

Trial Hearing
WITNESS: MLI-OTP-P-0623

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 1
9 Wednesday, 23 September 2020
10 (The hearing starts in open session at 9.46 a.m.)
11 THE COURT USHER: [9:46:56] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:47:22](Interpretation) The Court is in
15 session.
16 Good morning, everyone.
17 Court officer, please call the case.
18 THE COURT OFFICER: [9:47:31] Good morning, Mr President,
19 your Honours.
20 The situation in Mali, in the case of The Prosecutor versus Al Hassan Ag
21 Abdoul Aziz Ag Mohamed Ag Mahmoud, reference ICC-01/12-01/18.
22 And we are in open session.
23 PRESIDING JUDGE MINDUA: [9:47:50](Interpretation) Thank you very
24 much, court officer.
25 We're now going to start with the introductions, starting with the Office of the

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1 Prosecutor.

2 Mr Prosecutor.

3 MS YAMAGUCHI: [9:48:02] Good morning, Mr President, your Honours.

4 Today, the Prosecution is represented by Lucio Garcia, in my back;

5 Gilles Dutertre, on my left; and myself, Yayoi Yamaguchi.

6 PRESIDING JUDGE MINDUA: [9:48:21](Interpretation) Thank you very

7 much, Madam Prosecutor.

8 I now turn towards the Defence, Ms Taylor.

9 MS TAYLOR: [9:48:29] Good morning, Mr President, your Honours.

10 The Defence for Mr Al Hassan is represented by Ms Sarah Marinier-Doucet,

11 Mr Mohamed Youssef, Ms Dolly Chahla and myself, Melinda Taylor.

12 Thank you.

13 PRESIDING JUDGE MINDUA: [9:48:46](Interpretation) Thank you very

14 much, Ms Taylor.

15 And now for the Legal Representative of Victims, Maître Nsita.

16 MR LUVENGIKA: [9:48:57](Interpretation) Good morning, your Honour,

17 good morning, your Honours. The Legal Representative of Victims is

18 composed this morning of Madam Prisque Biyéké Dipanga, and myself,

19 Maître Nsita, lawyer.

20 PRESIDING JUDGE MINDUA: [9:49:13](Interpretation) Thank you very

21 much, Maître Nsita.

22 So today we are going to hear the testimony of the ninth Prosecution witness.

23 The Chamber has been seized of a letter from the Office of the Prosecutor,

24 according to which there has been an incident relating to the protocol applying

25 to the witness.

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1 I am now going to go into private session so that the parties may explain
2 themselves with regard to this incident.

3 Please take us into private session, court officer.

4 (Private session at 9.50 a.m.)

5 THE COURT OFFICER: [9:50:08] We're in private session, Mr President.

6 PRESIDING JUDGE MINDUA: [9:50:13](Interpretation) Thank you very
7 much, court officer.

8 Prosecutor -- or I don't know if it's Madam or Mr Dutertre, you have the floor
9 to explain to the Chamber what the incident is.

10 MR DUTERTRE: [9:50:33](Interpretation) Good morning, your Honour,
11 your Honours. I would like to thank you for having given me a few moments
12 in private session.

13 We were informed yesterday about contact between the Defence
14 and -- a resource person from the Defence and the Witness P-0623 just before
15 testifying and the Prosecution is seriously concerned by this type of practice.
16 This contact is quite simply unacceptable. And when we look at the content,
17 the partial content of the message that was communicated to us this morning,
18 it's clear that the resource person knew that 623 was a witness and was going
19 to testify and that's why that person was mandated to collect information.

20 She should never have entered into contact with P-0623.

21 From the very start of the conversation - and, we don't have the whole message,
22 I have to say, it would seem that the person who contacted, 623 indicated, and,
23 this was communicated to the Chamber and parties this morning that, "I have
24 to testify at the ICC tomorrow." However, the resource person continues to
25 have exchanges with 623, despite all obligations and duties and the ban on

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1 contacting the witness at that time.

2 It's completely unprofessional. And it's all the more concerning when you see

3 the comments made by the resource person, and I won't read it now, but it is

4 clear that the resource person and 623 seem to know each other; so she should

5 have been much more attentive, twice more or three times more, and never

6 have contacted that person the night before testifying.

7 It is the responsibility of the lead counsel to ensure that the directives and

8 protocols are applied by the entire members of her team and to give clear

9 guidelines in this regard.

10 The Prosecution is all the more concerned because it is not the first time that

11 this has happened. In my email, by way of answer yesterday, so I found an

12 exchange of emails from 2019 and January 2020 concerning Witness 623 (sic).

13 And the Defence contacted her, and, I've been told, that the witness stopped

14 the conversation.

15 But later, in January, the resource person from the Defence once again

16 contacted the witness without any precautions and we said that there was

17 a violation of the protocol.

18 THE INTERPRETER: [09:54:12] The interpreter corrects: It was [REDACTED]

19 MR DUTERTRE: [09:54:12](Interpretation) So this is unprecedented and this

20 type of thing is causing a problem.

21 I won't say much more, but I would just like to stress four to five points

22 your Honour, your Honours.

23 Firstly, there's the impact on the psychological state of the witness 623, who

24 she's perhaps feeling intimidated by these contacts the day before testifying.

25 And furthermore, it could also lead to security concerns that this witness may

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1 have [REDACTED]
2 Secondly, the Prosecution -- through the entire message -- it starts with, "Yes, of
3 course". So there's something before. We don't have it. And there's
4 something afterwards. So the Prosecution wants the entire communication.
5 That needs to be communicated to the Chamber.
6 Thirdly, we are totally opposed to this information being used by the Defence
7 during the cross-examination and during this trial because, quite simply, it
8 was -- this information was obtained in violation of the protocol. It's partial
9 for the moment and all that needs further analysis and it should be further
10 verified.
11 Fourthly, we are also waiting for the Defence to investigate as to what exactly
12 happened, with a view to informing the Prosecution and the Chamber, but also
13 to ensure that it does not happen again; so as a preventive measure. And
14 therefore this resource person, who manifestly is conducting or behaving in an
15 unprofessional way, it is essential that this person stops all activities, is
16 suspended from activities, until we have the results of what happened and that
17 we can make a certain number of observations in this regard.
18 Those are the elements I want to put to you. I would like to reiterate that it is
19 very concerning and it must not happen again for the preservation of the
20 proper conduct of proceedings, the well-being of the witness and the integrity
21 of the presentation of evidence by the Prosecution.
22 Thank you, your Honour.
23 PRESIDING JUDGE MINDUA: [9:57:18](Interpretation) Thank you,
24 Mr Prosecutor Dutertre.
25 If I have understood, you say that the day before the testimony of Witness

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1 P-0623, the resource person of the Defence contacted this witness, and
2 obviously you are astonished. It's not the first time. It's -- there's already
3 been a case where -- where the [REDACTED] was contacted. And having asked
4 the Defence for the entire messages exchange between the resource person and
5 the witness, you are asking the Chamber to ban the use of the information that
6 was gathered and you are calling for an investigation of the Defence with
7 regards to this incident.

8 And, finally, your request is that the resource person is suspended until such
9 time as the investigation has finished. Obviously, that is what your
10 perspective is.

11 We are now going to hear the Defence in order to hear their points.

12 Ms Taylor.

13 MS TAYLOR: [9:58:54] Thank you, Mr President.

14 Now, firstly, I'd like to underscore that we have communicated the information
15 that we have, and we are attempting to obtain more information. Quite
16 simply, we don't know why this happened given the directions that were given
17 to this person. So I'm not in a position to explain why things happen when
18 I don't know.

19 Secondly, as concerns past examples, we respectfully submit it's not fair or
20 appropriate to rely upon those examples, specifically concerning [REDACTED] This
21 was someone who was contacted by the Defence at the time when they did not
22 know that this person was a witness. As soon as they found out he was
23 a witness, the communication stopped.

24 [REDACTED]
25 [REDACTED]

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[REDACTED]

Now, again, as soon as we found out that our resource person had contacted this person, he stopped communications. But in a case where you have [REDACTED] there is a risk that they all know each other.

Now it turns out that P-623 happens [REDACTED]
[REDACTED] Now we've instructed our resource person, our other resource person not to engage with [REDACTED] we will again. This is something we're learning. We will take steps to ensure that he's not [REDACTED] if that's possible.

That's for one of them. For the other person, again, we're trying to get as much information as we can so we can put it before the Chamber. We are trying to obtain the full exchange so we can put it before the Chamber. We can put before the Chamber the specific exchange that we had with this person, where it was very clear that we were not asking this person to conduct questions or to conduct queries. We can file with the Chamber the protocol that was sent to this person; the list of witnesses that were sent to this person. Now, I'm not here to defend this person. I'm here to defend Mr Al Hassan, but we also have to recognise that there is room for human error in this case. We had a witness last week that contacted the Prosecution in violation of the protocol. Now, I can't -- since I have not had the chance to speak to this person, I don't understand why she didn't recognise this person as a Prosecution witness.

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1 But given the context in which they work, it's entirely possible she thought that
2 she was just another [REDACTED] and thought there was no problem with her
3 contacting her because they are in regular contact.

4 Now, I can't say anything further without being able to clarify these issues.

5 We do intend to look into them. And it is a source of concern for us. But it's
6 premature to determine what to do when we have not had the chance to put
7 the full information before the Chamber and we ourselves have not had
8 the chance to collect the full information, which we are in the process of doing.

9 Thank you.

10 PRESIDING JUDGE MINDUA: [10:03:17](Interpretation) Thank you very
11 much, Ms Taylor.

12 So, I will give you the floor, Prosecutor.

13 So if I've understood, you say that you have already communicated to
14 the Chamber and the OTP all the information that you have with regard to this
15 incident. You say, furthermore, that you don't know exactly what happened
16 and, as such, you can't give more clarification or detail at this time.

17 That the example that the Prosecutor mentions of [REDACTED] is not
18 appropriate, because for that witness at that time he was a witness, and as soon
19 as it was known that he was a witness, the conversation stopped. And that
20 there was confusion, which was possible, because [REDACTED] and
21 [REDACTED] who you might confuse from one time to another and it could happen
22 on both sides.

23 You have promised to take steps to find out what happened with regards to
24 this situation with regard to this resource person. You have ensure -- assured
25 the Chamber that you have never asked your resource person to violate

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1 the rules, but have asked them to do their best. Very well.
2 Prosecutor, you have something to add, it would appear to me?
3 MR DUTERTRE: [10:04:53](Interpretation) Yes. Very briefly, your Honour.
4 The example [REDACTED] is perfectly appropriate. There was a first contact that was
5 made by the Defence and it stopped immediately [REDACTED] said that he had
6 given testimony to the Office of the Prosecutor. But, afterwards -- this was in
7 2019, but afterwards, the resource person of the Defence once again contacted
8 [REDACTED] while it had been confirmed [REDACTED] was our witness.
9 That means that -- well, I don't know what happened. But the information
10 isn't going the right way and it's the lead counsel's responsibility to ensure that
11 when it's known that a witness is our witness, there is no more contact. One
12 contact was inappropriate. It stopped and it was done by the resource person.
13 So the second point that I want to make is that it's clear that in [REDACTED] at
14 a certain time, 623 says, and I will get up the message:
15 "I must testify at the ICC tomorrow."
16 And afterwards, it continues. That is completely inappropriate. Not only
17 should it not have happened because it was known that this was a witness, but
18 it reiterated and -- when it's stated, the resource person continues. And that's
19 what's totally unprofessional.
20 Thank you.
21 PRESIDING JUDGE MINDUA: [10:06:25](Interpretation) Very well. Before
22 the Chamber goes to deliberate, I would like to ask a question to Ms Taylor,
23 because for the first case, [REDACTED] you said that when the resource person found
24 out that [REDACTED] was a witness, the conversation stopped.
25 But, the Prosecutor states that some time afterwards, your resource person

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1 retook up contacts with that same witness [REDACTED] So --

2 No, no, Prosecutor.

3 MR DUTERTRE: [10:07:10](Interpretation) (Overlapping speakers) It's just by
4 way of clarification, perhaps I didn't express -- so the first contact was
5 the lawyers and it -- it was confirmed. And then it was the resource person.
6 I expressed myself wrongly.

7 PRESIDING JUDGE MINDUA: [10:07:21](Interpretation) Okay, now
8 everybody's aware of what happened.

9 THE INTERPRETER: [10:07:25] Says the Presiding Judge.

10 PRESIDING JUDGE MINDUA: [10:07:26](Interpretation) So the Prosecutor
11 has added a clarification here. But with regards to yesterday's incident, when
12 the witness says that she's going to testify today; nevertheless, your resource
13 person continues the conversation despite that.

14 So those are two points that I'd like you to explain and then we're going to stop
15 with these exchanges.

16 MS TAYLOR: [10:07:51] Thank you. Regarding [REDACTED] and to give context,
17 the first contact was by the lawyers. Then, Mr Youssef and myself were in
18 Bamako, meeting a source with our resource person. The source mentioned
19 during this meeting that we [REDACTED]

20 Now we did not want to mention in front of the source that this person was
21 a Prosecution witness. So we said nothing in front of this source. We then
22 had to catch a plane.

23 Now, it appears that our resource person, having heard that we [REDACTED]
24 [REDACTED] decided that it would be a good idea for him to
25 speak [REDACTED] in this case it would appear.

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1 As soon as he followed the protocol, he asked if the person was a Prosecution
2 witness or had spoken to the Prosecution, and cut the call.

3 Now, I'm not going to argue that it wasn't inappropriate to continue this
4 communication. I don't know the context. I'm not going to say that it was
5 appropriate for this to have happened.

6 What I can say is that we had given instructions that this should not happen.

7 We had given instructions the person should not be contacted without our
8 consent. We had given specifically to this person a list of witnesses to avoid
9 this happening. And we had asked the person, that in case of doubt, in case
10 they're dealing with victims, for example, to specifically ask if they'd been
11 interviewed by the Prosecution, even if they were not on the list that we had
12 provided.

13 So, I'm afraid I don't know why this communication happened given
14 the instructions we gave, and I don't have enough clarity yet to give that
15 answer on behalf of another person. We will look into it. We are concerned.
16 But that's all I can say at this point, because I'm not here to defend this
17 communication.

18 PRESIDING JUDGE MINDUA: [10:10:22](Interpretation) Thank you very
19 much, Ms Taylor.

20 So the Chamber is now going to withdraw to deliberate on this issue, which is
21 very important, as you can imagine. This is about the integrity of our
22 proceedings.

23 I therefore will suspend the hearing.

24 Court is suspended.

25 THE COURT USHER: [10:10:46] All rise.

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- 1 (Recess taken at 10.10 a.m.)
- 2 (Upon resuming in private session at 10.30 a.m.)
- 3 THE COURT USHER: [10:30:17] All rise.
- 4 Please be seated.
- 5 THE COURT OFFICER: [10:30:37] For your information, your Honours, we
- 6 are still in private session.
- 7 PRESIDING JUDGE MINDUA: [10:30:46](Interpretation) Court shall
- 8 recommence.
- 9 We are still in private session.
- 10 Before continuing, the Chamber will issue an oral decision.
- 11 I'm going to say it in English.
- 12 (Speaks English) Before continuing, the Chamber will render an oral ruling.
- 13 The Chamber, earlier today, ordered that a copy of the record of
- 14 the communication with the resource person and Witness P-0623 be disclosed
- 15 immediately to the Chamber and the Prosecution.
- 16 The record was disclosed this morning; although, it appears not to be complete,
- 17 the Chamber notes that the Defence is obtaining the full record and instructs
- 18 this be provided forthwith.
- 19 The Chamber instructs the Defence to provide the full report on what
- 20 happened for the Chamber to consider.
- 21 The Chamber notes that the Prosecution has not requested to adjourn
- 22 the testimony of P-0623.
- 23 Is it correct, Mr Dutertre?
- 24 MR DUTERTRE: [10:32:53](Interpretation) That's correct, Mr President.
- 25 PRESIDING JUDGE MINDUA: [10:32:59] (Overlapping speakers) Thank you,

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1 Mr Prosecutor.

2 Before we start with the testimony, the Chamber rules that, pending the receipt
3 of the full record, the information provided may not be used during
4 the examination or cross-examination of P-0623.

5 This concludes the oral ruling.

6 (Interpretation) Court officer, may we return to public session, please.

7 (Open session at 10.33 a.m.)

8 THE COURT OFFICER: [10:33:53] We are back to open session, Mr President.

9 PRESIDING JUDGE MINDUA: [10:34:01](Interpretation) So, as expected, we
10 will now hear the testimony of Witness P-0623.

11 Court officer.

12 THE COURT OFFICER: [10:34:28](Interpretation) The witness is currently
13 arriving.

14 PRESIDING JUDGE MINDUA: [10:34:38](Interpretation) Thank you very
15 much, court officer.

16 (Pause in proceedings)

17 THE COURT OFFICER: [10:35:03] For your information, your Honours, you
18 can see the clear view of the witness on channel Witness/VTC1.

19 (The witness enters the video-link location)

20 PRESIDING JUDGE MINDUA: [10:36:25](Interpretation) Court officer, are
21 we ready?

22 THE COURT OFFICER: [10:36:30] (Interpretation) Yes, indeed, we are.
23 The witness is in place or is ready.

24 PRESIDING JUDGE MINDUA: [10:36:35](Interpretation) Thank you.

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1 Good morning, Madam Witness, can you hear me?

2 WITNESS: MLI-OTP-P-0623

3 (The witness speaks English)

4 (The witness gives evidence via video link)

5 THE WITNESS: [10:36:49](Interpretation) Yes, I think you can hear me as well,
6 can you?

7 PRESIDING JUDGE MINDUA: [10:36:51](Interpretation) Can you hear me?

8 THE WITNESS: [10:36:55] Yes, I can hear you.

9 PRESIDING JUDGE MINDUA: [10:36:56](Interpretation) Thank you very
10 much.

11 On behalf of the Chamber, I would like to welcome you here today. You are
12 going to testify to help the Chamber arrive at the truth in the case of
13 Mr Hassan.

14 Madam Witness, protective measures have been put in place so that your
15 identity will not be revealed to the public.

16 Every time that you need to give details which could reveal your identity, we
17 will discuss such matters in private session so that nobody, other than anyone
18 present in the Court, will be able to hear you.

19 Have you understood?

20 THE WITNESS: [10:37:54](Interpretation) Yes.

21 PRESIDING JUDGE MINDUA: [10:38:01](Interpretation) Thank you. We
22 are now going to read your solemn undertaking as part of Rule 66.

23 So, in front of you, you have, I believe, a document on your desk; is that
24 correct?

25 THE WITNESS: [10:38:19](Interpretation) Yes, I do have some piece of paper

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1 here.

2 PRESIDING JUDGE MINDUA: [10:38:26](Interpretation) This is your solemn
3 engagement where you will undertake to say -- or, the full truth. I would like
4 to ask you to read out what is on this document, please.

5 THE WITNESS: [10:39:11](Interpretation) I solemnly declare that I will tell
6 the truth, the whole truth and nothing but the truth.

7 PRESIDING JUDGE MINDUA: [10:39:20](Interpretation) Thank you very
8 much, Madam Witness.

9 You are now under oath. The representatives of the -- the Legal
10 Representative of Victims and witnesses have explained to you what this
11 entails.

12 You -- throughout your testimony, you should remind yourself, you should
13 remember that everything said in this court is transcribed by court reporters
14 and will be translated simultaneously into a number of languages by
15 interpreters. It is, therefore, important to speak clearly and slowly.

16 Please do not start to speak until the person putting the question to you has
17 finished asking the question. Count up to three in your head before replying.

18 This short pause is essential so that your testimony can be recorded correctly.

19 Obviously, if you have any questions, please raise your hand and indicate that
20 you wish to speak.

21 Have you understood me?

22 THE WITNESS: [10:40:59](Interpretation) Yes, I have understood you.

23 PRESIDING JUDGE MINDUA: [10:41:03](Interpretation) Thank you very
24 much.

25 We are now going to hear your testimony. You will be questioned by

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1 the parties, firstly by the Office of the Prosecutor, and then by the Defence, and
2 possibly also by the representatives of the victims and by the Chamber.

3 I will now ask the Prosecution to start their interrogation -- their examination.

4 THE INTERPRETER: [10:41:55] Sorry.

5 PRESIDING JUDGE MINDUA: [10:41:56](Interpretation) Madam Prosecutor.

6 MS YAMAGUCHI: [10:41:57] Thank you, Mr President, and good morning,
7 your Honours.

8 QUESTIONED BY MS YAMAGUCHI:

9 Q. [10:42:02] Madam Witness, good morning. We already met in
10 preparation for your testimony last week, but for the record my name is
11 Yayoi Yamaguchi and I will be asking you questions on behalf of
12 the Prosecution.

13 Have you received the binder that contains the exhibits I would like to show
14 you during your testimony?

15 Madam Witness, can you hear me?

16 A. [10:42:37] Yes, I can hear you. I haven't received the documents yet but
17 (inaudible).

18 Q. [10:42:46] Okay. I will first ask you some questions regarding your
19 professional background, before I turn to events relevant to our case.

20 PRESIDING JUDGE MINDUA: [10:42:57](Interpretation) Madam Prosecutor,
21 do you want to move into private session or will this be in public session?

22 THE WITNESS: [10:43:07] (Overlapping speakers) Is the translation in
23 French -- I think I was supposed to speak in English (Inaudible)

24 MS YAMAGUCHI: [10:43:13] So you're hearing me in French at the moment?

25 THE WITNESS: [10:43:19] Yes. Yes.

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- 1 PRESIDING JUDGE MINDUA: [10:43:24](Interpretation) Witness, which
2 language would you like to speak?
3 Court officer, could you please arrange for her to receive the English version.
4 THE COURT OFFICER: [10:43:39](Interpretation) We will endeavour to
5 change the language in the field office as quickly as possible.
6 PRESIDING JUDGE MINDUA: [10:43:42](Interpretation) But I now have
7 a question while waiting, Madam Prosecution.
8 You want to ask some questions (Overlapping speakers)
9 MS YAMAGUCHI: [10:43:46] Yes, yes, before (Overlapping speakers)
10 PRESIDING JUDGE MINDUA: [10:43:46](Interpretation)(Overlapping
11 speakers) but I think you would need to move into private session.
12 MS YAMAGUCHI: [10:43:55] (Overlapping speakers) I start questioning her
13 about (Overlapping speakers) background, I certainly ask for your leave to go
14 into private session.
15 PRESIDING JUDGE MINDUA: [10:43:58] Yes.
16 MS YAMAGUCHI: [10:43:59] I'll just like to let the witness know that if she
17 feels uncomfortable answering a question in open session, she should let
18 her -- let us know, because ...
19 Madam Witness, can you hear me?
20 A. [10:44:19] Yes, I can hear you, still in French.
21 THE COURT OFFICER: [10:44:28](Interpretation) Mr President, we need to
22 allow a couple of moments for the field technician to change the channel; so I
23 would ask people to wait while this action is completed.
24 MS YAMAGUCHI: [10:44:48] I believe it might be more efficient if we take
25 the break at this point and we reconvene.

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- 1 PRESIDING JUDGE MINDUA: [10:45:02](Interpretation) Madam Prosecutor,
2 you are quite right.
3 And, court officer, why? Why was it put in French? She should be speaking
4 the language she wants to speak.
5 THE COURT OFFICER: [10:45:19](Interpretation) We said -- we were told
6 that she wished to speak in French, and we are going to arrange it so that she
7 can hear the English version.
8 PRESIDING JUDGE MINDUA: [10:45:34](Interpretation) Thank you very
9 much.
10 The Prosecutor has suggested that we could take a break.
11 If the English channel is ready, we can continue. If not, we should take
12 the break. Please could you check.
13 THE COURT OFFICER: [10:45:55](Interpretation) I would like to ask
14 the interpreters to interpret what I say.
15 (Pause in proceedings)
16 THE COURT OFFICER: [10:46:55] Can I ask the interpreters ...
17 (Interpretation) the interpreters, please, and to interpret what I say.
18 Madam Witness, can you hear me in English?
19 THE WITNESS: [10:47:12] Now I hear you in English.
20 THE COURT OFFICER: [10:47:19] Perfect. (Interpretation) Thank you.
21 PRESIDING JUDGE MINDUA: [10:47:24](Interpretation) Prosecutor, now
22 the witness can hear you in English, so to avoid losing any time, we can
23 commence.
24 MS YAMAGUCHI: [10:47:34] (Overlapping speakers) Thank you,
25 Mr President.

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1 Q. [10:47:35] Now, Madam Witness, I'm not sure whether you heard the last
2 thing I told you and so I repeat, if you feel at any point you cannot answer
3 a question in open session, please just let us know and we can seek to go into
4 private session, okay?

5 And also, if any of my questions are not clear at any point, please do not
6 hesitate to stop me and ask me to repeat or rephrase the question.

7 A. [10:48:02] Okay.

8 MS YAMAGUCHI: [10:48:03] Mr President, at this point, I would like to ask
9 to go into private session for about five minutes to cover some identifying
10 information on the witness.

11 PRESIDING JUDGE MINDUA: [10:48:22](Interpretation) Private session,
12 please, court officer.

13 (Private session at 10.48 a.m.)

14 THE COURT OFFICER: [10:48:29] (Interpretation) We are in private session,
15 Mr President.

16 PRESIDING JUDGE MINDUA: [10:48:35](Interpretation) Thank you.

17 MS YAMAGUCHI: [10:48:38]

18 Q. [10:48:39] Madam Witness, could you please state your full name.

19 A. [10:48:42] My full name is [REDACTED]

20 Q. [10:48:44] And could you tell us your date of birth and place of birth.

21 A. [10:48:48] I was born on [REDACTED]

22 Q. [10:48:54] And what is your current occupation?

23 A. [10:48:56] I'm a [REDACTED]

24 Q. [10:48:59] So did you [REDACTED]?

25 A. [10:49:03] Yes.

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1 Q. [10:49:03] Could you tell us when and where?

2 A. [10:49:06] I [REDACTED]

3 between [REDACTED].

4 Q. [10:49:16] How many years have you been [REDACTED]?

5 A. [10:49:20] I've [REDACTED]

6 and until now, so that's [REDACTED] years.

7 Q. [10:49:30] Do you focus on any particular country or region [REDACTED]

8 as [REDACTED]?

9 A. [10:49:42] I focus [REDACTED] and, particularly, [REDACTED]

10 [REDACTED] Mali, [REDACTED]

11 Q. [10:49:49] You mentioned you [REDACTED] Do you

12 [REDACTED] at the moment?

13 A. [10:49:57] My [REDACTED]

14 Q. [10:50:01] And since when [REDACTED]?

15 A. [10:50:04] Since [REDACTED]

16 Q. [10:50:08] In 2012, were you [REDACTED]

17 organisation?

18 PRESIDING JUDGE MINDUA: [10:50:18](Interpretation) Madam Prosecutor,

19 as you are speaking the same language as the witness --

20 MS YAMAGUCHI: [10:50:23](Overlapping speakers) Indeed, Mr President.

21 PRESIDING JUDGE MINDUA: [10:50:24](Interpretation)(Overlapping

22 speakers) -- it is necessary to observe a pause --

23 MS YAMAGUCHI: [10:50:24](Overlapping speakers) Apologies.

24 PRESIDING JUDGE MINDUA: [10:50:24](Interpretation)(Overlapping

25 speakers) -- between the speakers.

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1 MS YAMAGUCHI: [10:50:29] (Overlapping speakers) And Madam Witness,
2 also please give three, five seconds between your answer and my question.

3 A. [10:50:35] Yes.

4 Q. [10:50:36] Now, in 2012, which country was your main focus?

5 A. [10:50:44] In 2012, my main focus was Mali.

6 Q. [10:50:50] Where were you based at the time?

7 A. [10:50:53] As of February/March 2012, I was based in Bamako.

8 Q. [10:51:03] Did you stay in Mali throughout the year 2012?

9 A. [10:51:11] I was in Mali roughly between February [REDACTED] 2012, when I

10 [REDACTED] for a few months. I [REDACTED] Mali in

11 [REDACTED] stay there pretty much throughout the year, [REDACTED]

12 [REDACTED]

13 Q. [10:51:35] So you stayed in Mali until the end of 2012?

14 A. [10:51:45] I [REDACTED]

15 Q. [10:51:51] While you were outside of Mali in 2012, did you continue to
16 follow and report on the situation in Mali?

17 A. [10:52:01] Yes.

18 Q. [10:52:04] How many years in total did you stay in Mali?

19 A. [10:52:10] I stayed in Mali [REDACTED] for most of the time. I

20 had a few periods where [REDACTED] and also in

21 [REDACTED]

22 Q. [10:52:25] So the last time you were based in Mali was [REDACTED]?

23 A. [10:52:32] Yes.

24 Q. [10:52:35] And now, do you [REDACTED]

25 [REDACTED]

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1 A. [10:52:41] [REDACTED]

2 MS YAMAGUCHI: [10:52:48] Mr President, could we please go back to open
3 session.

4 PRESIDING JUDGE MINDUA: [10:52:54](Interpretation) Court officer, can
5 we return to open session, please.

6 MS YAMAGUCHI: [10:53:03] Apologies, Mr President, one -- the answer to
7 one question was not recorded in the transcript, so we would have to go back
8 to private session, just briefly, to cover that point.

9 PRESIDING JUDGE MINDUA: [10:53:20](Interpretation) Court officer,
10 private, please.

11 THE COURT OFFICER: [10:53:24] We are still in private session,
12 Mr President.

13 PRESIDING JUDGE MINDUA: [10:53:30](Interpretation) Thank you.
14 Madam Prosecutor.

15 MS YAMAGUCHI: [10:53:33]

16 Q. [10:53:34] Madam witness, I will just have to repeat one question which
17 was not recorded. Were you [REDACTED] or as
18 [REDACTED] in 2012?

19 A. [10:53:49] [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 MS YAMAGUCHI: [10:54:07] Thank you, Madam Witness.
23 Mr President, we could now go back to open session, but I would have a series
24 of questions which might be better to be covered in one go. So if we could
25 please take a break at this point.

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- 1 PRESIDING JUDGE MINDUA: [10:54:26](Interpretation) Very well.
- 2 Court officer, open session, please.
- 3 (Open session at 10.54 a.m.)
- 4 THE COURT OFFICER: [10:54:42] We are in open session, Mr President,
- 5 your Honours.
- 6 PRESIDING JUDGE MINDUA: [10:54:47](Interpretation) At the request of
- 7 the Prosecution, we are now going to take a slightly earlier break today.
- 8 We will start again at 11.30, as usual.
- 9 The hearing is suspended.
- 10 THE COURT USHER: [10:55:06] All rise.
- 11 (Recess taken in private session at 10.55 a.m.)
- 12 (Upon resuming in open session at 11.32 a.m.)
- 13 THE COURT USHER: [11:31:45] All rise.
- 14 Please be seated.
- 15 PRESIDING JUDGE MINDUA: [11:32:08](Interpretation) Court is now in
- 16 session.
- 17 We will continue with the examination of the Prosecutor.
- 18 Madam Prosecutor, you have the floor.
- 19 MS YAMAGUCHI: [11:32:22] Thank you, Mr President.
- 20 Q. [11:32:38] Now, Madam Witness, we will stay in closed -- in open session
- 21 for some time, so please be careful not to mention your identifying information.
- 22 For example, your country or region of your origin or specific media outlets
- 23 you worked for. Okay?
- 24 A. [11:32:59] Okay.
- 25 Q. [11:32:59] You mentioned that you arrived in Mali in February or

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1 March 2012. Could you tell us why you decided to go to Mali at that
2 particular point in time?

3 A. [11:33:14] The rebellion had started in northern Mali a few months before,
4 and I was interested in, in covering those events.

5 Q. [11:33:31] When you refer to rebellion, which groups were involved in
6 that rebellion?

7 A. [11:33:39] At the time we were aware that there was a -- Tuareg groups.
8 One grouped known as the MNLA, the National Movement for the Liberation
9 of Azawad.

10 Q. [11:33:59] After you arrived in Mali, what happened in relation to that
11 rebellion?

12 A. [11:34:07] The rebels moved forward. They took a few towns. And
13 then, in March, I believe this was on 21 March, there was a military coup that
14 ousted President Amadou Toumani Touré, and, after that, the rebels spread
15 rapidly south and took Kidal and Timbuktu and Gao.

16 Q. [11:34:36] And these were MNLA rebels that took control of those cities?

17 A. [11:34:46] In the beginning it was MNLA, together with local regional
18 jihadists groups, mainly Ansar Dine and also MUJAO.

19 Q. [11:35:04] You mentioned that you were based in Bamako at that time.
20 Did you visit any other cities?

21 A. [11:35:13] The plan was to go north, but because of the events and
22 insecurity, I stayed in Bamako.

23 Q. [11:35:23] So you did not travel to the north of Mali in 2012?

24 A. [11:35:32] In 2012, I travelled to Mopti and Sevare, which is in the centre
25 of Mali.

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1 Q. [11:35:42] Just briefly, could you explain what you did in Mopti and
2 Severe.

3 A. [11:35:52] At that time, the rebels and their jihadist allies had taken
4 the town of Douentza, which was a couple kilometres north of Mopti and
5 Severe, and Mopti and Severe was basically the border to -- to Azawad or
6 the territories held by jihadists. So I spoke to local authorities, and I also met
7 with people who had fled occupied cities, such as Gao and Timbuktu.

8 * Q. [11:36:28] What was the main focus of your reporting at that time?

9 A. [11:36:34] Well, the main focus was the occupation by a -- jihadist groups
10 and the rebels of the main towns and then trying to understand what
11 the situation was like in these areas under, under Islamist control.

12 Q. [11:36:54] And how did you collect information relevant to reporting
13 about the situation in the north?

14 A. [11:37:03] I met with people who had left the cities. I also spoke to
15 people who were still in, in Gao, Kidal and Timbuktu. I spoke to local
16 authorities, local leaders, anyone who could have information about the events,
17 and also contacted the armed groups and the militants.

18 Q. [11:37:38] Did you have any other sources of information at the time?

19 A. [11:37:41] People who had fled were my main sources. Of course, I
20 followed the news from other news agencies as well. But trying to get as
21 much sources on the ground as possible.

22 Q. [11:37:59] And how did you establish contacts with people in the north?

23 A. [11:38:04] Through people who had either fled and would give me
24 contacts to -- to people who were still in the north. I also had a few friends in
25 Bamako with families in Gao and Timbuktu that would give me contacts.

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1 There were a few spokespeople from the militant groups that I was also in
2 touch with.

3 Q. [11:38:33] I will come back to your contacts with members of the armed
4 groups or the spokesperson that you referred to a bit -- just a little bit later in
5 my questions.

6 So when you contacted people in the north, which means of communication
7 did you use?

8 A. [11:38:50] It was, it was phone calls, mostly, yeah.

9 Q. [11:38:59] And at that time, did you have one or multiple phone
10 numbers?

11 A. [11:39:06] I had multiple phone numbers, and sometimes I would also use
12 the phones of my contacts to, to ensure that they would speak to me. That
13 they knew which number was calling them.

14 Q. [11:39:23] I will be asking you about those numbers you used to contact
15 people in the north at a later stage.

16 Let me first ask you how you conducted your interviews. Which language
17 did you use to talk to people in Mali?

18 A. [11:39:42] I used French.

19 Q. [11:39:51] And what's your level of French at that time?

20 A. [11:39:56] It was at a beginner's level, but I could make myself understood,
21 as long as I spoke within the issues that I knew about.

22 Q. [11:40:13] Were there occasions when you'd use an interpreter while
23 conducting interviews in French?

24 A. [11:40:19] Yes.

25 Q. [11:40:21] Did you use always a same interpreter?

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1 A. [11:40:27] Most of the time I used the same interpreter. It would vary if
2 the interpreter didn't speak the local language that the person I wanted to
3 speak to spoke in. Then I would -- I would use another interpreter.

4 Q. [11:40:42] When you refer to local languages, which languages are you
5 talking about?

6 A. [11:40:50] For the north, mainly Songhay and Tamasheq, but also
7 Bambara, which is widely spoken in Mali and it's a language that I don't speak.
8 I think we lost audio again.

9 Q. [11:41:24] Sorry. After you collected the information from people, either
10 fleeing from the north or who stayed in the north, what did you do?

11 A. [11:41:32] I, I wrote articles. I had a few commissions to -- to actually
12 portray the situation in the north from speaking to people who had fled and
13 those who were returning. So I did my reporting for -- for different media
14 channels.

15 Q. [11:41:53] Once you received such information, did you take any steps to
16 verify the information?

17 A. [11:42:01] The media I was working for at that time always required that I
18 had at least two sources. So I would try to verify it again with local leaders,
19 local authorities, those who were still in the occupied towns. And I would
20 also try to get in touch with the -- with armed groups and their spokespeople to
21 verify the info.

22 Q. [11:42:25] When you refer to local authorities, who exactly are you -- do
23 you mean?

24 A. [11:42:34] Mayors, village chiefs, also religious leaders, specifically in
25 Timbuktu. I won't (inaudible) a few religious leaders to verify events.

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1 Q. [11:42:52] Did you take notes or recordings of the interviews you
2 conducted?

3 A. [11:42:58] Always notes, because it was on the phone and the phone lines
4 didn't permit recording anything that would have been audible.

5 Q. [11:43:09] And do you still have those notes of interviews you conducted
6 in Mali in 2012?

7 A. [11:43:21] (Interpretation) I think the video connection has stopped.

8 Q. [11:43:41] Madam Witness, can you hear me?

9 THE COURT OFFICER: [11:43:55] It should be working now.

10 MS YAMAGUCHI: [11:43:58]

11 Q. [11:43:59] Madam Witness, can you hear me?

12 A. [11:44:01] Yes, now I can hear you again.

13 Q. [11:44:03] Great. Now, I was asking if you still had notes you took of the
14 interviews you conducted in Mali in 2012?

15 A. [11:44:13] Unfortunately, I don't. I was travelling for quite a while in
16 2013 and my notes were kept in a house where they didn't survive very well.
17 So I actually got rid of those notebooks when I, when I finally moved.

18 Q. [11:44:30] You mention that you had contacts with members of armed
19 groups, including spokespersons. Can you tell us which cities these members
20 of the armed groups were situated at that time?

21 A. [11:44:45] They were in Gao and Timbuktu.

22 Q. [11:44:50] And who were the members of the armed groups in Timbuktu
23 you talked to?

24 A. [11:44:57] In Timbuktu, I had most of the contact with the Ansar Dine
25 spokesperson, [REDACTED]

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1 Q. [11:45:13] Did you talk to any other person and any other member of the
2 armed groups in Timbuktu?

3 A. [11:45:21] Once or twice I was trying to get in touch with the head of the
4 Islamic police, known as Al Hassan.

5 Q. [11:45:40] If I could first focus on Al Hassan. When did you first hear
6 about this person?

7 A. [11:45:47] In the summer of 2012, so around June/July, I would say, from
8 people who were fleeing told me about the head of the Islamic police who was
9 enforcing punishments handed out for, for drinking, smoking, listening to
10 music or for women not covering up accordingly to the -- to the Islamist's rules.

11 Q. [11:46:23] You mentioned he was handing out punishments. Did these
12 people who told you about Al Hassan mention exactly what type of
13 punishments he was involved in?

14 A. [11:46:39] From what I understood, it was floggings. In Timbuktu, it
15 was particularly women that were subjected to these punishments for not
16 covering up in the market, for example. Market women were required to
17 wear gloves at a point, and, Mali, in June/July is pretty hot, so I can understand
18 that they weren't covering up as they should be.

19 Q. [11:47:06] And how did you contact Al Hassan after hearing about him
20 from civilians?

21 A. [11:47:13] I would always try -- well, first of all, try to get contacts for people
22 who were either in the city or who would be close to the armed groups and
23 then phone calls.

24 MS YAMAGUCHI: [11:47:36] Mr President, I would like to go into private
25 session for just a couple of minutes to ask the witness from whom she obtained

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1 Al Hassan's phone number.

2 PRESIDING JUDGE MINDUA: [11:47:47](Interpretation) Private session, if
3 you would be so kind, court officer.

4 (Private session at 11.47 a.m.)

5 MS YAMAGUCHI: [11:47:56]

6 Q. [11:47:56] Madam Witness (Overlapping speakers)

7 THE COURT OFFICER: [11:47:56] We are private session.

8 MS YAMAGUCHI: [11:47:58] Thank you.

9 PRESIDING JUDGE MINDUA: [11:48:01](Interpretation) Thank you very
10 much, court officer. Prosecutor.

11 MS YAMAGUCHI: [11:48:06]

12 Q. [11:48:09] So, you mention that you talked to Al Hassan on the phone and
13 people fleeing from Timbuktu told you about him. Do you remember any
14 specific person who told you about Al Hassan?

15 A. [11:48:24] No, I don't. It was family members fleeing. I can't give any
16 names or a specific person. There were [REDACTED] in Timbuktu
17 who travelled between Timbuktu and Bamako and they would also speak to
18 him, and those names I know, of course.

19 Q. [11:48:46] And how did you obtain Al Hassan's phone number?

20 A. [11:48:51] I believe it was given to me through [REDACTED]
21 [REDACTED] that I usually work with
22 didn't have his contacts, so I had to -- to try people in Timbuktu.

23 Q. [11:49:08] Do you recall the name [REDACTED]?

24 A. [11:49:10] His name is [REDACTED]

25 Q. [11:49:15] Could you spell us his name?

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1 A. [11:49:19] The way I spell it was [REDACTED]

2 Q. [11:49:33] Thank you. So after you obtained his number, did you save it
3 in your phone contact list?

4 A. [11:49:42] I didn't save it on -- well, I -- I assume I saved it at the time. I
5 haven't been able to recover it. I had two phones at the time and the -- the
6 other phone, I can't, I can't check the -- the numbers any more. It's not
7 cooperating.

8 Q. [11:50:08] Now, I know it happened eight years ago, but do you recall
9 when was the first time you talked to Al Hassan on the phone?

10 A. [11:50:15] No, I don't. It was -- I know that I heard about the destruction
11 of the mausoleums. That was in June/July 2012, I think, enough that I was
12 trying to get in touch with Mr Al Hassan to, to understand why they had
13 decided to destroy the mausoleums. So my guess would be June/July, but I
14 can't remember the first time.

15 I also have to clarify that I -- I didn't speak to him directly, because we don't
16 speak the same language.

17 Q. [11:50:48] Does that mean you had an interpreter?

18 A. [11:50:50] Yes.

19 Q. [11:50:52] And which, which language were they speaking?

20 A. [11:50:59] I wouldn't be able to tell at the point. I couldn't clearly differ
21 between Songhay and Bambara and I still struggle to hear the difference
22 between those two languages.

23 Q. [11:51:13] Could you explain how you conducted this interview through
24 an interpreter? Was it translated live or after the conversation?

25 A. [11:51:23] It was translated after the conversation.

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1 Q. [11:51:34] Do you recall which phone you used? You mentioned you
2 had two phones.

3 A. [11:51:37] No, I don't.

4 Q. [11:51:38] And do you remember which number you used?

5 A. [11:51:43] It was likely my Malitel number, but I can't say. It's also
6 possible that I called through the interpreter so that the person would know
7 who was calling.

8 Q. [11:51:55] So the [REDACTED] Al Hassan before you conducted
9 the interview?

10 A. [11:52:02] [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 Q. [11:52:12] So was [REDACTED]?

14 A. [11:52:17] I believe [REDACTED] actually. He was in Bamako at the
15 time when I met him.

16 Q. [11:52:30] And how did you meet this [REDACTED] interpreter?

17 A. [11:52:36] We met at a hotel in Bamako where I used to -- to come and
18 work sometimes when the -- when -- because I didn't have internet at home.

19 Q. [11:52:48] Now, when you were first talking to Al Hassan, do you
20 remember who had the phone in the hand?

21 A. [11:52:56] It was likely the interpreter.

22 Q. [11:53:11] Do you recall what you first said through an interpreter to
23 Al Hassan?

24 A. [11:53:18] I would always make sure that I was introduced and explain
25 that I was [REDACTED] And then I would proceed with questions about

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1 the event that I was enquiring about. In, in this case, it would have been
2 the destruction of the mausoleums.

3 Q. [11:53:38] At the beginning of the conversation, did you ask for his name?

4 A. [11:53:45] No, I didn't. Well, I mean I -- I asked if it was him, of course.
5 I was making sure that it was the person I spoke to and I was ensured by -- I
6 was ensured by the interpreter that, yes, indeed it was him.

7 Q. [11:54:00] Does that mean the interpreter initially asked Al Hassan if it's
8 him on the line?

9 A. [11:54:09] I can't remember what exactly was said.

10 Q. [11:54:15] Do you recall what was the response from Al Hassan?

11 A. [11:54:19] I can't say that either. It wasn't me actually on the phone.

12 Q. [11:54:27] But your interpreter assured you that the person on the line
13 was Al Hassan. Is that correct?

14 A. [11:54:33] Yes.

15 Q. [11:54:39] Now, during your first phone call with Al Hassan, what did
16 you talk about? So you mentioned that it was about destruction of
17 mausoleums. Exactly what did you ask him?

18 A. [11:54:54] I would try to ask detailed questions: What had happened?
19 When it had happened? Why? Sort of always trying to confirm information
20 that I got through other sources.

21 Q. [11:55:11] And do you recall what he said?

22 A. [11:55:16] I mean, again, through the interpreter, confirming the events,
23 the destruction of mausoleums. Why they had done it. When it had taken
24 place.

25 Q. [11:55:30] And what did he say in response to your questions?

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1 A. [11:55:37] I mean, it was -- it was the response that they would always
2 give that: Yes, indeed, the mausoleums had been destroyed and this was
3 being done because it was against the form of Islam that the jihadists were
4 prescribing or had put in place.

5 Q. [11:55:57] Do you recall what his demeanour was like during this
6 conversation?

7 A. [11:56:08] I remember his answers as very short, which I interpreted as
8 that he was either aggravated or not particularly happy to speak to me.

9 Q. [11:56:24] Did you take notes of that conversation?

10 A. [11:56:28] I always took notes. Unfortunately, I don't have them with me
11 anymore.

12 Q. [11:56:36] Was there any other occasion when you talked to Al Hassan?

13 A. [11:56:42] There was one case where [REDACTED]
14 [REDACTED] I enquired about [REDACTED] who had been
15 arrested by the Islamic police. [REDACTED]

16 [REDACTED]
17 [REDACTED]

18 Q. [11:57:09] So [REDACTED] about the detained
19 [REDACTED] didn't know where [REDACTED] were held?

20 A. [11:57:20] [REDACTED] had been taken by the Islamic police
21 and then they would be at their headquarters in Timbuktu. But [REDACTED]

22 [REDACTED]

23 Q. [11:57:40] Do you recall when this conversation took place?

24 A. [11:57:47] Again, I believe it was between June/July/August or
25 the summer of 2012.

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1 Q. [11:58:00] And do you recall whose phone you used on this occasion?

2 A. [11:58:08] No, I don't.

3 Q. [11:58:15] And do you recall which phone number you used to make this
4 call?

5 A. [11:58:22] No, I don't recall that either.

6 Q. [11:58:25] Sorry, I'm asking very detailed questions about these phone
7 conversations, but it's quite important, so please bear (Overlapping speakers)

8 A. [11:58:31] (Overlapping speakers) I understand --

9 Q. [11:58:33] (Overlapping speakers) with us.

10 A. [11:58:34] (Overlapping speakers) yes.

11 Q. [11:58:35] For the conversation with Al Hassan about [REDACTED]

12 did you also use an interpreter as the other occasion?

13 A. [11:58:44] Yes.

14 Q. [11:58:50] And was that the same person as the other occasion?

15 A. [11:59:02] I can't remember exactly which person it was. It would have
16 been the same person, but I can't say for sure.

17 Q. [11:59:10] And was that the same procedure as the previous time, so
18 translated after the conversation?

19 A. [11:59:23] Yes.

20 Q. [11:59:29] At the beginning of that call, do you remember if you asked
21 who was on the line through the interpreter?

22 A. [11:59:41] The interpreter assured me who was on the line, but I wasn't
23 able to do that myself.

24 Q. [11:59:55] Now, during the phone call, what exactly did you ask

25 Al Hassan?

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1 A. [12:00:04] I -- I can't remember exactly. But I -- of course I would have
2 enquired, asked about [REDACTED] whereabouts, but I can't remember
3 what the response was.

4 Q. [12:00:21] So he did not tell you exactly where [REDACTED] were held?

5 A. [12:00:33] According to the interpreter, no, they would have been held at
6 the Islamic police, but I can't remember whether he confirmed that or not.

7 Q. [12:00:49] Do you know what happened to [REDACTED] afterwards?

8 A. [12:01:00] I believe they were released.

9 Q. [12:01:10] What was his demeanour like during this phone conversation?

10 A. [12:01:18] The answers were very short, as the last time.

11 Q. [12:01:25] And how long was this phone call, approximately?

12 A. [12:01:32] Very, very short both times. A few minutes. They were
13 never long conversations.

14 Q. [12:01:39] And did you take notes of that conversation?

15 A. [12:01:44] I believe not in this case, because I wasn't particularly
16 reporting.

17 Q. [12:01:59] Was there any other occasions when you contacted Al Hassan?

18 A. [12:02:06] It's possible. I mean, again, I called these people quite a few
19 times, phone connections wasn't great with Timbuktu. But not any other
20 conversation that I can remember.

21 Q. [12:02:21] How many times in total do you think you contacted
22 Al Hassan?

23 A. [12:02:27] Probably at least a dozen times, possibly more.

24 Q. [12:02:36] Were there occasions when you called the number -- called his
25 number but could not reach him?

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1 A. [12:02:45] That's quite likely, yes, that -- that I tried to make several phone
2 calls, both to him and other spokespeople of the -- of the armed groups,
3 without getting through.

4 Q. [12:02:59] Was there any occasion when someone else picked up this
5 phone call you made to his number?

6 A. [12:03:07] Not that I can recall, no.

7 Q. [12:03:15] Did you publish any articles on the basis of the information you
8 collected from Al Hassan?

9 A. [12:03:22] On [REDACTED] Concerning [REDACTED]
10 I didn't write anything directly.

11 Q. [12:03:35] And why did you try to call him dozens of times?

12 A. [12:03:47] To confirm events that happened in Timbuktu. There were
13 reports about floggings and other public punishments and trying to confirm
14 whether they had happened or not.

15 Q. [12:04:03] Just to be clear, so were you able to talk to him a dozen times?

16 A. [12:04:08] No.

17 Q. [12:04:14] I will turn to your contact with [REDACTED] whom
18 you referred to as the [REDACTED]

19 How did you learn about him?

20 A. [12:04:27] He was being quoted in news articles and I understood that [REDACTED]

21 [REDACTED]
22 Timbuktu.

23 Q. [12:04:39] And how did you obtain [REDACTED] phone number?

24 A. [12:04:45] Through a fixer.

25 Q. [12:04:47] And who was this?

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- 1 A. [12:04:52] We're in closed doors now, right?
- 2 Q. [12:04:56] Yes.
- 3 A. [12:04:56] Yes, it was a fixer I was working with at the time. His name is
- 4 [REDACTED]
- 5 Q. [12:05:00] Could you spell his name for us?
- 6 A. [12:05:02] [REDACTED]
- 7 Q. [12:05:11] And do you know how your fixer obtained [REDACTED] number?
- 8 A. [12:05:17] No, I don't.
- 9 Q. [12:05:23] Once you obtained [REDACTED] number, did you save it in your
- 10 phone contact list?
- 11 A. [12:05:28] Yes, I did.
- 12 Q. [12:05:30] Do you still have it in your phone?
- 13 A. [12:05:33] Yes, I do.
- 14 Q. [12:05:37] Do you remember being asked for [REDACTED] number during your
- 15 interview with the ICC office -- OTP investigators in [REDACTED]?
- 16 A. [12:05:48] Yes (Overlapping speakers)
- 17 Q. [12:05:50] (Overlapping speakers) [REDACTED] sorry --
- 18 A. [12:05:55] [REDACTED] right (Overlapping speakers)
- 19 Q. [12:05:56] And (Overlapping speakers)
- 20 A. [12:05:56] -- but, yes.
- 21 PRESIDING JUDGE MINDUA: [12:05:59](Interpretation) Please, could you
- 22 try and slow down. Thank you.
- 23 MS YAMAGUCHI: [12:06:04]
- 24 Q. [12:06:04] And did you provide [REDACTED] number to the OTP investigators?
- 25 A. [12:06:09] Yes, I did.

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1 Q. [12:06:13] And how did you retrieve his phone number at the time?

2 A. [12:06:20] You mean, from my phone? Yes, I -- no, I -- I retrieved it from
3 my phone book.

4 Q. [12:06:27] And can you recall the number?

5 A. [12:06:32] I can't recall the number by heart, no.

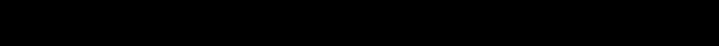
6 Q. [12:06:38] Was his number recorded in your statement which you signed
7 after, at the end of the interview?

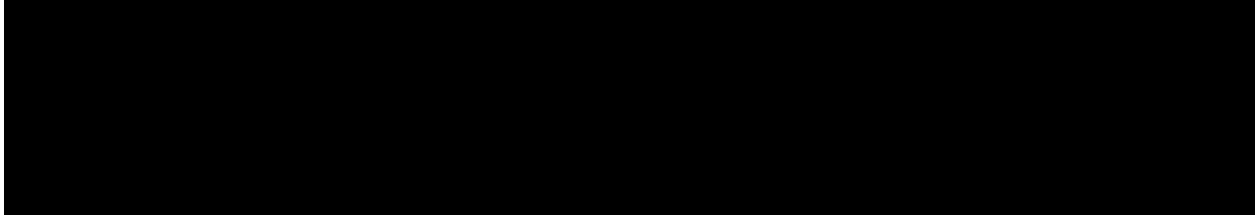
8 A. [12:06:44] Yes, it was.

9 MS YAMAGUCHI: [12:06:47] Mr President, I would like to seek
10 your Honours' permission to show the relevant part of her statement to refresh
11 her memory regarding the specific phone number. Obviously, this is
12 the number she used; that she called seven/eight years ago and she obviously
13 cannot remember it by heart.

14 But her evidence on this point is important in connection with other evidence,
15 including call data records. So if we could please give some assistance for her
16 to remember it, we'd be grateful.

17 PRESIDING JUDGE MINDUA: [12:07:34](Interpretation) I will authorise
18 showing this number. But are we -- I have a further question, are we going to
19 continue in private session?

20 MS YAMAGUCHI: [12:07:50] 

21 

22

23

24 PRESIDING JUDGE MINDUA: [12:08:16](Interpretation) Yes.

25 Court officer, please could we move to public session.

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- 1 (Open session at 12.08 p.m.)
- 2 THE COURT OFFICER: [12:08:34] We are in open session, Mr President.
- 3 PRESIDING JUDGE MINDUA: [12:08:42](Interpretation) Thank you very
- 4 much, court officer.
- 5 Madam Prosecutor.
- 6 MS YAMAGUCHI: [12:08:47]
- 7 Q. [12:08:48] Madam Witness, please turn to tab 32 in your binder.
- 8 A. [12:08:56] (Inaudible)
- 9 Q. [12:08:59] And the ERN is MLI-OTP-0068-(Inaudible)
- 10 A. [12:08:60] (Overlapping speakers)
- 11 Q. [12:08:61] -- 52.
- 12 A. [12:09:21] (Interpretation) That's with the phone number; is that correct?
- 13 PRESIDING JUDGE MINDUA: [12:09:28](Interpretation) Madam Witness?
- 14 THE WITNESS: [12:09:30](Overlapping speakers) *Oui?* (Overlapping
- 15 speakers)
- 16 PRESIDING JUDGE MINDUA: [12:09:30](Interpretation) Madam Witness,
- 17 please, could you make less noise in the room where you are.
- 18 Madam Prosecutor, the witness is (Overlapping speakers)
- 19 MS YAMAGUCHI: [12:09:43] (Overlapping speakers) Yes, the ERN is
- 20 MLI- (Overlapping speakers)
- 21 PRESIDING JUDGE MINDUA: [12:09:47](Interpretation)(Overlapping
- 22 speakers) asking which number it is.
- 23 MS YAMAGUCHI: [12:09:50] (Overlapping speakers) OTP-0068-4352.
- 24 PRESIDING JUDGE MINDUA: [12:10:23](Interpretation) Madam Prosecutor,
- 25 could you say (Overlapping speakers)

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- 1 MS YAMAGUCHI: [12:09:25] It's tab (Overlapping speakers)
- 2 PRESIDING JUDGE MINDUA: [12:10:25](Interpretation)(Overlapping
3 speakers)
- 4 MS YAMAGUCHI: [12:10:32] (Overlapping speakers) 32.
- 5 PRESIDING JUDGE MINDUA: [12:10:34](Interpretation)(Overlapping
6 speakers) tab, please. *Merci beaucoup.*
- 7 THE COURT OFFICER: [12:10:42] Just for the sake of clarity, there are three
8 redacted versions of the same document. Which version should be displayed
9 on the screen?
- 10 MS YAMAGUCHI: [12:10:55] Please do not broadcast this statement, but you
11 can show in the evidence channel the version without the redactions.
12 (Pause in proceedings)
- 13 THE COURT OFFICER: [12:12:05](Interpretation) I am told that in the field,
14 they are looking for the document. But perhaps it would be quicker if we can
15 put it on the screen.
- 16 But we have three versions; perhaps version 3 would be the least redacted, so
17 we could use version R03 confidentially.
- 18 PRESIDING JUDGE MINDUA: [12:12:33](Interpretation) Yes, that's fine.
19 Please go ahead.
- 20 THE COURT OFFICER: [12:13:08](Interpretation) So you now should be able
21 to see it on your screens, evidence 1 and (Overlapping speakers)
- 22 THE INTERPRETER: [12:13:18] Overlapping speakers.
23 (Pause in proceedings)
- 24 THE COURT OFFICER: [12:13:41](Interpretation) I am told that the witness
25 has the document.

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1 MS YAMAGUCHI: [12:13:50]

2 Q. [12:13:51] Madam Witness, do you have the document?

3 A. [12:13:54] I have the document on the screen, yes.

4 Q. [12:13:57] Okay. Please go to paragraph 60 on page 11.

5 A. [12:14:09] (Interpretation) 60 on page 11.

6 PRESIDING JUDGE MINDUA: [12:14:25](Interpretation) Court officer, how
7 are we going to resolve this problem of noise in the field office?

8 I think that the witness still has her mic open. This is a problem.

9 THE COURT OFFICER: [12:14:48](Interpretation) Perhaps they could move
10 away from the microphone when they're looking for documents. But it is not
11 practical to switch the microphone on and off on each occasion, because there
12 can be interruptions in the field.

13 I will ask the court officer in the field to try and resolve this problem of
14 the noise disturbance and perhaps he can step away from the witness when
15 he's trying to find the page.

16 PRESIDING JUDGE MINDUA: [12:15:26](Interpretation) Thank you very
17 much, court officer. Thank you very much for your efforts, here.

18 Madam Prosecutor.

19 MS YAMAGUCHI: [12:15:36]

20 Q. [12:15:36] Madam Witness?

21 A. [12:15:39] Yes. It seems we don't have that document here. It's only
22 copies of my articles in front of me. I can see the document on the screen, if
23 that's okay.

24 Q. [12:15:49] Yes, that's okay.

25 A. [12:15:51] Okay. Well then, I can see the number, yeah.

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1 Q. [12:15:54] Okay. So paragraph 60 on page 11, which corresponds to
2 MLI-OTP-0068-4362, reads, and I quote: "The number I still have on my
3 phone attached to Sanda's name is: [REDACTED]"

4 Does this refresh your memory?

5 A. [12:16:24] Yes, that's the -- Sanda's number that I had saved on my phone
6 at the time.

7 Q. [12:16:35] Thank you. Now, how many times in total did you talk to
8 Sanda?

9 A. [12:16:41] Hard to say exactly, but I would guess I spoke to him about
10 a dozen times and tried to call him quite a few more times.

11 Q. [12:16:51] Generally speaking, what type of information or event
12 prompted you to call Sanda?

13 A. [12:17:00] It would be -- we would hear that there's been a flogging or
14 a public, how do you say, prosecution in Timbuktu and then I would call to, to
15 confirm the information with Sanda. The destruction of the mausoleums, for
16 example, that would be one of those cases when I called him.

17 Q. [12:17:28] Can you give -- so you mentioned destruction of mausoleums,
18 can you give us any other examples where you would call Sanda if you hear
19 about it?

20 A. [12:17:40] I believe there was one time they were punishing a woman for,
21 for adultery, for being unfaithful in a marriage, and then I called Sanda.
22 There was also the time when they broke with the MNLA, when the alliance
23 between the rebels and the Islamists fell apart. I would also call them to
24 confirm.

25 Q. [12:18:17] Did you talk about any specific form of punishments that were

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1 meted out against women, for example, who were unfaithful in a marriage?

2 A. [12:18:28] In that case there was the, the stoning of -- which was
3 the punishment for being unfaithful.

4 Q. [12:18:44] Do you know if there was any case of stoning in Timbuktu?

5 A. [12:18:53] There was at least one case of stoning of a woman in Timbuktu.

6 Q. [12:19:09] Did you also talk with Sanda any other type of crimes in
7 the view of the armed groups that could be the subject of punishments?

8 A. [12:19:26] The, the worshiping of saints was not allowed, so, again,
9 the destruction of the mausoleums.

10 Q. [12:19:42] Did Sanda explain to you why his group was doing all this?

11 A. [12:19:52] It was against the strict form of Sharia and Islam that they had
12 imposed in Timbuktu at that time.

13 Q. [12:20:07] Do you recall when was the first time you talked to Sanda on
14 the phone?

15 A. [12:20:14] I believe again it was between May or June 2012, and then I
16 know I called him a dozen times after that, but May or June.

17 Q. [12:20:29] Do you recall whose phone you used?

18 A. [12:20:34] I believe I used my phone at the time, so I was calling him from
19 an Orange number.

20 Q. [12:20:44] In which language did you speak to Sanda?

21 A. [12:20:50] With Sanda I spoke French, so we communicated in French.

22 Q. [12:20:58] So there was no interpreter involved in the conversations with
23 Sanda; would that be correct?

24 A. [12:21:06] I would be able to speak to -- myself, but I would most of the
25 time have an interpreter present if there was a question that I couldn't

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1 formulate in French.

2 Q. [12:21:22] At the beginning of your first call with Sanda, did you ask who
3 was on the line?

4 A. [12:21:31] Yes.

5 Q. [12:21:37] And what was the response?

6 A. [12:21:43] He confirmed that he was indeed Sanda Ould Boumama.

7 Q. [12:21:53] Do you recall what was the subject you talked about during
8 your first phone call with Sanda?

9 A. [12:22:02] I believe the first time I spoke to him was regarding
10 the destruction of the mausoleums?

11 Q. [12:22:10] Do you remember which mausoleums you talked about?

12 A. [12:22:15] No, I can't remember the name of the mausoleums.

13 Q. [12:22:21] Do you recall what exactly you asked him in relation to
14 the mausoleums?

15 A. [12:22:28] Well, I asked him to confirm whether it had indeed been
16 destroyed, which he did. And I also asked him why, and he explained that,
17 again, it was against their form of Islam.

18 Q. [12:22:50] And how long was this first phone call with Sanda?

19 A. [12:22:59] It was short, a few minutes.

20 Q. [12:23:08] Did you take notes of this conversation?

21 A. [12:23:14] Yes, I did.

22 Q. [12:23:20] But I suppose those notes were also lost; would that be correct?

23 A. [12:23:30] Yes.

24 Q. [12:23:32] Now, do you remember any other occasions when you called
25 Sanda?

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1 A. [12:23:42] There was the incident of the stonings. I believe there was
2 also a flogging when I tried to get in touch with him. And then we also spoke,
3 I believe, at the very end of -- during the French intervention, so when
4 the jihadists were being pushed back.

5 Q. [12:24:09] I would like to go through each of those calls you had with
6 Sanda, so let's start with the one related to stoning. Do you recall when you
7 called Sanda about this incident?

8 A. [12:24:23] This was I believe in the, in the third quarter of 2012, so, yeah.
9 It could have been any time between July and August 2012. It could have also
10 been, been later.

11 Q. [12:24:44] Do you remember whose phone you used to make this call?

12 A. [12:24:51] I believe I used my phone. It's also possible I tried to call
13 through the fixer.

14 Q. [12:25:03] [REDACTED]

15 A. [12:25:08] [REDACTED]
16 [REDACTED]

17 Q. [12:25:18] [REDACTED]

18 A. [REDACTED]

19 Q. [12:25:18] [REDACTED]

20 A. [12:25:23] [REDACTED]

21 Q. [12:25:27] Thank you. At the beginning of this call did you ask who was
22 on the line?

23 A. [12:25:36] By that point, no. I would usually greet him, and if the person
24 didn't object, to say that it's not me, I didn't specifically ask him to identify
25 himself.

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1 Q. [12:25:54] Do you remember exactly what you asked from Sanda
2 regarding the stoning incident?

3 A. [12:26:02] Again, asking him to confirm the information I had from
4 people locally that women had been stoned, why, asking for details, what had
5 happened, when and who had been involved.

6 Q. [12:26:24] How long was this conversation?

7 A. [12:26:26] Again, a few minutes. Never long conversations.

8 Q. [12:26:31] And did you take notes of this conversation?

9 A. [12:26:34] Yes, I did take notes. But, again, notes that are lost.

10 Q. [12:26:41] Now, I would like to turn to your conversation with Sanda
11 regarding floggings. Do you remember when you talked to him about this?

12 A. [12:26:51] Again, I want to say it was in July/August, but it's possible that
13 it's even later, possibly September/October.

14 Q. [12:27:01] Do you remember whose phone you used to make this call?

15 A. [12:27:06] I believe I used my phone.

16 Q. [12:27:09] And do you remember which phone number you used?

17 A. [12:27:14] Are we in open session now or?

18 Q. [12:27:16] You don't need to spell out.

19 A. [12:27:20] Okay. Then I would have used my phone number,
20 the Orange number.

21 Q. [12:27:25] And at the beginning of this call did you ask who was on
22 the line?

23 A. [12:27:33] Again, at this point I had established that if I call this number, it
24 would be Sanda that would pick up. So I probably didn't ask him directly if it
25 was him.

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1 Q. [12:27:43] Do you remember what exactly you asked him about in
2 relation to the floggings?

3 A. [12:27:50] I would again ask him the same questions, what had been
4 the crime, why was the woman being flogged, under what, what laws or what
5 gave them the right to do this.

6 Q. [12:28:04] Do you recall what he said in response to your questions?

7 A. [12:28:09] I remember that he confirmed the incident and also explained
8 why they were doing this, again, that it was according to the Sharia law that
9 they were applying in Timbuktu at the time.

10 Q. [12:28:25] Do you know why this woman was flogged?

11 A. [12:28:33] I believed she was condemned for having committed adultery,
12 basically having a relation outside of marriage.

13 Q. [12:28:46] Do you recall the name of the woman? You don't need to tell,
14 tell the name itself, but do you recall it?

15 A. [12:28:52] No, I don't.

16 Q. [12:28:55] And how long was the conversation about floggings?

17 A. [12:29:00] Again, short conversation. Maybe five minutes, but definitely
18 not more than 10 minutes.

19 Q. [12:29:10] Did you take notes of this conversation?

20 A. [12:29:12] Yes, I did.

21 Q. [12:29:18] You mentioned you also called Sanda to confirm information
22 about conflicts between them and MNLA. Do you recall when that was?

23 A. [12:29:30] That would have been in May 2012.

24 Q. [12:29:39] Were there any other occasions when you called Sanda?

25 A. [12:29:45] I believe I tried to call him in January 2013 when they were

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1 being ousted from, from Timbuktu.

2 Q. [12:29:56] And what did you talk about during that last conversation?

3 A. [12:30:02] I asked him about the, the French intervention and what was
4 happening, if they were fleeing or where they were going.

5 Q. [12:30:16] Do you recall what he said?

6 A. [12:30:20] I believed he confirmed that, yes, indeed, the French were
7 coming, they had started the intervention, and that -- I understood that they
8 were leaving Timbuktu, the armed groups.

9 Q. [12:30:42] Did you try to reach Sanda at any later date?

10 A. [12:30:48] That would have been the last time I tried to call him. But I
11 tried to call -- actually, I tried to call him after that, but his number wasn't
12 working.

13 Q. [12:30:58] Did you publish any information you obtained from Sanda?

14 A. [12:31:02] On a few occasions, yes, regarding the, the mausoleums. And
15 again, regarding the flogging.

16 Q. [12:31:17] Madam Witness, please turn to tab 39 in your binder. Or if
17 there's no tabs, the document with ERN [REDACTED]

18 And, court officer, please do not broadcast this document.

19 A. [12:32:11] It seems we don't have that document -- here we go. I can see
20 it on the screen now at least.

21 Q. [12:32:17] Okay. Now, I would like to ask you questions about this
22 document, but we are still in open session, so please do not mention the details,
23 like which publication or the date involved, okay?

24 A. [12:32:33] Okay, okay.

25 Q. [12:32:34] Now, this document indicates that you gave a phone interview

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1 regarding the destruction of mausoleums.

2 A. [12:32:42] Yes.

3 Q. [12:32:43] Do you recall this interview?

4 A. [12:32:45] Yes, I do.

5 Q. [12:32:48] And it is mentioned that you have spoken to a spokesperson.

6 Do you recall who you are referring to?

7 A. [12:33:02] If I'm referring to a spokesperson, it would be Sanda Ould

8 Boumama.

9 Q. [12:33:09] And is this based on your phone interview with Sanda?

10 A. [12:33:14] Yes.

11 MS YAMAGUCHI: [12:33:19] Mr President, I would like to go into private

12 session for approximately five minutes to ask her about the phone numbers she

13 used.

14 PRESIDING JUDGE MINDUA: [12:33:32](Interpretation) Court officer,

15 private session, please.

16 (Private session at 12.33 p.m.)

17 THE COURT OFFICER: [12:33:43](Interpretation) We are in private session,

18 your Honour.

19 PRESIDING JUDGE MINDUA: [12:33:51](Interpretation) Thank you very

20 much.

21 Prosecutor.

22 MS YAMAGUCHI: [12:33:55] Thank you, Mr President.

23 Q. [12:33:58] Madam Witness, I would now like to know the phone numbers

24 which you used to contact people in the north of Mali. Could you tell us

25 the Malian, the Orange phone number you used at the time?

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1 A. [12:34:11] The Orange phone number I used was [REDACTED]

2 Q. [12:34:25] Is that -- so this is a Malian number, so it would be with
3 a country code 223; would that be correct?

4 A. [12:34:33] Yes.

5 Q. [12:34:40] Now, you mentioned you were out of Mali for some time -- for
6 a certain period of time in 2012. Which phone number did you use to call
7 people inside Mali when you were out of Mali yourself?

8 A. [12:34:57] Then I would use a [REDACTED]

9 Q. [12:35:11] Thank you.

10 You also mentioned that you would occasionally use your fixer's phone to
11 make calls. Now, you already gave us his name, but could you tell us how he
12 got the contact details or phone numbers of people? What was his
13 background?

14 A. [12:35:36] He is from [REDACTED] so he
15 would get it through people he knew in those towns.

16 Q. [12:35:48] Do you still have his phone number?

17 A. [12:35:52] Yes, I do.

18 Q. [12:35:55] Could you tell us his phone number?

19 A. [12:35:59] Again, I don't know it by heart, no.

20 Q. [12:36:06] Do you recall providing his phone number to the OTP
21 investigators during your interview in February 2019?

22 A. [12:36:15] Yes.

23 Q. [12:36:16] Did they note down his number?

24 A. [12:36:20] Yes.

25 Q. [12:36:23] Please turn to tab 41, which if you don't have a tab, the ERN of

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1 the document is MLI-OTP-0078-8538.

2 If you haven't been able to find the document, maybe you can also just look at
3 your screen.

4 A. [12:37:38] Yes, we don't have that document here.

5 Q. [12:39:42] This is an investigation note regarding the phone number of
6 your fixer which you provided to the OTP investigators. The number
7 recorded on this document is [REDACTED] Is this the number of your fixer
8 you provided?

9 A. [12:38:10] Yes.

10 Q. [12:38:12] Thank you.

11 MS YAMAGUCHI: Mr President, could we please go back to open session.

12 PRESIDING JUDGE MINDUA: [12:38:19](Interpretation) Open session, if you
13 would be so kind, court officer.

14 (Open session at 12.38 p.m.)

15 THE COURT OFFICER: [12:38:33] We are back in open session.

16 PRESIDING JUDGE MINDUA: [12:38:35](Interpretation) Thank you very
17 much.

18 Please continue, Prosecutor.

19 MS YAMAGUCHI: [12:38:39]

20 Q. [12:38:42] Madam Witness, you mentioned that your main source of
21 information at the time was people fleeing from the north, including Timbuktu,
22 in 2012. And I would like to, for a moment, focus on your contacts with those
23 people. Could you tell us when you met these people exactly in the course of
24 2012.

25 A. [12:39:08] At the beginning of the crisis, between April and May, people

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1 had already started fleeing to, to Bamako, as well as Sevare and Mopti.

2 Q. [12:39:24] And where did you meet these people?

3 A. [12:39:31] I met a few of them in Mopti and Sevare in refugee camps and
4 in Bamako in the private homes where they were staying. I also met them
5 coming on the bus from the north.

6 Q. [12:39:50] When you met these people fleeing from the north, did you
7 have interviews on an individual basis or was it more on a group basis?

8 A. [12:40:03] I would meet the peoples -- people in groups, but I would
9 speak to them individually.

10 Q. [12:40:14] And, generally speaking, how long was that interviews?

11 A. [12:40:23] That depended where I met them. If I met them at the bus
12 stop and they were continuing, it would be for, for a few minutes, maybe 10,
13 15 minutes. And if I met them at their homes, it would be longer, 30 minutes,
14 up to an hour.

15 Q. [12:40:43] Do you recall what they told you about the situation in
16 the north?

17 A. [12:40:54] They told me that the jihadists had banned listening to music,
18 they were no longer allowed to smoke or drink alcohol. They also told me
19 about the punishments for these crimes, which I believe for -- was up to
20 a hundred lashes. There could also be the crime of if you're stealing, there
21 was the risk of getting your hands cut off. They also told me about the forced
22 marriages and the rapes, which the jihadists implemented in the occupied
23 towns.

24 Q. [12:41:36] Did you mention instances where people talk about forced
25 marriages and rapes in relation to Timbuktu?

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1 A. [12:41:49] Yes.

2 Q. [12:41:54] Did they mention who were responsible for such conducts?

3 A. [12:42:03] They, they mentioned it was the fighters, and Al Hassan's name
4 came up as one of the responsible, particularly for the punishments, but also
5 for some of the forced marriages to the fighters.

6 Q. [12:42:32] Do you recall any -- did you meet any -- any woman who was
7 a victim of forced marriage?

8 A. [12:42:43] I met women who were victims of rape and I also met women,
9 particularly younger women, who had been sent away by their parents because
10 they were threatened with forced marriages.

11 Q. [12:43:06] You mentioned you heard about rape also in relation to
12 Timbuktu. Do you know where such rapes occurred?

13 A. [12:43:20] I was told they were happening at the, the Islamic police
14 headquarters. They would pick up a woman for an offence and bring her to
15 the headquarters where she would be held, and subsequently raped by one or
16 multiple men.

17 Q. [12:43:47] Can you recall any name of the victims of rape or forced
18 marriage?

19 A. [12:43:56] No, I can't. And I know I didn't use their, their real names in
20 the reporting to protect their identity.

21 Q. [12:44:07] But you did publish their stories in an article; would that be
22 correct?

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

24 Q. [12:44:30] I just want to follow up a little bit more on forced marriages.
25 You mentioned that Al Hassan's name came up in the context of some of the

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1 forced marriages to the fighters. Do you recall exactly what his role was in
2 relation to those forced marriages?

3 A. [12:44:55] People told me he was the chief or the head of the Islamic
4 police in Timbuktu.

5 Q. [12:45:07] And in that role how did he contribute to the forced marriages
6 of the fighters?

7 A. [12:45:20] I understood that he would, he would organise them or even
8 order them, or give his permission for a fighter to try and pursue marriage
9 with a, with a local woman.

10 Q. [12:45:44] I would like to turn to your contacts with those who remained
11 in Timbuktu. Do you recall when you had such contacts?

12 A. [12:45:55] From a few weeks into the conflict, I would either get calls from
13 a source or I would try to reach people in Timbuktu, again to confirm events
14 that we had heard happened.

15 Q. [12:46:18] You mentioned a source. Did you have a specific person who
16 would contact you when something was happening in Timbuktu?

17 A. [12:46:28] Yes. I particularly [REDACTED] that I
18 would get in touch with first and then they would help me get additional
19 contacts.

20 Q. [12:46:44] You don't have to tell us the names in open session, but do you
21 remember who they were?

22 A. [12:46:51] Yes.

23 MS YAMAGUCHI: [12:46:55] Mr President, could we please briefly go into
24 private session to ask her the names of the sources?

25 PRESIDING JUDGE MINDUA: [12:47:05](Interpretation) Private session, if

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1 you'd be so kind, court officer.

2 (Private session at 12.47 p.m.)

3 THE COURT OFFICER: [12:47:17](Interpretation) We're in private session,
4 your Honour.

5 PRESIDING JUDGE MINDUA: [12:47:22](Interpretation) Thank you very
6 much.

7 Madam Prosecutor.

8 MS YAMAGUCHI: [12:47:28] Thank you, Mr President.

9 Q. [12:47:29] Madam Witness, could you tell us the name of your sources in
10 Timbuktu.

11 A. [12:47:35] In this case, my main sources were [REDACTED] was
12 working for the public broadcaster, and also [REDACTED]

13 Q. [12:47:47] Could you spell us the name of the second person?

14 A. [12:47:51] [REDACTED]

15 Q. [12:48:04] Thank you, Madam Witness.

16 MS YAMAGUCHI: Mr President, could we go back to open session, please.

17 PRESIDING JUDGE MINDUA: [12:48:14](Interpretation) Open session,
18 please, court officer.

19 MS YAMAGUCHI:

20 Q. [12:48:22] Madam Witness, in relation to the second --

21 THE COURT OFFICER: Stop, please.

22 (Open session at 12.48 p.m.)

23 THE COURT OFFICER: [12:48:30] We are now in open session. Thank you.

24 PRESIDING JUDGE MINDUA: [12:48:33](Interpretation) Thank you very
25 much, court officer.

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1 Madam Prosecutor, please do not forget to mark breaks when you speak.

2 MS YAMAGUCHI: [12:48:42] Thank you, Mr President.

3 Q. [12:48:55] In relation to the second source you told us about, do
4 you -- how many times do you think you had contact with him?

5 A. [12:49:06] At least a dozen times. The source actually met in Bamako
6 and then he travelled back and forth to Timbuktu.

7 Q. [12:49:17] Can you tell us his background, generally speaking?

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

9 [REDACTED]

10 [REDACTED]

11 Q. [12:49:38] Now, you mentioned that you'd provide information you
12 obtained from civilians to media and then it is transformed into an article.

13 And I would like to show you one article to comment on.

14 MS YAMAGUCHI: Mr President, could we briefly go into private session to
15 discuss one item which contains the witness's identifying information.

16 PRESIDING JUDGE MINDUA: [12:50:04](Interpretation) Private session, if
17 you would be so kind, court officer.

18 (Private session at 12.50 p.m.)

19 THE COURT OFFICER: [12:50:19] We're in private session, your Honours.

20 PRESIDING JUDGE MINDUA: [12:50:26](Interpretation) Thank you very
21 much.

22 Madam Prosecutor, please continue.

23 MS YAMAGUCHI: [12:50:31]

24 Q. [12:50:33] Madam Witness, do you have a document with the ERN

25 [REDACTED] ?

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- 1 THE COURT OFFICER: [12:51:21] The document is now on the screen and
2 the witness should be able to see it.
- 3 THE WITNESS: [12:51:26] Thank you.
4 I don't believe we have it here, but I'm looking at the screen.
- 5 PRESIDING JUDGE MINDUA: [12:51:44](Interpretation) Prosecutor, can we
6 see the number of the tab, please.
- 7 MS YAMAGUCHI: [12:51:56] Excuse me, it is in tab 24 in your Honours'
8 binders.
- 9 THE WITNESS: [12:52:02] We have found it. Thank you.
- 10 MS YAMAGUCHI: [12:52:11]
- 11 Q. [12:52:11] Madam Witness, do you recognise this article?
- 12 A. [12:52:13] Yes, I do.
- 13 Q. [12:52:15] Did you contribute any information for this article?
- 14 A. [12:52:20] Yes, I -- I spoke [REDACTED] who I mentioned before,
15 and I believe he was the one who gave me the contact for [REDACTED]
16 a few paragraphs up.
- 17 Q. [12:52:37] You are referring to [REDACTED]?
- 18 A. [12:52:42] Yes.
- 19 Q. [12:52:44] Did you -- is any other quote based on your information?
- 20 A. [12:52:52] I only have one page of the article here. Could you maybe
21 scroll down. I would believe I spoke to Sanda Ould for this article as well, but
22 I can only see one page here.
- 23 Yes, there we go. Thank you. [REDACTED]
24 colleague. It's possible I spoke to [REDACTED] but I can't, I can't be
25 a hundred per cent sure.

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1 Q. [12:53:27] Are these quotes based on your interviews with them?

2 A. [12:53:31] The people I spoke to, yes.

3 Q. [12:53:35] And how did you conduct your interviews, in person or by
4 phone?

5 A. [12:53:41] By phone, in person, yeah -- and earlier by phone, speaking to
6 them in person.

7 Q. [12:53:48] In which language did you talk to them?

8 A. [12:53:52] In this case I spoke in French with them.

9 Q. [12:53:57] So that was the case for both [REDACTED] and
10 [REDACTED] would that be right?

11 A. Yes.

12 Q. [12:54:08] By the way, for [REDACTED] it seems your description of
13 his background was not recorded in the transcript. Could you please repeat
14 what he -- what his background was.

15 A. [12:54:24] From what I understood, he was [REDACTED]
16 [REDACTED].

17 Q. [12:54:35] Do you recall how long you talked with them?

18 A. [12:54:39] Again, a few minutes, a short conversation. But on several
19 occasions in [REDACTED] ase.

20 Q. [12:54:49] Do you remember if it was them contacting you or you called
21 them?

22 A. [12:54:54] I called them. [REDACTED]'s case I had already met him in
23 person, so I knew him a bit from before.

24 Q. [12:55:04] And you mentioned for [REDACTED] you got his
25 contact through [REDACTED] would that be correct?

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1 A. [12:55:13] Yes.

2 Q. [12:55:14] Yes. And to the best of your recollection do these quotes
3 accurately reflect the information you provided? Take your time --

4 A. [12:55:27] Yes

5 Q. [12:55:27] -- if you would like to go through the quotes.

6 A. [12:55:40] Yes.

7 Q. [12:55:42] Thank you.

8 MS YAMAGUCHI: Mr President, I would like to return to open session,
9 please.

10 PRESIDING JUDGE MINDUA: [12:55:51](Interpretation) Open session,
11 please, Madam court officer.

12 (Open session at 12.56 p.m.)

13 THE COURT OFFICER: [12:56:03] We are back in open session, Mr President.

14 PRESIDING JUDGE MINDUA: [12:56:11](Interpretation) Thank you very
15 much.

16 Madam Prosecutor.

17 MS YAMAGUCHI: [12:56:15]

18 Q. [12:56:15] Now, Madam Witness, I would like to turn to 2013. You
19 indicated that you had left Mali on holidays in December 2012. Did you
20 return to Mali in 2013 for your work?

21 A. [12:56:28] Yes. I returned to Mali beginning [REDACTED]

22 Q. [12:56:36] After you returned to Mali [REDACTED] did you travel to
23 the north of Mali?

24 A. [12:56:44] Yes, I travelled to northern Mali in around [REDACTED]

25 [REDACTED]

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1 Q. [12:56:54] Do you recall exactly which cities you visited in [REDACTED]?

2 A. [12:57:01] I visited Douentza, Konna, Diabaly and Nampala, small cities
3 in the northern centre. And then I also visited Gao, where I spent a [REDACTED]
4 [REDACTED].

5 Q. [12:57:20] Did you go to the north of Mali at any other occasion -- at any
6 other point in the course of the year 2013?

7 A. [12:57:29] I travelled to Gao again [REDACTED] so this would
8 have been in [REDACTED] and then I visited Timbuktu [REDACTED] so
9 [REDACTED]

10 Q. [12:57:45] How long did you stay in Timbuktu?

11 A. [12:57:49] In Timbuktu for about a week.

12 Q. [12:57:54] And what was the main focus of your reporting there?

13 A. [12:57:59] My main focus was the elections, but also citizens resuming life
14 after the occupation. So I spoke to people about what the occupation had
15 been like, their lives, and what it was now.

16 Q. [12:58:19] So you mentioned you talked to people. Did you have any
17 other source of information relevant to your reporting while you were in
18 Timbuktu?

19 A. [12:58:36] My main source was speaking to people.

20 MS YAMAGUCHI: [12:58:54] Excuse me. I see that we only have a few
21 minutes left before 1 o'clock when we are scheduled to take the break. I only
22 have few questions left, so if I could proceed to try to conclude my questioning,
23 I would be grateful?

24 PRESIDING JUDGE MINDUA: [12:59:13](Interpretation) Prosecutor, to
25 conclude the examination-in-chief?

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1 In that case, yes, please continue.

2 MS YAMAGUCHI: [12:59:22] Thank you, Mr President.

3 Q. [12:59:25] Madam Witness, while you were in Timbuktu, did you also
4 visit some specific locations in Timbuktu?

5 A. [12:59:38] I visited the former headquarters of the Islamic police,
6 the house where the women were allegedly held. I also visited a few
7 headquarters of the, of the jihadists and the guide also showed me the house
8 where they had allegedly kept western hostages.

9 Q. [13:00:06] Do you recall where this headquarters of the Islamic police was
10 located?

11 A. [13:00:14] At the first time to Timbuktu it was at -- in the centre of town,
12 but I wouldn't be able to give any more specific details.

13 Q. [13:00:27] Do you know what this building was used for before it was
14 turned into the headquarters of the Islamic police?

15 A. [13:00:34] I believe it was a bank, a bank office.

16 Q. [13:00:42] You mentioned you also visited headquarters -- other
17 headquarters of jihadists. Can you explain a little bit more what those
18 buildings were?

19 A. [13:00:54] Jihadists had taken up office in former government buildings,
20 so the mayor's headquarters and other officials of Mali before it became jihadist
21 territory.

22 Q. [13:01:13] Do you recall any other headquarter of jihadists (Overlapping
23 speakers)?

24 A. [13:01:18] I was shown a villa which I believe was a private house where
25 I was told that they had kept the hostages at the time. There was a Swedish

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1 citizen who was kidnapped a few months before or a year before.

2 Q. [13:01:40] Now, what did the locals talk about with respect to the impact
3 of the occupation?

4 A. [13:01:47] They told me that life had been difficult. Again, not being
5 able to listen to music, women being forced to cover up and having difficulties
6 to work, not being allowed to go to the market by themselves. They of course
7 spoke about the destruction of the mausoleums, which became a trauma for
8 many people in Timbuktu to see their heritage being, being torn down.

9 Q. [13:02:24] Earlier you talked about women who were flogged or detained
10 for not covering themselves properly. Did you meet any woman who had
11 indeed been arrested or flogged?

12 A. [13:02:39] I spoke to a few women that had been, been punished for not
13 dressing up properly. But mostly I talked to mothers who had sent their
14 daughters away, to not risk being married away with the fighters.

15 Q. [13:03:00] According to the people you talked to while you visited
16 Timbuktu, how did their lives change since the end of the occupation?

17 A. [13:03:13] They were free to resume their lives as before. They could
18 listen to music. They could smoke and drink. I think in Timbuktu it was
19 mostly the music part, listening to radio. Women could again move around in
20 the streets freely without fear of being arrested and brought to the Islamic
21 police.

22 Q. [13:03:38] Thank you, Madam Witness. This concludes my questions.

23 PRESIDING JUDGE MINDUA: [13:03:46](Interpretation) Thank you very
24 much, Madam Prosecutor. You've kept your word.

25 And currently, before we take our break for lunch, I would like to ask

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1 a question for organisational purposes. I'll ask the Legal Representatives of
2 Victims if they plan to speak, because if there are any objections, the Chamber
3 also has to deliberate and we could do so at the break.
4 So, Maître Nsita, the Chamber has received on 18 September submissions from
5 yourself, according to which you would like to question this witness, this is
6 1053.
7 So, having heard the examination-in-chief, do you maintain your request?
8 MR LUVENGIKA: [13:04:40](Interpretation) Thank you, your Honour, for
9 passing me the floor. Indeed, having heard this witness and given that this
10 witness has spoken a lot about what happened to the population who are
11 victims in the case, in the interest of victims who we represent, we have certain
12 questions by way of clarification to put to Madam Witness.
13 PRESIDING JUDGE MINDUA: [13:05:17](Interpretation) Very well,
14 Maître Nsita. The Chamber thanks you.
15 So I now turn to the parties to ask the question.
16 For the Prosecution, do you have any objections thereto?
17 MS YAMAGUCHI: [13:05:33] No, your Honour.
18 PRESIDING JUDGE MINDUA: [13:05:36](Interpretation) Thank you very
19 much, Madam Prosecutor.
20 I now turn to Ms Taylor, the Defence, do you have any objections?
21 MS TAYLOR: [13:05:46] I think this may depend on the specific questions that
22 are being put to the witness and the extent to which it falls within the scope of
23 the views and concerns of the victims and doesn't enter into issues that
24 the witness did not hear or learn herself.
25 But perhaps I could also raise a point of clarification. The Defence had also

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1 requested the possibility of having an adjournment before we commence our
2 cross-examination, and in the interest of organisation, I would like to know if it
3 would be possible to submit that request now rather than after the break, if
4 possible.

5 PRESIDING JUDGE MINDUA: [13:06:34](Interpretation) So please present
6 your application now, it's better to do so.

7 MS TAYLOR: [13:06:44] Should the witness be present? Or can the witness
8 be excused for the break?

9 PRESIDING JUDGE MINDUA: [13:06:55](Interpretation) You are right. We
10 shall ask the witness to leave the room.

11 Madam Witness, you may leave.

12 THE WITNESS: [13:07:09] Thank you.

13 (The witness exits the video-link room)

14 (Pause in proceedings)

15 THE COURT OFFICER: [13:07:44](Interpretation) Your Honour, we confirm
16 that the witness is no longer in the transmission room.

17 PRESIDING JUDGE MINDUA: [13:07:52](Interpretation) Thank you very
18 much, court officer.

19 Ms Taylor, the Chamber is listening to you.

20 MS TAYLOR: [13:08:00] Thank you, Mr President.

21 The witness's testimony this morning went directly to issues concerning
22 the acts and conduct of Mr Al Hassan. And throughout the course of her
23 testimony, it turned on issues concerning phone numbers and individuals and
24 modes of communication which were only recently communicated to
25 the Defence.

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1 Specifically, there are two phone numbers which the Prosecution had since
2 January 2019 which we only received on I think 16 September this year.
3 That's a substantial lag of time that has prevented us from doing a thorough
4 analysis of the witness's call data records -- or, rather, we don't have
5 the witness's call data records, but we have those of other individuals.
6 There are also a series of names that have come out from today's testimony that
7 we would need to cross-link to the existing records. That is not something we
8 can do over the space of a couple of hours. It is activities that could have been
9 done a month ago, two months ago, if we'd received this information in
10 a timely manner.
11 Indeed, as things stand now, there is still information we don't have. For
12 example, the Prosecutor did not elicit testimony concerning the name of
13 the interpreter involved in these communications.
14 Now, in line with the decision of the Chamber on witness preparation, which
15 did anticipate that if new information came out on the eve of the witness's
16 testimony, the Defence could potentially request a remedy. That is exactly
17 what we're doing. The Defence has a right to adequate time and facilities to
18 prepare its defence. This is information of a substantive nature that impacts
19 upon the allegations against Mr Al Hassan. The interests of fairness dictate
20 that we should have at least until tomorrow to prepare our cross-examination
21 in order to react to this new information and new developments.
22 At the same time, I note that we are concurrently preparing -- and I don't know
23 if I should go into private session for this, perhaps?
24 PRESIDING JUDGE MINDUA: [13:10:34](Interpretation) Private session,
25 please, court officer.

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1 (Private session at 1.10 p.m.)

2 THE COURT OFFICER: [13:10:44] We are in private session.

3 PRESIDING JUDGE MINDUA: [13:10:50](Interpretation) Thank you very
4 much.

5 Ms Taylor, please go ahead.

6 MS TAYLOR: [13:10:54] We are concurrently preparing the report requested
7 by the Chamber this morning so that we could transmit it to the Chamber as
8 expeditiously as possible. To that end I can already advise the Chamber that
9 we have the full communication and we can transmit it to the Chamber as soon
10 as I can leave the courtroom and send it.

11 So we would respectfully submit that an adjournment would allow us to
12 exercise our rights in a fair manner while respecting the terms of the Judges'
13 ruling this morning.

14 PRESIDING JUDGE MINDUA: [13:11:35](Interpretation) I'm now turning to
15 the Prosecutor.

16 Mr Dutertre, would you like to say something by way of response?

17 MR DUTERTRE: [13:11:47](Interpretation) Your Honour, your Honours, we
18 are in the Chamber's hands. If it's tomorrow, it's not a difficulty, given that
19 the communication in question is outside the cross-examination as it is outside
20 the examination-in-chief. But we are in the hands of the Chamber with
21 regards to the timing.

22 PRESIDING JUDGE MINDUA: [13:12:08](Interpretation) Thank you,
23 Prosecutor.

24 Ms Taylor, I have a question for you: If we adjourn to tomorrow morning,
25 would you be able to finish tomorrow during the day?

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1 MS TAYLOR: [13:12:20] Yes, Mr President.

2 PRESIDING JUDGE MINDUA: [13:12:28](Interpretation) Very well.

3 I am now going to turn to my colleagues to briefly deliberate, and I shall come
4 back to you.

5 (Trial Chamber confers)

6 PRESIDING JUDGE MINDUA: [13:13:52](Interpretation) Ms Taylor,
7 the Chamber has a problem with regards to the organisation of time, because
8 we have an application from the Legal Representatives of Victims. Is it
9 possible tomorrow, if the Chamber accords the right to the Legal

10 Representatives for Victims, as they've asked to speak, we can hear their
11 questions and at the same time finish with the cross-examination? Is that
12 possible?

13 Or, well, I'll ask the question to Maître Nsita. If the Chamber grants you
14 the right to speak, how much time will your questions take?

15 MR LUVENGIKA: [13:14:34](Interpretation) I think that it depends on
16 the way in which the witness answers, but it will take approximately
17 20 minutes.

18 PRESIDING JUDGE MINDUA: [13:14:47](Interpretation) Very well. An
19 estimate of approximately 20 minutes.

20 Ms Taylor, if we withdraw 20 minutes from tomorrow's session, would we be
21 able to finish?

22 MS TAYLOR: [13:15:02] Yes, I believe that would be possible.

23 PRESIDING JUDGE MINDUA: [13:15:09](Interpretation) The Chamber
24 thanks you for your cooperation.

25 I am now addressing all the parties and participants. We are therefore going

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1 to adjourn and we will come back tomorrow at 9.30 for possibly the questions
2 of the Legal Representatives of Victims and for the cross-examination by
3 the Defence and possible questions from the Judges.

4 We are therefore going to adjourn today's hearing if there are no further
5 requests for the floor.

6 Very well, I see there are no further requests for the floor and the hearing is
7 now adjourned.

8 THE COURT USHER: [13:16:01] All rise.

9 (The hearing ends in private session at 1.16 p.m.)

10 CORRECTION REPORT

11 The following correction, marked with an asterisk and not included in the
12 audio-visual recording of the hearing, is brought into the transcript.

13 Page 25 line 8:

14 "Q. [11:36:28] What was the main focus were you reporting at that time? "

15 Is corrected to

16 "Q. [11:36:28] What was the main focus of your reporting at that time? "