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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

- 1 International Criminal Court
- 2 Trial Chamber X
- 3 Situation: Republic of Mali
- 4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
- 5 Mahmoud - ICC-01/12-01/18
- 6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
- 7 Judge Kimberly Prost
- 8 Trial Hearing - Courtroom 1
- 9 Monday, 2 November 2020
- 10 (The hearing starts in open session at 9.31 a.m.)
- 11 THE COURT USHER: [9:31:12] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE MINDUA: [9:31:41](Interpretation) The hearing shall now
- 15 commence.
- 16 Good morning, everyone.
- 17 Madam courtroom officer, kindly announce the case.
- 18 THE COURT OFFICER: [9:31:53] Thank you, Mr President.
- 19 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
- 20 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
- 21 For the record, we are in open session.
- 22 PRESIDING JUDGE MINDUA: [9:32:15](Interpretation) Thank you very much.
- 23 We will now continue with introductions, as usual, beginning with the OTP.
- 24 Mr Dutertre.
- 25 MR DUTERTRE: [9:32:25](Interpretation) Good morning, your Honours.

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1 Today the Prosecution team *is the same. We have Mr Mousa Allafi, at the back,

2 Ms Sarah Coquillaud, behind me, Lucio Garcia, beside me, and myself,

3 *Gilles Dutertre.

4 PRESIDING JUDGE MINDUA: [9:32:45](Interpretation) Thank you.

5 Now, Defence team.

6 Ms Taylor.

7 MS TAYLOR: [9:32:50] Good morning, Mr President, your Honours.

8 Good morning to everyone in the courtroom. My name is Melinda Taylor and I'm

9 appearing today on behalf of Mr Al Hassan with Kirsty Sutherland and Dolly Chahla.

10 Thank you very much.

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

12 Ms Taylor.

13 And now the Legal Representatives of Victims.

14 Mr Kassongo.

15 MR KASSONGO: [9:33:17](Interpretation) Thank you, your Honour. Good

16 morning, your Honours.

17 The Legal Representatives of Victims is represented by Claire Laplace, who is

18 assisting me, and myself, Mr Kassongo.

19 PRESIDING JUDGE MINDUA: [9:33:29](Interpretation) Thank you very much,

20 Mr Kassongo.

21 Now, today we shall continue hearing testimony from the 16th Prosecution witness.

22 Now, allow me to be more specific. For the record of the case, this is Witness P-0065.

23 Now, Mr Witness, can you hear me?

24 WITNESS: MLI-OTP-P-0065 (On former oath)

25 (The witness speaks Arabic)

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1 THE WITNESS: [9:34:01](No interpretation)

2 PRESIDING JUDGE MINDUA: [9:34:13](Interpretation) Good morning, once again.

3 Welcome. And I would like to remind you that you are under oath. You must tell

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

5 I would also like to remind you of a number of practical considerations, which I

6 mentioned earlier -- last time.

7 Please speak slowly, at a moderate pace, and try to pause between the questions put

8 to you and your answers.

9 Now I will immediately hand it over to the Prosecution for his continuation of
10 the main questioning.

11 Mr Dutertre, please proceed.

12 MR DUTERTRE: [9:35:05](Interpretation) Thank you, your Honour.

13 QUESTIONED BY MR DUTERTRE: (Continuing) (Interpretation)

14 Q. [9:35:12] Good morning, Mr Witness. How are you today?

15 A. [9:35:23] I'm very well.

16 Q. [9:35:27] Very well. We will now briefly continue with the events in the north
17 of Mali, namely the events beginning at the start of the war in 2012, and then up until
18 the time that Ansar Dine and AQMI entered the city of Timbuktu.

19 Now, last Friday you mentioned that the city -- there was one -- no, you mentioned
20 a place called Tessalit.

21 Could you briefly tell the Chamber what happened in Tessalit?

22 A. [9:36:26] Concerning what exactly? What am I supposed to talk about?

23 Q. [9:36:31] The place called Tessalit, we were talking about the northern part of
24 the country being taken over. What happened in Tessalit?

25 A. [9:36:56] Tessalit was a true challenge when it came to taking control over

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1 the north of Mali. Initially, there was a blockade around the Amachach camp, which
2 was in a strategic location, and made it possible to ward off all attacks.

3 The blockade continued. It was imposed by the MNLA and then, after that,
4 the Al-Qaeda fighters and Ansar Dine fighters intervened under the command of
5 Iyad.

6 The problem was as follows: The camp, this military camp, very large, it covered
7 a large area and it was very difficult to attack it without the attackers being
8 completely exposed to the fighters within the camp. So, when the MNLA was
9 unable to take control of the camp, there was another intervention, according to
10 the information that we all received as people observing the situation.

11 So, Iyad used a strategy according to which, first of all, he used heavy weaponry,
12 heavy guns and, thanks to, thanks to the camels, he was able to position the guns on
13 the mountains. And so the camp was further down and the guns, the shots fired
14 from the guns were much more efficient.

15 At the same time, there were a number of people who were willing to enter the camp,
16 drive into the camp with RPGs to break the wall, the ramparts, and go right into
17 the camp. So, at the same time, there were shots fired from the mountains and, since
18 these guns were far ranging, they were able to put the camp under heavy fire. And
19 at the same time these forces and fighters were able to enter the camp, thanks to their
20 RPGs, they were able to get into the camp and within a few minutes the camp was
21 completely under control.

22 It was the last bastion, so to speak, of the Malian armed forces. Within this camp
23 there were many vehicles and a great deal of military equipment, so taking control of
24 the camp, the fall of this camp, was quite bad for the army's morale.

25 Q. [9:40:36] One point, Mr Witness, was that before or after Aguelhok? Before

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1 the fall of Aguelhok, or after?

2 A. [9:40:55] Well, I have a problem with the exact timeline. I'm not in a position to
3 tell you that. I don't know.

4 Q. [9:41:12] You said that, that someone intervened, Iyad. Could you give us
5 the full name of that person.

6 A. [9:41:28] Iyad Ag Ghaly, the founder of Ansar Dine. Iyad Ag Ghaly, who is
7 now the person who heads up another group.

8 THE INTERPRETER: [9:41:50] Inaudible.

9 MR DUTERTRE: [9:41:53](Interpretation)

10 Q. [9:41:53] Now, on Friday you said, Mr Witness, that it was then the towns of
11 Kidal and Gao that fell.

12 A. [9:42:14] Yes.

13 Q. [9:42:20] Do you remember what happened to the officers of the Malian army in
14 Gao?

15 PRESIDING JUDGE MINDUA: [9:42:36](Interpretation) Ms Sutherland.

16 MS SUTHERLAND: [9:42:37] Thank you, your Honour.

17 I think, strictly speaking, I should ask the witness to leave the room for this
18 intervention, because the basis of it may influence his future testimony.

19 PRESIDING JUDGE MINDUA: [9:42:59](Interpretation) Courtroom usher, if you
20 could lead the witness out of the courtroom.

21 (The witness exits the courtroom)

22 PRESIDING JUDGE MINDUA: [9:43:26](Interpretation) Ms Sutherland, I would
23 imagine we are going to go into private session or can we continue in open court?

24 MS SUTHERLAND: [9:43:35] I think we can continue in open court, your Honour.
25 It's merely for the witness himself.

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- 1 PRESIDING JUDGE MINDUA: [9:43:43](No interpretation)
- 2 MS SUTHERLAND: [9:43:45] Thank you, your Honour. It's last week we were
- 3 concerned about establishing the basis for the witness's knowledge. Again, we find
- 4 ourselves in a position where the Prosecution is leaving this as a little bit of a mystery.
- 5 Please, could the Prosecution elicit the basis for this witness's knowledge of these
- 6 events. And we also object to the last question on the basis that it was particularly
- 7 leading.
- 8 PRESIDING JUDGE MINDUA: [9:44:32](Interpretation) Could you remind me of
- 9 that last question, and could you tell us how you came to the conclusion that it was
- 10 leading.
- 11 MS SUTHERLAND: [9:44:43] It says: "Do you" -- I'm sorry, I can't quite see it.
- 12 "Do you remember what happened to the officers of the Malian army in Gao?" which
- 13 obviously presupposes that something happened to the Malian officers in Gao.
- 14 PRESIDING JUDGE MINDUA: [9:45:14](Interpretation) I'm not following you. It's
- 15 quite an open question. It all depends on how you word the questions to elicit
- 16 the -- an account of the events, but I don't agree.
- 17 As for the first part, I'd like to ask the Prosecution to respond.
- 18 MR DUTERTRE: [9:45:35](Interpretation) Thank you, your Honour.
- 19 Regarding the first aspect, we are trying to restrict the use of public -- private session.
- 20 Now, the foundation of this witness's knowledge will come later and, the way we are
- 21 putting our questions, it is true that we are restricted by the need to remain in open
- 22 session as much as possible.
- 23 On Friday, the witness already provided some information about himself which
- 24 allowed people to understand how he came into possession of the information, and
- 25 we will be laying the foundation later.

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1 It's to ensure that the questioning goes smoothly.

2 PRESIDING JUDGE MINDUA: [9:46:24](Interpretation) Let's solve this for once and
3 for all.

4 I see that the Defence has concerns. Now, if I understand correctly, the Defence is
5 saying that this witness is a hearsay witness, as is put -- as it's put in English. Is that
6 the concern of the Defence, what is the basis for the witness's knowledge?

7 MR DUTERTRE: [9:46:48](Interpretation) I can cut to the chase, if you like, but we'll
8 have to go into closed session to elicit the necessary information, if the Chamber so
9 desires.

10 PRESIDING JUDGE MINDUA: [9:47:13](Interpretation) Just a moment, I'll confer
11 with my colleagues.

12 (Trial Chamber confers)

13 PRESIDING JUDGE MINDUA: [9:48:48](Interpretation) Ms Sutherland, you see,
14 the Chamber needs to confer because we want to deal with this for once and for all.
15 We understand the Defence's concern, you want to know what the witness's basis is
16 for knowledge of these matters. He is an expert and, at the time -- same time,
17 a factual witness.

18 We also realise that we do not want to be constantly going into private session. That
19 is why the Prosecution is trying to put questions to elicit information and at the end,
20 as he said last week, in a private session he will ask the witness to establish the source
21 of his knowledge.

22 That does not suit you, Ms Sutherland?

23 MS SUTHERLAND: [9:49:40] Thank you, Mr President. I'm afraid not because this
24 is -- first of all, he's not an expert witness. The Prosecution are under an obligation
25 pursuant to your own directions on the conduct of proceedings to elicit the basis of

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1 the witness's knowledge for every relevant fact. They can't be allowed to go into
2 generalities.

3 And, further, I don't think that prioritising public sessions is appropriate when it
4 infringes fair trial rights. Unfortunately, the malice of this can't be cured by giving
5 a general assessment of the witness's knowledge after the evidence has already been
6 heard.

7 PRESIDING JUDGE MINDUA: [9:50:39](Interpretation) Very well. You are correct.
8 He is not an expert witness, he is a factual witness.

9 But your concern is the right of the Defence and that is legitimate, but at the same
10 time we must support the principle of a trial being held in public. So I think our
11 approach is correct. We will allow the Prosecution to continue with questioning and
12 then at the end we will go into private session to establish the basis, and that way we
13 will be able to gain some time.

14 Now, courtroom officer, if you could kindly bring the witness back into
15 the courtroom.

16 (The witness enters the courtroom)

17 PRESIDING JUDGE MINDUA: [9:52:28](Interpretation) Very well.

18 Welcome back, Mr Witness. We shall now continue with the questioning.

19 Mr Prosecution, please continue, but don't forget the Defence's concern.

20 MR DUTERTRE: [9:52:42](Interpretation) Very well. I will continue on this line of
21 questioning and then later go into private session, if necessary.

22 Q. [9:52:54] Mr Witness, sorry about the interruption. Are you able to tell
23 the Court what happened in Gao, when the town fell, of course?

24 A. [9:53:19] The fall of the town of Gao was subsequent to an attack by the MUJAO
25 and the MNLA. The MUJAO was the first armed group to enter the town. I was

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1 not there, I was not present, but I'm basing myself on information that we received.

2 After that, the MNLA entered the town and there were clashes between the MUJAO
3 and the Malian army and, according to the information I received, the MUJAO,
4 the MUJAO group, decapitated the commissioner of the Malian army and placed his
5 head on the public square. And that information spread very quickly, which led to
6 panic amongst the rank and file, amongst the soldiers.

7 After that, the MNLA entered the town and the Malian army left the town.

8 Q. [9:54:44] Understood. I do have a question: Approximately how long was it
9 after the fall of Gao was control taken over Timbuktu, first by the MNLA and then
10 the Arab police? How -- what was the time lapse between those two events?

11 A. [9:55:21] I couldn't tell you exactly, but I think that all those events occurred
12 during the same week.

13 Q. [9:55:37] Now, regarding Timbuktu, Mr Witness, I would like to clear up two
14 minor things in relation to the information that you provided on Friday, last Friday.
15 Now, on page 14 of transcript 37, Friday's transcript, you said, and I quote:

16 The MNLA arrived, took control of Timbuktu with the Arab militias.

17 Could you briefly tell us who you're talking about, the Arab militia or the Arab
18 militias?

19 A. [9:56:36] The Arab militias were militia made up of officers from the Malian
20 army who were supported by the Malian government to recruit volunteers so as to
21 fight the various independence movements, or, more correctly, all armed groups.

22 Q. [9:57:11] Could you tell us when these groups or militia were set up. How long
23 before the fall of Timbuktu?

24 A. [9:57:25] No, I don't remember.

25 Q. [9:57:31] So are we to understand that when the MNLA took control of

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1 Timbuktu, the Arab militia was allied with the MNLA? Is that what we are to
2 gather?

3 A. [9:57:59] Yes, there was coordination, according to the information, between
4 the commanders of the militia and the commanders of the MNLA.
5 However, I think that the Malian army withdrew from the city because the military
6 institutions collapsed everywhere throughout the country and the militias took
7 advantage of the situation to prove that they were there, prove their presence and to
8 show that -- well, they were from the Malian army, but at the time, on the first day
9 that the Malian forces left the city, there was coordination between the two.

10 Q. [9:59:01] Thank you, Mr Witness.

11 Now, if I could clear up another point, pages 15 and 16, transcript 37 from last week.

12 You were talking the MNLA and the Arab militia, and you said, I quote:

13 They entered the city together. In actual fact, after that, perhaps a few days later,
14 the Islamist groups Al-Qaeda and Ansar Dine expelled the MN -- expelled them from,
15 expelled the MNLA from the city. End of quote.

16 And you clarified that the MNLA had taken up a position at the airport in Timbuktu.

17 Now my question is, do you remember what happened with the Arab militia at that
18 point?

19 A. [10:00:09] First of all, I would prefer to say that they, together they controlled
20 the city, they didn't come in together at the same time. The Arab militia were
21 already at the centre of the city. Secondly, the Arab militia, I believe, I believe it was
22 the Arab militia who then became the MNLA. They then became the MNLA.

23 MR DUTERTRE: [10:00:55](Interpretation) Your Honours, I'd like us to go into
24 private session now, if that is possible.

25 PRESIDING JUDGE MINDUA: [10:01:00](Interpretation) Private session, please,

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1 courtroom officer.

2 (Private session at 10.01 a.m.)

3 THE COURT OFFICER: [10:01:15] We are in private session, Mr President.

4 PRESIDING JUDGE MINDUA: [10:01:23](Interpretation) Thank you very much,
5 court officer.

6 Please proceed, Mr Prosecutor.

7 MR DUTERTRE: [10:01:30](Interpretation) Thank you.

8 Q. [10:01:33] Mr Witness, can you clarify for the Chamber and the parties how you
9 know what happened in Tessalit? [REDACTED]

10 A. [10:01:52] Tessalit had a collection of armed jihadist movements. They talk
11 about uncontested victory, they talk about heroic acts. They were talking about
12 those things. [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q. [10:02:54] Thank you. I have the same question for [REDACTED]
16 [REDACTED] the events in Gao, which you have just described?

17 A. [10:03:18] [REDACTED]
18 in Gao. I met with the people [REDACTED] and, since the national
19 movement declared independence in Gao and the constitution of a government in
20 that town, [REDACTED] in that town and learned that
21 those who, who came in from -- the groups that came in or from around the area
22 controlled Gao, but not the national group.

23 Q. [10:04:12] [REDACTED]
24 [REDACTED] Can you clarify?

25 A. [10:04:25] [REDACTED]

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1 [REDACTED] But I do not know all the names of the people there, but there
2 was a [REDACTED].

3 Q. [10:05:03] If I understand you correctly, part of your information from -- about
4 Gao came from [REDACTED] is that correct? That is, the [REDACTED]
5 [REDACTED]?

6 A. [10:05:25] Yes, that is very likely so.

7 Q. [10:05:33] If you remember, can you tell us the names of the [REDACTED]
8 [REDACTED]? We are in private session.

9 A. [10:05:46] As I've already said, I do not know them personally, [REDACTED]
10 [REDACTED]
11 [REDACTED] And from what I

12 understood, that last individual is a professional in computers.

13 Q. [10:06:31] Mr Witness, can you kindly write down the names of those people
14 you've mentioned on a piece of paper that the court officer will take from you later.

15 PRESIDING JUDGE MINDUA: [10:06:49](Interpretation) Court officer, please do
16 the necessary.

17 THE COURT OFFICER: [10:07:21] The document will be displayed on the
18 evidence 1 channel.

19 I'm sorry, but the document will be displayed on the evidence 2 channel.

20 MR DUTERTRE: [10:08:35](Interpretation) Thank you.

21 Q. [10:08:36] Mr Witness, lastly, [REDACTED]
22 about the Arab militias?

23 A. [10:08:59] I do not know, but everyone was aware. Everybody in the north of
24 Mali was aware of those militias.

25 Q. [10:09:18] After the clarification on the basis of your knowledge, I will go on to

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1 your arrival in Timbuktu. We will remain in private session for just a few minutes
2 before going back to open session.

3 Now, page 39 of transcript 37 of last week's transcript, you said you arrived Timbuktu

4

5 My question is as follows: With whom did you travel, that is, when you went to
6 Timbuktu?

7 A. [10:10:18] I was in the north of Mali,

8

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12 Timbuktu was taken over.

13

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17

18 We arrived Timbuktu about day dawn.

19 Q. [10:12:34] You said that had you and you said you left

20 the Which is it?

21 A. [10:12:45]

22 THE INTERPRETER: [10:13:01] And the Arabic interpreter did not quite catch

23 the name.

24 MR DUTERTRE: [10:13:07](Interpretation)

25 Q. [10:13:08] Can you repeat the name of -- that name that you

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1 mentioned, Mr Witness?

2 A. [10:13:16] [REDACTED] (phon).

3 Q. [10:13:24] And when you approached Timbuktu where did you go, to begin
4 with?

5 A. [10:13:32] We arrived straight to Timbuktu [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 the town was occupied by terrorists and very dangerous. [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED] we were

12 going to go to the town anyway, [REDACTED]

13 There were difficulties. I remember that there was a [REDACTED]. We

14 communicated with the [REDACTED] and told them what had happened.

15 [REDACTED] to the entry into Timbuktu [REDACTED]

16 [REDACTED] the MNLA's vehicles were not allowed to enter

17 Timbuktu. And when I came back, I told [REDACTED] the others that

18 [REDACTED] we were not members of the MNLA, [REDACTED]

19 Q. [10:15:52] We are going to come back to this point, but we want to go to open
20 session.

21 PRESIDING JUDGE MINDUA: [10:16:00](Interpretation) Court officer, open session,
22 please.

23 (Open session at 10.16 a.m.)

24 THE COURT OFFICER: [10:16:08] We are back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [10:16:15](Interpretation) Thank you very much.

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1 Please proceed, Mr Prosecutor.

2 MR DUTERTRE: [10:16:21](Interpretation) Thank you, Mr President. I'm going to
3 slow down because I am being told that the English is lagging behind.

4 Q. [10:16:34] Mr Witness, you said that you arrived the entrance into the town.

5 Can you clarify which location that was? The entrance into this town, was it in
6 the north, south, east, west of the town?

7 A. [10:17:02] It is a -- the access from the airport and it mentions Sans Fil.

8 Q. [10:17:34] Sans Fil, what does Sans Fil mean? Is it a location, a neighbourhood?

9 A. [10:17:44] I am not even sure about the names of the neighbourhoods in
10 Timbuktu, but I know that it is the region which is very close to the airport.

11 Q. [10:18:03] Very well. And who was present at that entry point precisely?

12 A. [10:18:21] There were young people. I would even say children. And I asked
13 them -- one of them a question: You're a member of which movement or group?

14 And he told me: We are part of the Yahya group. And it's Yahya Abou Hammam,
15 the emir of Al-Fourqane? That's what I asked them and he said -- they said yes.

16 Q. [10:19:04] Now, can you tell us how those young people at that entrance were
17 equipped.

18 A. [10:19:18] If I remember correctly, they had Kalashnikovs and communication
19 equipment. They were young people and children, but the children were carrying
20 Kalashnikovs, machine guns.

21 Q. [10:19:44] If I understood you correctly, they sent you off, if that's what you said
22 before?

23 A. [10:19:58] Yes, but I prefer to have all these details redacted in public session.

24 Q. [10:20:19] It's a bit difficult, but we can go to private session.

25 PRESIDING JUDGE MINDUA: [10:20:26](Interpretation) Court officer, private

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1 session, please.

2 (Private session at 10.20 a.m.)

3 THE COURT OFFICER: [10:20:35] We're be in private session (Overlapping
4 speakers)

5 PRESIDING JUDGE MINDUA: [10:20:43](Interpretation) Thank you very much.

6 Mr Prosecutor.

7 MR DUTERTRE: [10:20:49](Interpretation)

8 Q. [10:20:49] Mr Witness, what are your concerns relating to the details that you
9 have just given?

10 A. [10:21:02] When I said that they [REDACTED]
11 [REDACTED], it was initially because they thought we were members of the MNLA.

12 But then, later on, [REDACTED] they knew [REDACTED]

13 [REDACTED]
14 [REDACTED].

15 Q. [10:21:35] I understand. Before continuing to your entry into Timbuktu, you
16 mentioned Abou Yahya and that is still something that we have to come back to.

17 PRESIDING JUDGE MINDUA: [10:21:58](Interpretation) Please proceed.

18 MR DUTERTRE: [10:22:02](Interpretation).

19 Q. [10:22:02] Mr Witness, you told us that Yahya Abou Al Hammam was the leader
20 of the Al-Fourqane battalion. [REDACTED]

21 [REDACTED]?

22 A. [10:22:30] Yes, [REDACTED]
23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]
2 [REDACTED] I did not
3 recognise them. But later, I realised that Yahya Abou Al Hammam was the supreme
4 leader to the place [REDACTED]

5 Q. [10:23:31] Very well. [REDACTED] let me
6 continue on Yahya Abou Al Hammam. Do you know where he was based in
7 Timbuktu?

8 A. [10:23:57] Yes, indeed. [REDACTED]
9 [REDACTED]. He had a residence [REDACTED]
10 [REDACTED]

11 Q. [10:24:24] [REDACTED]
12 [REDACTED]?

13 A. [10:24:31] In fact, this was a group. There was Sanda, Abdallah and other
14 people whose names I don't remember. [REDACTED]
15 [REDACTED]

16 Q. [10:24:56] That was not my question. Maybe it was not clear. So, generally
17 speaking, during 2012 [REDACTED] Yahya
18 Abou Al Hammam, [REDACTED]?

19 A. [10:25:15] [REDACTED] he was the one who was the leader of the
20 town at that time.

21 Q. [10:25:22] Very well. I will [REDACTED] then finish with
22 a question in open session.

23 Mr Witness, do you know the name of the person who stopped you, who arrested
24 you in town [REDACTED] and [REDACTED]
25 the people you have mentioned a short while ago, Sanda, Abou Al Hammam? Do

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1 you know the name of that person?

2 A. [10:26:18] I am sure that he was a [REDACTED]

3 [REDACTED] (phon).

4 Q. [10:26:35] Can you kindly repeat the name, that is his [REDACTED] name?

5 A. [10:26:49] [REDACTED].

6 Q. [10:27:01] And when did you learn this name, when did you learn that that was
7 his name?

8 A. [10:27:13] Throughout our stay [REDACTED] in Timbuktu, [REDACTED]

9 [REDACTED]
10 [REDACTED] the leadership of the group.

11 Q. [10:27:38] And when you talk about the group, which group are you referring
12 to?

13 A. [10:27:48] At that time [REDACTED] Al-Qaeda but under the name of
14 Ansar Dine.

15 Q. [10:28:01] Now, [REDACTED], where [REDACTED] took you the first day,
16 what happened precisely? Can you tell us that?

17 A. [10:28:27] [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED] -- what was happening with Sharia in the town. And

21 [REDACTED]
22 And he said -- [REDACTED] that Al-Qaeda cannot be called Ansar Dine. [REDACTED]

23 [REDACTED]
24 [REDACTED] Those are
25 the outlines.

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1 Q. [10:29:52] You said, you said they did not want to be called Al-Qaeda under
2 the name Ansar Dine. Maybe it was a translation into the French that has
3 the problem. Can you clarify?

4 A. [10:30:17] He told us: [REDACTED]
5 [REDACTED] that these people belong to Al-Qaeda, but [REDACTED] only [REDACTED]
6 Ansar Dine.

7 Q. [10:30:35] Who was the one speaking on behalf of the group [REDACTED]
8 [REDACTED]

9 A. [10:30:51] Everyone was speaking freely and everyone was expressing their
10 opinion. And it was not able to tell who was the chairperson and who were
11 the subordinates, but Sanda was the one who spoke the most.

12 MR DUTERTRE: [10:31:20](Interpretation) I can see the time, Mr President, but I can
13 put a question in open session to end this session.

14 PRESIDING JUDGE MINDUA: [10:31:34](Interpretation) Court officer, open session,
15 please.

16 (Open session at 10.31 a.m.)

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

18 PRESIDING JUDGE MINDUA: [10:32:01](Interpretation) Thank you very much.
19 Mr Prosecutor.

20 MR DUTERTRE: [10:32:05](Interpretation)

21 Q. [10:32:14] I would like to show a screenshot of video 0020-0003 and it is tab 254
22 of the second folder, and the transcript is in tab 255. But that's just a reminder. I'm
23 just mentioning it for information. And I would ask that it be posted, 00:38:44:22
24 timestamp, and it can be shown in public.

25 THE COURT OFFICER: [10:33:21] Mr President, Mr Prosecutor, I have just been

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1 made aware that we have a technical issue and if you would not mind to use that
2 document after the break.

3 PRESIDING JUDGE MINDUA: [10:33:42](Interpretation) Very well, court officer.

4 Mr Prosecutor, there is a technical issue so we are going to stop here and you will
5 resume after we return.

6 The break will be 45 minutes and we shall resume at 11.15.

7 Court shall rise.

8 THE COURT USHER: [10:34:10] All rise.

9 (Recess taken at 10.34 a.m.)

10 (Upon resuming in open session at 11.18 a.m.)

11 THE COURT USHER: [11:18:01] All rise.

12 Please be seated.

13 PRESIDING JUDGE MINDUA: [11:18:27](Interpretation) We shall now resume.

14 I see Ms Sutherland is standing. Counsel.

15 MS SUTHERLAND: [11:18:41] Thank you, Mr President. This is an issue of
16 adequate notice or rather lack thereof. The video to which the Prosecution refers

17 listed in the preparation log at MLI-OTP- - I've lost it, sorry - it's page 146 of

18 the preparation log, your Honour, we haven't been provided with sufficient

19 information regarding the video or the questioning that was put to the witness.

20 There's no information about how the witness was first questioned about this video,

21 and to permit the use of this video at this time would cause prejudice to the Defence.

22 We would ask that no questions regarding this video, or any others in the same

23 category, are put to the witness until we are in receipt of a proper log of the manner in

24 which the evidence was first put to the witness.

25 PRESIDING JUDGE MINDUA: [11:20:03](Interpretation) Mr Prosecution, what is

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1 your reply?

2 MR DUTERTRE: [11:20:08](Interpretation) Yes, thank you, your Honour.

3 This item was disclosed quite a long time ago and the Defence is well aware of it.

4 Now, for the purpose of this exercise, that is, we are just going to show an image in

5 order to identify a person. Nothing complicated. Nothing complex. This is really

6 quite simple and straightforward.

7 PRESIDING JUDGE MINDUA: [11:20:33](Interpretation) There you have it.

8 Ms Sutherland, the reply was quite clear, you have had disclosure of this item. This

9 is just about identifying a person. So there you have it.

10 Madam courtroom officer, if you could bring the witness back into the courtroom.

11 (The witness enters the courtroom)

12 PRESIDING JUDGE MINDUA: [11:21:59](Interpretation) Good morning,

13 Mr Witness. Please be seated.

14 Mr Prosecutor.

15 MR DUTERTRE: [11:22:08](Interpretation) Thank you, your Honours. I would like

16 us to show the image from my screen. Now, I adjusted the image on this screen

17 because there are some subtitles and that might be a distraction. After that I will

18 scroll up a little bit so that we can look at the timestamps.

19 THE COURT OFFICER: [11:22:31] The document will be displayed on the

20 evidence 2 channel.

21 MR DUTERTRE: [11:23:10](Interpretation)

22 Q. [11:23:12] Mr Witness, who is this person?

23 A. [11:23:23] I don't remember. No, I can't tell you.

24 Q. [11:23:32] Now the timestamp was 38:44:22.

25 MR DUTERTRE: [11:23:34] Your Honour, could we go into private session to

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- 1 continue the line of questioning that I was on earlier relating to the meeting, and
2 perhaps in 15 minutes we will be able to go back into open session.
- 3 PRESIDING JUDGE MINDUA: [11:24:02](Interpretation) A quick and short
4 15 minutes is quite a bit of time, actually.
5 Now, courtroom officer, private session.
6 (Private session at 11.24 a.m.)
- 7 THE COURT OFFICER: [11:24:20] We are in private session, Mr President.
- 8 PRESIDING JUDGE MINDUA: [11:24:26](Interpretation) Thank you.
9 Mr Prosecutor.
- 10 MR DUTERTRE: [11:24:32](Interpretation) Thank you, your Honour.
- 11 Q. [11:24:35] Witness, now a few moments ago - page 21, line 15 of the
12 transcript - you mentioned a name, [REDACTED] but it's still not on the transcript. So I
13 just wanted to put that point on the record, [REDACTED].
14 Perhaps I didn't quite hear correctly, but could you specify [REDACTED]
15 [REDACTED]
16 [REDACTED]?
- 17 A. [11:25:25] [REDACTED] inside the headquarters of the camp, the Malian
18 armed forces camp in Timbuktu. At the time it was the headquarters of Al-Qaeda.
- 19 Q. [11:25:47] Very well. [REDACTED]?
- 20 A. [11:25:58] There were many soldiers, many vehicles, armed people, all kinds of
21 weapons. And all those soldiers belonged to jihadist groups.
- 22 Q. [11:26:16] Very well. Now, page 20, line 22, today's transcript, transcript 23,
23 you stated that there was Sanda, Yahya and Abdallah [REDACTED] We've already
24 spoken about Abou Yahya and now I'm more interested in Sanda and Abdallah.
25 Could you give us the complete name of Sanda.

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1 A. [11:27:06] Sanda Abou Oumama (phon), the man with a turban. I don't know
2 whether that is his true name or not -- his true name.

3 Q. [11:27:23] Very well, we'll write it out in a few moments.
4 Now, how did you learn his name?

5 A. [11:27:40] Regarding Sanda, [REDACTED]
6 Usually -- well, sometimes he would say, "I am Sanda, the man with a turban" or he
7 would say, "I'm Sanda, from -- the man from Timbuktu" and he explained [REDACTED]
8 [REDACTED] he was the official spokesperson or the person in charge of
9 communications for the group [REDACTED]

10 [REDACTED]

11 Q. [11:28:11] Very well. [REDACTED]?

12 A. [11:28:46](No interpretation)

13 PRESIDING JUDGE MINDUA: [11:28:47](Interpretation) We did not hear
14 the French interpretation.

15 THE INTERPRETER: [11:28:53] Message from the interpreters: I believe a channel
16 was blocked. If the witness could kindly repeat.

17 MR DUTERTRE: [11:29:04](No interpretation)

18 PRESIDING JUDGE MINDUA: [11:29:06](Interpretation) Courtroom officer.

19 THE COURT OFFICER: [11:29:24] Message to the --

20 PRESIDING JUDGE MINDUA: [11:29:29](Interpretation) Yes, we can hear you.

21 THE COURT OFFICER: [11:29:37](No interpretation)

22 (Pause in proceedings)

23 THE COURT OFFICER: [11:30:51](Interpretation) Can we continue with one Arabic
24 booth?

25 THE INTERPRETER: [11:31:04] The Arabic booth accepts.

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1 PRESIDING JUDGE MINDUA: [11:31:07](Interpretation) Thank you very much.

2 Mr Prosecutor, we shall continue with a single Arabic booth for the time being.

3 MR DUTERTRE: [11:31:14](Interpretation) Understood. Very well.

4 Q. [11:31:18] Mr Witness, could you repeat your reply. I had asked you whether

5 [REDACTED] in 2012 in Timbuktu?

6 A. [11:31:35] Yes, [REDACTED]

7 Q. [11:31:45] [REDACTED] in 2012 in

8 Timbuktu?

9 A. [11:32:01] [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. [11:32:31] Understood. Now, you also mentioned Abdallah. Could you give
15 the full name of this person, as you know this person?

16 A. [11:32:45] His war name was Abdallah Al Chinguetti.

17 Q. [11:33:54] Al Chinguetti means what, Mr Witness?

18 A. [11:33:03] It means the person from Mauritania, according to the -- apparently,
19 that is the historical name for Mauritania.

20 Q. [11:33:20] And what was Abdallah Al Chinguetti doing in 2012 in Timbuktu?

21 A. [11:33:36] He was taking part in a number of activities. I didn't know what his
22 official position was, but I saw him at several activities several times.

23 Q. [11:33:55] Could you be more specific about these activities?

24 A. [11:34:03] I don't know. [REDACTED]

25 [REDACTED] Several activities. I don't

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1 know exactly.

2 Q. [11:34:29] [REDACTED]

3 [REDACTED]

4 A. [11:34:41] [REDACTED] I didn't know that it

5 was Abdallah. I didn't know him. I got to know them later. And after I met them,

6 [REDACTED]

7 [REDACTED] the Friday prayer, and he was the imam, he was giving

8 the sermon.

9 He was a very simple person, very humble. He was always smiling. But I

10 discovered his identity [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED] unless I'm mistaken.

14 Q. [11:35:59] Understood. Now if I understand you correctly -- well, perhaps I

15 could ask you to write out the name of Sanda on a piece of paper, page 27, lines 17

16 and 18, as well as the other name Abdallah Al Chinguetti. If you could write out

17 those names on a piece of paper for us.

18 PRESIDING JUDGE MINDUA: [11:36:31](Interpretation) Madam courtroom officer.

19 THE COURT OFFICER: [11:37:12] The document is being displayed on the evidence

20 2 channel. I also take this opportunity to inform you that this document will bear

21 the number MLI-REG-0001-0007. The document that was created this morning by

22 the witness will be bearing the number MLI-REG-0001-0006. Thank you.

23 PRESIDING JUDGE MINDUA: [11:37:59](Interpretation) Thank you very much,

24 courtroom officer.

25 MR DUTERTRE: [11:38:03](Interpretation)

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1 Q. [11:38:06] Thank you, Mr Witness. Now we have the two names, the two
2 names that we have just been speaking about.

3 Now, if I have understood you correctly, [REDACTED]
4 [REDACTED]

5 Now, what topics did you -- or what things did you [REDACTED] when you were in
6 Timbuktu, [REDACTED]?

7 A. [11:38:38] [REDACTED]
8 [REDACTED] how Sharia was being applied in Timbuktu, so
9 [REDACTED] namely, the application of Sharia in
10 Timbuktu.

11 Q. [11:39:03] Could you be more specific, [REDACTED] with
12 the application of Sharia [REDACTED]?

13 A. [11:39:13] Well, the prohibition on alcohol, adultery, the various punishments,
14 the legal punishments that were meted out, the Islamic punishments.

15 Q. [11:39:31] [REDACTED]?

16 A. [11:39:43] [REDACTED] local people because they were afraid [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 THE INTERPRETER: [11:40:06] Correction: [REDACTED].

20 MR DUTERTRE: [11:40:11](Interpretation) I'll conclude this private session with
21 a photograph that I would like to show to the witness.

22 Now this is an identifying photograph, second binder, tab 248, this is an ERN
23 0018-2291 and it is confidential but it can be placed on the screen.

24 THE COURT OFFICER: [11:40:57] You have the floor. I'm sorry, would you like
25 the Registry to publish the document?

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- 1 MR DUTERTRE: [11:41:10](No interpretation)
- 2 THE COURT OFFICER: [11:41:13] The document will be available on the evidence 2
- 3 channel, then.
- 4 MR DUTERTRE: [11:41:27](Interpretation)
- 5 Q. [11:41:29] Do you see the photograph, Mr Witness?
- 6 A. [11:41:33] Yes.
- 7 Q. [11:41:38] Could you tell us who is the person wearing an orange garment that
- 8 we see to the left, facing us?
- 9 THE COURT OFFICER: [11:41:50] I'm sorry, Mr Prosecutor, but we do not see
- 10 the photograph.
- 11 MR DUTERTRE: [11:42:04](Interpretation) Evidence 1 or evidence 2? I've
- 12 displayed it.
- 13 If everyone has the photograph in the binder, I can go ahead.
- 14 PRESIDING JUDGE MINDUA: [11:42:30](Interpretation) Yes.
- 15 Now does the witness have the binder? Ah, in any event, the photograph is on
- 16 the screen. Please proceed.
- 17 MR DUTERTRE: [11:42:43](Interpretation)
- 18 Q. [11:42:43] Mr Witness, on the left we see a person facing us wearing an orange
- 19 garment. [REDACTED]?
- 20 A. [11:42:55] [REDACTED]
- 21 Q. [11:43:01] [REDACTED]
- 22 [REDACTED]?
- 23 A. [11:43:17] [REDACTED]
- 24 [REDACTED]
- 25 Q. [11:43:31] Understood. Who is the person [REDACTED]?

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1 A. [11:43:40] That person, I think that is Adam, the president of the Islamic police,
2 unless I'm mistaken. [REDACTED]

3 [REDACTED] The other person, * [REDACTED]

4 [REDACTED]

5 [REDACTED] we can

6 see that person to the right with a helmet.

7 Q. [11:44:32] Thank you, Mr Witness. Now, who is the person to the left who is
8 wearing a light-coloured turban, a brownish garment and who is looking away from
9 us, we just see his back?

10 A. [11:44:50] I think that is Al Faqi.

11 Q. [11:45:00] Could you give us his complete name?

12 A. [11:45:06] I don't remember the name. I don't remember the name.

13 Q. [11:45:11] Did he have a nickname, a *nom de guerre*?

14 A. [11:45:22] [REDACTED] I didn't know what he did or what his position
15 was, but I don't know whether he was the emir of the *Hesbah* or not.

16 Q. [11:45:47] [REDACTED]

17 [REDACTED]?

18 A. [11:46:03] I remember a specific incident when they destroyed the mausoleum at
19 the Djinguereber mosque, I think perhaps it was the end of 2012, late 2012.

20 Q. [11:46:30] Could you repeat the name of the mosque, Mr Witness?

21 A. [11:46:41] Djinguereber mosque.

22 Q. [11:46:46] Very well.

23 Your Honours, I believe we can go into open session.

24 PRESIDING JUDGE MINDUA: [11:46:53](Interpretation) Open session, please,
25 court officer.

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- 1 (Open session at 11.46 a.m.)
- 2 THE COURT OFFICER: [11:47:12] We are back in open session, Mr President.
- 3 PRESIDING JUDGE MINDUA: [11:47:21](Interpretation) Thank you very much.
- 4 Mr Prosecutor.
- 5 MR DUTERTRE: [11:47:27](Interpretation) Thank you, Mr President.
- 6 I would like to play a video in public. It is 0018-0014. And it is about one minute,
- 7 25 seconds. And it is in tab 28 of the first binder.
- 8 The transcript ERN is 0033-5279, tab 29, and the translation is ERN 0033-5423, and it is
- 9 in tab 30. And it starts with sound and then afterwards it will -- it will start without
- 10 sound, but then there will be directives from the Chamber.
- 11 Is it feasible?
- 12 THE COURT OFFICER: [11:48:58](Overlapping speakers) displayed on the evidence
- 13 2 channel.
- 14 (Viewing of the video excerpt)
- 15 MR DUTERTRE: [11:50:38](Interpretation) I stopped at 00:01:25:15. With your
- 16 indulgence, Mr President, I would like to go quickly to private session to state
- 17 the basis, a few minutes.
- 18 PRESIDING JUDGE MINDUA: [11:51:03](Interpretation) Private session, please,
- 19 court officer.
- 20 (Private session at 11.51 a.m.)
- 21 THE COURT OFFICER: [11:51:12] We are in private session (Overlapping speakers)
- 22 PRESIDING JUDGE MINDUA: [11:51:16](Interpretation) Thank you very much.
- 23 Mr Prosecutor.
- 24 MR DUTERTRE: [11:51:21](Interpretation)
- 25 Q. [11:51:22] Mr Witness, do you recognise that video?

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- 1 A. [11:51:33] Yes.
- 2 Q. [11:51:33] [REDACTED]?
- 3 A. [11:51:48] I'm not sure, [REDACTED]
- 4 [REDACTED]
- 5 Q. [11:51:57] [REDACTED]?
- 6 A. [11:52:07] [REDACTED]
- 7 Q. [11:52:14] Do you know where this video was filmed?
- 8 A. [11:52:26] According to what I was told, it was filmed at the headquarters of
- 9 the Timbuktu municipality during a meeting bringing together the people controlling
- 10 the town and the *cellule de crise* containing the representatives of the town, and they
- 11 discussed issues linked to the good functioning of the town. That is what I
- 12 remember.
- 13 Q. [11:53:13] And who gave you that information?
- 14 A. [11:53:24] No, I don't have any details about that.
- 15 Q. [11:53:30] Approximately, and I mean approximately, do you know when this
- 16 footage was filmed?
- 17 A. [11:53:43] I know that it was filmed in 2012. But given that, as I remember, we
- 18 are talking about this period, maybe it was in September or October, at the beginning
- 19 of the school year.
- 20 Q. [11:54:06] Very well, we will come back to that.
- 21 Can we revert to open session, your Honours.
- 22 PRESIDING JUDGE MINDUA: [11:54:15](Interpretation) Open session, please,
- 23 court officer.
- 24 (Open session at 11.54 a.m.)
- 25 THE COURT OFFICER: [11:54:24] We are back in open session, Mr President.

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1 PRESIDING JUDGE MINDUA: [11:54:34](Interpretation) Thank you very much.

2 Mr Prosecutor, please proceed.

3 MR DUTERTRE: [11:54:39](Interpretation) Thank you, your Honour.

4 I will continue with the sound and then I will stop to ask questions.

5 Q. But since we are in open session, Mr Witness, do you know what this meeting
6 dealt with particularly?

7 A. [11:55:06] I do not know specifically, but I think that they were discussing issues
8 related to education and the life of the town, and it was a meeting between those
9 controlling the town and the *cellule de crise*, made up of the representatives of the
10 town.

11 Q. [11:55:35] Thank you. The video starts again.

12 (Viewing of the video excerpt)

13 MR DUTERTRE: [11:56:46](Interpretation)

14 Q. [11:56:46] Mr Witness, I stopped at 00:01:09:17.

15 Can you tell us who are these people who are appearing on the screen.

16 A. [11:57:16] No, I am not able to recognise them. The image quality is not very
17 good, but I don't think I know them.

18 Q. [11:57:29] Would they be members of the *cellule de crise* that you talked about?

19 A. [11:57:44] Certainly, they must be members of the *cellule de crise*, they must be
20 the representatives of the community of civilians of the town.

21 Q. [11:57:59] I will repeat -- I will resume the video.

22 (Viewing of the video excerpt)

23 MR DUTERTRE: [11:58:20](Interpretation)

24 Q. [11:58:21] Mr Witness, I stopped at 00:01:26:08. Can you tell us who is

25 the person at the centre of the image with a black turban, a pale green boubou and his

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1 arms on his thighs?

2 A. [11:59:05] I think it is Abdallah Al Chinguetti.

3 Q. [11:59:12] Still at 00:01:26:08, who is the person to the right of Abdallah

4 Al Chinguetti with a white turban, a boubou and person -- a foot -- leg over each

5 other?

6 PRESIDING JUDGE MINDUA: [11:59:42](Interpretation) I think that person is to

7 the left.

8 MR DUTERTRE: [11:59:45](Interpretation) Yes, I think that person is to the left of

9 Chinguetti and to the right of -- in the photograph. That is my mistake. Thank you

10 very much for the correction.

11 PRESIDING JUDGE MINDUA: [12:00:00](Interpretation) Don't mention.

12 THE WITNESS: [12:00:07](Interpretation) That is Sanda, the man of the turban,

13 Sanda Abou Hammam.

14 MR DUTERTRE: [12:00:18](Interpretation)

15 Q. [12:00:19] Still at this time frame, when you look at the photograph, who is

16 the person to the right of Sanda who is wearing a black turban, a dark boubou and

17 leaning forward?

18 A. [12:00:40] I think his name is Radwan. I do not know whether it is his true

19 name or his *nom de guerre*.

20 Q. [12:01:00] Since it is not possible to see the faces of all these people, all their faces,

21 how are you able to say it is possibly Radwan? We are in open session, so if you

22 require a private session, then we will ask for one.

23 A. [12:01:32] I think it is him. [REDACTED]

24 Q. [12:01:42] Now, looking at the image, to the right of Radwan, who is the person

25 in white at the very extreme right of the image?

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- 1 A. [12:02:05] I think it is Abdelhamid Abou Zeid.
- 2 Q. [12:02:15] Can you clarify for the Chamber who is Abdel Abou Zeid?
- 3 A. [12:02:27] Abdul (phon) Hamid Abou Zeid, I think he is an Algerian, he was one
4 of the founders of AQIM, Al-Qaeda in the Islamic Maghreb, and he was also
5 considered as a specialist in hostage taking.
- 6 Q. [12:02:55] According to what you observed, what was his role in Timbuktu in
7 2012?
- 8 A. [12:03:12] At that time, Timbuktu was under the control of Abdelhamid
9 Abou Zeid and Yahya Hammam, but I don't know how the functions were
10 distributed between them.
- 11 Q. [12:03:33] You said that Yahya Abou Hammam was the leader of the
12 Al-Fourqane battalion. To which battalion did Abou Zeid belong?
- 13 A. [12:03:53] I think that he belonged to the Tarek Ben Ziyad battalion.
- 14 Q. [12:04:05] And the Tarek Ben Ziyad battalion is an AQIM battalion; is that
15 correct?
- 16 A. [12:04:18] Yes. The battalion was one of the main battalions, the largest
17 battalions of AQIM, Al-Qaeda.
- 18 Q. [12:04:40] I'm waiting for the French transcript.
19 But what was his role within the battalion, the Tarek Ben Ziyad battalion?
- 20 A. [12:04:58] He was the emir of this battalion, the commander, the head of that
21 battalion.
- 22 Q. [12:05:05] Thank you. Now, coming back to the left, let's talk about Radwan.
23 According to what you observed, what was Radwan doing in Timbuktu in 2012?
- 24 A. [12:05:31] I saw him in various and many locations, particularly in locations
25 where flogging was taking place and Sharia was being implemented, and other

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1 sanctions were being enforced. So I saw him in many, many locations.

2 Q. [12:05:57] Now, Mr Witness, I will go back to Abdallah Al Chinguetti. And
3 looking at the image, to the left there is someone in white with a sand-coloured
4 turban and with papers in his hand. Do you know who it is?

5 A. [12:06:27] Yes, it is Mohamed Al Faqi.

6 Q. [12:06:36] Very well. And I will continue the video now for a few seconds.

7 (Viewing of the video excerpt)

8 PRESIDING JUDGE MINDUA: [12:06:52](Interpretation) One moment,

9 Mr Prosecutor.

10 Counsel, you have the floor.

11 MS SUTHERLAND: [12:06:58] Could we please ask that the sound be turned off?

12 PRESIDING JUDGE MINDUA: [12:07:13](Interpretation) Court officer, please can
13 you turn off the sound.

14 THE COURT OFFICER: [12:07:25] The video has been muted, Mr President.

15 PRESIDING JUDGE MINDUA: [12:07:36](Interpretation) Very well, thank you.

16 Defence counsel, please, what is your request?

17 MS SUTHERLAND: [12:07:42] Mr President, that was our request (Overlapping
18 speakers)

19 PRESIDING JUDGE MINDUA: [12:07:56](Interpretation) I did not hear

20 Ms Sutherland's answer.

21 Let me put the question to you again, Ms Sutherland. You asked for the sound to be
22 turned off, is that correct? So what is the follow-up to that?

23 MS SUTHERLAND: [12:08:18] Mr President, that was the entirety of our request
24 (Overlapping speakers)

25 PRESIDING JUDGE MINDUA: (No interpretation)

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1 (Pause in proceedings)

2 THE COURT OFFICER: [12:09:33] The technician has been informed. And in
3 the meantime could maybe the other French booth -- thank you very much.

4 PRESIDING JUDGE MINDUA: [12:09:46](Interpretation) Thank you very much,
5 court officer.

6 MS SUTHERLAND: [12:09:52](Overlapping speakers) Can you hear me now,
7 Mr President?

8 PRESIDING JUDGE MINDUA: [12:09:58](Interpretation) Yes, it's perfect.

9 So, Ms Sutherland, what was the follow-up to your request?

10 MS SUTHERLAND: [12:10:09] The request was the -- was simply that it be turned
11 off -- the sound be turned off, because according to the direction on the conduct of
12 proceedings, if a video is to be shown for these purposes, it should be done so
13 without sound.

14 PRESIDING JUDGE MINDUA: [12:10:37](Interpretation) Very well. Thank you
15 very much.

16 Mr Prosecutor.

17 MR DUTERTRE: [12:10:40](Interpretation) I really do not fully understand what we
18 were talking about. But in the present case we can cut the sound. It is not
19 a problem for me. We played it without sound at the beginning and we can play it
20 without sound right now.

21 PRESIDING JUDGE MINDUA: [12:11:04](Interpretation) Please proceed.

22 MR DUTERTRE: [12:11:05](Interpretation) So we will play the video again for
23 a short moment.

24 (Viewing of the video excerpt)

25 MR DUTERTRE: [12:11:20](Interpretation) In fact, I will go backwards, I was

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1 interrupted a little bit there.

2 Q. [12:11:50] Mr Witness, at 00:00:24:10, who is this person?

3 A. [12:12:04] I believe that it is Judge Houka Houka.

4 Q. [12:12:19] Do you know the full name, the true name of Judge Houka Houka?

5 A. [12:12:31] No, I do not know his full name. I know that it is Judge

6 Houka Houka and that is how he was referred to, Judge Houka Houka.

7 Q. [12:12:45] Let me go back to 00:00:23:10.

8 Mr Witness, at 00:00:27:04, who is that person in the middle whose face can be seen?

9 A. [12:13:25] I think that was the last president of the Islamic police in Timbuktu.

10 I think his name is Khaled (phon) and that he was -- or is a Mauritanian.

11 Q. [12:13:45] Thank you. And what is this dark blue waistcoat that he is wearing?

12 A. [12:14:03] This was the waistcoat that is worn by the Islamic police. It is

13 written there "Islamic police".

14 Q. [12:14:14] Are you referring to the white insignia on his chest there?

15 A. [12:14:24] I do not remember what is written on the white badge there, but I

16 think it is written "Islamic police". But on the back of the waistcoat it is actually

17 written "*Police Islamique*" or "Islamic police".

18 MR DUTERTRE: [12:14:51](Interpretation) Your Honours, I'm done with this video

19 and I'm going to go to another video, which is quite long, but I will show only 40

20 seconds of it.

21 PRESIDING JUDGE MINDUA: [12:15:05](Interpretation) Please go ahead.

22 MR DUTERTRE: [12:15:09](Interpretation) I looked at the time.

23 PRESIDING JUDGE MINDUA: [12:15:10](Interpretation) Yes, if that is the case, we

24 will stop.

25 Very well, we are going to stop for a longer time. We will resume at 13.30.

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- 1 Court shall rise.
- 2 THE COURT USHER: [12:15:34] All rise.
- 3 (Recess taken at 12.15 p.m.)
- 4 (Upon resuming in open session at 1.31 p.m.)
- 5 THE COURT USHER: [13:31:21] All rise.
- 6 Please be seated.
- 7 PRESIDING JUDGE MINDUA: [13:31:49](No interpretation)
- 8 MR DUTERTRE: [13:32:03](No interpretation)
- 9 Q. [13:32:17](No interpretation)
- 10 THE COURT OFFICER: [13:32:24] I'm sorry to interrupt, Mr Prosecutor. It seems
- 11 that the English interpretation is now given through the channel 2, the French
- 12 interpretation, and the French interpretation channel is coming via the English
- 13 interpretation.
- 14 THE INTERPRETER: [13:32:40] Apologies from the English interpreter. He was
- 15 indeed on the French channel (Overlapping speakers) --
- 16 THE COURT OFFICER: It seems to be fixed now. Thank you.
- 17 THE INTERPRETER: -- and he is now back on the English.
- 18 PRESIDING JUDGE MINDUA: [13:32:51](Speaks English) Okay, thank you.
- 19 MR DUTERTRE: [13:32:55](Interpretation) We will get there.
- 20 PRESIDING JUDGE MINDUA: [13:33:01](Interpretation) It's much better now.
- 21 MR DUTERTRE: [13:33:06](Interpretation) The French sounds like Molière now and
- 22 no longer like Shakespeare.
- 23 PRESIDING JUDGE MINDUA: [13:33:14](Interpretation) Very well. Please go
- 24 ahead, Mr Prosecutor.
- 25 MR DUTERTRE: [13:33:18](Interpretation) Thank you. As I was saying, I would

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1 like to play 40 seconds from video [REDACTED] And this is tab 34 in the first binder.

2 It has a transcript, 0028-0839. And that's at tab 35.

3 More specifically, I'll be playing this video publicly, without sound, from 00:08:44:03

4 to [REDACTED]

5 Q. [13:34:52] Mr Witness, can you see the image on the screen?

6 A. [13:34:59] Yes, I can.

7 (Viewing of the video excerpt)

8 MR DUTERTRE: [13:35:52](Interpretation) Could we go into private session for

9 a few moments for a number of foundational questions.

10 PRESIDING JUDGE MINDUA: [13:36:01](Interpretation) Court officer, private

11 session, please.

12 (Private session at 1.36 p.m.)

13 THE COURT OFFICER: [13:36:13] We are in private session, Mr President.

14 PRESIDING JUDGE MINDUA: [13:36:20](Interpretation) Thank you very much.

15 MR DUTERTRE: [13:36:25](Interpretation) Thank you.

16 Q. [13:36:27] Witness, do you recognise this footage?

17 A. [13:36:31] Yes, I do. [REDACTED]

18 Q. [13:36:40] [REDACTED]

19 A. [13:36:53] In one of the mosques in the city of Timbuktu, perhaps

20 the neighbourhood north of the main market.

21 Q. [13:37:09] [REDACTED]

22 A. [13:37:18] [REDACTED]

23 [REDACTED] I think it was the first Friday prayer that we took part in. [REDACTED]

24 [REDACTED]

25 Q. [13:37:47] I'd like us to go to one image in particular, and then we'll be going

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1 into open session.

2 If we could go to [REDACTED] That's where we were right now. Now, Mr Witness.

3 Could you tell us who is the person on the left?

4 A. [13:38:31] Those are the same people, Abdallah --

5 THE INTERPRETER: [13:38:35] And the Arabic interpreter --

6 THE WITNESS: [13:38:37] Ah, Chinguetti was the surname.

7 THE INTERPRETER: [13:38:38] Overlapping speakers.

8 MR DUTERTRE: [13:38:45](Interpretation)

9 Q. [13:38:46] Abdallah Al Chinguetti. Very well.

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

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

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED] I didn't know him [REDACTED]

18 [REDACTED]

19 Q. [13:40:06] Thank you.

20 And what year was that, the footage that we see on the right?

21 A. [13:40:20] I think it was in 2012 in Timbuktu, when the city was being overrun.

22 Q. [13:40:31] Thank you. I'm just going to play one short extract from the video,

23 with sound. From [REDACTED]

24 (Viewing of the video excerpt)

25 MR DUTERTRE: [13:41:39](Interpretation)

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- 1 Q. [13:41:42] I'm going to move back a little bit.
- 2 Now, Mr Witness, at [REDACTED], who is this person we see?
- 3 A. [13:42:11] The screen is dark, I can't see anything. The image isn't clear to me.
- 4 Oh, now it's clearer.
- 5 It was -- it's clear now. It's quite clear now.
- 6 Q. [13:42:32] Can you give us the name of that person that we see on the screen?
- 7 A. [13:42:40] Abdallah Al Chinguetti.
- 8 Q. [13:42:46] Thank you.
- 9 Perhaps we could adjust the screen for the witness. This will be not helpful, unless
- 10 we do something about his screen.
- 11 Could the court usher do something?
- 12 PRESIDING JUDGE MINDUA: [13:43:01](Interpretation) Madam courtroom officer,
- 13 if you could see to that.
- 14 THE COURT OFFICER: [13:43:04] I am informed that this is due to the angle of
- 15 the smart board, which is not as straight as our computer. So maybe if Mr Witness
- 16 wants to stand up, if he doesn't see the image - probably, with the leave of the
- 17 Chamber - that could solve the issue.
- 18 MR DUTERTRE: [13:43:31](Interpretation) Well, perhaps we could change the angle
- 19 of the screen rather than asking the witness to stand up.
- 20 THE COURT OFFICER: [13:43:36](Overlapping speakers) Unfortunately this is not
- 21 a regular screen but -- this is a smart board and it cannot be moved.
- 22 MR DUTERTRE: [13:43:51](Interpretation) I shall continue right until the end.
- 23 (Viewing of the video excerpt)
- 24 Q. [13:44:02] Now, Witness, I've stopped at [REDACTED] The people who are coming out,
- 25 where are they coming out from, exactly?

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- 1 A. [13:44:17] They're coming out of the door of the mosque where Abdallah
2 Al Chinguetti was giving his sermon --
3 THE INTERPRETER: [13:44:33] Correction: his Friday sermon.
4 MR DUTERTRE: [13:44:37](Interpretation) 00:09 --
5 I'd like us to go into private session very quickly, your Honour.
6 PRESIDING JUDGE MINDUA: [13:44:50](Interpretation) Courtroom officer, private
7 session, please.
8 THE COURT OFFICER: [13:44:54](Overlapping speakers) We are already in private
9 session, Mr President.
10 MR DUTERTRE: [13:45:04](Interpretation) We could have left it.
11 Q. [13:45:07] Now this person with a white boubou - and we see the person from
12 the side who is looking to the left on the left-hand side - do you know that person?
13 It's a profile shot. Do you know this person?
14 A. [13:45:23] Yes, I remember him.
15 Q. [13:45:32] Could you tell us what you remember about this person?
16 A. [13:45:39] I don't remember his name, but I think he was one of the Arabs from
17 the Kunta tribe in Timbuktu and he might belong to the *Hesbah* or the Islamic police.
18 Q. [13:45:57] [REDACTED] ?
19 A. [13:46:04] [REDACTED]
20 Q. [13:46:11] [REDACTED]
21 A. [13:46:24] What I remember now is that there was a demonstration [REDACTED]
22 [REDACTED] It was a demonstration of women, so there were altercations between
23 the women -- verbal altercations between the women and members of the groups
24 present. [REDACTED]
25 [REDACTED]

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1 Q. [13:47:08] Why were the women demonstrating at that time, Mr Witness?

2 A. [13:47:17] We couldn't clearly understand why. [REDACTED]

3 [REDACTED] So, you see,

4 there were altercations. There was one woman and she had blood on her face, and
5 someone insinuated that it was fundamentalism and strict rules about the dress code
6 and the strict rules having to do with women. In particular the dress code for
7 women, as I said.

8 Q. [13:48:08] Very well. And what year was that, can you specify, when
9 the women's demonstration took place?

10 A. [13:48:20] Late --

11 THE INTERPRETER: [13:48:26] Correction --

12 THE WITNESS: [13:48:27](Interpretation) Perhaps towards the end of 2012, when
13 the city of Timbuktu was overrun.

14 MR DUTERTRE: [13:48:34](Overlapping speakers)

15 PRESIDING JUDGE MINDUA: (Overlapping speakers)

16 THE INTERPRETER: [13:48:35] Overlapping speakers.

17 PRESIDING JUDGE MINDUA: [13:48:38](Interpretation) Mr Witness, a few
18 moments ago we saw someone and this person was giving the Friday sermon, and he
19 was asking the faithful to shut the shops on Friday and to come and pray. Now, was
20 he an imam, a military commander, what was this person's position?

21 THE WITNESS: [13:49:13](Interpretation) [REDACTED]
22 a Al-Qaeda spokesperson and then, later -- well, I don't remember. In any event, this
23 person took command of the battalion, Al-Fourqane battalion, unless I'm mistaken.

24 PRESIDING JUDGE MINDUA: [13:50:01](Interpretation) When this person asked
25 that the shops be closed on Friday, was that a recommendation or was it an order

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1 from -- was it a public order? Was it from the government?

2 THE WITNESS: [13:50:29](Interpretation) In actual fact, the closing down of the
3 shops, I think that the translation of the sermon was done, but I wasn't there. In any
4 event, the closing down of the shops had to be done during the prayers and it is
5 mentioned in the Koran. It is actually a Koranic injunction.

6 PRESIDING JUDGE MINDUA: [13:50:54](Interpretation) Thank you. Mr Dutertre.

7 MR DUTERTRE: [13:50:56](Interpretation)

8 Q. [13:50:57] One last question about this footage -- well, rather, the women's
9 demonstration. You said, page 50, line 2: And someone insinuated that this was
10 about fundamentalism, about strict dress codes.

11 Could you help us understand what you meant by this? Especially when you said
12 someone insinuated to us. Could you clarify that point?

13 A. [13:51:33] Could you put your question differently, please.

14 Q. [13:51:46] I will reword my question. [REDACTED]
15 about this women's demonstration?

16 A. [13:52:05] I don't remember. [REDACTED] But
17 I do remember the incident very well, namely the women's demonstration at the
18 market in the centre of Timbuktu. [REDACTED]

19 [REDACTED].

20 MR DUTERTRE: [13:52:35](Interpretation) I think we can go back into open session.

21 PRESIDING JUDGE MINDUA: [13:52:38](Interpretation) Open session, please,
22 court officer.

23 (Open session at 1.52 p.m.)

24 THE COURT OFFICER: [13:52:46] We are back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [13:52:55](Interpretation) Thank you very much.

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- 1 Mr Prosecutor, please continue.
- 2 (Viewing of the video excerpt)
- 3 MR DUTERTRE: [13:53:10](Interpretation) Your Honour, I would like to now show
- 4 some footage, 53 seconds, 00:09:0 -- 800 -- tab 157 of the second binder, and
- 5 the transcript is 0069-0473, tab 158 in the binder.
- 6 This is a public document and I will play the footage without sound, in any event,
- 7 the initial images for identification purposes.
- 8 (Viewing of the video excerpt)
- 9 MR DUTERTRE: [13:54:48](Interpretation) I'll stop at 22:22.
- 10 Can we go into private session quickly.
- 11 PRESIDING JUDGE MINDUA: [13:55:00](Interpretation) Private session,
- 12 court officer.
- 13 (Private session at 1.55 p.m.)
- 14 THE COURT OFFICER: [13:55:09] We're in private session, Mr President.
- 15 PRESIDING JUDGE MINDUA: [13:55:15](Interpretation) Prosecutor.
- 16 MR DUTERTRE: [13:55:22](Interpretation)
- 17 Q. [13:55:22] Do you recognise this footage, Mr Witness?
- 18 A. [13:55:32] I don't remember, but it seems to me that I know this person, and
- 19 perhaps I spoke to that person. I don't know when we had a discussion, but the face
- 20 is familiar to me and I think I did have -- I did speak to him [REDACTED]
- 21 Q. [13:55:58] Could you tell us where, [REDACTED]?
- 22 A. [13:56:12] In Timbuktu, I believe.
- 23 Q. [13:56:17] Do you remember the year [REDACTED]?
- 24 A. [13:56:25] 2012, I think.
- 25 MR DUTERTRE: [13:56:33](Interpretation) We can go into open session now,

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- 1 your Honour.
- 2 PRESIDING JUDGE MINDUA: [13:56:36](Interpretation) Open session, please,
- 3 Madam courtroom officer.
- 4 (Open session at 1.56 p.m.)
- 5 THE COURT OFFICER: [13:56:53] We are back in open session.
- 6 PRESIDING JUDGE MINDUA: [13:57:00](Interpretation) Thank you very much.
- 7 Prosecution.
- 8 MR DUTERTRE: [13:57:04] (Interpretation) Thank you.
- 9 I will now play the video with sound.
- 10 (Viewing of the video excerpt)
- 11 *THE INTERPRETER: (Interpretation of the video excerpt)
- 12 Unidentified speaker: About the new rules that are being applied in relation to
- 13 women, my point of view is above all that. I am from Timbuktu, I am Muslim, and I
- 14 really want women to be really well dressed. But in relation to ... so that ... women are
- 15 being harassed, because presently women are even being harassed. A woman, all it
- 16 takes is for her to see someone who has a weapon, or he has a whip in his hand, and
- 17 she runs away. That too is not normal. Really, it is too much, it is going too far.
- 18 And there are families of women - even if a woman is with her family and is wearing
- 19 a T-shirt - someone has a weapon and is going by, just passing by, the woman sees
- 20 that, and she gets scared. She throws ... even if she has a cup, but she throws it
- 21 down, it's too much.
- 22 MR DUTERTRE: [13:58:19] (Interpretation)
- 23 Q. [13:58:21] Mr Witness, if you remember, could you tell us what the ethnic origin
- 24 was of this person speaking, this gentleman?
- 25 A. [13:58:40] I couldn't tell you. I don't remember.

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1 Q. [13:58:44] Very well. Mr Witness, last Friday, page 16 of transcript 37, you
2 mentioned that in Timbuktu there was the Islamic police, the main force of the group,
3 and there was the *Hesbah*. And this morning you mentioned, for instance, a judge,
4 Judge Houka --

5 THE INTERPRETER: [13:59:31] Correction: Judge Houka Houka.

6 MR DUTERTRE: [13:59:34](Interpretation)

7 Q. [13:59:35] Could you tell us what the other groups existed in 2012 in Timbuktu,
8 up until early 2013, during the occupation of the city by the two armed groups
9 Ansar Dine and AQMI?

10 A. [14:00:04] Despite the fact that I was present in the city as a civilian - of course I
11 wasn't part of those groups that were controlling the city - I can observe. But just on
12 the basis of the activities that I see with the people, for example, the presence of the
13 Islamic police who are responsible for all the problems within the city. In addition,
14 the *Hesbah*, who were responsible for changing any behaviour that was not in
15 accordance with Islamic Sharia. And, of course, the *Hesbah* supervised the execution
16 or the carrying out and the army, the armed force that allowed all these various
17 bodies to do what they wanted to do. I don't know the other bodies or the other
18 ways of operation or coordination.

19 Q. [14:01:22] Thank you. And this judge, Judge Houka Houka, where did he
20 preside? Where did he do his work as a judge?

21 A. [14:01:40] I don't know. At first, I heard people say that there was a tribunal
22 within the official tribunal and I heard people say that he worked at the headquarters
23 of the official tribunal. But then there was an Islamic tribunal within
24 the premises -- well, within a hotel, a hotel that was owned by a western person.
25 And I think the tribunal had its hearing in that hotel and that judge did his work

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1 within that tribunal, which became the headquarters of the Islamic tribunal. There's
2 even a very large sign there that reads "Islamic tribunal".

3 Q. [14:02:43] Thank you. Islamic police, *Hesbah*, military force, Islamic court. If
4 you want, Mr Witness, we will go deeper into the Islamic police matter.

5 You said that the police was in charge of public issues, if I remember correctly. As
6 far as you could observe, can you give us some details of the activities of the Islamic
7 police in Timbuktu, 2012?

8 A. [14:03:37] It is difficult to describe that to you, for someone who was not
9 a member of those groups, like myself. But what is of public knowledge is that if
10 there was a conflict between two people, these people would complain to the Islamic
11 police. The police would arrest the criminal or the person who attacked another
12 person. And so it is very difficult to distinguish between the various functions of
13 the Islamic police. Sometimes, there were people who belonged to the Islamic police
14 who carried out functions related more to *Hesbah*, so they were interdependent.
15 I cannot give you more elaborate information.

16 MR DUTERTRE: [14:04:49](Interpretation) Can we go back briefly to private session,
17 Mr President.

18 PRESIDING JUDGE MINDUA: [14:04:55](Interpretation) Private session,
19 court officer, please.

20 (Private session at 2.04 p.m.)

21 THE COURT OFFICER: [14:05:06] We are in private session, Mr President.

22 PRESIDING JUDGE MINDUA: [14:05:12](Interpretation) Thank you very much.
23 Prosecutor.

24 MR DUTERTRE: [14:05:19](Interpretation) Thank you, Mr President.

25 Q. [14:05:20] Mr Witness, what is interesting for the Chamber is to know what you

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- 1 saw with your own eyes - [REDACTED]
- 2 [REDACTED] what the Islamic police was doing.
- 3 We are in private session, so can you give us a few more details for the information of
- 4 the judges and the parties, what you were able to observe of the activities of the
- 5 police.
- 6 A. [14:05:57] All that we were able to see was, for example, that the Islamic police
- 7 took people who were thought or found guilty, they would take them to a public
- 8 square in order to enforce punishment against them. The Islamic police also
- 9 organised patrols. They received complaints from the inhabitants and, subsequently,
- 10 they would arrest people to prosecute them or to be prosecuted before the courts.
- 11 Q. [14:06:49] Thank you. You have said that they carried out patrols. What was
- 12 the purpose of those patrols?
- 13 A. [14:07:08] I do not know. I cannot tell you what was the objective of those
- 14 patrols. Usually, patrols are carried out for security purposes.
- 15 Q. [14:07:23] Very well.
- 16 We can go back to open session, Mr President.
- 17 PRESIDING JUDGE MINDUA: [14:07:28](Interpretation) Open session, court officer,
- 18 please.
- 19 (Open session at 2.07 p.m.)
- 20 THE COURT OFFICER: [14:07:45] We are back in open session, Mr President.
- 21 PRESIDING JUDGE MINDUA: [14:07:53](Interpretation) Thank you very much.
- 22 Prosecutor.
- 23 MR DUTERTRE: [14:07:58](Interpretation) Thank you, your Honour.
- 24 Q. [14:08:02] Mr Witness, do you know approximately when the Islamic police
- 25 started doing its work in the town of Timbuktu?

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1 A. [14:08:30] I think they started after a certain period of controls, that is after they
2 started -- succeeded in acquiring control over the town. So, after a while, we started
3 hearing about the activities of the Islamic police. After that, they started wearing
4 their own uniforms on which was written "Islamic police".

5 Q. [14:09:07] Do you know where the premises of the Islamic police were in
6 Timbuktu?

7 A. [14:09:18] Yes. I think that initially their headquarters was at the BMS,
8 the *Banque Malienne de Solidarité*. After that, they transferred their headquarters to
9 the *centre de la préfecture*, that is the headquarters, the *gouvernorat* of the Timbuktu
10 province.

11 Q. [14:09:48] Thank you.

12 Your Honours, I would like to show a video, 14 seconds of video 0015-0495. It is in
13 tab 251. The transcript is 251 and the translation is 252 and 253. But I don't need
14 the sound. I will go to 00:28:51:08 to 00:29:05:00. 00:28:51:03 specifically.

15 (Viewing of the video excerpt)

16 MR DUTERTRE: (Interpretation) And I have stopped at 00:29:05:18.

17 Can we go very briefly into private session, your Honour.

18 PRESIDING JUDGE MINDUA: [14:11:37](Interpretation) Private session,
19 court officer.

20 (Private session at 2.11 p.m.)

21 THE COURT OFFICER: [14:11:45] We are in private session, Mr President.

22 PRESIDING JUDGE MINDUA: [14:11:52](Interpretation) Thank you very much.

23 The Prosecutor, please.

24 MR DUTERTRE: [14:11:56](Interpretation) Thank you, Mr President.

25 Q. [14:11:58] [REDACTED]

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- 1 A. [14:12:14] [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED] I was not in Timbuktu [REDACTED]
5 [REDACTED]
- 6 Q. [14:12:53] Thank you.
7 Your Honours, we can go back to open session.
- 8 PRESIDING JUDGE MINDUA: [14:13:02](Interpretation) Open session, please,
9 court officer.
10 (Open session at 2.13 p.m.)
- 11 THE COURT OFFICER: [14:13:12] We are back in open session, Mr President.
- 12 PRESIDING JUDGE MINDUA: [14:13:24](Interpretation) Thank you very much.
13 The Prosecutor.
- 14 MR DUTERTRE: [14:13:31](Interpretation) I will start from 00:28:52:04, that is,
15 resume play of the footage.
16 (Viewing of the video excerpt)
- 17 MR DUTERTRE: And then I stopped at 00:28:55:13.
- 18 Q. [14:13:50] Mr Witness, do you recognise this building?
19 A. [14:13:59] Yes, it is clear. It is the building of the first headquarters of the
20 Islamic police.
- 21 Q. [14:14:12] You can see a balcony and below that balcony there is something
22 written on a placard. Can you tell us what is written there, Mr Witness?
23 A. [14:14:38] Yes, it is written "Islamic police".
- 24 Q. [14:14:42] And if I understood you well, it is the first headquarters of the Islamic
25 police, the *Banque Malienne de Solidarité*; is that correct?

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1 A. [14:14:57] Yes, very highly likely.

2 Q. [14:15:11] I continue.

3 (Viewing of the video excerpt)

4 MR DUTERTRE: [14:15:18](Interpretation)

5 Q. [14:15:19] And I am now at 00:29:00:16. We can see the balcony there and
6 the writing, "*Police Islamique*". Below "*Police Islamique*" written there, what are
7 the numbers that one can see?

8 A. [14:15:51] It is clear from that placard that these are telephone numbers.

9 Q. [14:16:00] Thank you. And so the second headquarters was at the *gouvernorat*.
10 I would like to play another video, Mr President, 00:18:05:11, it is 47 seconds long and
11 it is at tab 40. And the transcript is 0069-2893 and it is at tab 41. It is public and
12 I can play it without sound.

13 (Viewing of the video excerpt)

14 MR DUTERTRE: [14:17:06](Interpretation)

15 Q. [14:17:07] Can you see the image there, Mr Witness?

16 A. [14:17:11] Yes.

17 MR DUTERTRE: (Overlapping speakers)

18 (Viewing of the video excerpt)

19 MR DUTERTRE: [14:18:14](Interpretation) Mr President, can we go very briefly into
20 private session.

21 PRESIDING JUDGE MINDUA: [14:18:19](Interpretation) Private session, please,
22 court officer.

23 (Private session at 2.18 p.m.)

24 THE COURT OFFICER: [14:18:28] We are in private session, Mr President.

25 PRESIDING JUDGE MINDUA: [14:18:35](Interpretation) Thank you very much.

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1 Prosecutor.

2 MR DUTERTRE: [14:18:40](Interpretation) Thank you very much, your Honours.

3 Q. [14:18:43] [REDACTED]

4 A. [14:18:47] [REDACTED]

5 Q. [14:18:51] [REDACTED]

6 A. [14:18:56] [REDACTED]

7 Q. [14:19:00] (Overlapping speakers)

8 THE INTERPRETER: [14:19:07] Overlapping from the Prosecutor.

9 THE WITNESS: [14:19:13](Interpretation) I am under oath so I'm a bit uncertain.

10 I cannot be 100 per cent sure about anything, but I am 99 per cent sure that [REDACTED]

11 [REDACTED]

12 MR DUTERTRE:

13 Q. [14:19:33] Very well. In which town [REDACTED] ?

14 A. [14:19:43] In Timbuktu town.

15 Q. [14:19:48] In which year [REDACTED] ?

16 A. [14:19:58] I believe that it was at the end of 2012.

17 Q. [14:20:07] Thank you.

18 Let's go to open session.

19 PRESIDING JUDGE MINDUA: [14:20:11](Interpretation) Court officer, please, open
20 session.

21 (Open session at 2.20 p.m.)

22 THE COURT OFFICER: [14:20:18] We are back in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [14:20:26](Interpretation) Thank you.

24 Prosecutor.

25 MR DUTERTRE: [14:20:32](Interpretation) Thank you. I will replay this video,

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1 while stopping at certain points.

2 (Viewing of the video excerpt)

3 MR DUTERTRE: [14:21:11](Interpretation)

4 Q. At 00:00:17:17, what can you see at the front, written at the front of that building,

5 Mr Witness?

6 A. [14:21:34] This is the frontage which is actually behind the main camp of the

7 Malian army. It is written "Bienvenue à Tombouctou, city of the 333 saints".

8 Q. [14:21:57] Thank you. I resume.

9 (Viewing of the video excerpt)

10 MR DUTERTRE: [14:22:14](Interpretation)

11 Q. [14:22:15] Mr Witness, at 00:00:35:01, what is that mass, pile of stones that one

12 can see on the image?

13 A. [14:22:30] It is a statue of a chivalry officer on a horse that seemed to be flying.

14 This was a statue at the entry into Timbuktu, between the army camp and

15 the headquarters of the, the *gouvernorat* or the province. According to what I have

16 heard, the inhabitants of Timbuktu thought it was a statue of Farouk and this is a

17 legendary personality who is, in a way, the patron of the saint who protected the city

18 and the jihadists destroyed it at the time.

19 Q. [14:23:32] If I understood you well, it is the Al Farouk monument; is that

20 correct?

21 A. [14:23:38] Yes.

22 Q. [14:23:41] I move on with the video.

23 (Viewing of the video excerpt)

24 MR DUTERTRE: [14:23:56](Interpretation)

25 Q. At 00:00:40:03, what is that big building, storey building that we see behind with

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- 1 arcades?
- 2 A. [14:24:16] This was the headquarters of the governor of the province and in 2012
- 3 it became the headquarters of the Islamic police.
- 4 Q. [14:24:30] At 00:00:43:22, what is written on the placard in front of that building?
- 5 A. [14:24:44] "*Police Islamique*" or Islamic police.
- 6 Q. [14:24:57] I would like to play another video, 0018-0483, it is 40 seconds, tab 152,
- 7 and the transcript is tab 153, ERN 0069-0455.
- 8 I will play it in public session without sound. And it is 40 seconds long.
- 9 (Viewing of the video excerpt)
- 10 MR DUTERTRE: [14:26:54](Interpretation) Thank you.
- 11 Mr President, can we go briefly into private session.
- 12 PRESIDING JUDGE MINDUA: [14:26:57](Interpretation) Private session, please,
- 13 court officer.
- 14 (Private session at 2.27 p.m.)
- 15 THE COURT OFFICER: [14:27:07] We are in private session.
- 16 PRESIDING JUDGE MINDUA: [14:27:12](Interpretation) Thank you very much.
- 17 Prosecutor.
- 18 MR DUTERTRE: [14:27:16](Interpretation) Thank you, your Honour.
- 19 Q. [14:27:18] [REDACTED]?
- 20 A. [14:27:24] [REDACTED]
- 21 Q. [14:27:26] [REDACTED]
- 22 A. [14:27:36] [REDACTED]
- 23 Q. [14:27:37] In which town?
- 24 A. [14:27:45] In the market at the very heart of Timbuktu in 2012.
- 25 MR DUTERTRE: [14:27:55](Interpretation) We can go back to open session.

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- 1 PRESIDING JUDGE MINDUA: [14:27:59](Interpretation) Open session,
2 court officer.
3 (Open session at 2.28 p.m.)
4 THE COURT OFFICER: [14:28:09] We are back in open session, Mr President.
5 PRESIDING JUDGE MINDUA: [14:28:15](Interpretation) Thank you very much.
6 The Prosecutor.
7 MR DUTERTRE: [14:28:21](Interpretation) Thank you, your Honours. I have now
8 come back to an image at time frame 00:00:17:20.
9 Q. [14:28:37] Mr Witness, to which organisation or organ do these two people
10 belong? One of them is seated.
11 A. [14:28:57] Apparently they are members of the Islamic police.
12 Q. [14:29:04] And based on what you were able to observe, what were they doing
13 at that particular time?
14 A. [14:29:18] Apparently they are at the market to control, to monitor what is going
15 on at the market.
16 Q. [14:29:32] And what do you mean by "apparently" they are members of the
17 Islamic police?
18 A. [14:29:46] When I say "apparently" it is based on looking at their uniforms, it
19 appears that they belong to the Islamic police.
20 Q. [14:30:00] Can you clarify that when you make the reference to what they are
21 wearing.
22 A. [14:30:15] You have the blue waistcoat. It's the uniform that was specific to
23 the Islamic police, and they monitored and controlled the market and maintained
24 security. So that is an observation point for the market.
25 Q. [14:30:47] Thank you.

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1 I can see the time, your Honour. I think it's a good time to close today.

2 PRESIDING JUDGE MINDUA: [14:30:53](Interpretation) You are quite correct,

3 Mr Prosecutor, it is 2.30 p.m.

4 Mr Witness, it is 2.30 p.m. and we have to adjourn. The Chamber would like to
5 thank you for having answered the questions very clearly, but your testimony is not
6 yet over. We are going to resume tomorrow at 9.30 a.m. and between now and then,
7 please do not forget that it is strictly forbidden to speak about your testimony to
8 anyone, including members of your family, and even friends, if you are in contact
9 with any of those people this evening.

10 You have understood me?

11 THE WITNESS: [14:31:51](Interpretation) Yes, that is quite clear.

12 PRESIDING JUDGE MINDUA: [14:31:53](Interpretation) Thank you very much. I
13 would like to thank all the parties and participants, the court reporters and
14 interpreters, our security officers and also members of the public.

15 We will now adjourn and reconvene tomorrow at 9.30 a.m.

16 Court is adjourned.

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

18 (The hearing ends in open session at 2.32 p.m.)

19 CORRECTIONS REPORT

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

23 Page 2 lines 1-3

24 "Today the Prosecution team has changed somewhat. We have Mr Mousa Allafi, at
25 the back, Ms Sarah Coquillaud, behind me, Lucio Garcia beside me, and myself, Mr

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1 Gilles Dutertre.” Is corrected to “Today the Prosecution team is the same. We have
2 Mr Mousa Allafi, at the back, Ms Sarah Coquillaud, behind me, Lucio Garcia beside
3 me, and myself, Gilles Dutertre. “

4 Page 45 lines 11-21

5 “THE INTERPRETER: (Interpretation of the video excerpt)

6 Unidentified speaker: About the new rules that are being applied in relation to
7 women, my point of view is above all that. I am from Timbuktu, I am Muslim, and I
8 really want women to be really well dressed. But in relation to ... so that ... women are
9 being harassed, because presently women are even being harassed. A woman, all it
10 takes is for her to see someone who has a weapon, or he has a whip in his hand, and
11 she runs away. That too is not normal. Really, it is too much, it is going too far.
12 And there are families of women - even if a woman is with her family and is wearing
13 a T-shirt - someone has a weapon and is going by, just passing by, the woman sees
14 that, and she gets scared. She throws ... even if she has a cup, but she throws it
15 down, it's too much. “ is added.

16 SECOND CORRECTION REPORT

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

19 Page 28 line 3:

20 “MJ (phon)” is corrected to [REDACTED]