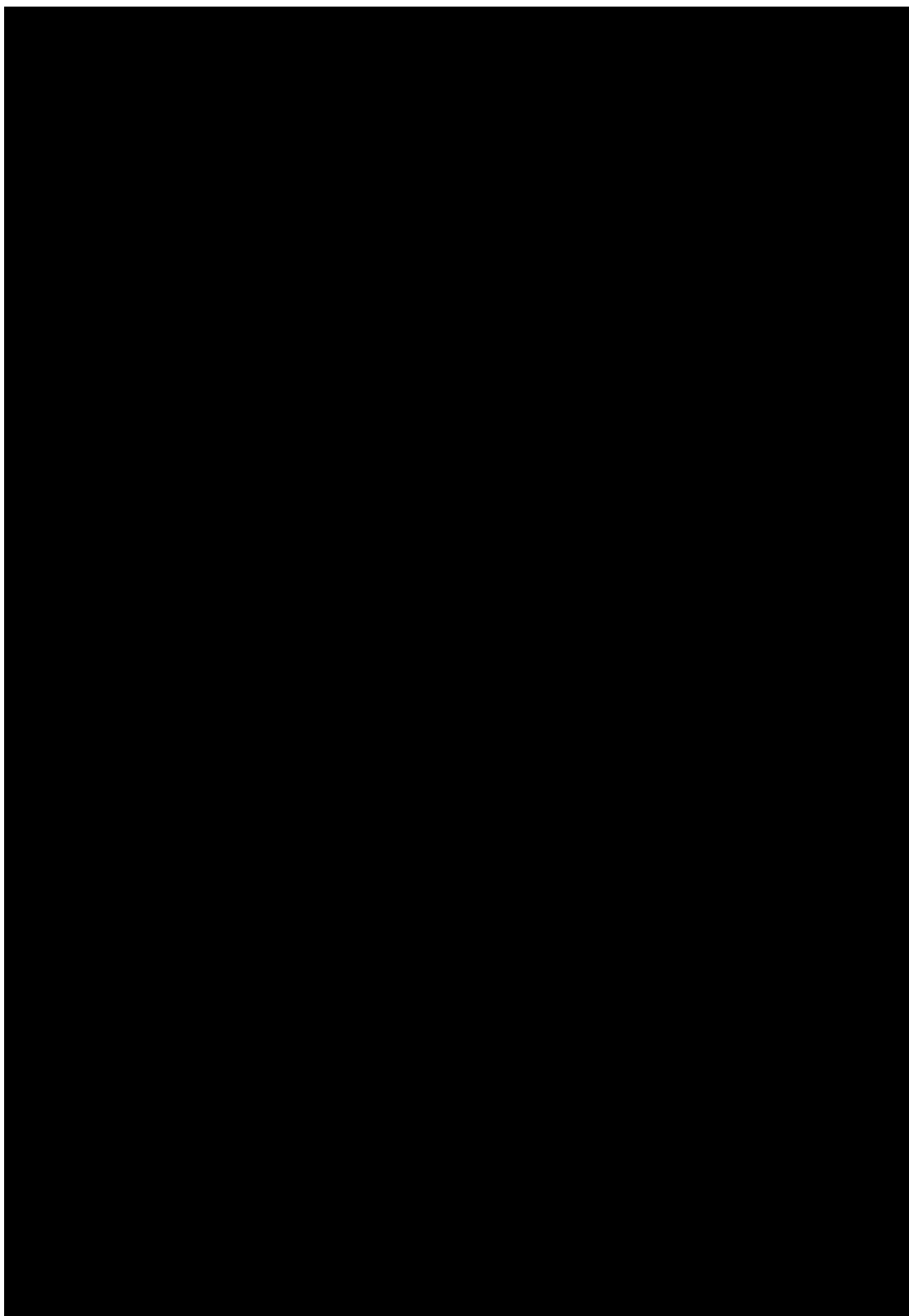
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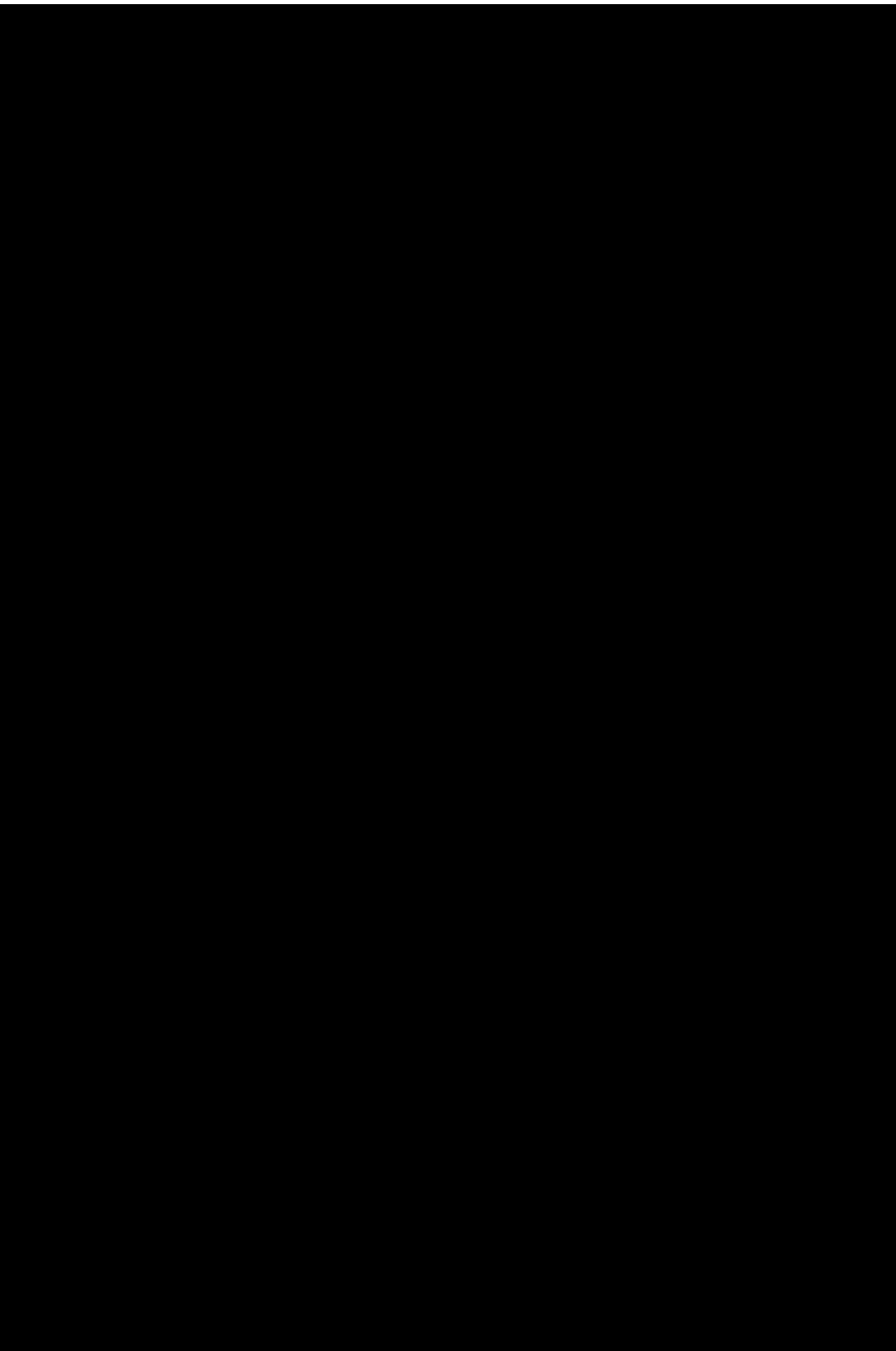
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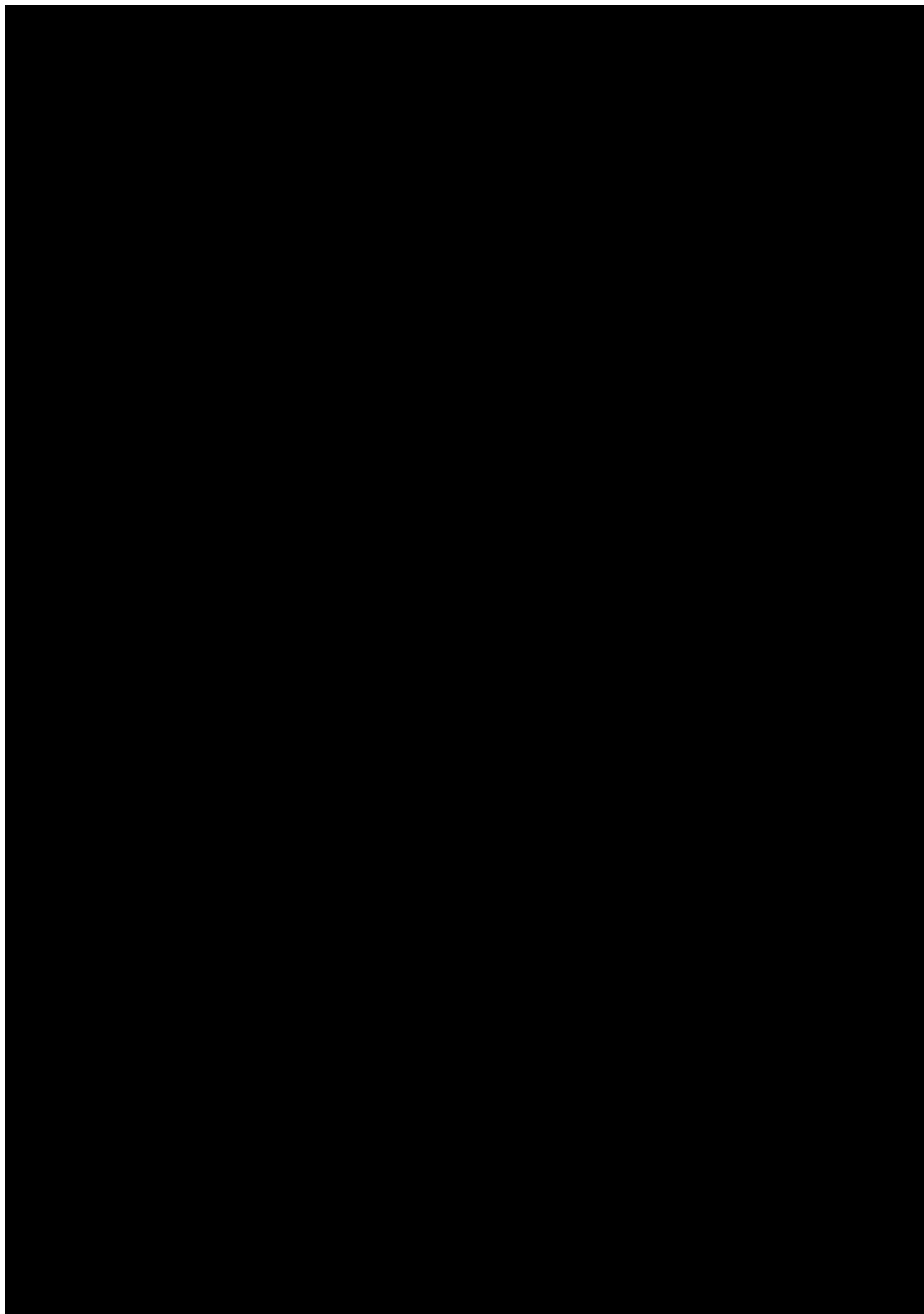
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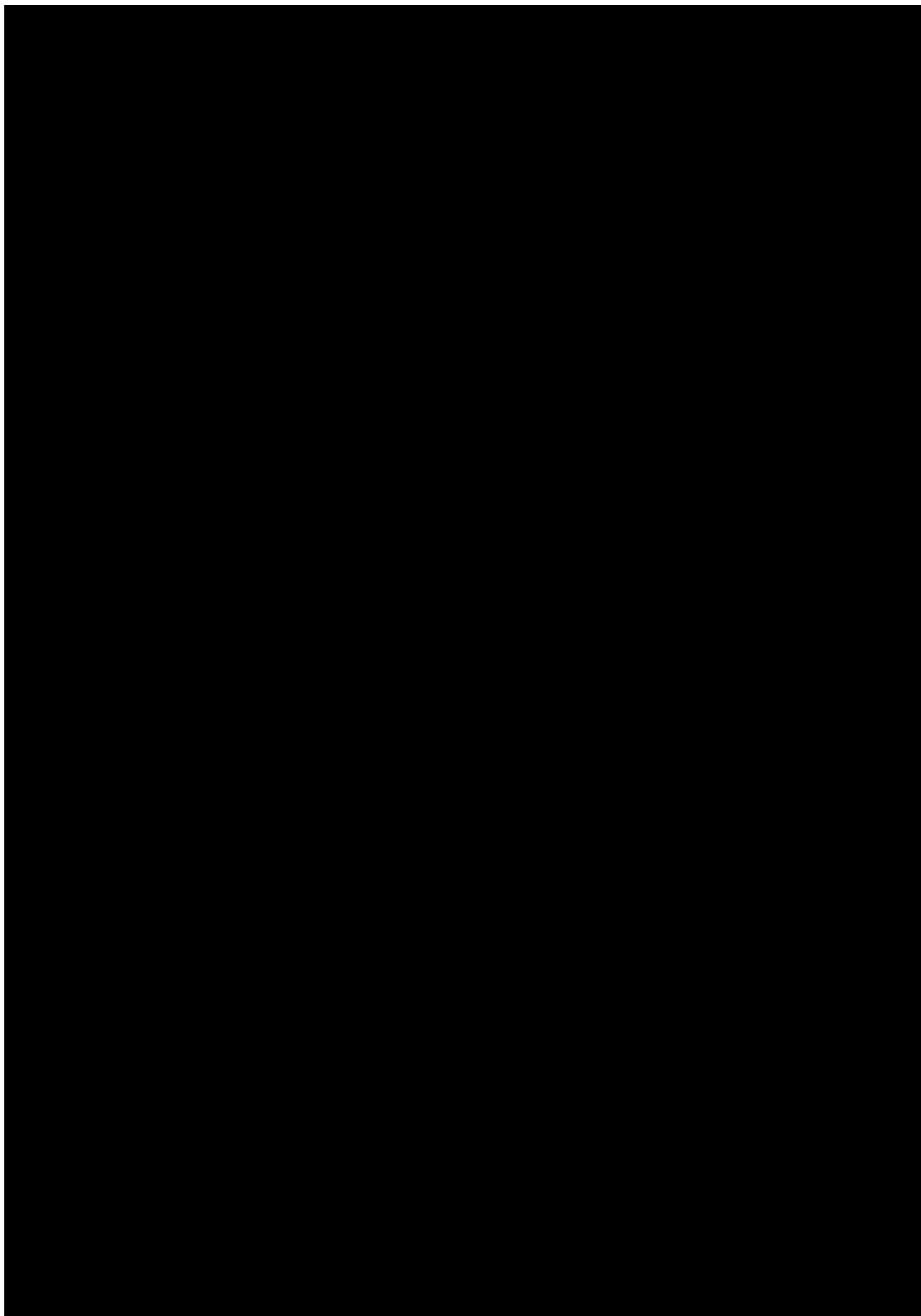


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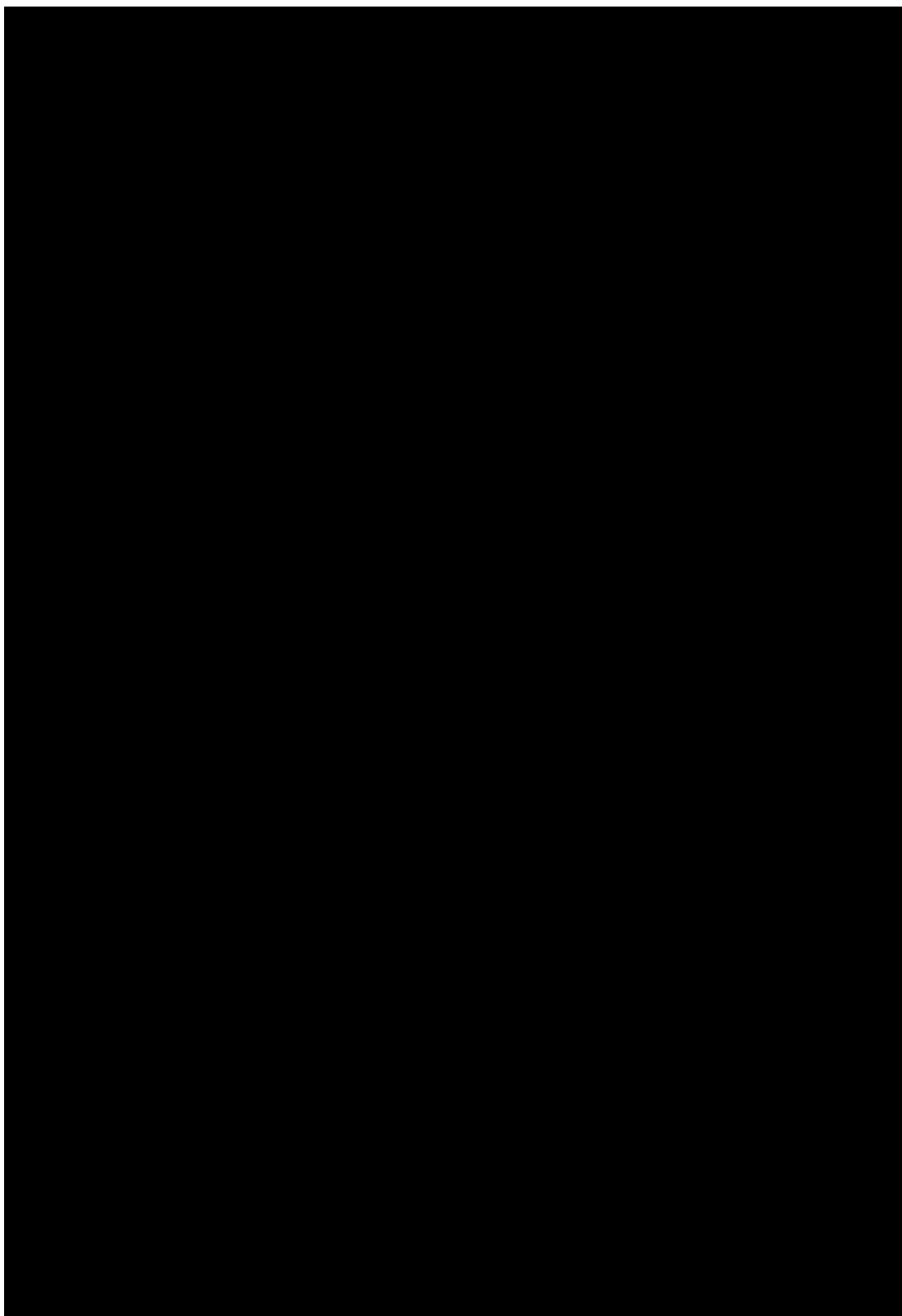
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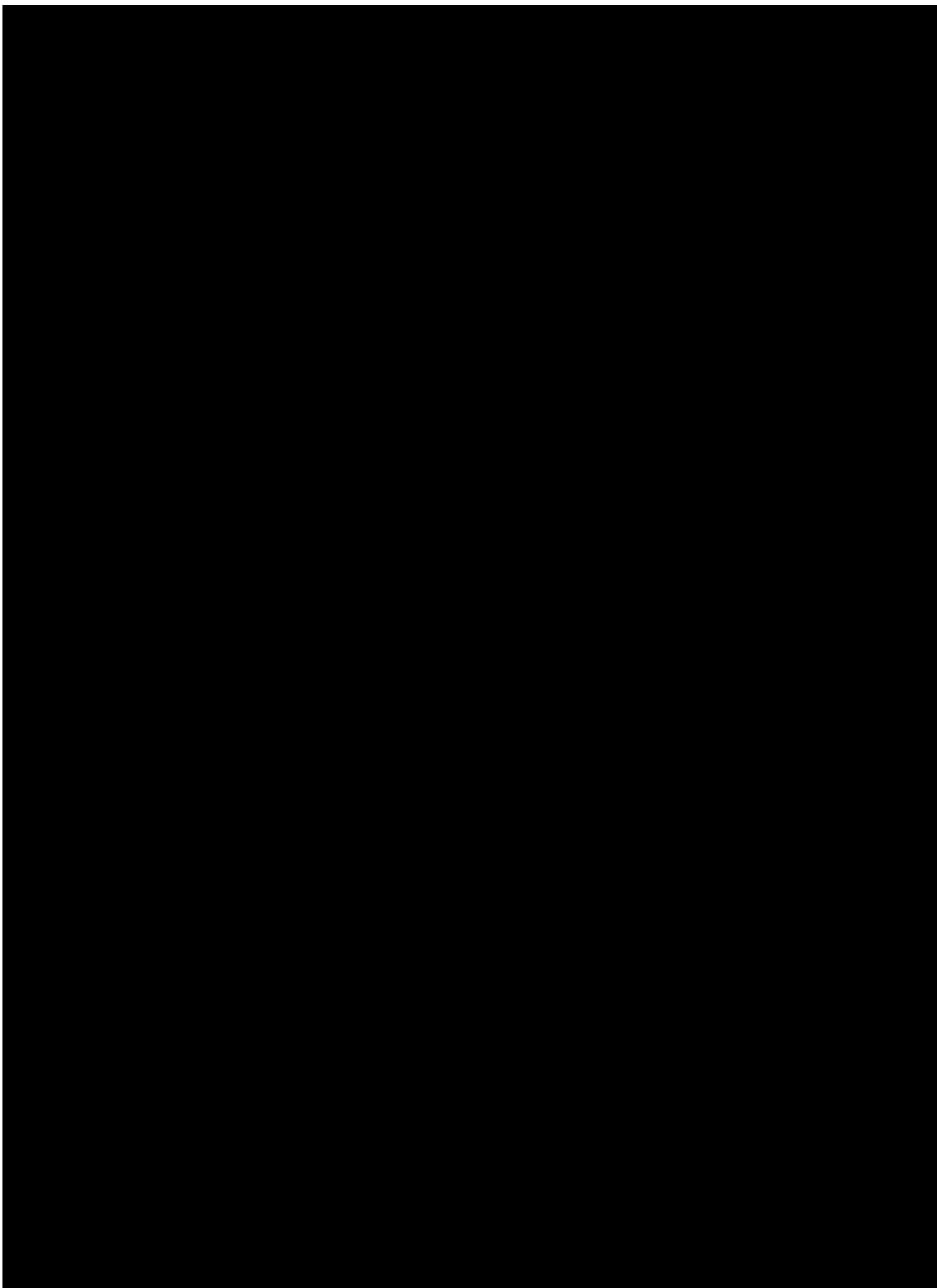


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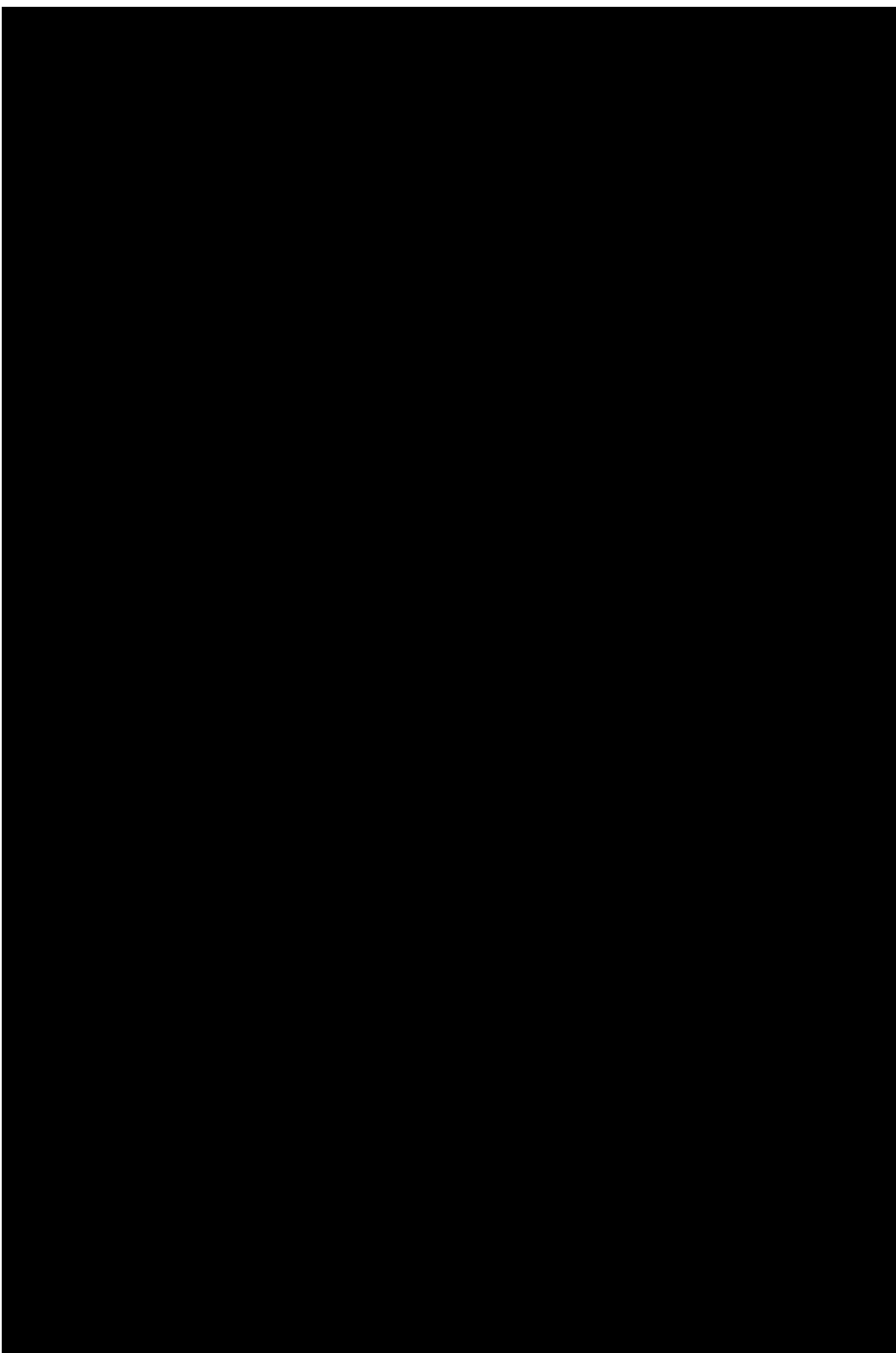
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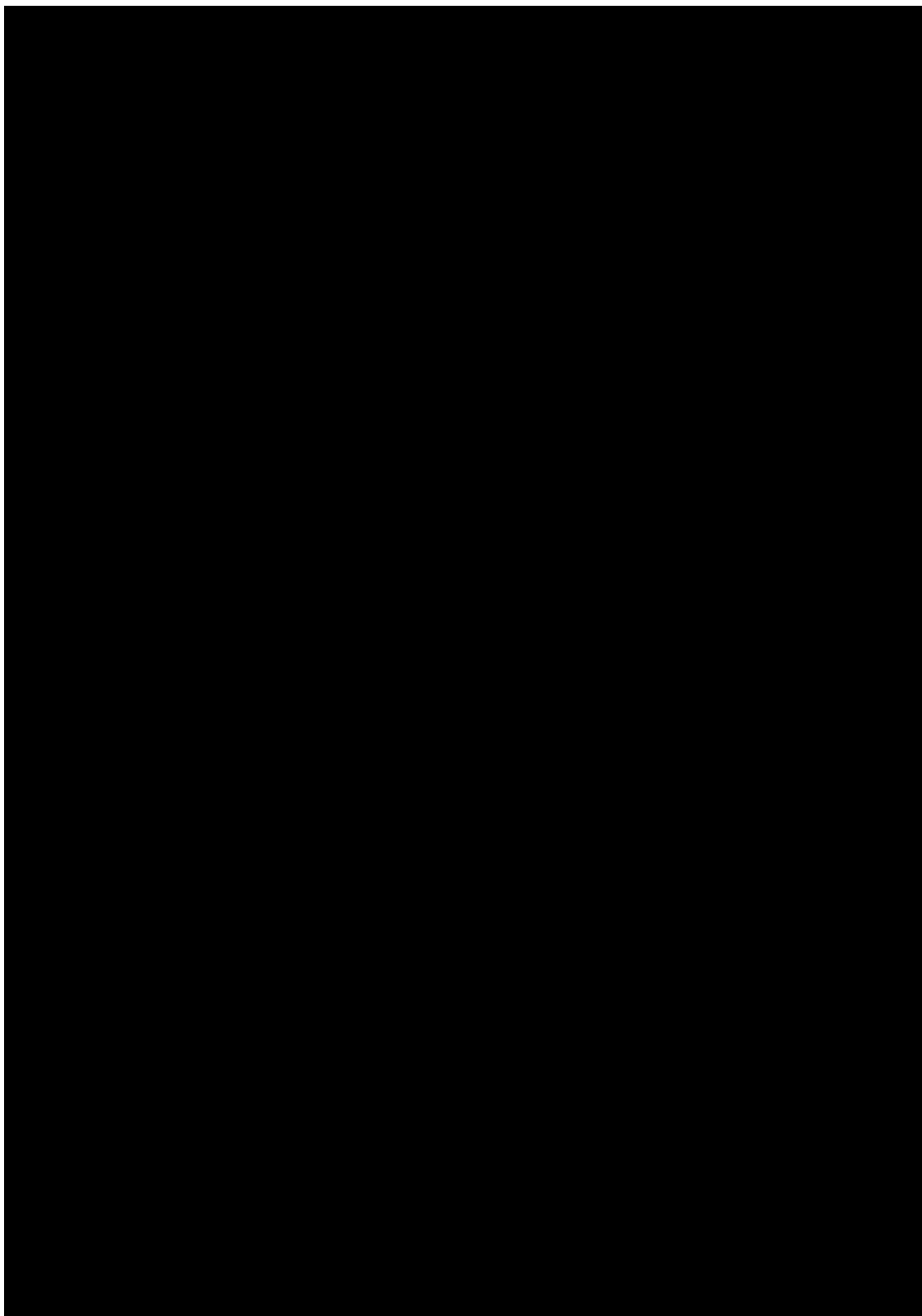
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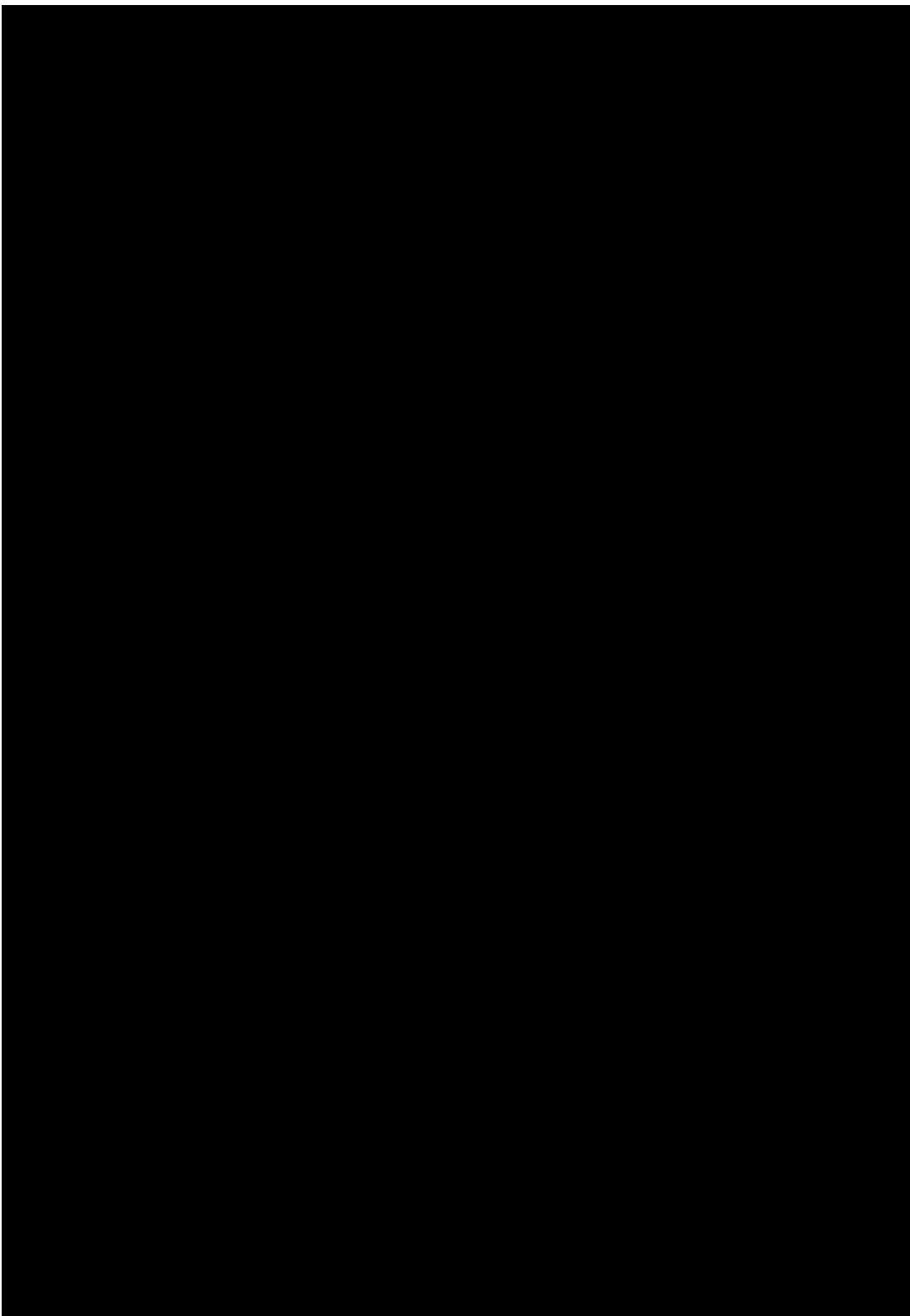
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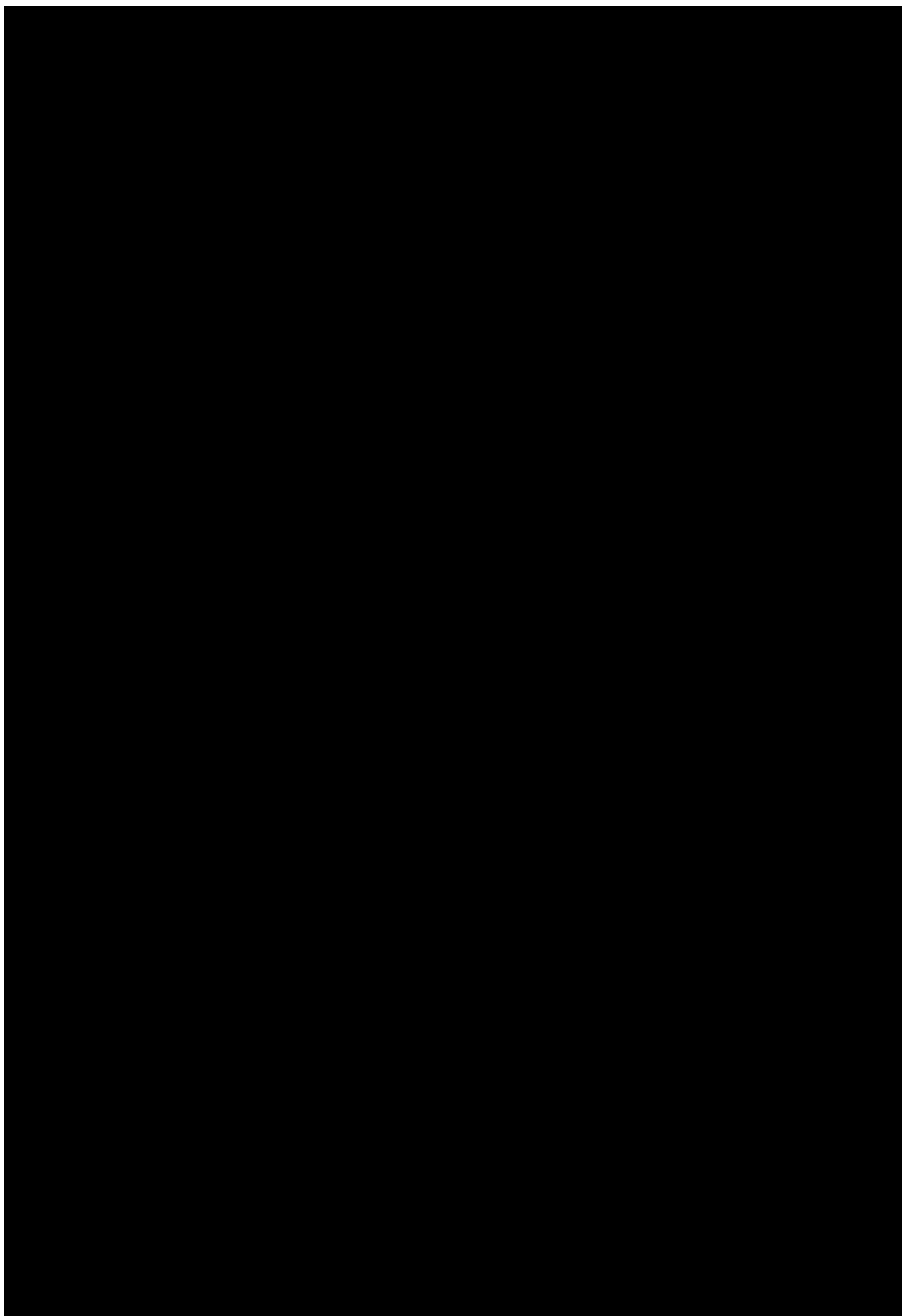
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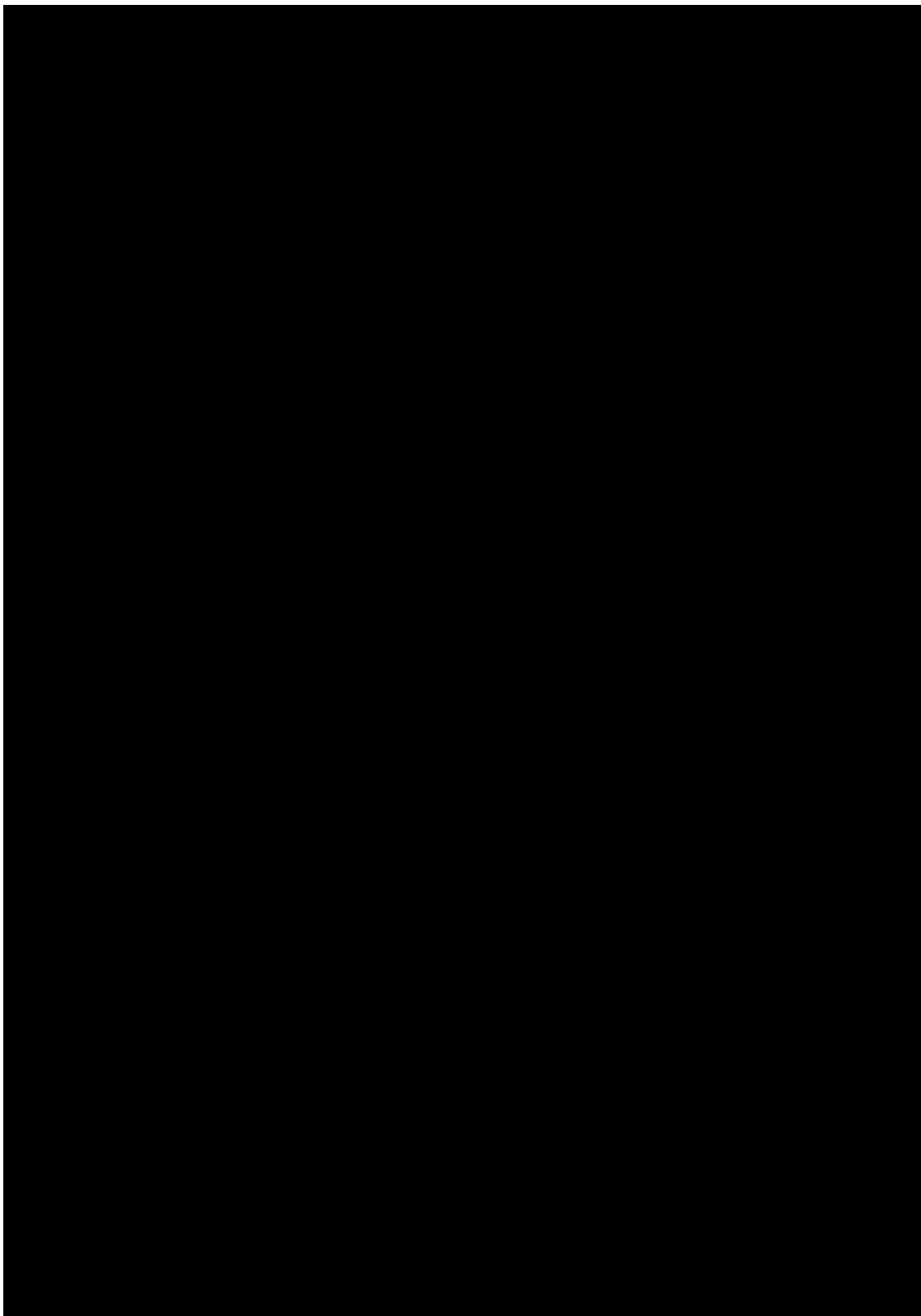
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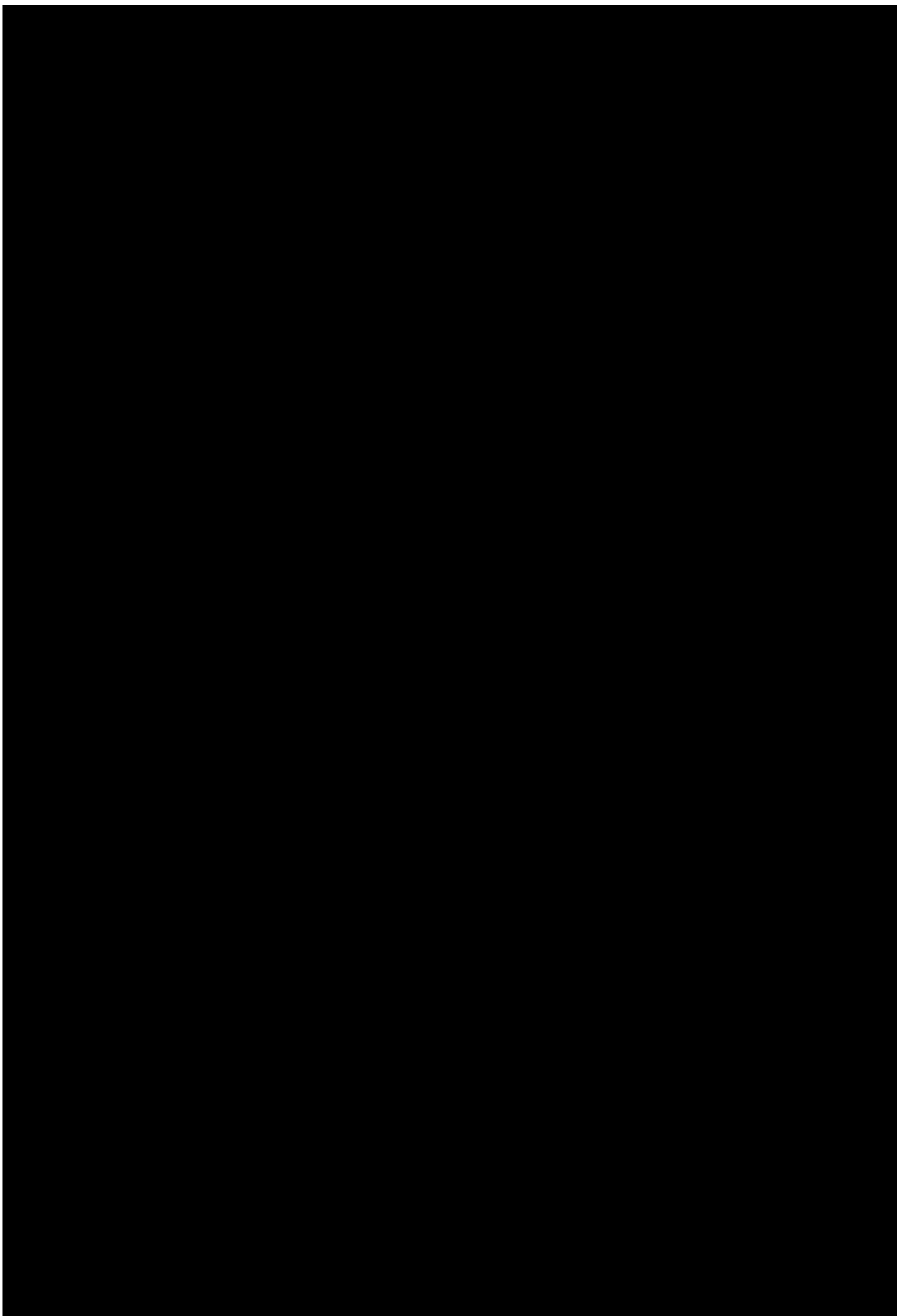
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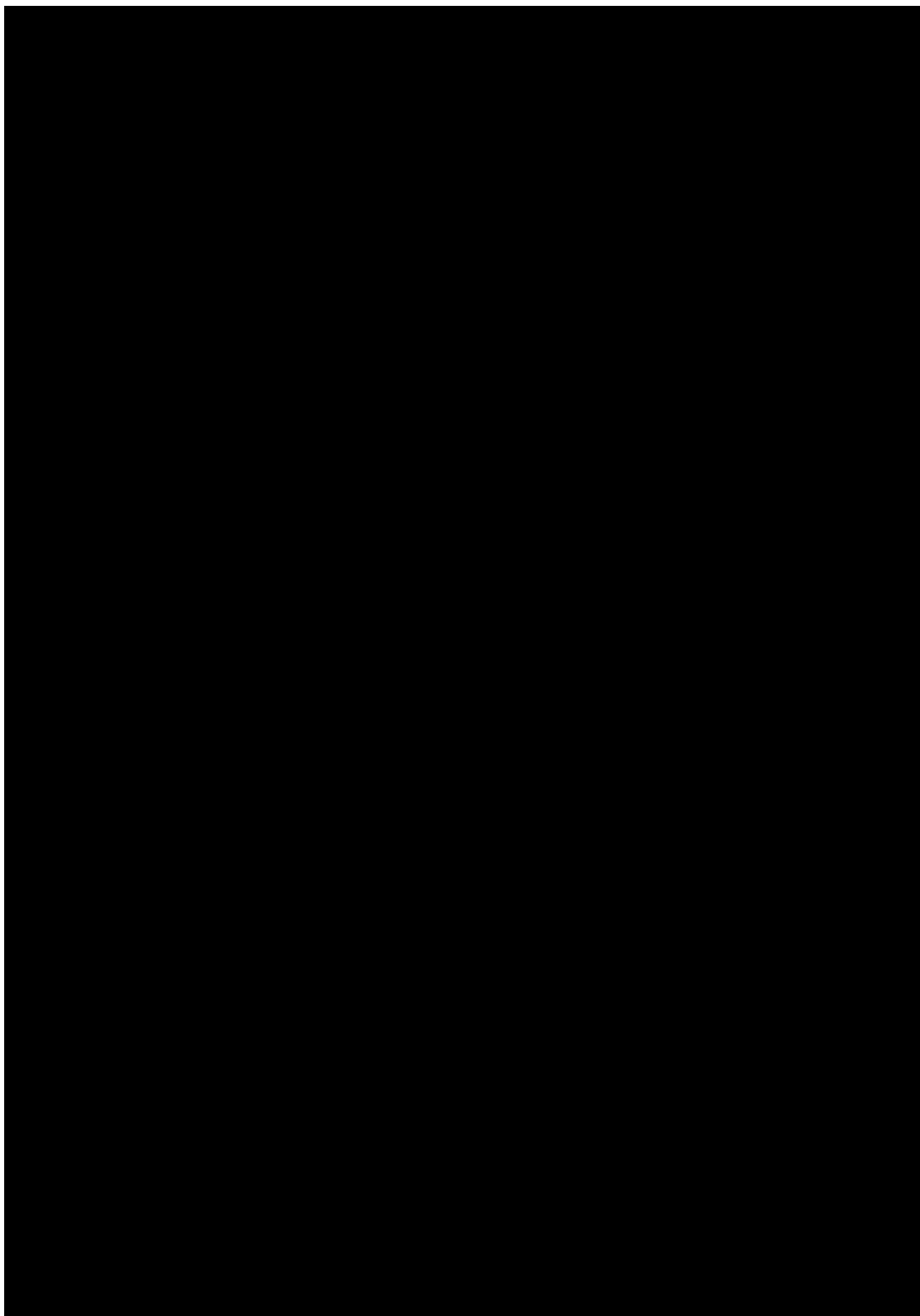
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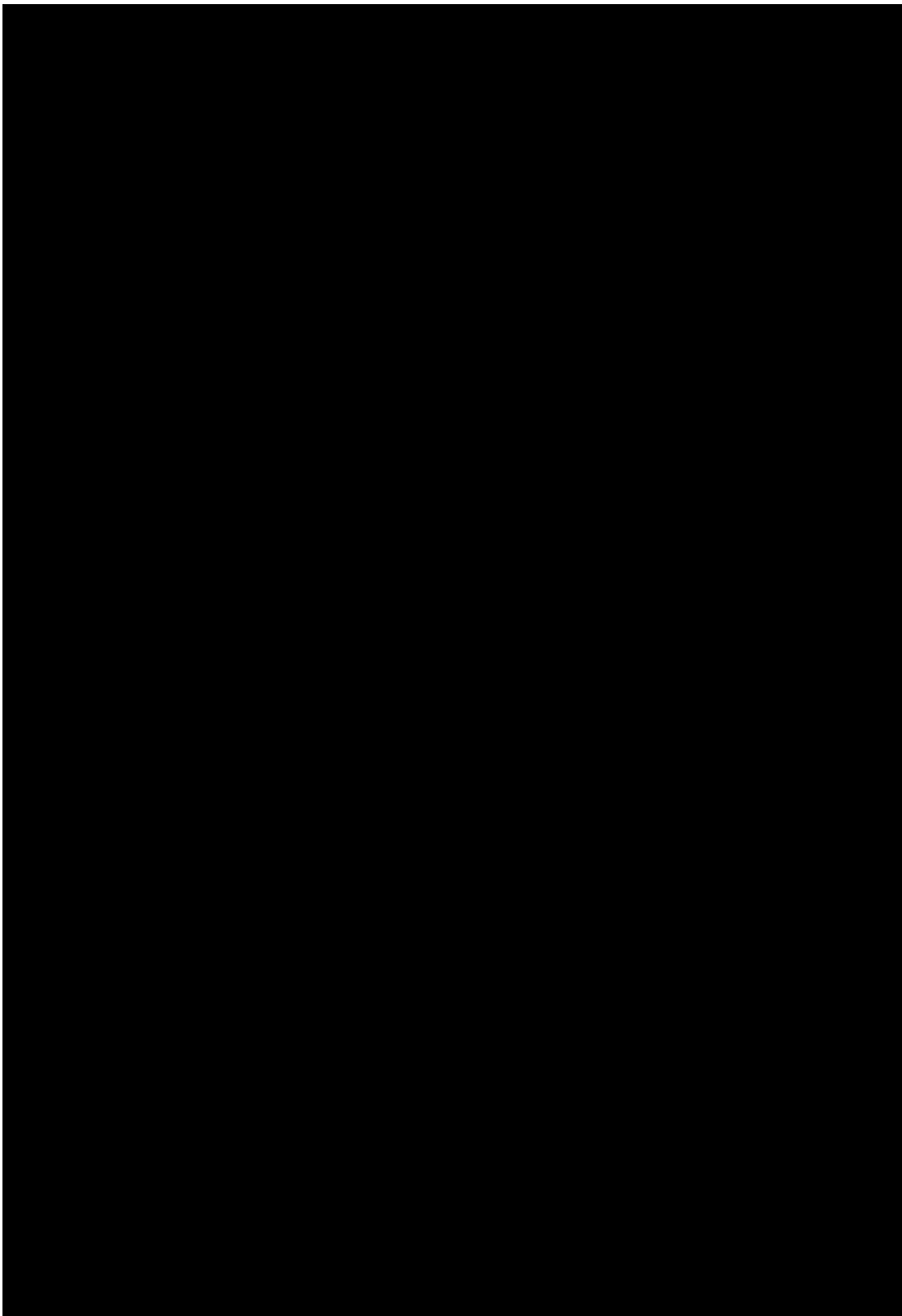
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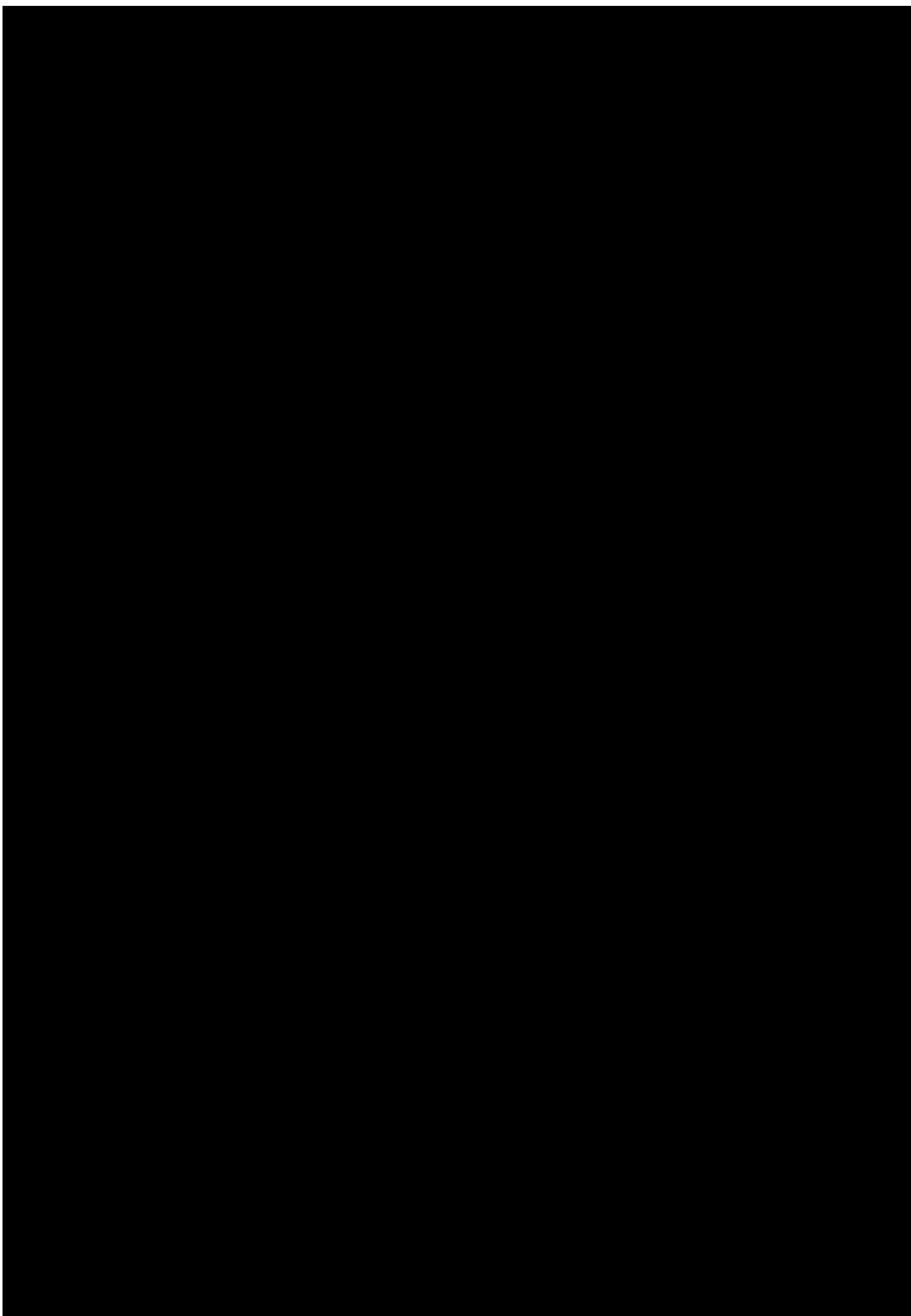
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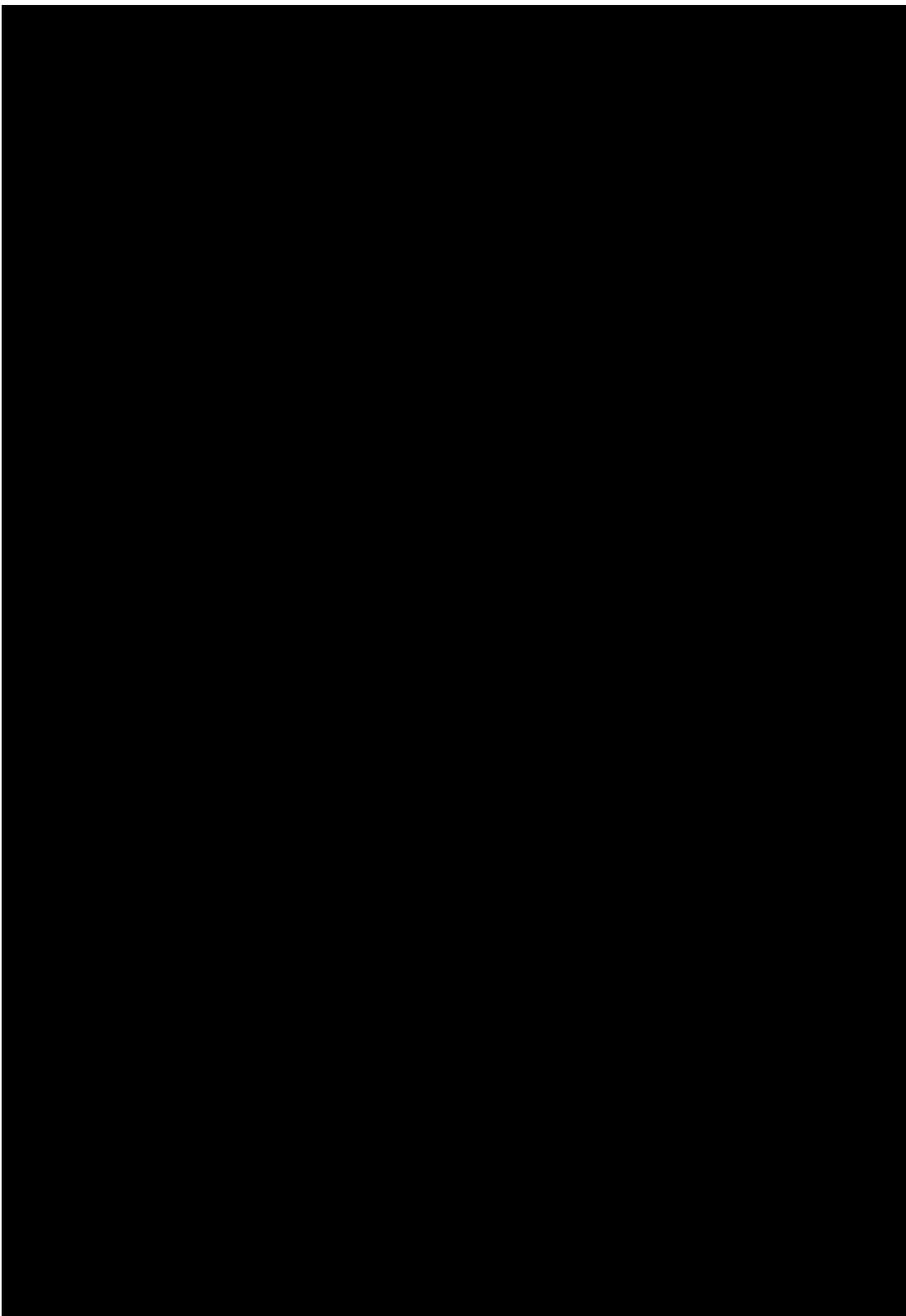
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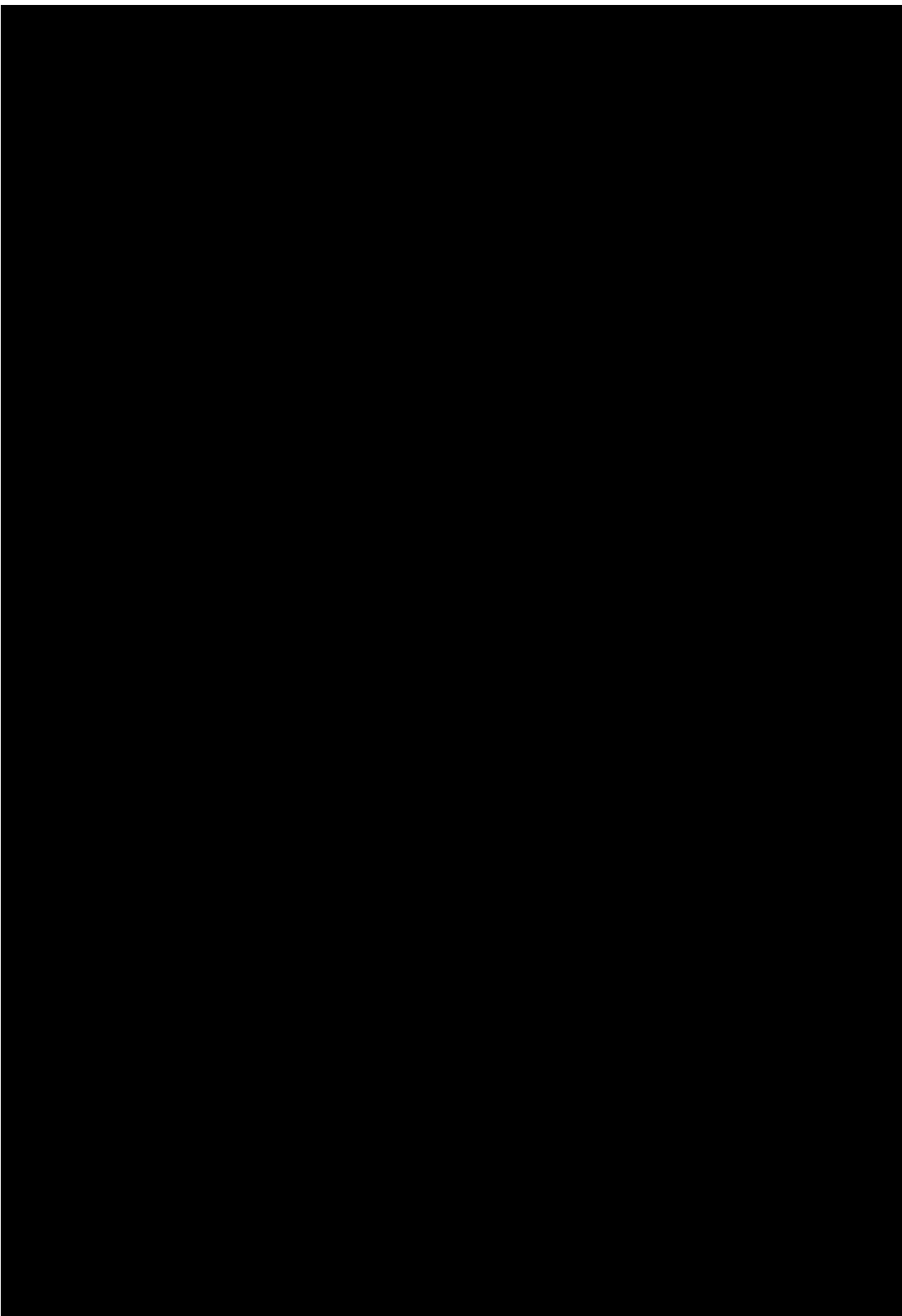
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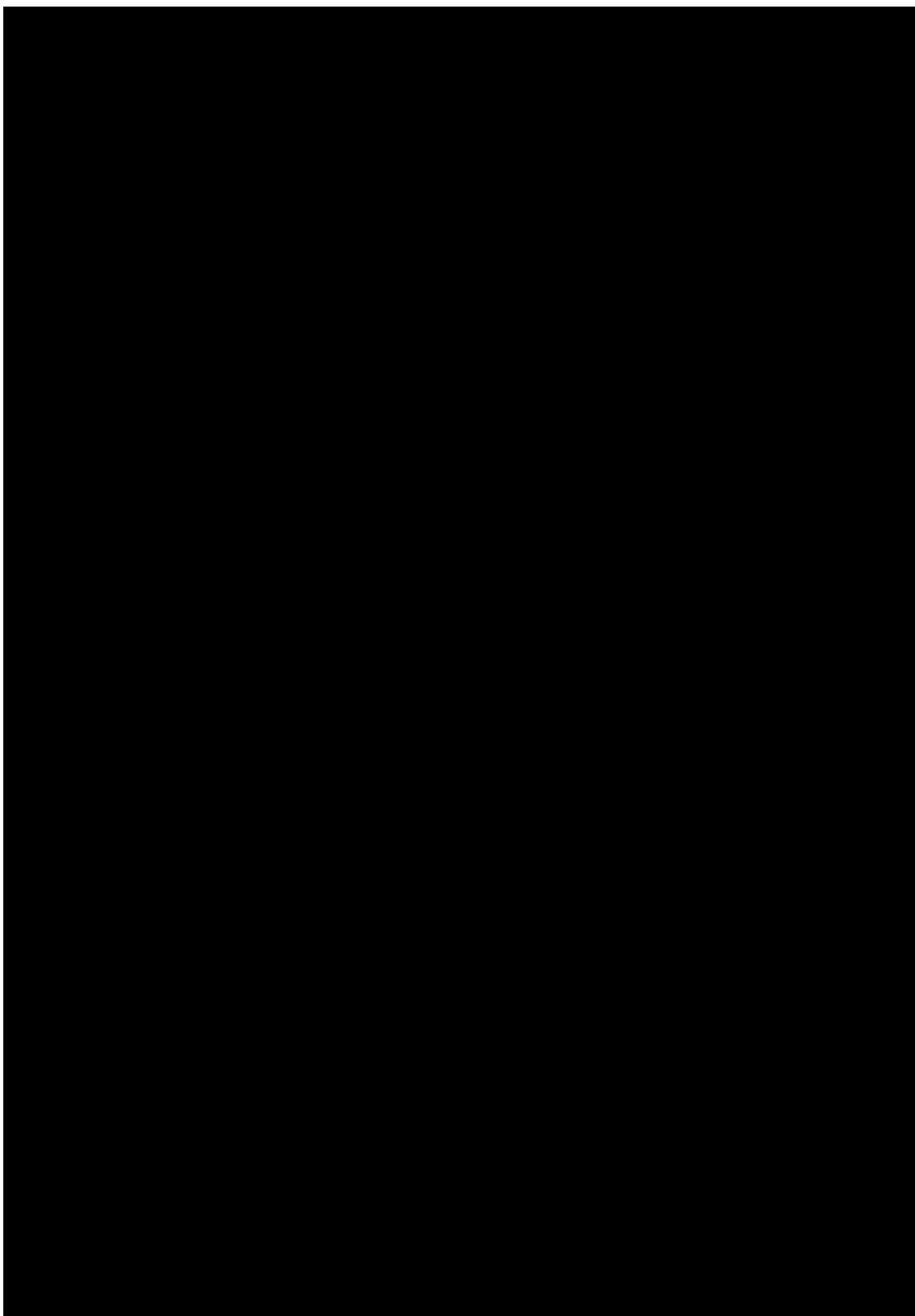
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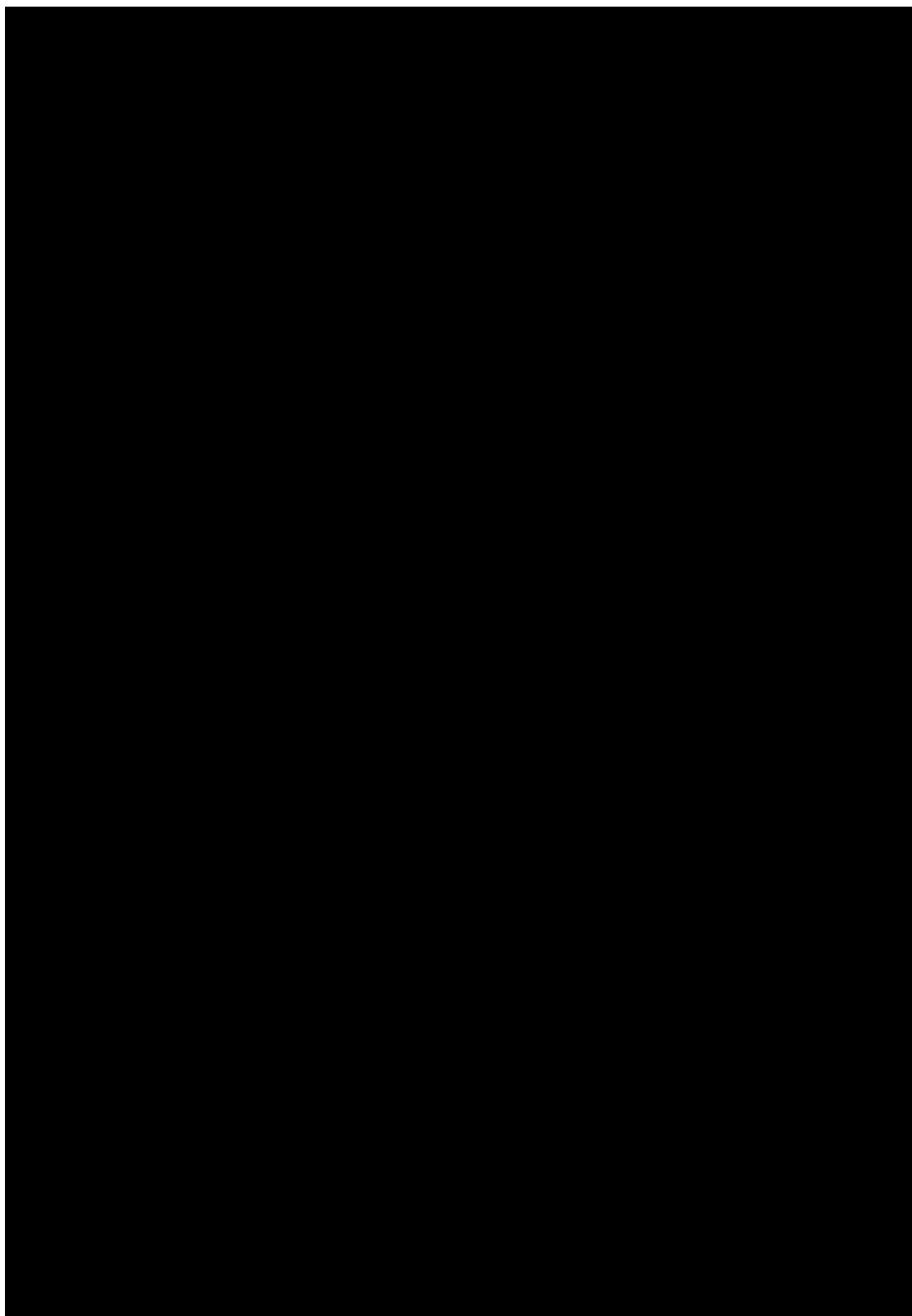
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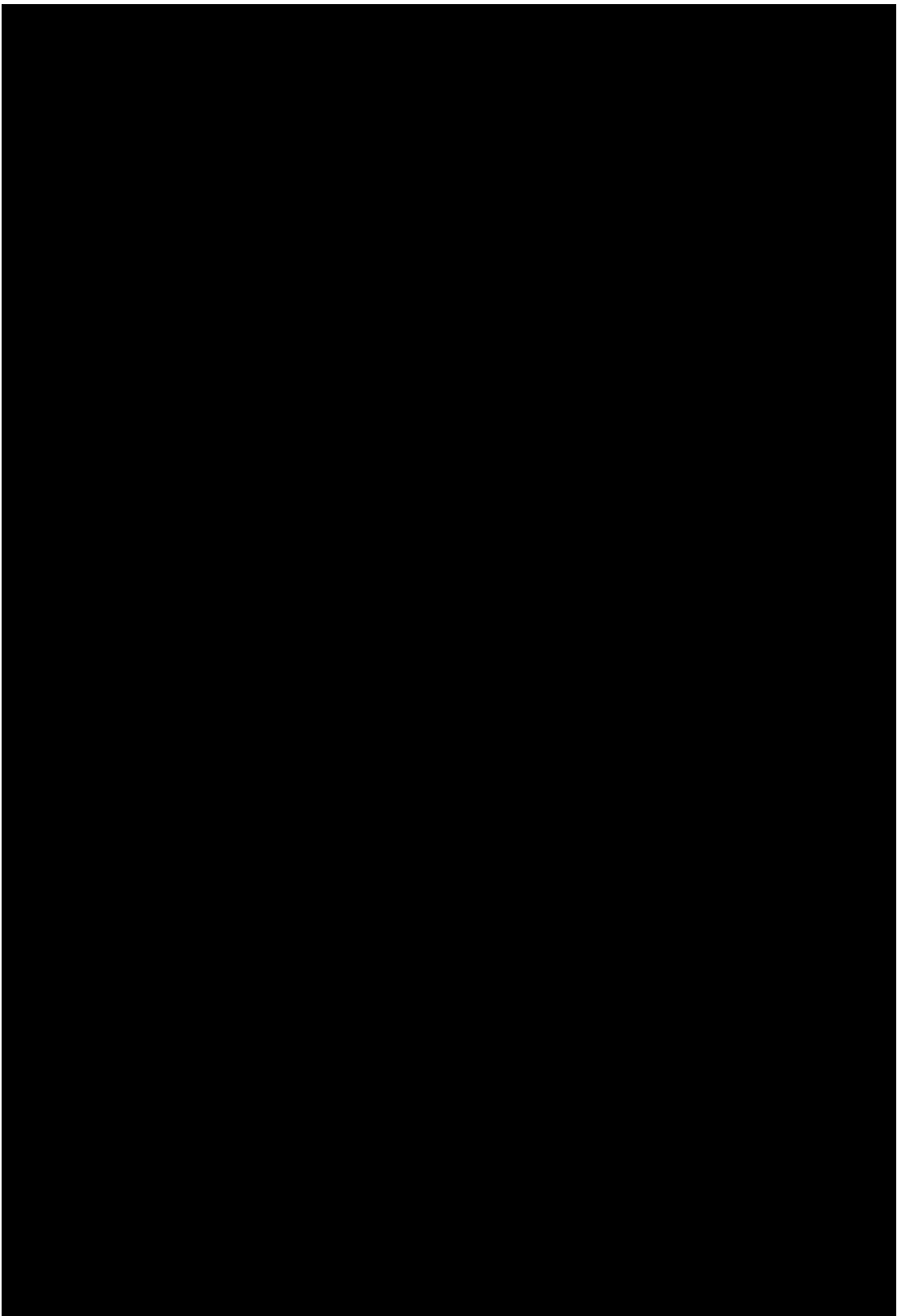


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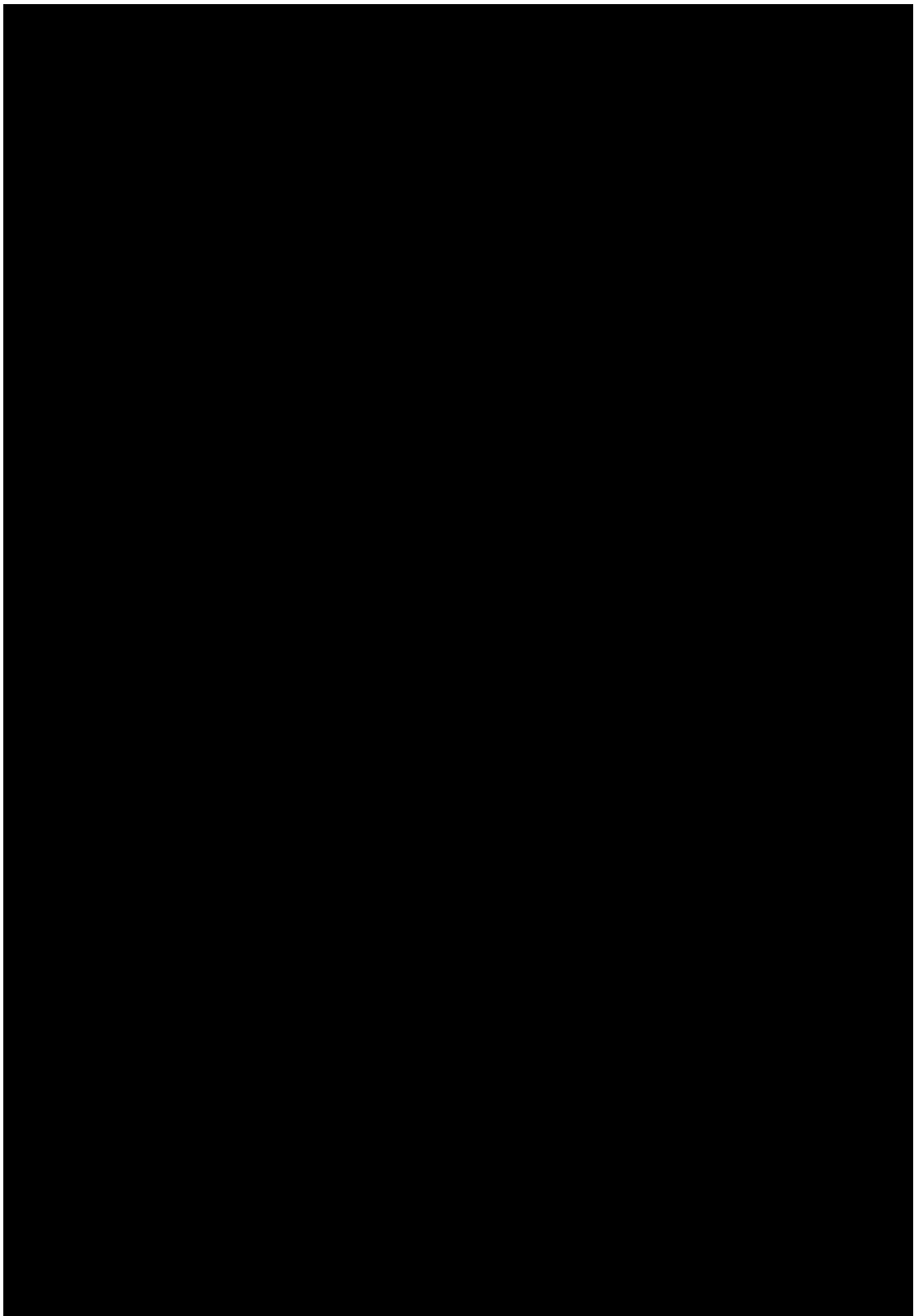
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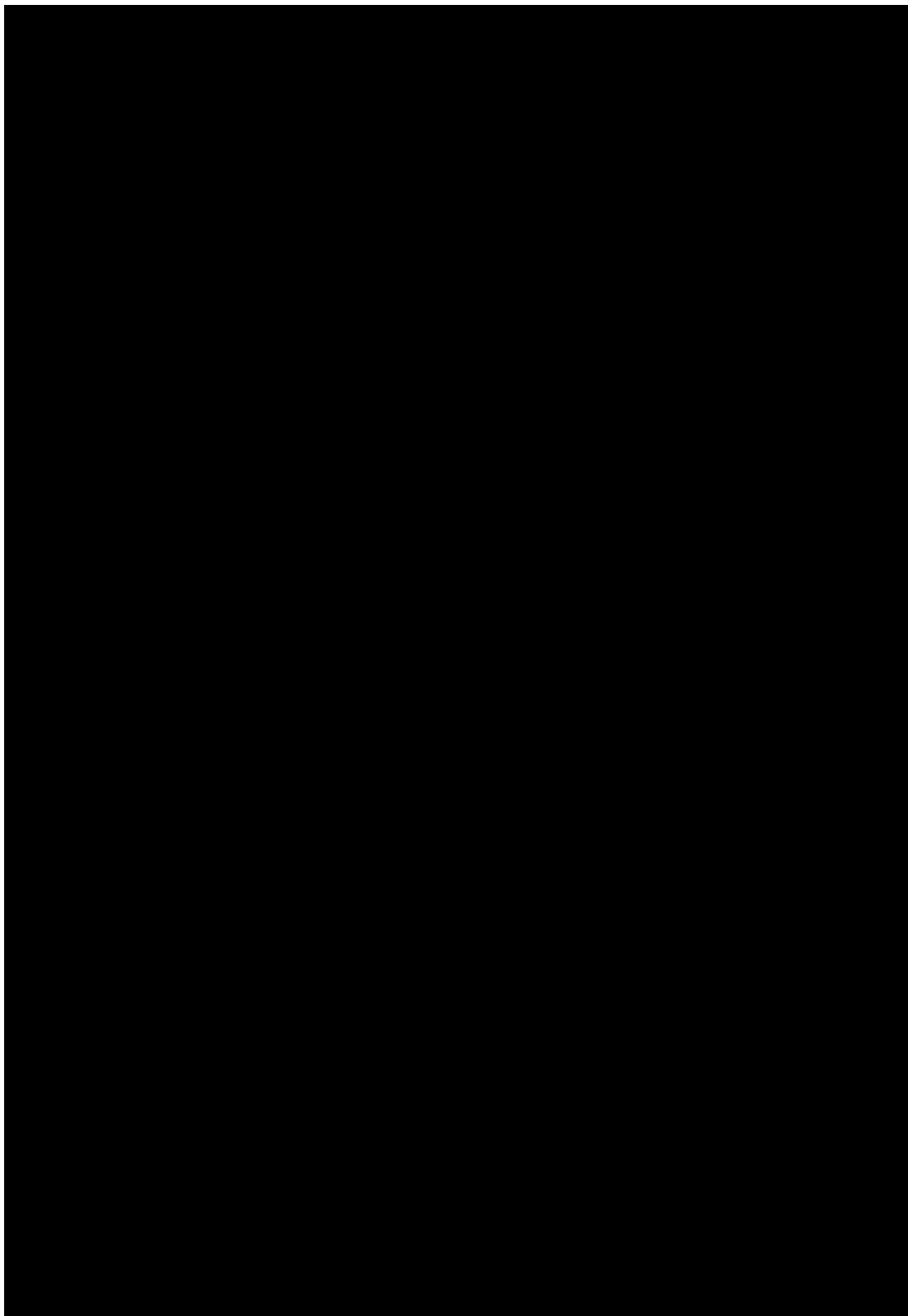
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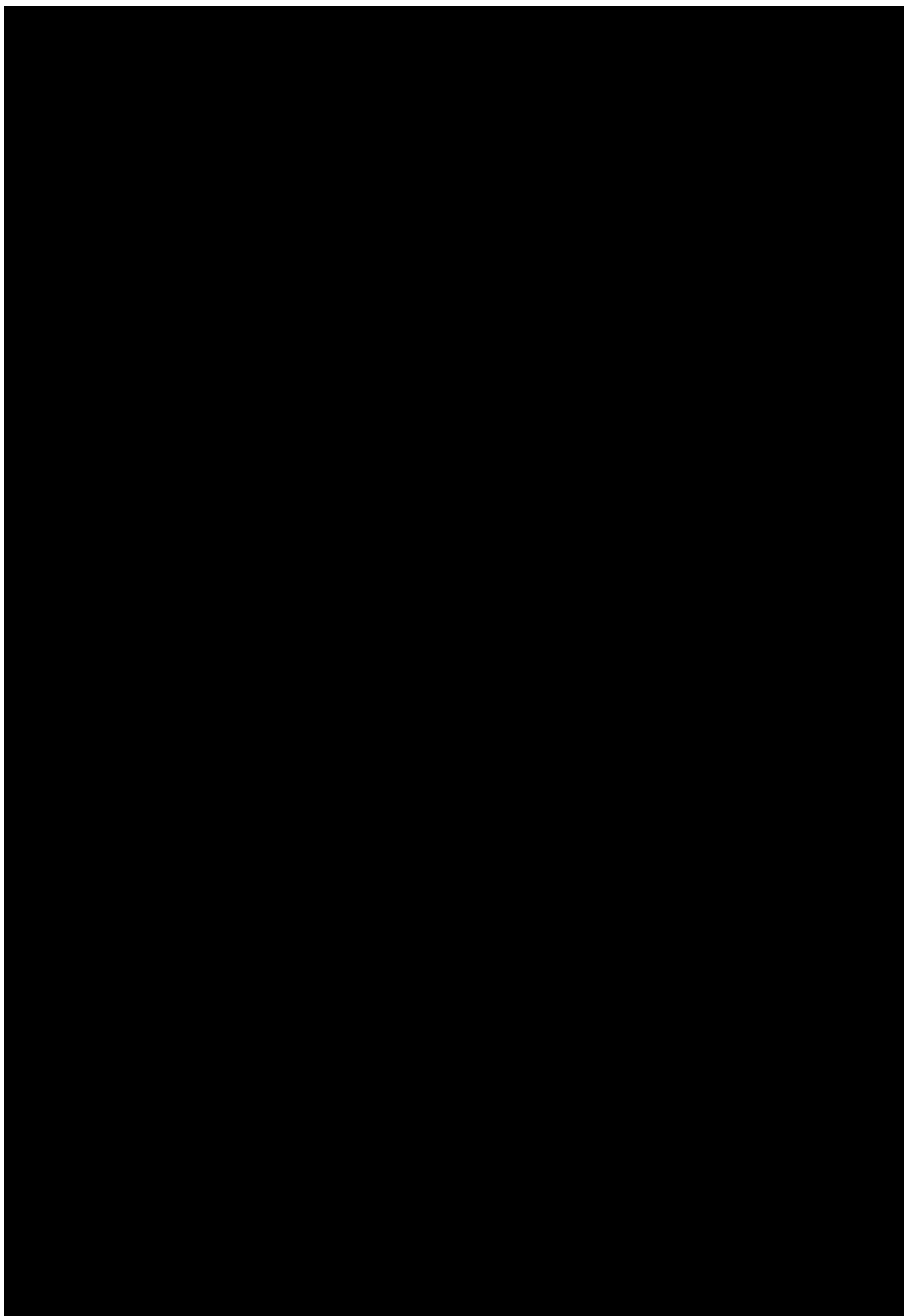
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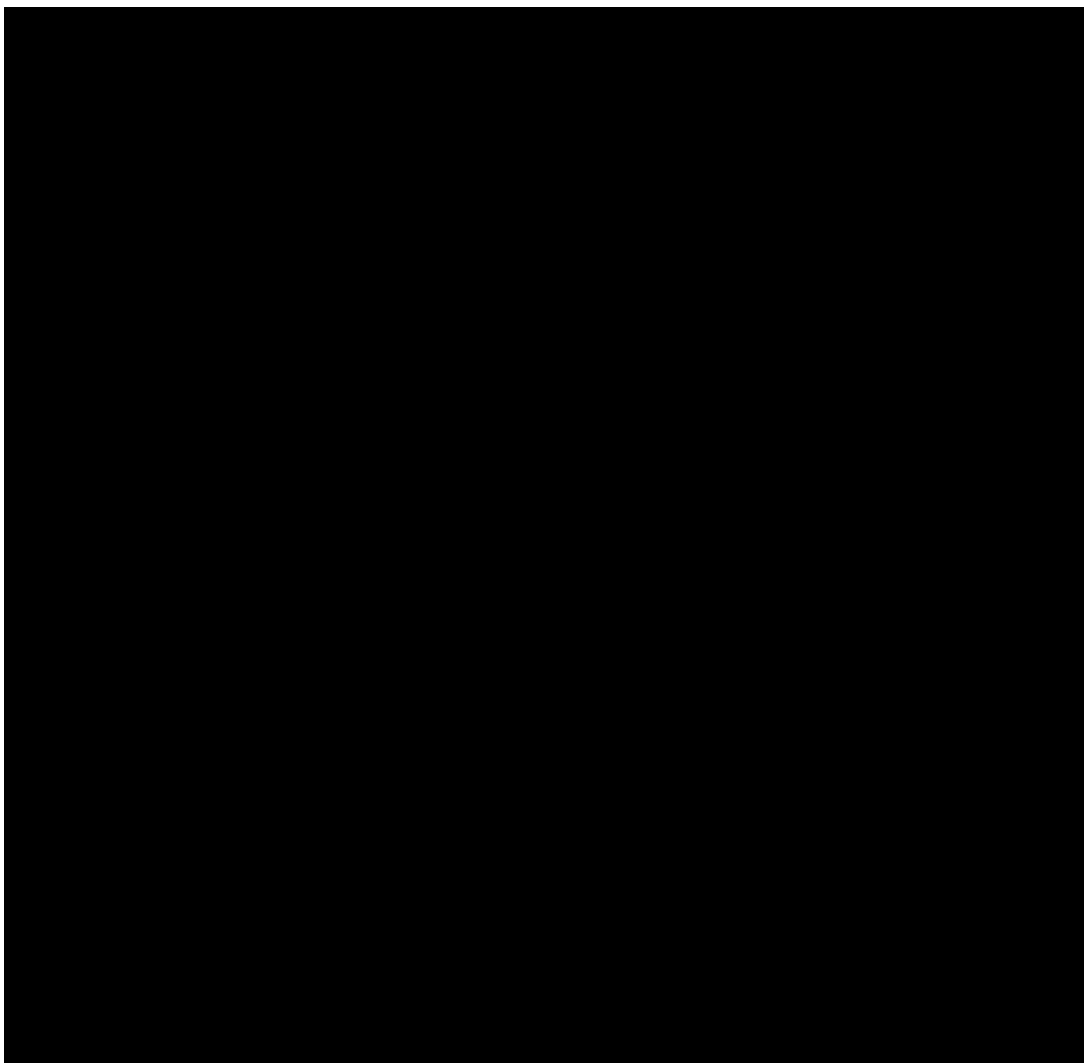
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18 (Open session at 4.03 p.m.)
19 THE COURT OFFICER: [16:03:16] We are back in open session, Mr President.
20 PRESIDING JUDGE MINDUA: [16:03:23](Interpretation) Thank you very much,
21 court officer.
22 Mr Witness, once again, I have the unpleasant duty of telling you that your testimony
23 is not over yet, but we are coming to the end of our day's hearing. So we are going
24 to finish for today and resume tomorrow at 9.30.
25 Does that suit you?

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1 THE WITNESS: [16:03:53](Interpretation) Yes.

2 PRESIDING JUDGE MINDUA: [16:03:56](Interpretation) Very well.

3 On behalf of the Chamber, I wish to thank you very much for answering the
4 questions today and for making yourself available.

5 We will resume tomorrow. But in the meantime, as you surely must realise, you
6 must not talk about your testimony to anyone at all. Not to anyone.

7 I now address the participants -- the parties and participants, the stenographers and
8 court interpreters, security staff. Thank you very much everyone for helping to
9 make today's hearing a success, and I wish you a pleasant evening.

10 And, we will see one another tomorrow here at 9.30.

11 The hearing is now adjourned.

12 THE COURT USHER: [16:05:03] All rise.

13 (The hearing ends in open session at 4.05 p.m.)

14 CORRECTIONS REPORT

15 The following correction, marked with an asterisk and included in the audio-visual
16 recording of the hearing, is brought into the transcript.

17 Page 19 line 2:

18 [REDACTED] is corrected to [REDACTED]

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

21 Page 7 line 23 [REDACTED] is corrected to [REDACTED]

22 Page 52 lines 10-12:

23 "But you have to look at what type of detail there is [REDACTED]

24 cetera, et cetera."

25 is corrected to

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1 "But you have to look at what type of detail there i

2 et cetera, et cetera."

3 Page 60 lines 24-25:

4 "You say it's not worth consulting the Chamber, there's no point."

5 is corrected to "I think that I am not even going to consult the Chamber because

6 there's no point. "

7 Page 63 lines 16-18:

8 "PRESIDING JUDGE MINDUA: [14:36:26](Microphone not activated)(Interpretation)

9 But in -- before all courts and tribunals, we give the person the opportunity to speak
10 in the language that is suitable."

11 is corrected to

12 "PRESIDING JUDGE MINDUA: [14:36:26](Interpretation) Ms Taylor, you are
13 entitled to ask the question, but before all courts and tribunals, we usually give the
14 person the opportunity to speak in the language that is suitable."

15 Page 64 line 16:

16 "In actual fact, page 64 (sic) and 65 (sic) you can ..."

17 is corrected to

18 "In actual fact, at pages 74 and 75, you can ..."