

ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-1/72-NB-T

Trial Hearing
WITNESS: 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
- 7 Judge Kimberly Prost
- 8 Trial Hearing - Courtroom 3
- 9 Monday, 4 October 2021
- 10 (The hearing starts in open session at 9.31 a.m.)
- 11 THE COURT USHER: [9:31:29] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE MINDUA: [9:31:57](Interpretation) The hearing shall now
- 15 begin.
- 16 Good morning, everyone. And I wish everyone a pleasant week ahead.
- 17 Courtroom officer, kindly call the case.
- 18 THE COURT OFFICER: [9:32:13] Good morning, Mr President, your Honours.
- 19 This is the situation in the Republic of Mali, in the case of The Prosecutor versus
- 20 Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference
- 21 ICC-01/12-01/18.
- 22 And for the record, we are in open session.
- 23 PRESIDING JUDGE MINDUA: [9:32:32](Interpretation) Thank you very much,
- 24 court officer.
- 25 And now, we will proceed with introductions, as usual, beginning with the OTP.

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1 Mr Prosecutor.

2 MR GARCIA: [9:32:42](Interpretation) Good morning, your Honour. I'm Lucio
3 Garcia representing the OTP with Mr Allafi. And my colleague, Mr Dutertre,
4 apologises. He will not be present during the first session but will be here for the
5 second.

6 PRESIDING JUDGE MINDUA: (Interpretation) Thank you.

7 And now the Defence.

8 Counsel.

9 MS TAYLOR: [9:33:06] Good morning, Mr President. Good morning,
10 your Honours. Good morning to everyone in the courtroom and around it. The
11 Defence for Mr Al Hassan is represented today by Maître Sarah Marinier-Doucet,
12 Ms Dolly Chahla and myself, Melinda Taylor. And this afternoon, we'll also be
13 performing a bit of a switcheroo, and Ms Dolly Chahla will be replaced with
14 Mr Mohamed Youssef. Thank you.

15 PRESIDING JUDGE MINDUA: [9:33:40](Interpretation) Thank you very much. I
16 was just waiting for the French interpretation to end.
17 And now LRV counsel.

18 MR KASSONGO: [9:33:55](Interpretation) Thank you, your Honour. Good
19 morning, your Honours. Good morning, everyone. I wish everyone a pleasant
20 week ahead. The victims are represented by myself, Mr Kassongo. And I am
21 representing the entire team today. On behalf of the team, I would like to thank you
22 as we begin the new week. Thank you.

23 PRESIDING JUDGE MINDUA: [9:34:14](Interpretation) Thank you very much,
24 Mr Kassongo.

25 And now I turn to the counsel of our witness.

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1 MR DHIB: [09:34:31] (Interpretation) Mr Hassen Dhib, I am appearing here with the
2 witness in my capacity as his counsel as per Rule 74 of the Rules of Procedure and
3 Evidence of the ICC.

4 PRESIDING JUDGE MINDUA: [9:35:15](Interpretation) Good morning, Counsel.
5 And now, finally, the witness.

6 Good morning, Mr Witness. How are you?

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: [9:35:24] (Interpretation) I am fine. Thank you.

11 PRESIDING JUDGE MINDUA: [9:35:26](Interpretation) Thank you very much,
12 Mr Witness. Once again, I welcome you. I would also like to remind you that you
13 are still under oath and that you must tell the truth, the whole truth, and nothing but
14 the truth. And finally, I would like to remind you of the practical instructions I gave
15 regarding your testimony. Please speak slowly, clearly, and allow for a few pauses
16 in your testimony.

17 Without any further ado, I will turn over to the Prosecution for continuation of their
18 examination-in-chief.

19 Mr Prosecutor.

20 MR GARCIA: [9:36:23](Interpretation) Thank you very much.

21 If we could go into private session for continuation of the questions that we were
22 dealing with last week.

23 PRESIDING JUDGE MINDUA: [9:36:32](Interpretation) Private session, court
24 officer.

25 (Private session at 9.36 a.m.)

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1 THE COURT OFFICER: [9:36:34] We are in private session, Mr President.

2 PRESIDING JUDGE MINDUA: [9:36:39](Interpretation) Thank you.

3 Mr Prosecutor.

4 MR GARCIA: [9:36:47](Interpretation) Your Honour, just to inform the Chamber

5 that I will continue in private session on a number of matters that I had begun on

6 Friday [REDACTED] So for about 15 or 20

7 minutes. And ultimately after that, I will have -- I will ask if we can go into fully

8 closed session for a number of matters.

9 PRESIDING JUDGE MINDUA: [9:37:18](Interpretation) Today is your second day

10 of examination-in-chief. How much time do you think you will need to conclude?

11 Do you have an estimate for us?

12 MR GARCIA: [9:37:28](Interpretation) I do hope that I will be able to give you an

13 estimate, a better-informed estimate, by the beginning of the second session today, if

14 that suits the Chamber.

15 PRESIDING JUDGE MINDUA: [9:37:42](Interpretation) Very well. Thank you

16 very much.

17 Go ahead. You may proceed.

18 QUESTIONED BY MR GARCIA: [9:37:46](Continuing) (Interpretation)

19 Q. [9:37:49] Good morning, Mr Witness.

20 THE INTERPRETER: [9:38:00] Inaudible.

21 MR GARCIA: [9:38:14](Interpretation)

22 Q. [9:38:14] Mr Witness, good morning. And I would like to ask you to speak

23 right into the microphone that is in front of you I suppose. Please speak clearly and

24 do not shuffle any papers about or anything like that because that does cause some

25 problems for our interpreters. And I will try to follow the same instructions.

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1 Can you hear me properly, Mr Witness?

2 A. [9:38:40] I hear you. Yes.

3 Q. [9:38:47] Thank you.

4 Now, on Friday, we wer [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 A. [9:39:39] [REDACTED] Mohamed El-Amin, aka,

10 Amin. He is an elderly sheikh.

11 Q. [9:40:11] [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 A. [9:40:45] [REDACTED]

15 [REDACTED]

16 Q. [9:40:50] [REDACTED]

17 [REDACTED]

18 A. [9:41:03] Mr El-Amin is an elderly sheikh. He is very knowledgeable. If my

19 memory serves me wel [REDACTED]

20 [REDACTED] he's an elderly person, he is not of sound

21 healt [REDACTED]

22 Q. [9:41:44] [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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- 1 A. [9:42:08 [REDACTED]]
- 2 Q. [9:42:10 [REDACTED]]
- 3 [REDACTED]
- 4 A. [9:42:21 [REDACTED]]
- 5 [REDACTED]
- 6 Q. [9:42:38 [REDACTED]]
- 7 [REDACTED]
- 8 A. [9:43:11 [REDACTED]]
- 9 Q. [9:43:14] On Friday when you were testifying, you also mentioned Mr Houka,
- 10 Houka Houka.
- 11 Did he have a specific position within the Islamic tribunal?
- 12 A. [9:43:36] He was the head of the court. He would sign the papers.
- 13 Q. [9:44:01] Now, what documents are you talking about? These documents that
- 14 he would sign.
- 15 A. [9:44:09] Judgments.
- 16 Q. [9:44:25 [REDACTED]]
- 17 [REDACTED]
- 18 [REDACTED]
- 19 A. [9:44:53 [REDACTED]]
- 20 Q. [9:45:12] Mr Witness, you also mentioned Radwan last week.
- 21 A. [9:45:24] Indeed.
- 22 Q. [9:45:27] And you told us that he was lucky in that he was a well-educated
- 23 person. You said that he was well-educated, scholarly, and had a senior position.
- 24 I'm quoting from the transcript, *page 66, transcript 141, lines 1 to 4.
- 25 A. [9:46:01 [REDACTED]] he was close to the emirs. He had knowledge and has

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1 been to -- through many organs. Because of that, I concluded that he is a senior
2 member of the group.

3 Q. [9:46:40] You said tha [REDACTED] he was close to the emirs.

4 [REDACTED]

5 A. [9:47:22] As I've just said, he's been in many organs. He -- he reported fo [REDACTED]
6 [REDACTED] the police. He sounded like somebody of high seniority.

7 Q. [9:47:51] Now, you've just said that he had been in many organs or institutions.
8 Which ones exactly?

9 A. [9:48:01] He would go to the radio stations. I believe he was running one of the
10 city's radio stations. And he would also sometimes go to the police. [REDACTED]

11 [REDACTED]

12 Q. [9:48:43] You said that sometimes he would go to the police.
13 Now, what would he do there exactly?

14 A. [9:48:52] As I have said, he was senior. He had things to look after, many
15 things that I cannot lay out precisely. He would be present in locations where a
16 *ta'zir* or a *hadd* would be carried out and so forth. But the bottom line is that you
17 would see him in many places. That's all I know in this regard.

18 Q. [9:49:37] Very well.

19 Just to make this completely clear, you said that he was present when there were
20 various punishments, *ta'zir* or *hadd* punishments, or if there was ...

21 A. [9:50:10] He would carry out things by himself such as beating, and he would be
22 present and so forth.

23 Q. [9:50:22] I just want to make sure that we've understood.

24 You said that he would carry out things. Explain to the Court what you mean by he
25 executed or carried out certain things.

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1 A. [9:50:45] What I said is that he would carry out in-person things, in-person. He
2 would carry out the beating of people sentenced to *hadd* or *ta'zir*. And he would be
3 seen in many places.

4 Q. [9:51:18] Did you see that yourself? Or is this something that other people told
5 you about?

6 A. [9:51:27] What I -- I did see things myself in places where the execution of
7 sentences had been, but I saw things also in video excerpts.

8 Q. [9:51:45] And if we were to focus on the things you yourself saw, what did you
9 see exactly?

10 A. [9:51:59] [REDACTED]
11 I also know that he was running a radio station at some -- for some time.

12 Q. [9:52:22] I just want to clarify one thing with you, Mr Witness.
13 Page 7, page 7 of the transcript, line -- lines 13 to 17, I asked you a question and you
14 said tha [REDACTED] he was close to the emirs. And I -- according to the
15 transcript, you said that he was in several organs and he presented reports fo [REDACTED]
16 [REDACTED] the police.

17 Is that correct? Is that what you said? Or did you say something else?

18 Did you say that he presented reports for the polic [REDACTED]?

19 A. [9:53:20] I did not know that he submitted reports. I said that he can be seen in
20 many locations -- at the polic [REDACTED] and at the radio station he was
21 running. This is what I said. And because of these things, I concluded that he was
22 senior.

23 Q. [9:53:56] Thank you, Mr Witness, for that information.

24 Now, as you can see, sometimes I go back in the transcript to double-check the
25 accuracy of the interpretation of what you've said. So thank you for helping us clear

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1 that up.

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5 A. [9:54:53] Yes. Abdallah Al Chinguetti, this man was the -- the general ruler or
6 the highest ruler. [REDACTED] because
7 among the group, he was a very knowledgeable man. His opinions would not be
8 contested. If he says that in a particular matter the ruling to be applied is so and so,
9 that would be the final say on that matter.

10 Q. [9:56:03] [REDACTED]

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14 A. [9:56:32] Indeed. Yes.

15 Q. [9:56:45] And how did you know [REDACTED]

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19 How did you know that? Explain to us, please.

20 A. [9:57:17] I know so because he is one of the emirs and he is one of the most
21 knowledgeable people in terms of his scholarly command. He is an Islamic jurist,
22 and he is a member of the group, and he is one of the most knowledgeable people.

23 Q. [9:57:42] Thank you for that information.

24 You also mentioned Mr Al Faqi. What were his duties or his position as such?

25 A. [9:58:20] Ahmad Al Faqi was at first on the court bench. Then he moved to

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1 another organ called the *Hesbah*.

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

10 Q. [10:00:38 [REDACTED]

11 [REDACTED]

12 A. [10:01:01 [REDACTED]

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 Q. [10:01:47 [REDACTED]

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 A. [10:02:12 [REDACTED]

22 [REDACTED]

23 Q. [10:02:39 [REDACTED] ?

24 A. [10:02:45 [REDACTED]

25 Q. [10:03:19 [REDACTED] ?

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1 A. [10:03:27

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3 Q. [10:03:58

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6 A. [10:04:21

7 THE ARABIC INTERPRETER

8 MR GARCIA: (Interpretation)

9 Q. [10:05:19

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16 could you explain a bit more about that,

17 please?

18 A. [10:06:16] Yes.

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23 Q. [10:07:03] Thank you very much for this clarification.

24 But so that we can understand this wel

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1 [REDACTED]?

2 A. [10:07:34] That type of work was done by Houka Houka, and I wouldn't be
3 surprised if Daoud did that kind of work as well because he was a famous judge in
4 the eastern area. But I am not certain if he did that work at his house or at the
5 mosque. And I am informed that Houka Houka looked into such cases and issued
6 verdicts on such cases working from him, for instance.

7 Q. [10:08:37] Are you sure in the case of Houka Houka?
8 How can you be sure of that?

9 A. [10:08:49] [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Q. [10:09:18] And so that it's clear before we go on to another subject, when

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 A. [10:09:54] [REDACTED]

18 [REDACTED]

19 Q. [10:10:15] [REDACTED]

20 [REDACTED]?

21 A. [10:10:31] [REDACTED]

22 [REDACTED]

23 Q. [10:11:06] Thank you for this clarification, Witness.

24 [REDACTED]

25 [REDACTED]

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1 A. [10:11:27 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q. [10:12:30] So just so that we can understand well, you said this morning

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 A. [10:13:07 [REDACTED]

11 [REDACTED]

12 Q. [10:13:31 [REDACTED] ?

13 [REDACTED] ?

14 A. [10:13:50 [REDACTED]

15 [REDACTED] But what I

16 said and what I am certain of is that the judge, Houka Houka, received cases at home

17 [REDACTED] I

18 don't know if he consulted other judges on the verdicts, as that is not something that I

19 can precise. I do not know that precisely.

20 Q. [10:15:04] And just a last question on this subject, and thank you for all the

21 clarifications, Witness.

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 A. [10:15:32 [REDACTED]

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1 [REDACTED]

2 Q. [10:16:02 [REDACTED]

3 [REDACTED]
4 [REDACTED]

5 A. [10:16:24] In this case where he is working from home or at the mosque or in
6 another location, I do not know if there were documents involved or if he issued his
7 verdicts verbally. I'm not sure if things would stop there. So I am not sure how this
8 was dealt with. That is not something that I know, but what I'm certain of is that he
9 received a lot of cases at home or at the mosque.

10 Q. [10:17:42] Thank you very much, Witness. We're now going to go on to other
11 questions.

12 Your Honour, your Honours, I am going to go into questions which could lead to
13 issues under 74, Rule 74, being discussed, *4 or 5 matters that I would like to address
14 with the witness which could take approximately 20/25 minutes.

15 PRESIDING JUDGE MINDUA: [10:18:49](Interpretation) Would you like us to go
16 into private session, closed session?

17 MR GARCIA: [10:18:56](Interpretation) Yes, your Honour, if the Chamber would
18 allow that.

19 PRESIDING JUDGE MINDUA: [10:19:00](Interpretation) Court officer, closed
20 session, please.

21 (Closed session at 10.19 a.m.)

22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

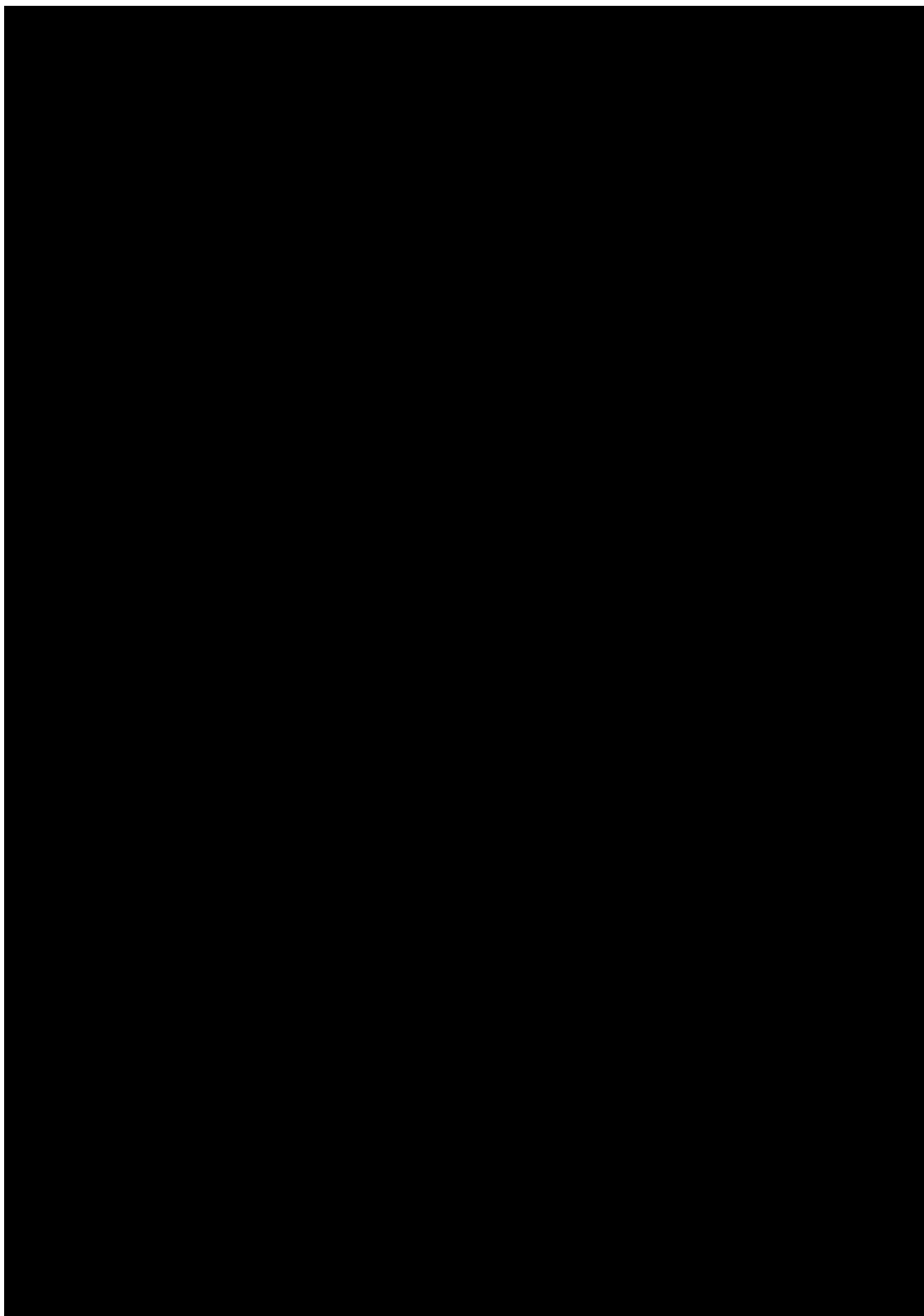
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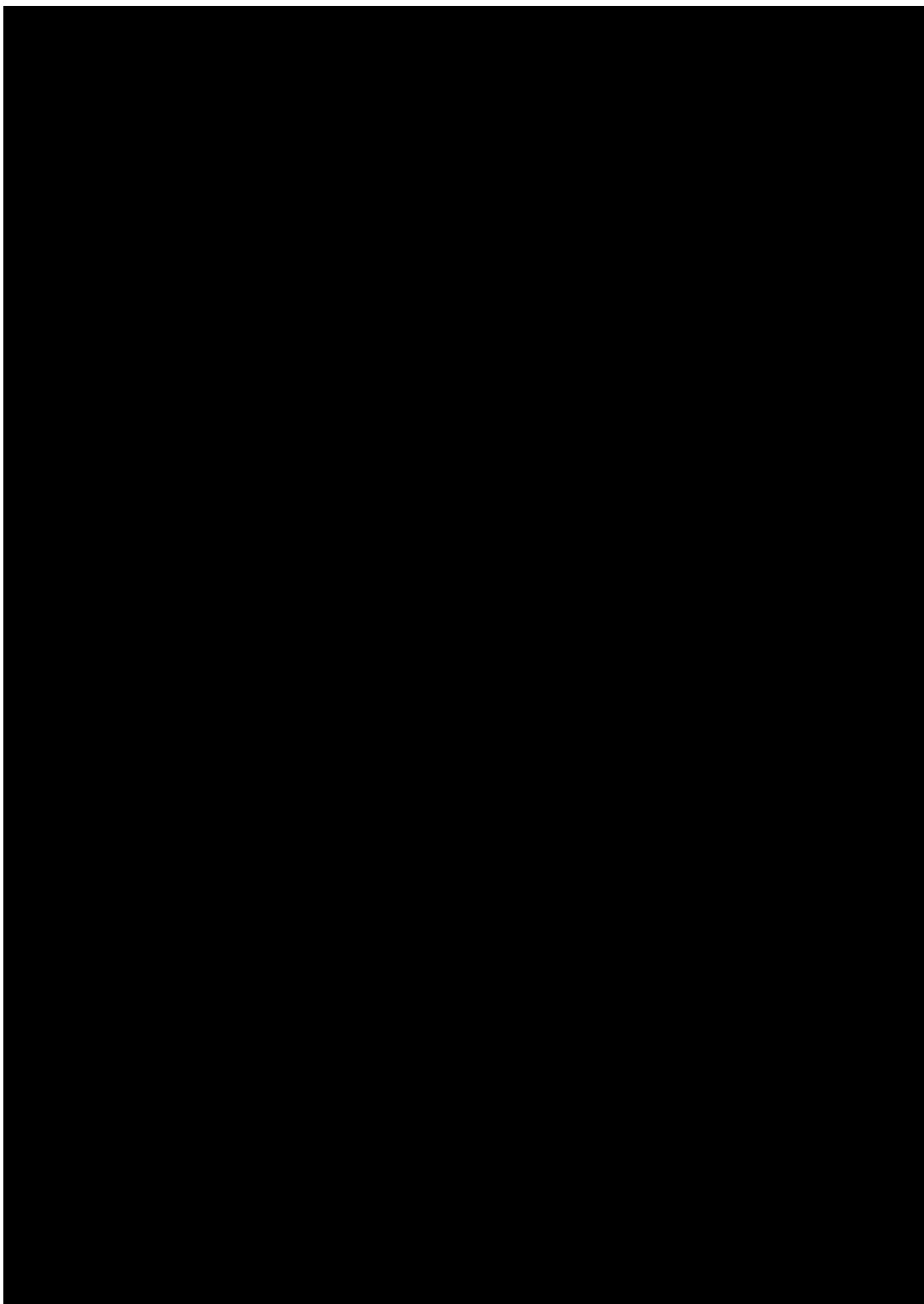
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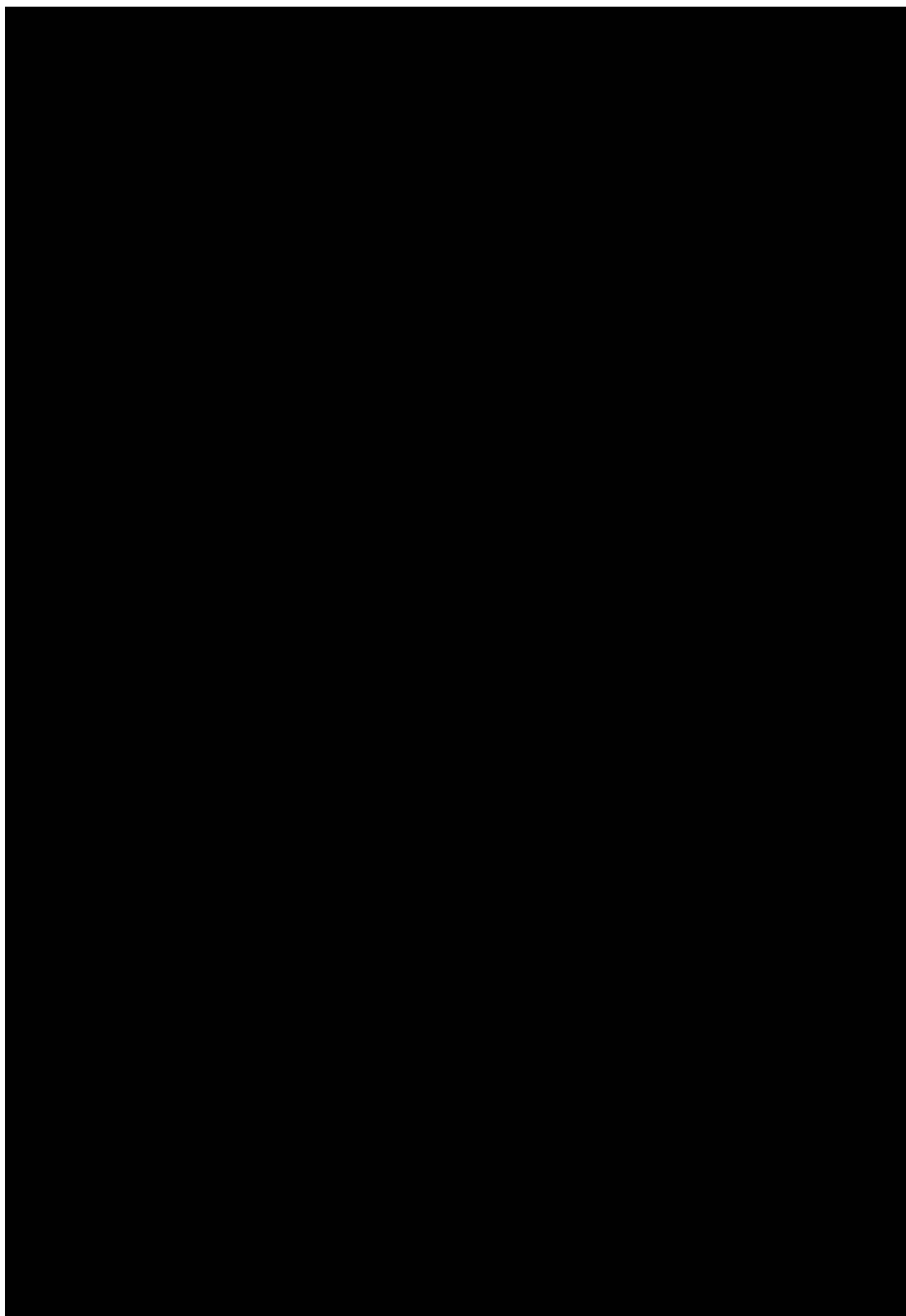
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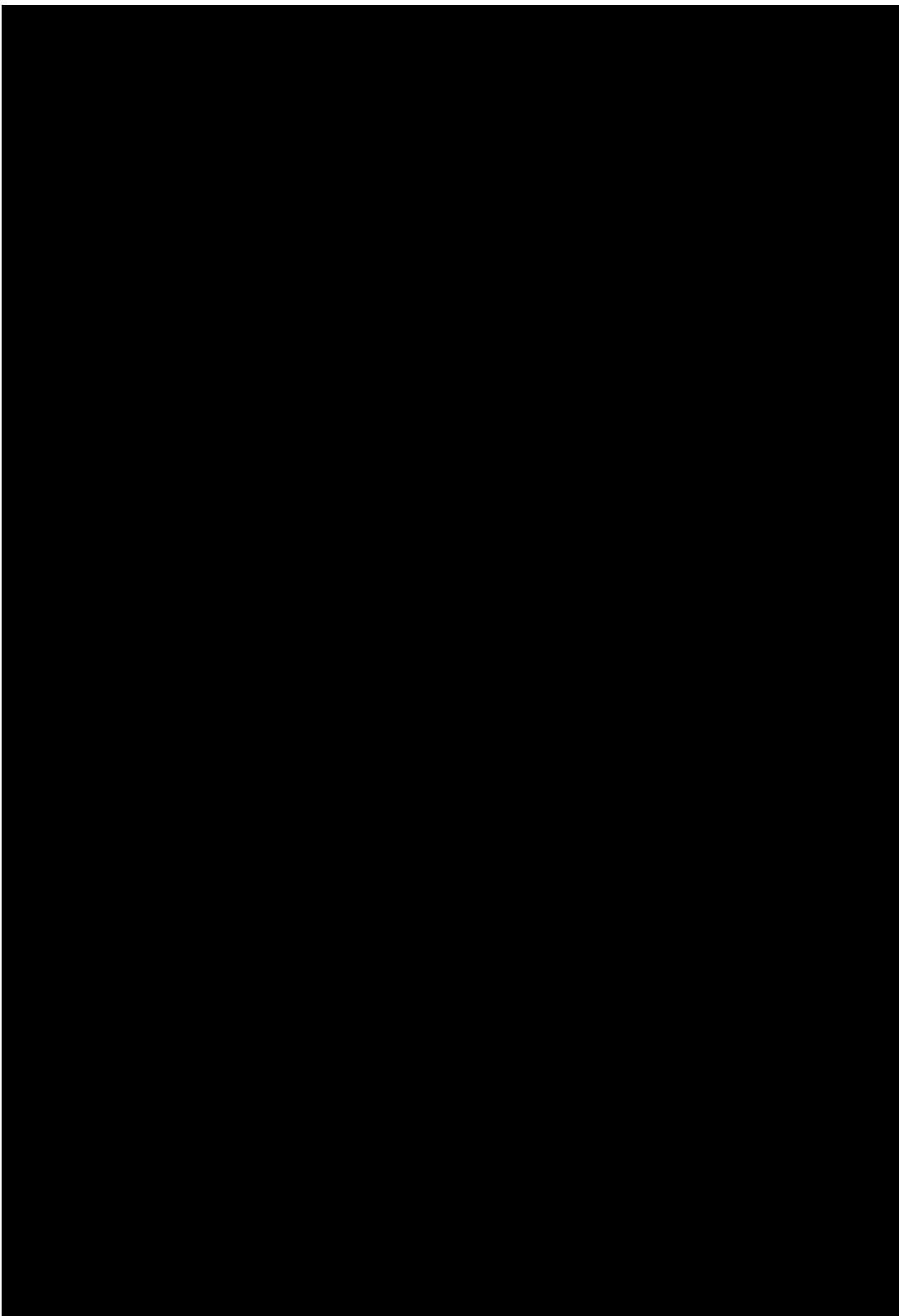
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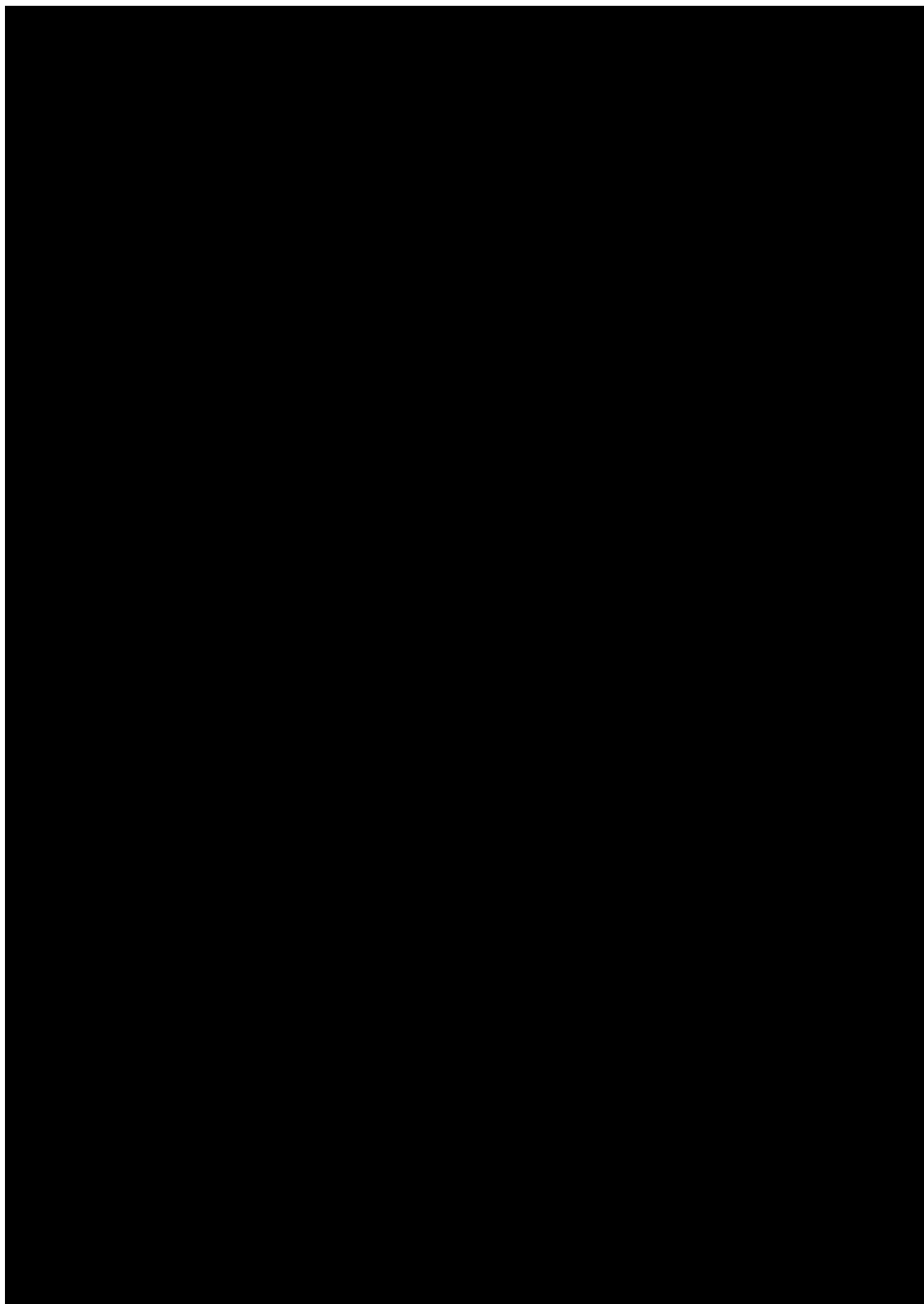
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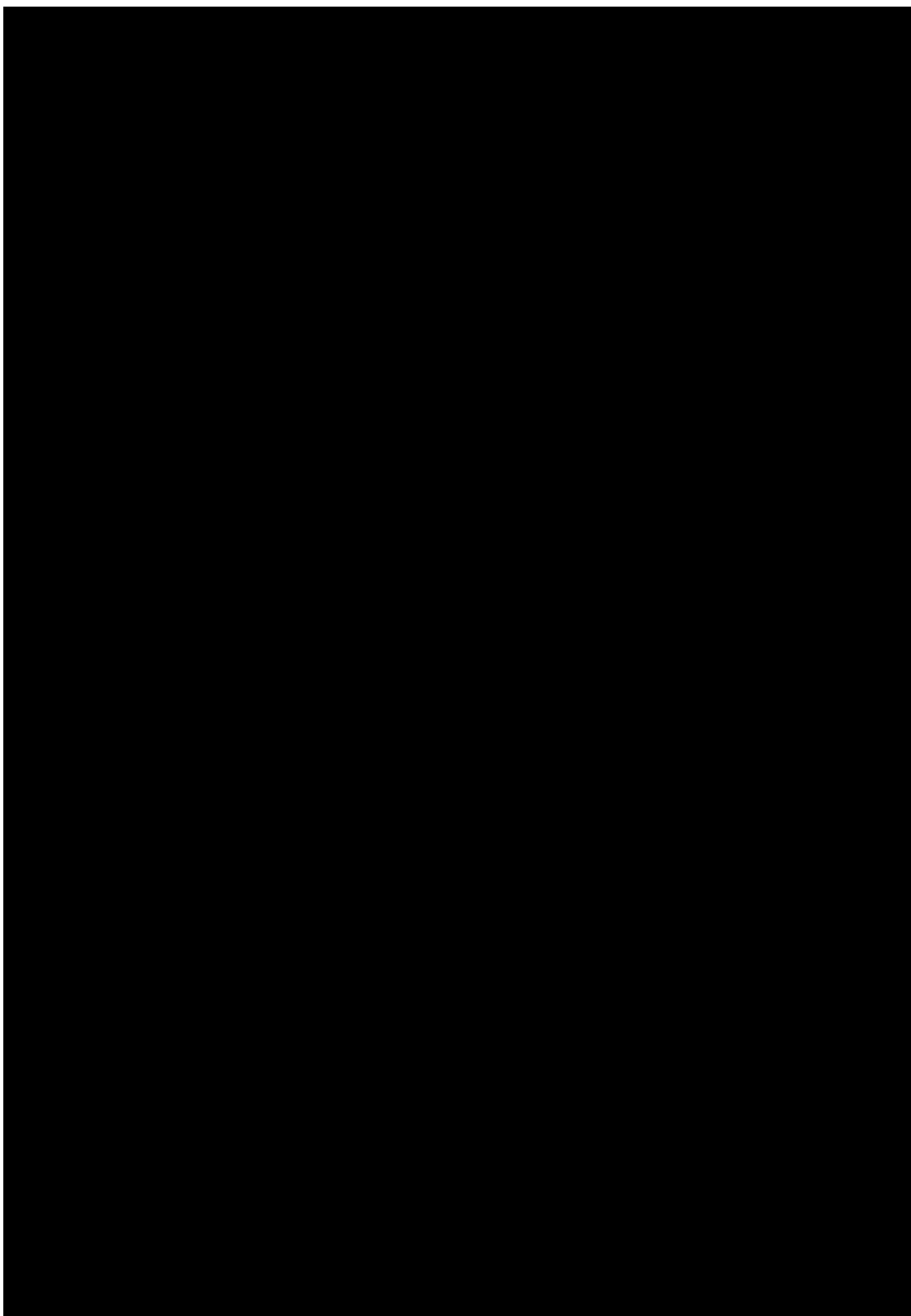
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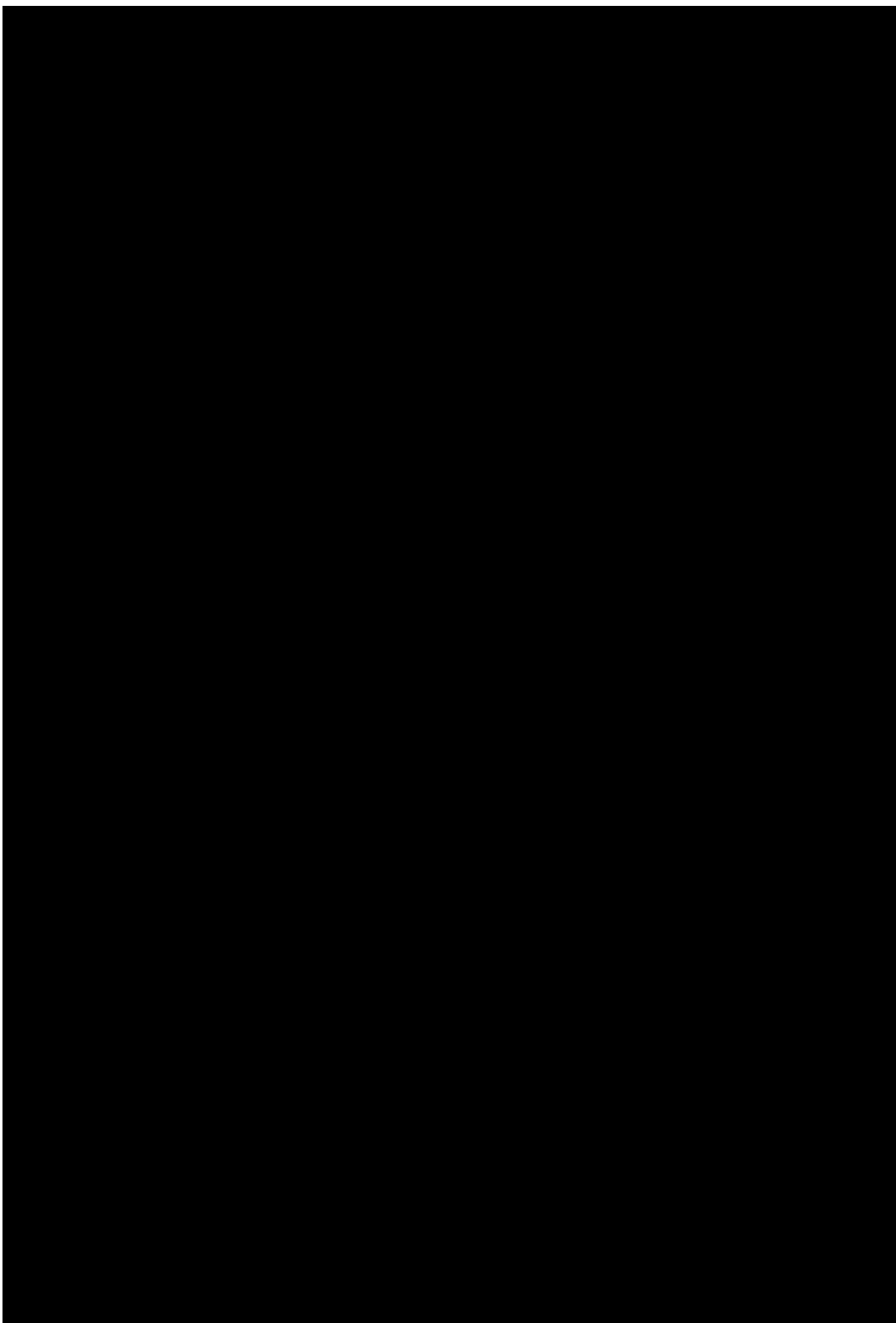
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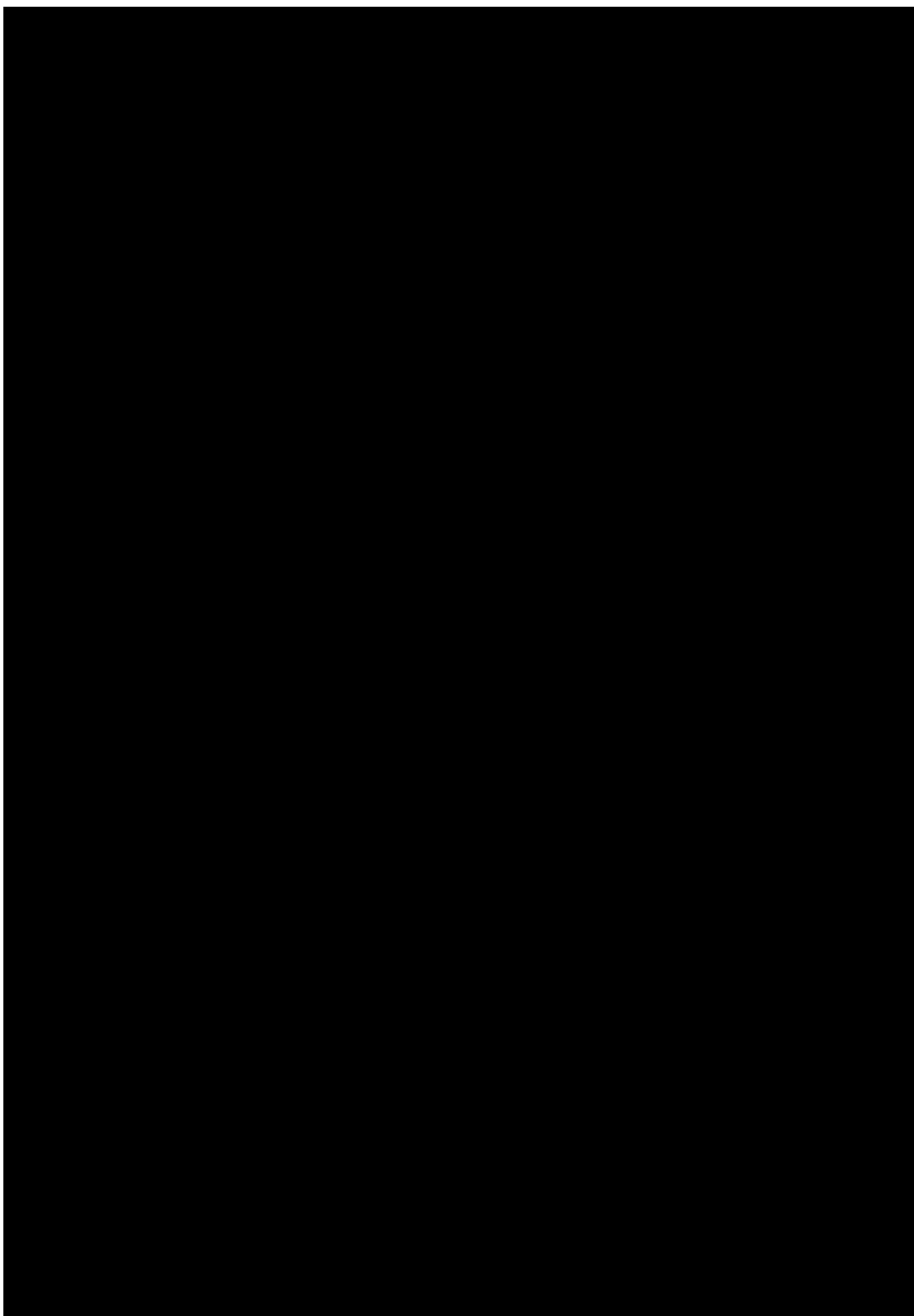
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(Closed Session)

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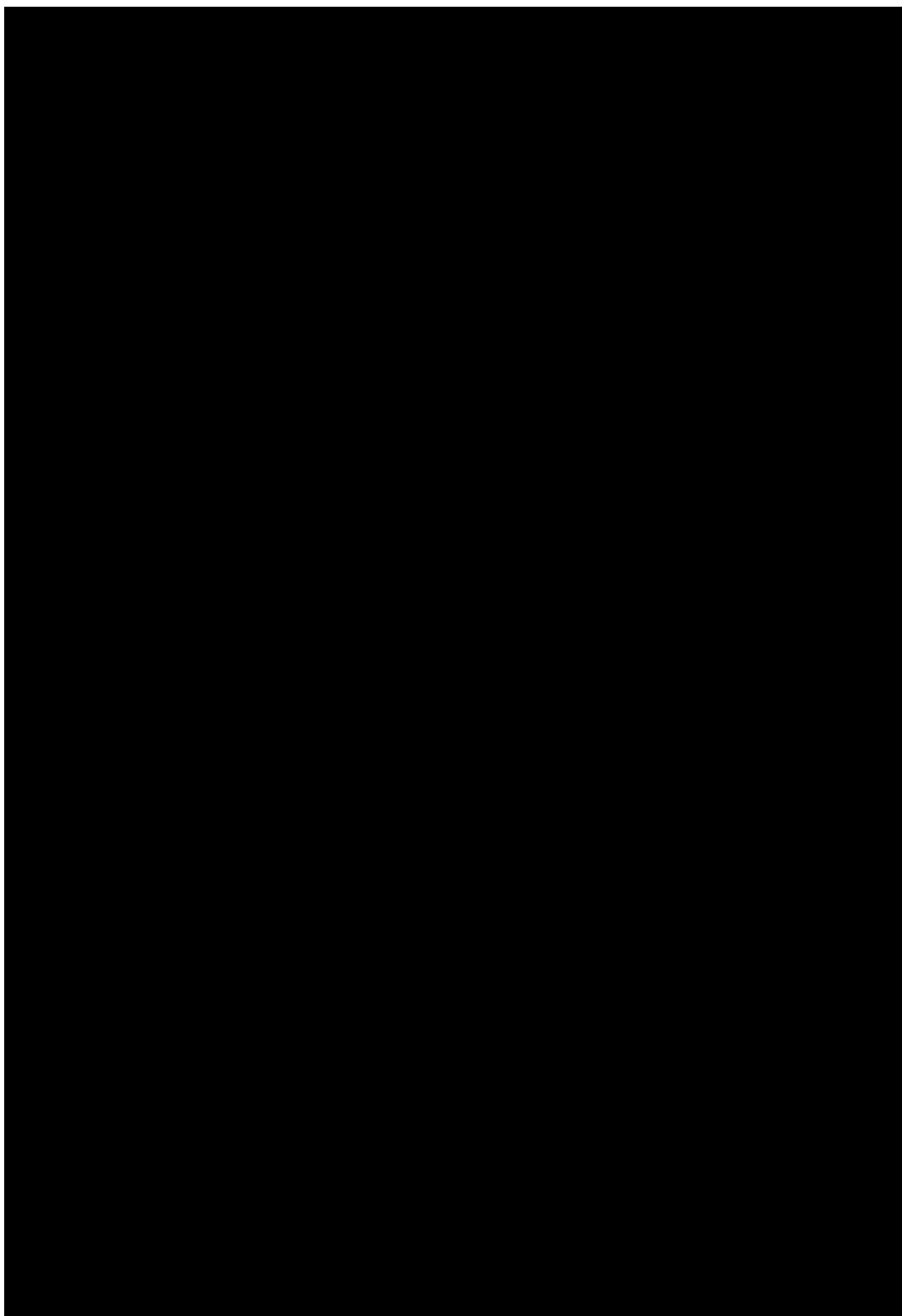
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

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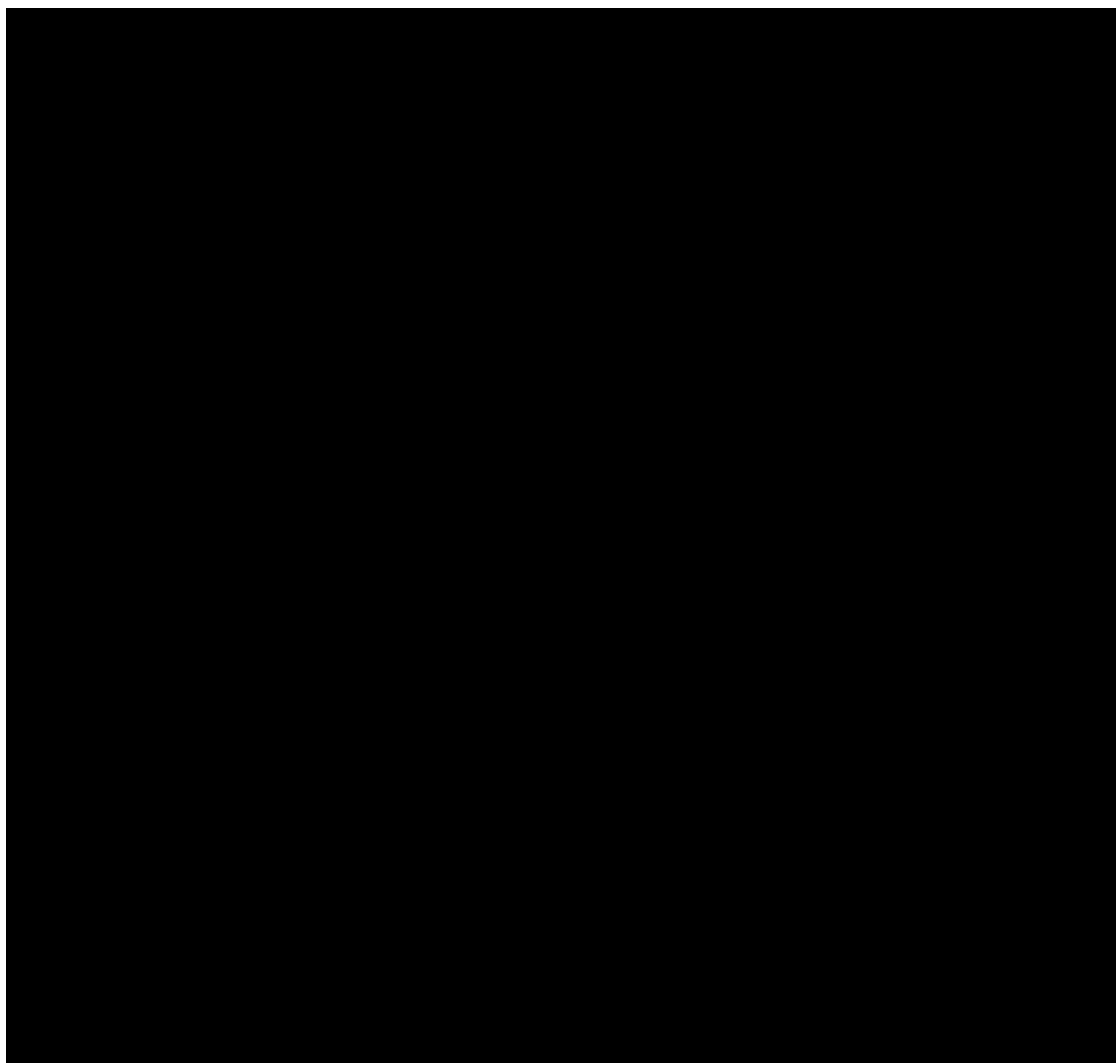
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

ICC-01/12-01/18

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18 (Open session at 10.59 a.m.)
19 THE COURT OFFICER: [10:59:25] We are back in open session, Mr President.
20 PRESIDING JUDGE MINDUA: [10:59:54](Interpretation) Thank you very much,
21 court officer.
22 It is 11 o'clock and we will now have our 30-minute break and resume at 11.30. The
23 hearing is now suspended.
24 (Recess taken at 11.00 a.m.)
25 (Upon resuming in open session at 11.31 a.m.)

ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-25/72-NB-T

Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

ICC-01/12-01/18

1 THE COURT USHER: [11:31:11] All rise.

2 Please be seated.

3 PRESIDING JUDGE MINDUA: [11:31:27](Interpretation) Court is in session.

4 The Prosecutor has the floor, but I note there's a different composition of the team.

5 MR GARCIA: [11:31:45](Interpretation) Thank you, your Honour. Indeed.

6 For the record, Maître Gilles Dutertre has just entered the courtroom, and he'll be
7 present with us during this hearing.

8 PRESIDING JUDGE MINDUA: [11:31:56](Interpretation) Thank you very much,
9 Prosecutor.

10 MR GARCIA: [11:32:01](Interpretation) I would ask, your Honour, your Honours, to
11 return into closed session for approximately 10 minutes, 10 to 15 minutes.

12 PRESIDING JUDGE MINDUA: [11:32:17](Interpretation) Please take us into closed
13 session.

14 (Closed session at 11.32 a.m.)

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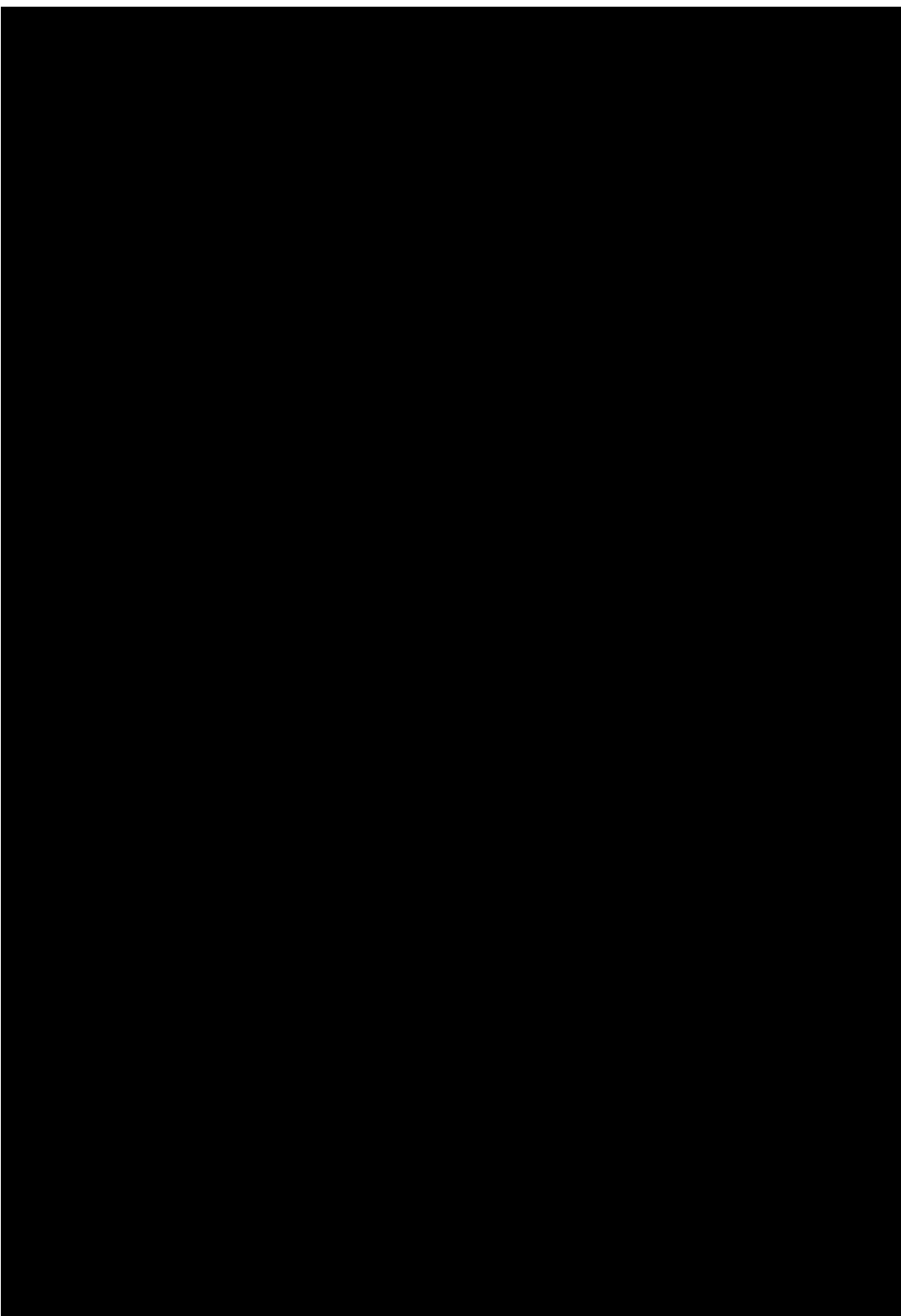
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

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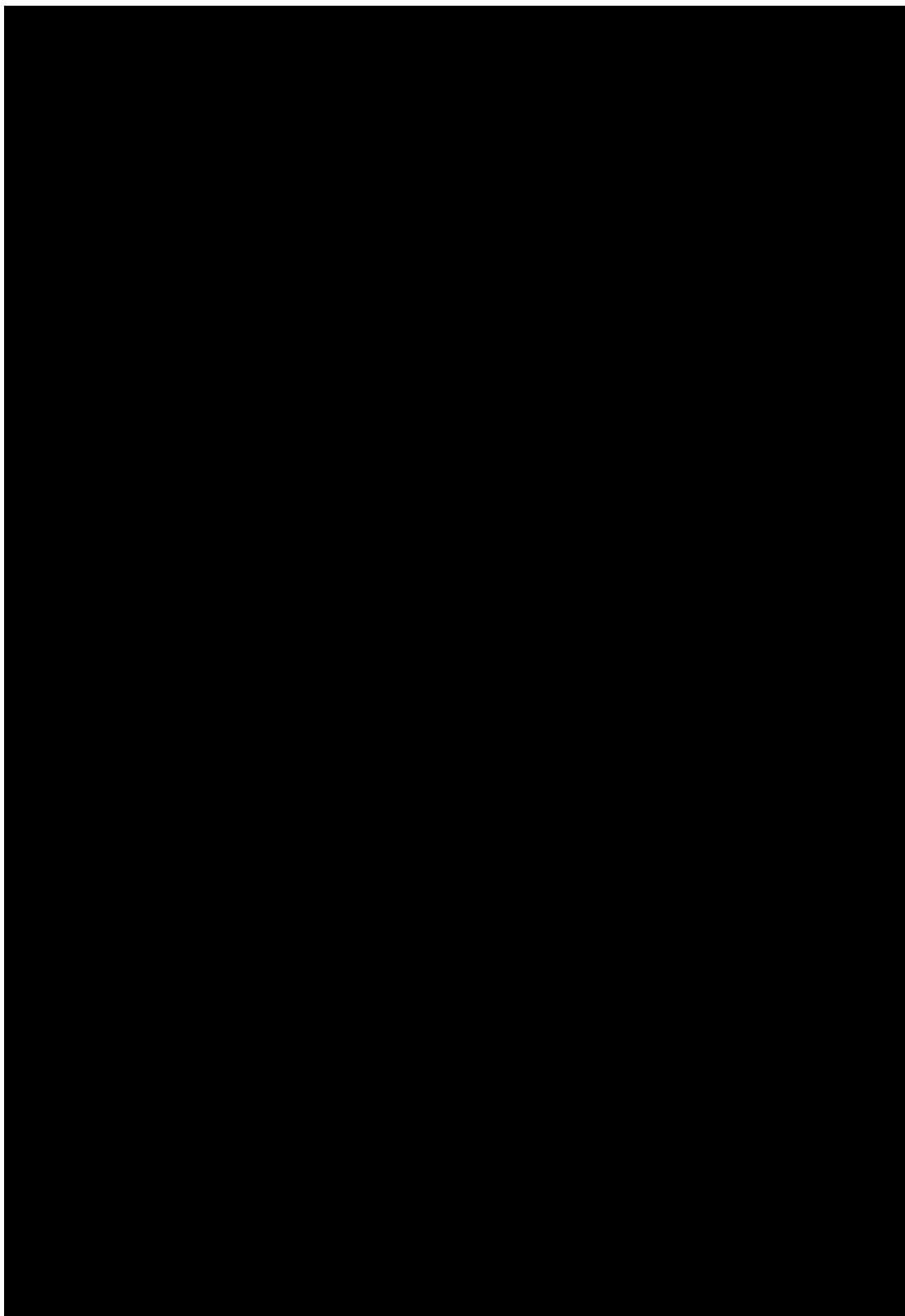
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

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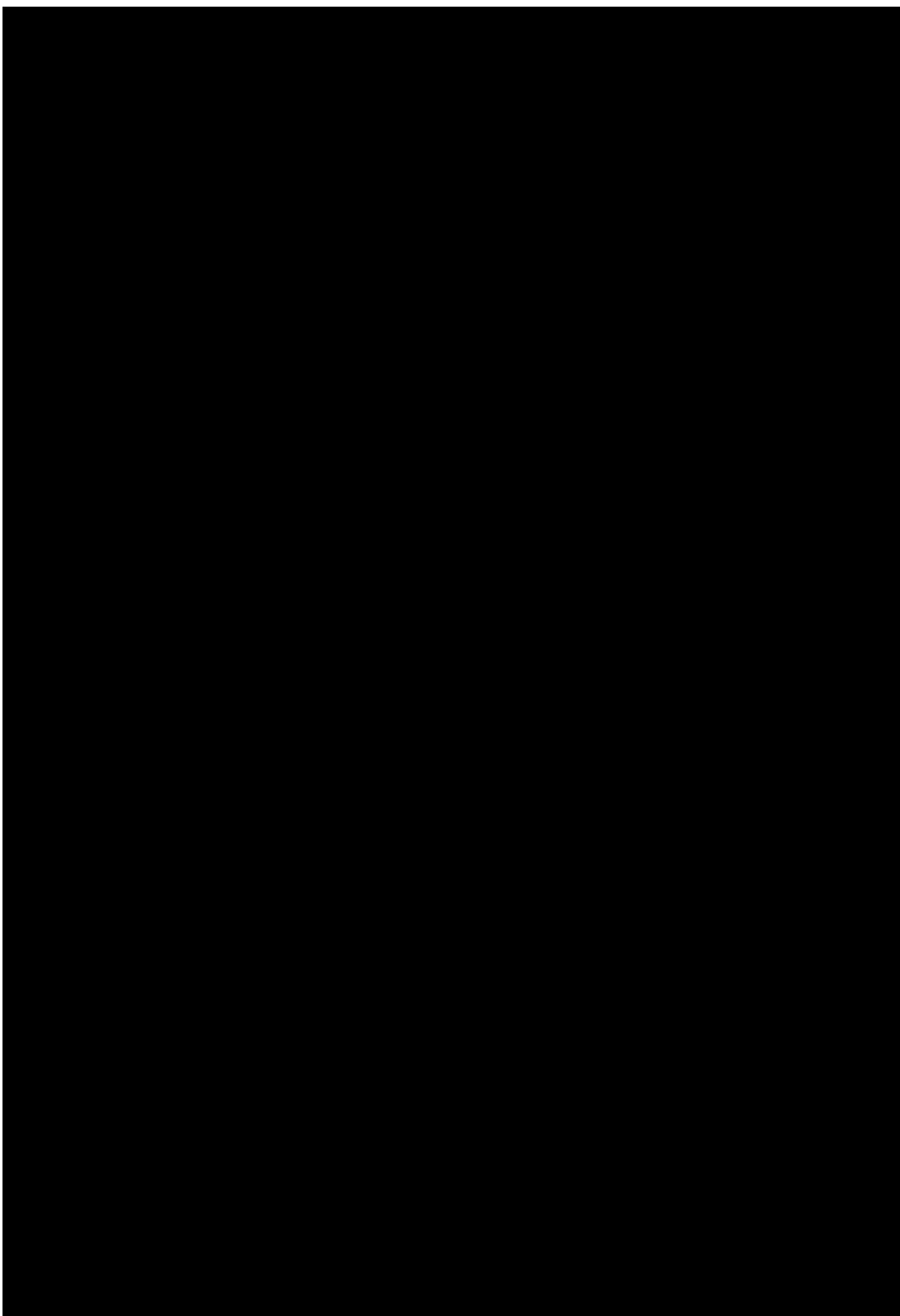
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

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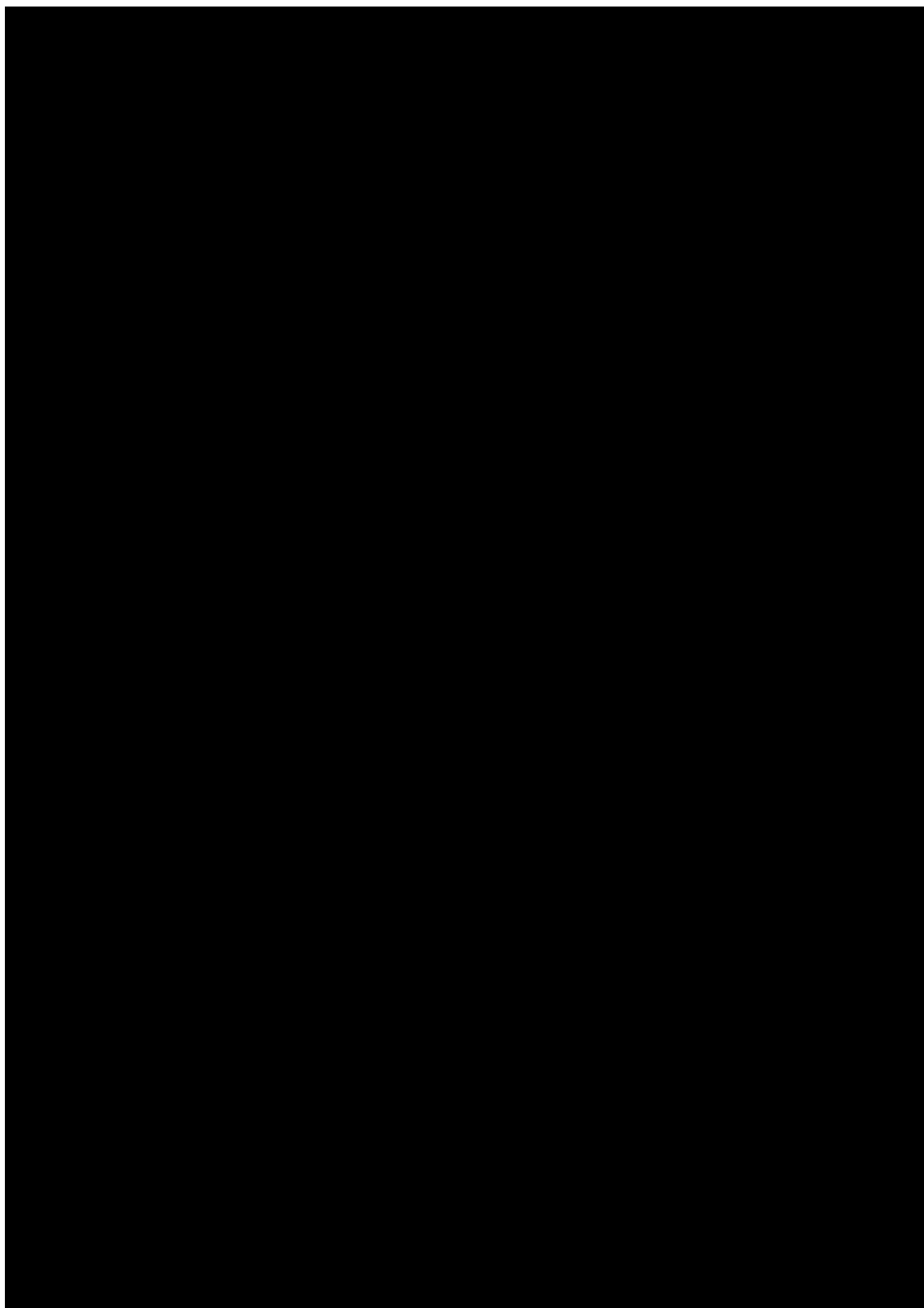
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

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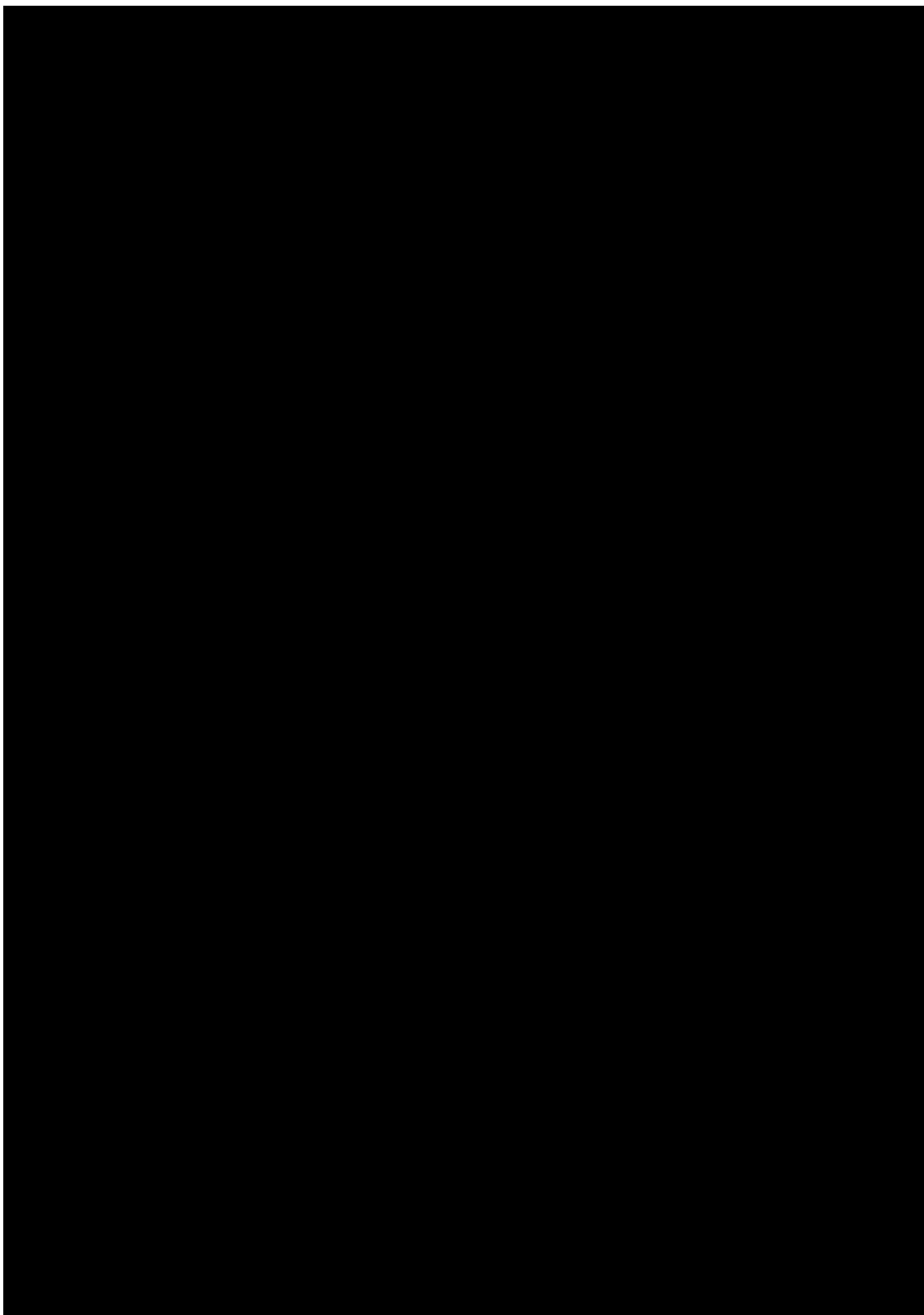
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

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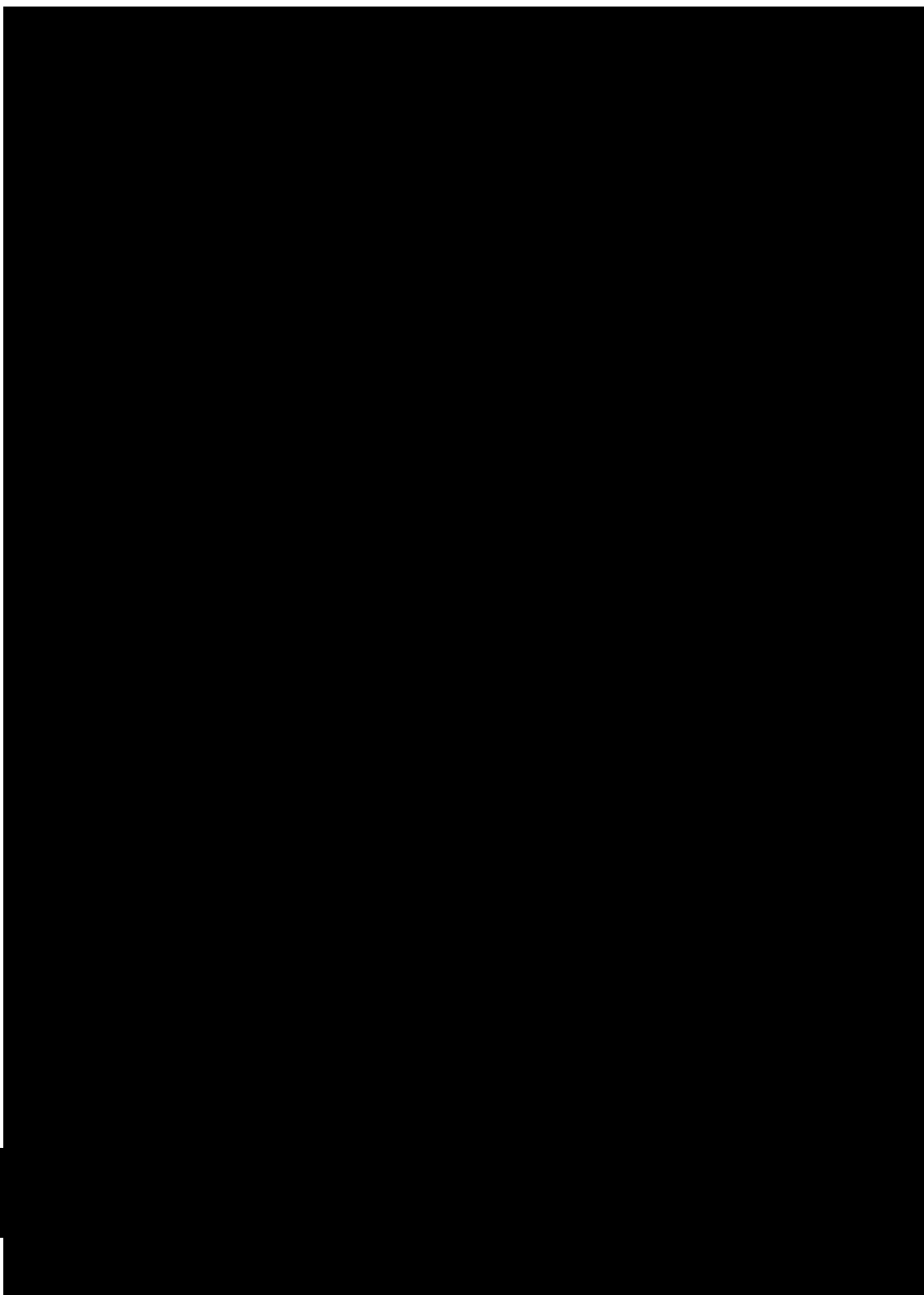
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

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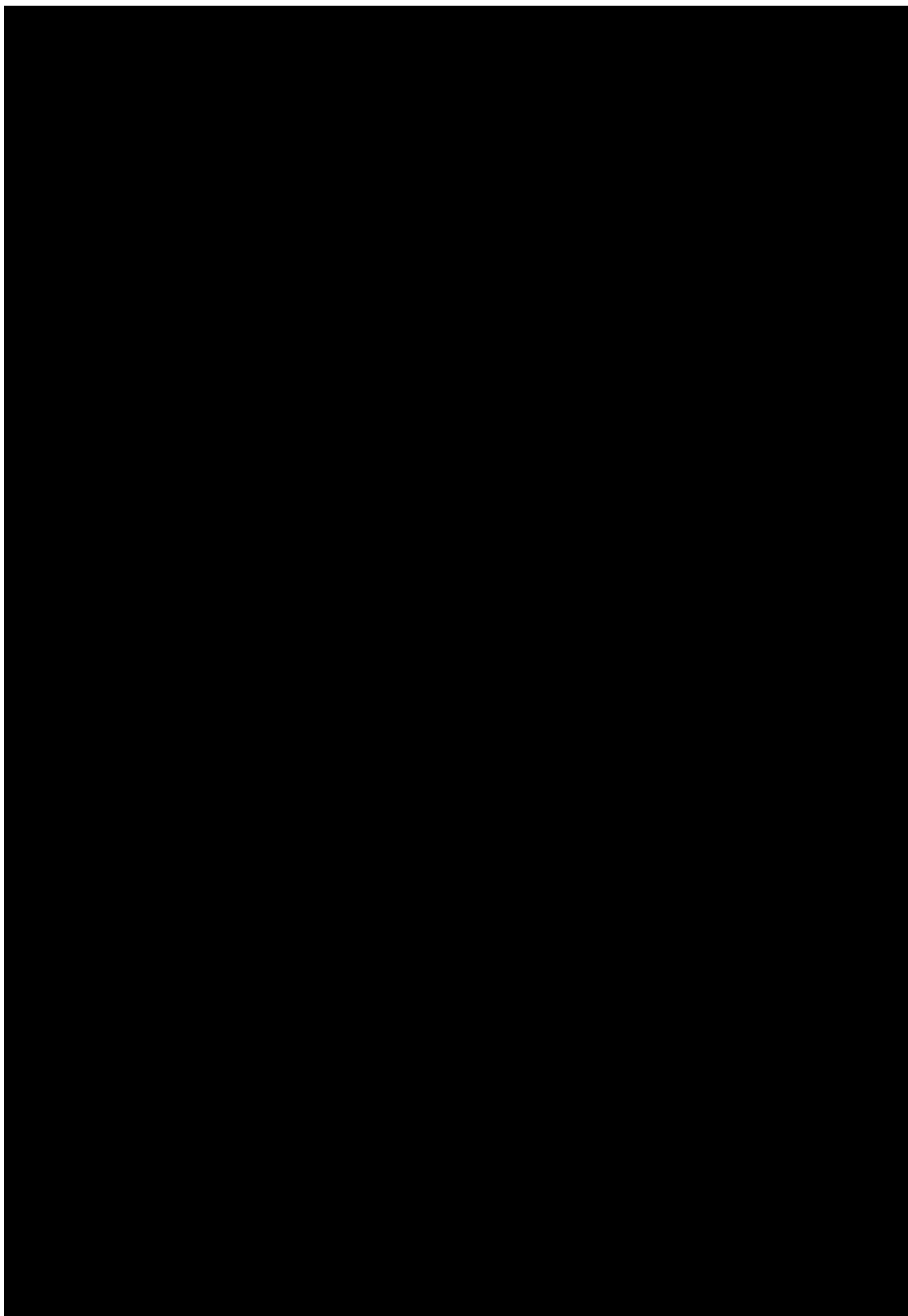
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

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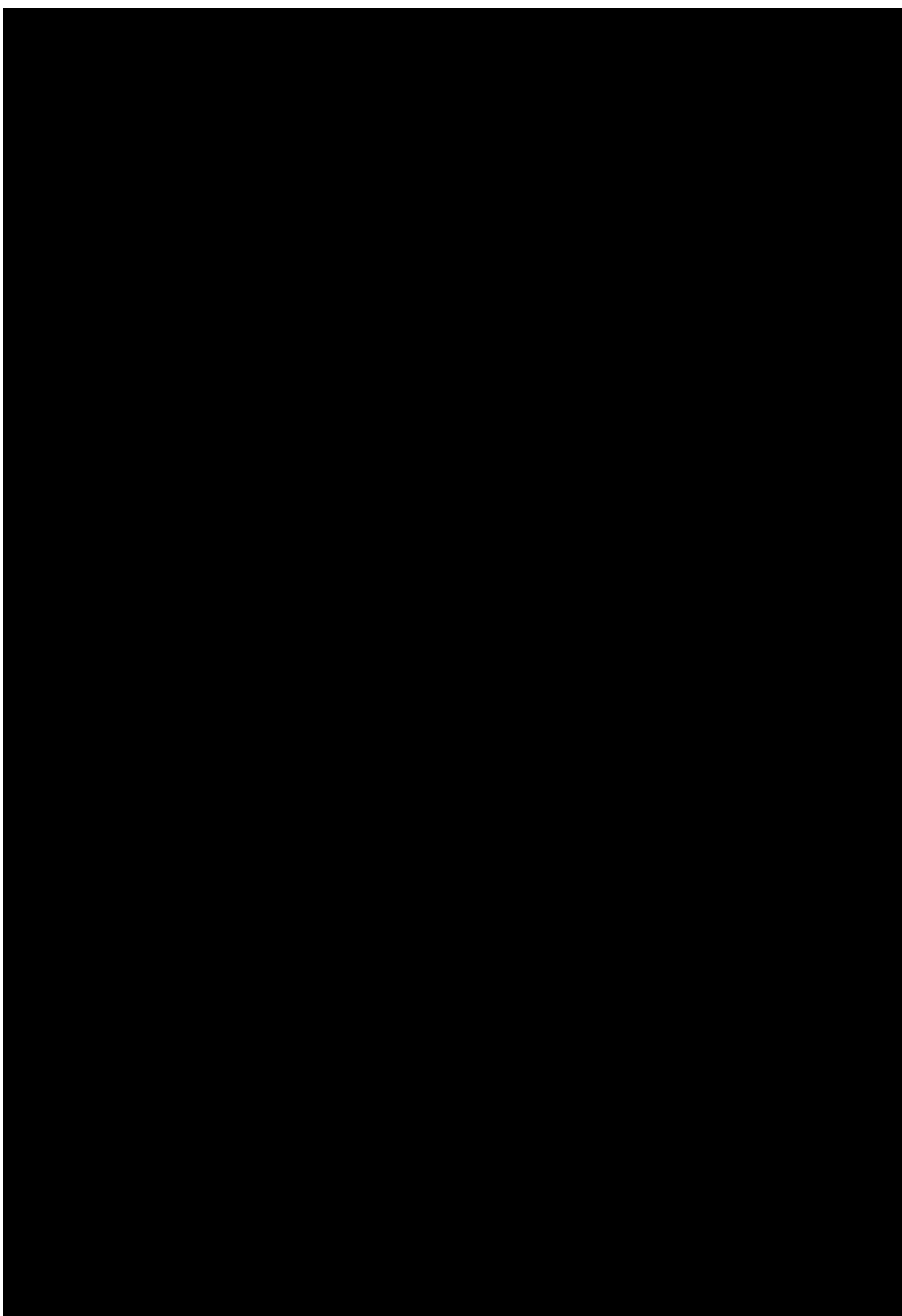
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

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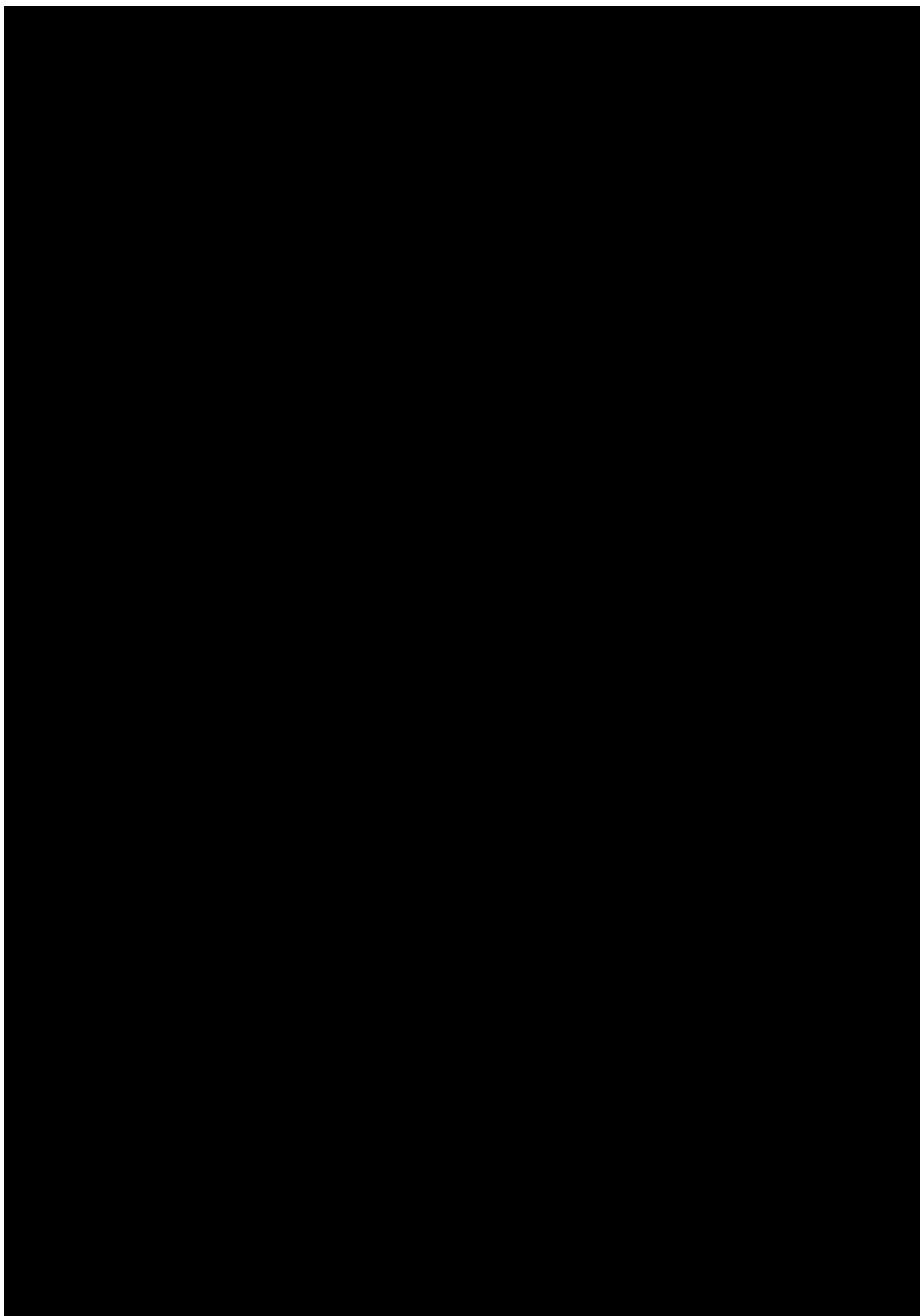
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

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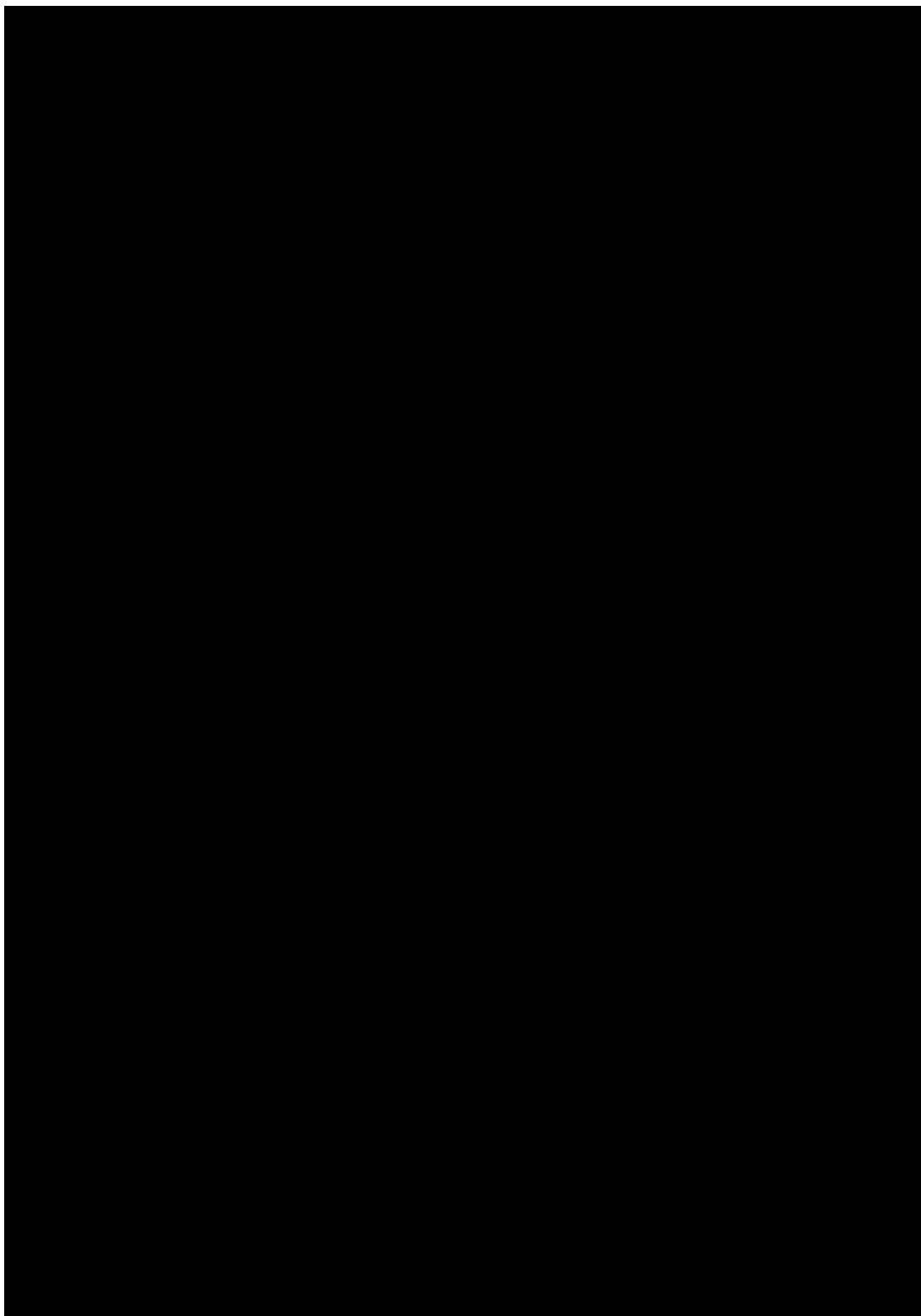
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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Closed Session)

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ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-36/72-NB-T

Trial Hearing
WITNESS: MLI-OTP-P-0626

(Private Session)

ICC-01/12-01/18

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3 (Private session at 12.08 p.m.)

4 THE COURT OFFICER: [12:08:57] We are in private session, Mr President.

5 PRESIDING JUDGE MINDUA: [12:09:28](Interpretation) Thank you very much,
6 court officer.

7 Mr Prosecutor.

8 MR GARCIA: [12:09:35](Interpretation)

9 Q. [12:09:36] Well, we're going to continue, Mr Witness.

10 I would like to know:

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12 A. [12:09:58]

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17 Q. [12:10:57]

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21 A. [12:11:23]

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ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-37/72-NB-T

Trial Hearing
WITNESS: MLI-OTP-P-0626

(Private Session)

ICC-01/12-01/18

1 Q. [12:12:16 [REDACTED]

2 [REDACTED]

3 A. [12:12:46 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. [12:13:30 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 A. [12:14:03 [REDACTED].

11 Q. [12:14:14 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 A. [12:14:46 [REDACTED].

15 Q. [12:14:56 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 A. [12:15:35 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q. [12:16:28 [REDACTED]

24 [REDACTED]

25 [REDACTED]

ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-38/72-NB-T

Trial Hearing
WITNESS: MLI-OTP-P-0626

(Private Session)

ICC-01/12-01/18

1 [REDACTED]
2 [REDACTED]

3 A. [12:17:15 [REDACTED]

4 [REDACTED]
5 [REDACTED]

6 Q. [12:17:36 [REDACTED]

7 [REDACTED]

8 A. [12:18:06 [REDACTED]

9 Q. [12:18:16 [REDACTED]

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 A. [12:19:12 [REDACTED]

17 [REDACTED] --

18 THE ARABIC INTERPRETER: [12:19:34] Inaudible.

19 THE WITNESS: [12:19:38](Interpretation) - [REDACTED]

20 [REDACTED]

21 MR GARCIA: [12:19:47](Interpretation)

22 Q. [12:19:49 [REDACTED]

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-39/72-NB-T

Trial Hearing
WITNESS: MLI-OTP-P-0626

(Private Session)

ICC-01/12-01/18

1 A. [12:20:21

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4 Q. [12:21:04

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7 A. [12:21:29

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10 Q. [12:21:54

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12 A. [12:22:07

13 Q. [12:22:18

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16 A. [12:22:45

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18 Q. [12:23:07

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22 A. [12:23:54

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24 the jihadist groups wanted to show that the judgments and the signatures on

25 judgments came from the locals, not from the groups.

ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-40/72-NB-T

Trial Hearing
WITNESS: MLI-OTP-P-0626

(Private Session)

ICC-01/12-01/18

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[REDACTED]

4 Q. [12:24:55] Very well. Thank you for that information, Mr Witness.

5 I'm just trying to understand a bit more.

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[REDACTED]

8 A. [12:25:19] That might have happened. I am not in a position to confirm

9

[REDACTED]

10

[REDACTED]

11 Q. [12:25:50]

[REDACTED]

12 A. [12:26:11]

[REDACTED]

13 Q. [12:26:43]

[REDACTED]

14

[REDACTED]

15

[REDACTED]

16 A. [12:27:08] No.

17 Q. [12:27:10]

[REDACTED]

18 A. [12:27:24]

[REDACTED]

19 Q. [12:27:55]

[REDACTED]

20

[REDACTED] ?

21 A. [12:28:06]

[REDACTED]

22

[REDACTED]

23 Q. [12:28:49]

[REDACTED]

24

[REDACTED]

25

[REDACTED]

ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-41/72-NB-T

Trial Hearing
WITNESS: MLI-OTP-P-0626

(Private Session)

ICC-01/12-01/18

1 [REDACTED]?

2 [REDACTED]?

3 A. [12:29:25] Certainly I don't know that by heart. I don't know for sur [REDACTED]

4 [REDACTED] Nor can I disconfirm it. It is part of what I remember.

5 Q. [12:29:55] Very well. Thank you. Thank you for this clarification, Witness.

6 Perhaps I'll put the question differently.

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 A. [12:30:50] [REDACTED]

12 [REDACTED]

13 Q. [12:31:06] [REDACTED]

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

18 PRESIDING JUDGE MINDUA: [12:32:30](Interpretation) Ms Taylor.

19 MS TAYLOR: [12:32:33] Thank you very much, Mr President.

20 I do believe that this is asked and answered. And I do believe the witness had

21 already given an answer to this earlier. And if we cut it off, I can read out what he

22 said. But I do believe he's -- he's provided an answer to this specific question. It's

23 at page 52 of the English transcript.

24 PRESIDING JUDGE MINDUA: [12:33:02](Interpretation) Prosecutor, I think that

25 Ms Taylor's right. The witness has already asked -- answered this.

ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-42/72-NB-T

Trial Hearing
WITNESS: MLI-OTP-P-0626

(Private Session)

ICC-01/12-01/18

1 MR GARCIA: [12:33:10](Interpretation) Your Honour, I would like to make a
2 request to refresh the witness's memory from what he already said. And I think that
3 goes within the lines of paragraph 45 of the guidelines on proceedings. If you would
4 allow me one moment, I will quite simply look.
5 I thought I understood from the witness that he did -- no longer remembered [REDACTED]
6 [REDACTED] Obviously it's not a
7 quiz. This is a witness that has come here to tell what he remembers, what he saw,
8 what he heard, what he noted. So the question as to whether he's already asked and
9 answered, I put the question twice. But the normal procedure under these
10 circumstances is to try and not have a refreshing of memory, but we want to see
11 whether the witness can remember -- can remember himself. That's why I put the
12 question first in a chronological way and then later I put the question to ask what
13 happened before [REDACTED]
14 Now, in the statement on the rules of procedure, it's quite clear. It does allow parties
15 to come back to put a question to the witness when the witness - and this is on
16 paragraph 45 - the witness is unable to independently recall a particular fact. And
17 what is essentially the case here, this isn't something that is very serious. It's quite
18 normal. What I would like to do is quite simply try to ensure that by rereading what
19 was said to the Prosecution that he'll be able to remember this issue which is a small
20 question concerning the procedure.
21 So, firstly, I don't -- I think that it meets paragraph 45. I see no harm whatsoever.
22 This is a witness who's come to determine the truth. So it goes within that
23 framework.

24 PRESIDING JUDGE MINDUA: [12:35:39](Interpretation) Well, you've put the
25 question. The witness has said twice that he doesn't remember.

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Trial Hearing
WITNESS: MLI-OTP-P-0626

(Private Session)

ICC-01/12-01/18

- 1 Ms Taylor, did you want to add anything to this?
- 2 MS TAYLOR: [12:35:49] Thank you, Mr President.
- 3 I don't believe the witness has said he doesn't remember. He said -- he's answered
- 4 twice. At page 51 he said, at lines 7 to 9: "That might have happened. I'm not in a
- 5 position to confirm [REDACTED]"
- 6 And then later he said: "I don't know that by heart [REDACTED]"
- 7 [REDACTED] Nor can I disconfirm. It's part of what I remember."
- 8 So he has given a memory. He's just not a hundred per cent certain.
- 9 Now, in order to trigger the witness-refreshing procedure, it would be necessary to
- 10 establish as a threshold that the prior statement in question would indeed assist the
- 11 witness; that is, does the prior statement constitute a full and accurate reflection of the
- 12 witness's memory. So I do believe as a threshold the witness would need to be asked
- 13 if, at the time he gave that particular statement to the Prosecution, in the conditions
- 14 under which he gave that statement to the Prosecution, his memory was better than
- 15 what it is today. Because that's the threshold for witness refreshing, that you have to
- 16 establish that the document constitutes a better record of the witness's memory than
- 17 his live testimony before this Chamber.
- 18 And for the references, I can refer the Chamber to a multiple of decisions of the Court
- 19 on that. That that is the threshold.
- 20 MR GARCIA: [12:37:34](Interpretation) Your Honour, if you would allow me.
- 21 PRESIDING JUDGE MINDUA: [12:37:36](Interpretation) Please go ahead.
- 22 MR GARCIA: [12:37:39](Interpretation) So, what Ms Taylor is currently doing is
- 23 integrating conditions that are not envisaged in paragraph 50 of the conduct of
- 24 proceedings. And these are issues of common law probably. But here we are
- 25 dealing with the International Criminal Court. Paragraph 50 is clear.

ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-44/72-NB-T

Trial Hearing
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(Private Session)

ICC-01/12-01/18

1 The witness, furthermore, according to this same account read by Madam Taylor, this
2 concerns that it's an issue of memory. So I don't see what you would need more in
3 order to have memory refreshing. I've tried on several occasions. It hasn't worked.
4 But we have a paragraph which clearly says that, under these circumstances, you can
5 refresh the memory of the witness. So I do not see what the objective of these several
6 objectives are -- objections are on the same point.

7 PRESIDING JUDGE MINDUA: [12:38:35](Interpretation) Very well.

8 Well, we have a witness statement of the witness in the past. Now the witness says
9 that he's not a hundred per cent sure. The Chamber gives -- grants you leave to
10 refresh the witness's memory and we'll see what that gives.

11 MR GARCIA: [12:38:55](Interpretation) If you would allow me a moment,
12 your Honour.

13 PRESIDING JUDGE MINDUA: [12:39:04](Interpretation) Ms Taylor, the Chamber
14 has already decided on this point. So we are going to refresh the witness's memory
15 and the Chamber will assess what weight should be accorded to the following
16 statements.

17 MS TAYLOR: [12:39:22] Certainly, Mr President. But I do believe it's appropriate
18 for the Prosecution to correct their submission. The Prosecutor has just asserted that
19 the principles I were referring to were common law principles; whereas, in fact, the
20 principles I was referring to actually emanate from the Katanga case, from the Ruto
21 case, from the Bemba case, from ICC case law, not common law case law.

22 PRESIDING JUDGE MINDUA: [12:40:03](Interpretation) Very well. Please
23 continue.

24 MR GARCIA: [12:40:04](Interpretation) Your Honour, I'm referring to the transcript,
25 MLI-OTP-00069-1026 -- 0069.

ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-45/72-NB-T

Trial Hearing
WITNESS: MLI-OTP-P-0626

(Private Session)

ICC-01/12-01/18

- 1 Q. I'm going to give the tab as well which appears on the screen in front of you.
2 You have the transcript, part of it, one of the pages of your transcript, which indicates
3 what you said to the Prosecution. And I would ask you to look at it and to read it
4 yourself from lines 224 to 238.
5 PRESIDING JUDGE MINDUA: [12:41:13](Interpretation) Ms Taylor.
6 MS TAYLOR: [12:41:14] Mr President, I do believe it's appropriate for the
7 Prosecution to give the date of this interview. We have a page in isolation. The
8 Prosecution has not told the witness what statement he's referring to.
9 PRESIDING JUDGE MINDUA: [12:41:43](Interpretation) Prosecutor, what's the date
10 of this statement?
11 MR GARCIA: [12:41:46](Interpretation [REDACTED])
12 And it's, for the purposes of the record, 0069-1033 -- MLI-OTP-069-1026. And it's
13 page 1033, lines 224, *to line 238, for the purposes of the court record. I thank my
14 learned friend.
15 THE WITNESS: [12:43:26](Interpretation) Which lines? I did not see them.
16 MR GARCIA: [12:43:35](Interpretation)
17 Q. [12:43:35] So you'll see in -- on the screen part of the transcript which is shown
18 on the screen.
19 Are you able to see it? It's on evidence 2. Now I can see it.
20 You can tell me if you are able to see it. This is tab 22 in your binder. Perhaps that's
21 the easiest way to see it.
22 If somebody could perhaps provide the witness with the binder with the transcript.
23 And it is at tab 22. And then I'll just enlarge it. But perhaps we'll have the same
24 problem with the other document.
25 Is there anybody present who could give the witness the binder? Thank you.

ICC-01/12-01/18-T-142-CONF-ENG-CT-04-10-2021-46/72-NB-T

Trial Hearing
WITNESS: MLI-OTP-P-0626

(Private Session)

ICC-01/12-01/18

1 Now, with the transcript, tab 22.

2 Thank you. Thank you to those who were helping the witness.

3 This is page 1033, and these are the lines - if we can enlarge it - 220 to 238.

4 So, Witness, I think that you finished reading the lines that I asked you to read. Is
5 that correct?

6 A. [12:46:39] (No interpretation)

7 Q. [12:46:39] Yes?

8 A. [12:46:39] *Yes

9 Q. [12:46:39] Does it refresh your memory?

10 A. [12:46:50] Yes. Yes. Yes. I could see there that I had said before that the

11 [REDACTED] It is the same answer. I said I

12 do not fully remember, so here I used the word "perhaps." I did not recall whether it

13 [REDACTED].

14 Q. [12:47:41] So in this excerpt, you said: "Sometime [REDACTED]

15 sometime [REDACTED]"

16 That's at line 232, and that's what you've just told us.

17 Now, if I understand well, just so that we're clear on this [REDACTED] - correct

18 me if I'm wrong - just before [REDACTED]

19 [REDACTED]?

20 A. [12:48:11] Yes. I said "sometimes." So the phrase that I used was "sometimes."

21 Q. Thank you, Witness, for these clarifications.

22 Now that you've been able to refresh your memory, do you remember whether it was
23 sometimes after?

24 [REDACTED]?

25 A. [12:49:04] I cannot remember that now.

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Trial Hearing
WITNESS: MLI-OTP-P-0626

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ICC-01/12-01/18

1 Q. [12:49:21] Very well, Witness. We're going to go on to other question [REDACTED]

2 [REDACTED] I would just like it to be clear for myself, for the parties, and for the
3 Chamber.

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 A. [12:50:05] It didn't take a lot of time. [REDACTED]

8 [REDACTED]

9 Q. [12:50:19] And when you said, "It didn't take a lot of time," could you give us an
10 idea of how much time approximately it took so that we can have an idea thereof.

11 A. [12:50:36] Maybe 15 minutes, 10 minutes, approximately.

12 Q. [12:50:51] An [REDACTED] [REDACTED]

13 [REDACTED]?

14 A. [12:51:09] Yes.

15 Q. [12:51:12] I'm sorry. I think there was an issue with the interpreting.

16 What I would like to know, Witness: [REDACTED]

17 [REDACTED]
18 [REDACTED]

19 A. [12:51:48] [REDACTED]

20 [REDACTED]
21 [REDACTED]

22 Q. [12:52:17] Very well. So if we could clarify this -- well, we clarified this point
23 just before the break, but we're going to clarify it now.

24 [REDACTED]
25 [REDACTED]

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1 [REDACTED]?

2 A. [12:52:45] Yes. [REDACTED].

3 Q. [12:52:54] Yes. I'd just like to go back to this issue.

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 A. [12:53:45] [REDACTED]

8 [REDACTED]

9 Q. [12:54:03] [REDACTED]

10 [REDACTED]?

11 A. [12:54:12] Yes. [REDACTED].

12 Q. [12:54:24] And how much time approximately did he need? [REDACTED]

13 [REDACTED]

14 [REDACTED]?

15 Just one moment, Witness. If you could wait a minute so I can finish my question.

16 How much time passe [REDACTED]

17 [REDACTED]?

18 A. [12:54:58] I cannot fi [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 Q. [12:55:31] [REDACTED]

22 [REDACTED]?

23 A. [12:55:49] [REDACTED]

24 [REDACTED]
25 [REDACTED]

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1

2 MR GARCIA: [12:56:54](Interpretation) Your Honour, your Honours, I would like to
3 go into another line of questioning. I take note of the time. If the Court would
4 allow me, I would ask for a suspension now. That will make it possible to come in a
5 more detailed way with regards to the remaining questions for today, for the
6 session -- and for the session that's going to take place tomorrow
7 afternoon -- morning.

8 PRESIDING JUDGE MINDUA: [12:57:27](Interpretation) Very well. It is three
9 minutes to 1.

10 So, court officer, can you take us into open session, please.

11 (Open session at 12.57 p.m.)

12 THE COURT OFFICER: [12:57:37] We are back in open session, Mr President.

13 PRESIDING JUDGE MINDUA: [12:57:45](Interpretation) Thank you, court officer.

14 We are going to break for lunch, and we will be back at 2.30, as usual.

15 Court is suspended.

16 THE COURT USHER: All rise.

17 (Recess taken at 12.58 p.m.)

18 (Upon resuming in open session at 2.31 p.m.)

19 THE COURT USHER: [14:31:10] All rise.

20 Please be seated.

21 PRESIDING JUDGE MINDUA: [14:31:37](Interpretation) Court is in session once
22 again.

23 Over to the Prosecution for the continuation of the examination-in-chief.

24 MR GARCIA: [14:31:49](Interpretation) Good afternoon, Mr President,
25 your Honours.

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1 Could we go back into private session, please.

2 PRESIDING JUDGE MINDUA: [14:31:57](Interpretation) Mr Courtroom Officer,
3 private session, please.

4 (Private session at 2.32 p.m.)

5 THE COURT OFFICER: [14:32:04] We are in private session, Mr President.

6 PRESIDING JUDGE MINDUA: [14:32:09](Interpretation) Thank you very much.
7 Mr Prosecutor.

8 MR GARCIA: [14:32:13](Interpretation) Thank you, Mr President, your Honours.

9 Q. [14:32:15] Good afternoon, Mr Witness. Can you hear me?

10 A. [14:32:26] Yes, I can hear you.

11 Q. [14:32:30] Very well. Thank you.

12 So we are in the last session for today. I have further questions to put to you with
13 regard to [REDACTED]

14 When we parted ways in the previous session, you talked to me about the fact that

15 [REDACTED]

16 Are you in a position to tell us or explain to us what would go on [REDACTED]

17 [REDACTED]?

18 PRESIDING JUDGE MINDUA: [14:33:06](Interpretation) One second,

19 Mr Prosecutor.

20 We are going to put on the record the presence of Mr Youssef.

21 Ms Taylor, there is a change in the makeup of your team, is there not?

22 MS TAYLOR: [14:33:22] Yes, Mr President, as announced this morning.

23 PRESIDING JUDGE MINDUA: [14:33:32](Interpretation) Very well. That's done.

24 On we go, Mr Prosecutor.

25 MR GARCIA: [14:33:38](Interpretation) Which reminds me, Mr President,

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1 your Honours, and as I clearly pointed out this morning, Mr Dutertre is not present
2 here for the last session today. That reminds me of the fact.

3 PRESIDING JUDGE MINDUA: [14:33:47](Interpretation) Yes, that is, indeed, very
4 important for the record. Thank you very much, indeed, Mr Prosecutor.

5 MR GARCIA: [14:33:56](Interpretation) Thank you.

6 Q. [14:33:56] So, Mr Witness, are you in a position to answer the question as to

7 [REDACTED]
8 [REDACTED]?

9 A. [14:34:23] [REDACTED]

10 [REDACTED]
11 [REDACTED] whether to put them in prison or to be punished by *ta'zir* sanctions or other
12 purposes. Whatever the purpose is, they just take those people to implement it.

13 Q. [14:35:25] I just wanted to shed light on what you just said to me. We are going
14 to take your response in little bits, with your leave.

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]?

18 A. [14:36:00] [REDACTED]

19 [REDACTED]
20 [REDACTED]

21 Q. [14:36:38] [REDACTED]
22 [REDACTED]?

23 A. [14:37:01] [REDACTED]
24 [REDACTED]

25 Q. [14:37:45] So you mentioned to us in your response, and I quote to you at

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1 lines 24 to 25: "The police would take measures, or a given person was put in prison
2 where they were punished by *ta'zir* sanctions."

3 Now, when you're talking about "sanctions," what are we referring to here?

4 A. [14:38:29] Well, I'm referring to the police. The police are the ones who are
5 responsible for meting out *ta'zir*, and they are the ones who put people in prison, if I
6 understood the question correctly.

7 Q. [14:38:56] You did, indeed, understand my question, Mr Witness.

8 Now, with regard to these *ta'zir* sanctions, could you provide us with examples of
9 sanctions of a *ta'zir* nature that the police might apply or execute.

10 A. [14:39:26] Yes. It can be sometimes by a number of beats or lashes, or by
11 imprisonment, or fines, et cetera, et cetera.

12 Q. [14:39:44] Who from within the police? Was there anybody in particular, to
13 your knowledge, who was in charge of applying these or administering these lashes?

14 A. [14:40:13] As I said before -- as I said before, the police was managed by
15 Al Hassan, whether he himself applied the sanction or somebody else did it, or
16 someone else.

17 Q. [14:40:57] Are you in a position to tell us where said sanctions were
18 administered or applied? Was there a location?

19 A. [14:41:21] Yes. There was a street or a number of streets near the police station.
20 Sometimes to the south of the police station and sometime just nearby, close to the
21 market.

22 Q. [14:42:05] Does the market have a name?

23 A. [14:42:09] This market has a name in the language of Timbuktu, the Sudanese
24 language of Timbuktu, and the meaning of it is the small market or the new market.

25 Q. [14:42:59] And do you personally, Mr Witness -- were you a witness to these

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1 scenes where police were flogging individuals?

2 A. [14:43:12] No.

3 Q. [14:43:19] So how do you know that at said location that was where that type of
4 sanction was administered?

5 A. [14:43:34] This -- I saw this in the clips, and I know these places well.

6 Q. [14:43:49] You spoke to us about the *ta'zir* sanctions. You also mentioned the
7 *hadd* sanctions at a given moment in time. What about these sanctions?

8 A. [14:44:14] *Hadd* is sanctions that comes from a reference or a text, such as
9 flogging or amputation. This is what we call *hadd*. While *ta'zir* is a beating and
10 imprisonment and something else. I don't know. But it's any kind of punishment
11 that the person who is taking the decision might find suitable as a punishment for the
12 offence committed.

13 Q. [14:45:10] Now, with regard to these sanctions that we shall refer to as "*hadd*" or
14 which fell under *hadd*, who specifically executed these sanctions?

15 A. [14:45:44] Most of these *hudud* were executed by the police and others, with the
16 help of others, such as soldiers.

17 Q. [14:46:27] And how do you know that?

18 A. [14:46:32] I know that -- I knew that from what I -- from the clips that I watched.
19 And I am sure that these clips were taken in Timbuktu. And I saw members of the
20 police and some soldiers and also some of the emirs or people who were close to the
21 emirs. That's how I knew what happened.

22 Q. [14:47:35] Now, for us to be crystal clear in this regard, are we talking here about
23 the video excerpts that you saw with the OTP or with anybody else?

24 A. [14:47:50] Yes. The ones that I saw with the OTP.

25 Q. [14:48:02] Very well. So you explained to us the location where these sanctions

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1 were executed.

2 Now, was this done in a public manner or in another way?

3 A. [14:48:26] Yes. It was public. Public.

4 Q. [14:48:43] And for us to understand correctly, was this something that was
5 announced in advance or were the sanctions just quite simply administered on the
6 day, as it were?

7 A. [14:49:01] I don't know right now if it was announced previously or not, but I
8 know that it -- that the sanctions were executed publicly.

9 Q. [14:49:24] Do you know why they were executed in a public way?

10 A. [14:49:37] Yes, to deter the attendees.

11 Q. [14:50:11] Very well.

12 [REDACTED]
13 [REDACTED]

14 A. [14:50:30] [REDACTED]
15 [REDACTED]

16 Q. [14:51:24] [REDACTED]
17 [REDACTED]?

18 I do apologise, Mr Witness. It is being pointed out to me that there might be an issue
19 with interpretation, that your words have not been interpreted fully.

20 [REDACTED]
21 [REDACTED] And if so, what was that?

22 A. [14:52:06] Yes. Yes. [REDACTED]
23 [REDACTED]

24 [REDACTED]

25 Q. [14:52:33] I do apologise, Mr Witness. There was a noise coming from your

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1 end, I believe, unless it was from the courtroom. So if you have a watch, maybe you
2 should put it to one side so that we don't have any more noise.

3 A. [14:53:13] Okay.

4 Q. [14:53:15] Because, of course, the noise is amplified on our side. Don't worry
5 too much, but if you do have a watch, please maybe take it off.

6 So you were talking to us --

7 THE WITNESS: [14:52:45] Just a moment, please.

8 MR GARCIA:

9 Q. [14:52:46] Thank you, Mr Witness.

10

11

12

13 A. [14:54:40]

14

15

16 Q. [14:55:27] And according to your knowledge in matters of *ta'zir*, is there a
17 maximum number of lashings that can be administered to an individual?

18 A. [14:55:51] I can't remember really the maximum number of lashes, and I don't
19 know if it is true or I doubt really that I saw in some of the references that *ta'zir*
20 should not exceed 10 lashes.

21 THE ARABIC INTERPRETER: [14:56:31] Correction from the interpreter: I think
22 that I saw it in one of the references.

23 MR GARCIA: [14:56:39](Interpretation)

24 Q. [14:56:39] When you talk about "references", what are you referring to?

25 A. [14:56:52] I refer to some of the -- some of the books in the Maliki doctrine.

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1 That's what I remember, but I don't know exactly if the maximum number is 10 or not.

2 I can't really remember right now.

3 Q. [14:57:11] And you individually, did you witness any such administering of
4 lashings in Timbuktu between 2012/2013, administration of lashings of this type?

5 A. [14:57:56] No. I didn't myself witness the execution of any. I didn't myself
6 witness any execution.

7 Q. [14:58:36] [REDACTED]

8 [REDACTED]

9 A. [14:58:43] [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 Q. [14:59:32] So when you say "the judge", which judge are we referring to here?

13 A. [14:59:47] What is important is that the judge -- it was recommended that the
14 judge would attend and also the emir or the deputy emir or the deputy judge. It was
15 a well-known thing that those people are the ones that were recommended to attend
16 the execution of *hudud*.

17 Q. [15:00:41] Very well, Mr Witness. I'm calling upon your knowledge, of course.

18 You said it is recommended that the judge be there or the emir.

19 By whom or by what? Could you explain in greater detail what you meant by that?

20 A. [15:00:55] I only saw this in the books and the references, the *fiqh* or
21 jurisprudence books.

22 Q. [15:01:31] Very well. Thank you for that additional information.

23 You've also mentioned people, I believe, who were locked up.

24 What location was used to imprison people [REDACTED]

25 [REDACTED]

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1 A. [15:01:59] Do you mean where the people or where the person is detained or
2 what?

3 Q. [15:02:09] Yes. [REDACTED]

4 [REDACTED] You talked about the application of various punishments. You said that
5 some people were locked up.

6 Physically what place were they locked up?

7 A. [15:02:34] In the prisons that the Malian authorities used to use for this effect.

8 This is where the detainees are kept.

9 Q. [15:03:03] And where were these prisons more specifically, if you're in a position
10 to tell us?

11 A. [15:03:28] The prisons, as I remember, were in the centre of the city to the south
12 of the police headquarters. They are not very far, they are not very close; maybe 1
13 kilometre more or less.

14 Q. [15:04:15] I would just like to shed light on one point. At the very beginning, I
15 asked you some questions about the investigation carried out by the police.

16 Do you know where people were detained while the police were carrying out their
17 investigations?

18 A. [15:04:53] The investigation happens at the headquarters of the police at the
19 place that used to be a bank, as I said earlier.

20 Q. [15:05:00] While the police was investigating a person, where would that person
21 be detained, if you know?

22 A. [15:05:19] I don't know. The police have a location where they keep the
23 detainees and the building itself. I don't know if that -- I really -- I really cannot
24 remember.

25 Q. [15:06:11] Mr Witness, I want to make sure that we've correctly captured your

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1 response.

2 Now, you said that you didn't know. You were also told that the police had a place
3 to keep detained people. But then you said you didn't know anything about that.
4 Do you know something about this or not? If not, we'll move on to something else,
5 to another question.

6 A. [15:06:42] As I said, this is all I can remember. The police have a location or a
7 place in the same building that they have, but I don't know if that happened after
8 opening the prisons or not. Before, the detention happened in the prison and not at
9 the police headquarters. This is all I can remember from that period.

10 Q. [15:07:34] That's much clearer now in the transcript. I think part of what you
11 said had not been interpreted in your first response. That's why I went back to put
12 the question to you again.

13 Final question about that, and then we'll move on to something else.

14 You said that the police had a place in the same building. How did you know that
15 there was a place in the same building where the police were where people were kept?
16 How do you know that?

17 A. [15:08:10] This -- I have this information, but now I cannot really remember how
18 I got to know that information. But what is sure is that the police have a location for
19 the detention, but I do not know if they continued to use it or if that changed after the
20 opening of the prisons that were used by the state.

21 Q. [15:08:58] Very well. Thank you for that additional information, Mr Witness.
22 I would now like to show you a number of documents and then put some questions
23 to you about these documents, and we will be going through the same exercise as
24 earlier, just before the break.

25 Now, the first document that I would like to show you, and you can look at the

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1 document on the screen - I can zoom in - or you can use the hard copy in the binder,
2 whatever is better for you. The first document is tab 120, translation at tab 120,
3 [REDACTED]; translation, tab 121 [REDACTED]
4 Just one moment. I'll zoom in. I think it was upside down at first.
5 This is the document to the right. And I would also like to ask that you have an
6 opportunity to look at the hard copy in the binder. It's tab 120. I am referring to
7 the document to the right. I believe you're looking at the hard copy of the document.
8 I'll just give you a few moments to review the document. It is tab 120, Mr Witness.
9 (Pause in proceedings)

10 MR GARCIA: [15:15:13](Interpretation)

11 Q. [15:15:13] Mr Witness, you've now had an opportunity to review the document?

12 A. [15:15:19] Yes. I looked at it.

13 Q. [15:15:22] Exactly what is this document? How does it read?

14 A. [15:15:29] The first document is about cigarettes traffickers. They were
15 sentenced. The cigarettes were burnt. They were imprisoned, and then they were
16 released. And they asked them for the promise not to go back to cigarettes
17 trafficking. This is what I get from reading the document.

18 Now, the second document is a family matter between a wife and a husband.

19 Q. [15:16:32] Very well, Mr Witness. Let's stick with the first document. You
20 read the right hand case.

21 [REDACTED]

22 [REDACTED]

23 A. [15:16:56] Yes, I do.

24 Q. [15:16:59] [REDACTED]

25 [REDACTED]

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1 A. [15:17:21] No. I only remember the burning of the tobacco and people talking
2 about the great loss that it was. This is what I can only remember. [REDACTED]

3 [REDACTED]

4 Q. [15:17:55] Very well.

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 A. [15:18:04] [REDACTED]

9 Q. [15:18:20] [REDACTED]

10 A. [15:18:30] [REDACTED]

11 Q. [15:18:46] Very well, Mr Witness. We'll now move to another document. I'd
12 like to show you document [REDACTED], tab 145. For the record, the
13 translation is at tab 120 [REDACTED]

14 Mr. Witness, review the two pages. I'll put the pages up on the screen as well.

15 Mr Witness, please be careful with objects moving on the desk because the sound is
16 amplified on our side.

17 A. Yes.

18 Q. [15:20:43] Thank you, Mr Witness.

19 I have the same page up on the screen. So you have two versions. You have the
20 hard copy, and you have the electronic version up on the screen.

21 A. [15:21:07] Yes. I used both versions and I was able to understand the
22 document, and, I also looked at the second document, this is the same case. I
23 understood that this is the same tobacco-smuggling case.

24 This is the document with the signature [REDACTED]

25 [REDACTED]

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1

2 So this is the case of the smugglers that I talked about a while ago.

3 Q. [15:22:06] Just to make sure there's no confusion, Mr Witness, take your time

4 and read this very carefully and please look at the stamp at the bottom of the page at

5 the right. I'll zoom in for you.

6 Take your time to read the document thoroughly.

7 A. [15:23:27]

8 Q. [15:23:38]

9 A. [15:23:45]

10

11 Q. [15:24:26]

12

13 A. [15:24:33]

14 Q. [15:24:42]

15 A. [15:24:46]

16

17 Q. [15:25:22]

18

19

20

21 A. [15:25:45]

22 Q. [15:26:10] If you could just look at page -- well, to the left, the left-hand page.

23 I'll zoom in on my side as well. If the ...

24 THE INTERPRETER: [15:26:34] Overlapping.

25 THE WITNESS: [15:26:36](Interpretation) No. You don't need to do that. I read it.

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- 1 On the paper, it says: [REDACTED]
- 2 This is what I read.
- 3 MR GARCIA: [15:27:00](Interpretation)
- 4 Q. [15:27:00] Thank you for that additional information, Mr Witness.
- 5 Just one moment.
- 6 We're going to switch to another document now, Mr Witness. I see that you're using
- 7 both the hard copy and the electronic version. I'll do the same thing for the second
- 8 document.
- 9 The second document is at tab 93 [REDACTED] The translation is at tab 94 [REDACTED]
- 10 I don't know whether there's someone there who can help you locate all of this. And
- 11 I'll also make sure that it is up on the screen here in the courtroom.
- 12 A. [15:29:35] I'm done reading.
- 13 Q. [15:29:38] Could you tell us what this is about.
- 14 What is this document?
- 15 A. [15:29:47] This document is about a *ta'zir* sanction of a woman because she was
- 16 mingling with a man and, because of using obscene language and -- she was
- 17 sentenced to *ta'zir* of 60 lashes.
- 18 Q. [15:30:32] Now [REDACTED] ? What you've read here, does
- 19 that ...
- 20 I'm sorry. We didn't quite get your answer, Mr Witness.
- 21 Did you answer the question? [REDACTED]
- 22 A. [15:31:26] No.
- 23 Q. [15:31:30] [REDACTED]
- 24 [REDACTED]
- 25 A. [15:31:52] [REDACTED]

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1 [REDACTED]

2 Q. [15:32:10] Very well. We'll now move to another document. This is at -- at tab
3 75, MLI-OTP-0002-0053. Translation is at tab 76, 0068-02- --0078-0280.

4 Mr Witness, I can put it up on the screen as well on -- my computer on your screen;
5 although I have the impression that the hard copy is clear enough, but I'll -- make
6 sure it's on your screen as well.

7 Could you review this document.

8 A. [15:34:04] I finished reading it.

9 Q. [15:34:08] So what is this document about, Mr Witness?

10 THE INTERPRETER: [15:34:44] Message from the remote location: Your Honour
11 (Overlapping speakers)

12 MR GARCIA: [15:34:50](Interpretation)

13 Q. [15:34:50] Sorry. Mr Witness, can you hear me?

14 A. [15:34:52] Yes. I can hear you.

15 Q. [15:34:57] So what is this document all about?

16 PRESIDING JUDGE MINDUA: [15:35:21](Interpretation) Mr Garcia, apparently
17 there wasn't any interpretation into Arabic. The witness seems to be gesturing.
18 Just one moment.

19 Court officer?

20 THE COURT OFFICER: [15:35:38] Perhaps the Arabic interpreters could repeat,
21 please. Thank you.

22 THE WITNESS: [15:36:24](Interpretation) Yes. This document is about somebody
23 called [REDACTED] It's an extramarital sexual intercourse case, and he was
24 sentenced to a hundred lashes and banishment by means of imprisonment for a
25 period of one year. And the girl who claimed that she was raped was not subjected

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1 to *hadd* because of suspicion that she was coerced.

2 MR GARCIA: [15:37:28](Interpretation)

3 Q. [15:37:29] [REDACTED]

4 A. [15:37:33] [REDACTED]

5 Q. [15:37:41] I would like that this -- for this to be clear in the record, Mr Witness,
6 and -- with regard to interpretation.

7 Now, you said that the young woman who complained about rape was not submitted
8 to *hadd* because it was suspected that she was lying.

9 A. [15:38:48] It was suspected that she was under coercion. [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. [15:39:49] Very well, Mr Witness. We might come back to this for purposes of
15 clarification at the opportune time. But for the time being, I would like for you to
16 look [REDACTED]

17 [REDACTED]

18 A. [15:40:14] [REDACTED]

19 [REDACTED]

20 Q. [15:40:39] Thank you very much for these points of clarification, Mr Witness.

21 Now, I'm going to be moving on to another document now. So we're talking here of
22 document MLI-OTP-0002-0051, at tab 87.

23 If somebody could assist the witness, please, to find the document.

24 And the translation is to be found, Mr President, your Honours, at tab 88,

25 MLI-OTP-0078-0276.

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1 So, once you have the document before you, Mr Witness, I would like to ask you to
2 peruse it carefully.

3 A. [15:42:10] I finished reading it. I read the whole thing.

4 Q. [15:42:17] Could you please tell us what this document is all about.

5 A. [15:42:37] This is the judgment that was posed on a person called Dedeou

6 *Mohamed Maig [REDACTED]

7 [REDACTED] he was sentenced to the *hadd* of amputation, the

8 amputation *hadd* [REDACTED]

9 [REDACTED] And it says here that this was -- this sentence was passed by the Judge

10 Houka Houka, and there is a stamp [REDACTED]

11 Q. [15:43:30] When you talk about the fact that the [REDACTED]

12 [REDACTED]

13 A. [15:43:54] [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

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

21 [REDACTED]

22 A. [15:45:37] Yes.

23 Q. [15:45:41] [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 A. [15:46:29 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q. [15:47:35] Thank you very much for that clarification, Mr Witness.

6 Now, do you remember the facts underlying this document?

7 A. [15:48:05] I'm sorry. I didn't understand the question. What do you mean by
8 "the facts"?

9 Q. Well, the matter covered in the document, the punishment, et cetera, does that
10 remind you of any specific case? Have you already heard spoken of that matter?

11 A. [15:48:54] Yes. This matter, a lot of people have spoken about it. Many
12 people of the inhabitants -- many of the inhabitants of Timbuktu spoke about it
13 because they don't know that one. They don't know this cutting off. They spoke
14 about it a lot.

15 Q. [15:49:49] I have a few additional documents to show to you, Mr Witness, before
16 we wrap up for today. I would like to show you document -- a document to be
17 found at tab 59, which is ERN MLI-OTP-0002-0088, and the translation is at tab 60,
18 0078-0381.

19 A. [15:50:57] I finished reading it. I read the whole thing.

20 Q. [15:51:02] Can you tell us what this document is all about.

21 A. [15:51:21] Yes. This is a judgment on a person called [REDACTED]

22 He was sentenced to 40 lashes and the fine o [REDACTED]

23 [REDACTED] because he admitted to drinking [REDACTED] alcoho [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 Q. [15:52:29] [REDACTED]?

2 A. [15:52:44] I read -- I read the document. Didn't you hear what I just read to
3 you?

4 Q. [15:52:57] Yes. There might be an issue of interpretation, Mr Witness. What
5 I'm asking you is a question.

6 [REDACTED]
7 [REDACTED]

8 PRESIDING JUDGE MINDUA: [15:53:17](Interpretation) Ms Taylor?

9 MS TAYLOR: [15:53:19] Thank you very much, Mr President.

10 These questions are quite confusing, asking the witness [REDACTED]

11 [REDACTED] Could the Prosecution reformulate the
12 question to ask specific questions, for example [REDACTED]

13 [REDACTED]

14 PRESIDING JUDGE MINDUA: [15:53:48](Interpretation) Mr Prosecutor.

15 MR GARCIA: [15:53:50](Interpretation) Mr President, well, of course, we are in
16 private session. So that is why I'm putting questions, and you will understand why
17 I'm putting question [REDACTED]

18 [REDACTED] I might -- well, just one moment, please,

19 Mr President. I'm really being very careful, Mr President, so that we don't have
20 to -- but we might have to -- I might keep questions for that moment in time, and it
21 might be that I put such questions tomorrow morning.

22 PRESIDING JUDGE MINDUA: [15:54:30](Interpretation) I believe that Ms Taylor
23 has understood.

24 Ms Taylor.

25 MS TAYLOR: [15:54:34] Thank you, Mr President.

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1 I can't see the difference [REDACTED] The information
2 wouldn't be distributed to the outside. And I believe the same information would
3 come out. So I don't believe that's an excuse for not putting questions that the
4 witness can understand, out of fairness to the witness.

5 MR GARCIA: [15:55:05](Interpretation) Mr President, the rules are rather clear in
6 this regard. It is not up to the OTP to put questions when she wants to and as she
7 wants to, but she has to respect the Rome Statute [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 PRESIDING JUDGE MINDUA: [15:55:38](Interpretation) Would you like us to do
12 that now?

13 MR GARCIA: [15:55:41](Interpretation) In view of the time, Mr President, I would
14 say that it would not take me longer than tomorrow morning's first session. So what
15 I suggest to the Court is that we stop for now and we start again tomorrow morning,
16 and I'll be able to wrap up during that first session tomorrow.

17 PRESIDING JUDGE MINDUA: [15:56:06](Interpretation) Ms Taylor.

18 MS TAYLOR: [15:56:07] Thank you, Mr President.

19 We believe we should continue. We think it'd be -- if we're supposed to start our
20 cross-examination tomorrow, then we should do so after having heard the
21 examination-in-chief. We don't see any basis to adjourn, given that there's five
22 minutes left.

23 PRESIDING JUDGE MINDUA: [15:56:23](Interpretation) Yes. Well, maybe we
24 should go into closed session.

25 MR GARCIA: [15:56:30](Interpretation) If the Chamber believes -- I haven't really

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1 understood the argument on the part of the Defence. The OTP has already said that
2 they will be wrapping up tomorrow. But whatever the case may be, I am at the
3 disposal of the Chamber. We can go into closed session immediately.

4 PRESIDING JUDGE MINDUA: Maybe the Defence would like to hear the questions
5 in order to prepare.

6 Mr Courtroom Officer, closed session, please.

7 (Closed session at 3.56 p.m.)

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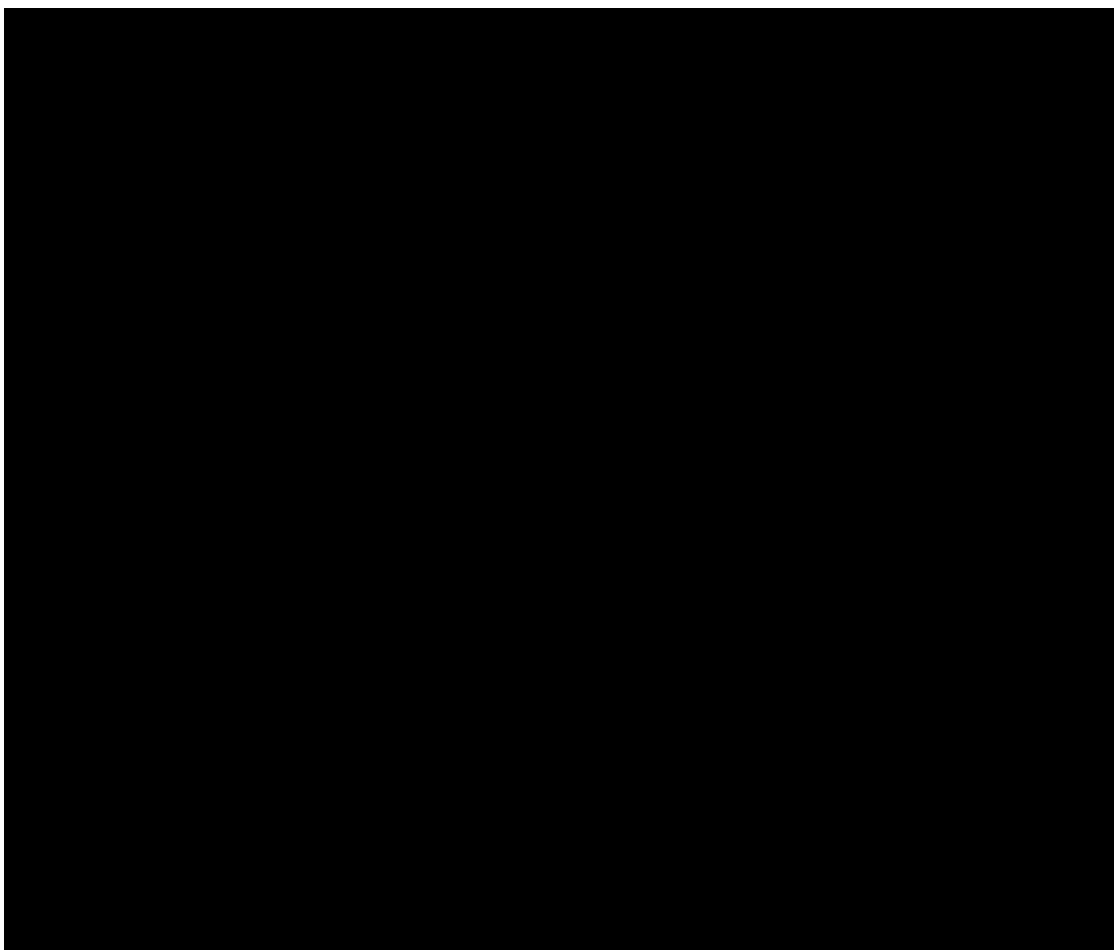
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16 (Open session at 4 p.m.)
17 THE COURT OFFICER: We are back in open session, Mr President.
18 PRESIDING JUDGE MINDUA: (Interpretation) Thank you very much,
19 Mr Courtroom Officer.
20 Mr Witness, this marks the end of our hearing for today. And this is of course the
21 end of your testimony for today. But, unfortunately, as you have noted, your
22 testimony has not yet come to an end, so you will be back tomorrow at 9.30.
23 Can you hear me?
24 THE WITNESS: (Interpretation) Yes.
25 PRESIDING JUDGE MINDUA: (Interpretation) Very well. On behalf of the

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1 Chamber, I would like to sincerely thank you for having answered the questions that
2 were put to you. I would like to thank you for your patience. You will now be able
3 to rest, but please do not forget that you are not allowed to speak to anybody about
4 your testimony before coming back tomorrow morning.

5 Now, before we close today's hearing, I would like to express my gratitude to all
6 those who have contributed in the success of today's hearing. I'm thinking of the
7 parties, participants, the court reporters, the interpreters and our security officers and
8 our public. Even if we do not see any here today, we know that they are listening
9 further afield.

10 And I wish you all a very pleasant evening. We're going to rise for today.

11 Court is adjourned.

12 THE COURT USHER: All rise.

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

14 CORRECTIONS REPORT

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

17 Page 6 line 24

18 "line 20 -- correction -- 141, page 66." Is corrected to "page 66, transcript 141, lines 1 to
19 4."

20 Page 14 lines 13-14

21 "405 matters that I would like to address with the witness which could take
22 approximately 20/25 minutes." Is corrected to "4 or 5 matters that I would like to
23 address with the witness which could take approximately 20/25 minutes."

24 Page 27 line 6

25 

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- 1 Page 45 lines 13-14
- 2 "to lines 228 -- 238, for the purposes of the court record. (No interpretation)" Is
- 3 corrected to "to line 238, for the purposes of the court record. I thank my learned
- 4 friend."
- 5 Page 46 line 8
- 6 "(No interpretation)" Is corrected to "Yes"
- 7 Page 61 line 20
- 8  "
- 9 Page 65 line 6
- 10 "Muhammad" Is corrected "Mohamed"