

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-1/88-NB-T~~

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 vs 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 Tuesday, 17 November 2020
10 (The hearing starts in open session at 9.31 a.m.)
11 THE COURT USHER: [9:31:42] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:32:06](Interpretation) Hearing is in session.
15 Good morning, everyone.
16 Court officer, please would you call the case.
17 THE COURT OFFICER: [9:32:17](Interpretation) Good morning, your
18 Honour, your Honours.
19 The situation in Mali, in the case of The Prosecutor versus Mr Al Hassan -- Al
20 Hassan, reference ICC-01/12-01/18.
21 And we are in open session.
22 PRESIDING JUDGE MINDUA: [9:32:34](Interpretation) Thank you, court
23 officer.
24 For the transcript, we are going to go with the appearances, starting with the
25 Office of the Prosecutor.

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- 1 MR DUTERTRE: [9:32:46](Interpretation) Good morning, your Honour.
- 2 Good morning, your Honours. The Prosecution -- good morning, Witness,
- 3 and everybody else. The Prosecution today is represented by Madam
- 4 Sarah Coquillaud, Mr Garcia, and myself, Gilles Dutertre. Thank you.
- 5 PRESIDING JUDGE MINDUA: [9:33:06](Interpretation) Thank you,
- 6 Prosecutor.
- 7 And now turning to the Defence.
- 8 Ms Taylor.
- 9 MS TAYLOR: [9:33:10] Good morning, Mr President. Good morning, your
- 10 Honours. The Defence for Mr Al Hassan is represented today by
- 11 Kirsty Sutherland, Molly Thomas, Dolly Chahla and myself, Melinda Taylor.
- 12 And I note for the record that again, Mr Al Hassan is quarantined in the
- 13 detention unit because of COVID. Thank you.
- 14 PRESIDING JUDGE MINDUA: [9:33:37](Interpretation) Thank you,
- 15 Ms Taylor.
- 16 The Legal Representatives of Victims now.
- 17 Mr Kassongo.
- 18 MR KASSONGO: [9:33:46](Interpretation) Good morning, your Honour, your
- 19 Honours. The team of the representatives this morning is represented by
- 20 Madam Claire Laplace, who's assisting me, and myself, Maître Kassongo.
- 21 Thank you.
- 22 PRESIDING JUDGE MINDUA: [9:34:02](Interpretation) Thank you, Maître
- 23 Kassongo.
- 24 I confirm of course that the accused is not present in the courtroom. He is
- 25 following us from the detention centre.

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1 Good morning, Witness. Can you hear me?

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

3 (The witness speaks Arabic)

4 THE WITNESS: [9:34:21](Interpretation) Good morning. I can hear you very
5 clearly.

6 PRESIDING JUDGE MINDUA: [9:34:24](Interpretation) Thank you very
7 much.

8 I would like to welcome you and to thank you for your availability. I would
9 like to remind you that you are still under oath and that you must tell the truth,
10 the whole truth and nothing but the truth. I would also like to remind you of
11 my instructions regarding taking the floor.

12 Today, we will continue with the hearing of the 16th Prosecution witness with
13 the cross-examination of the Defence, that's Witness P-0065, with the
14 cross-examination conducted by the Defence.

15 Ms Taylor, before giving you the floor for your cross-examination, I have
16 certain oral instructions to be rendered to you.

17 Firstly, we have noted during the hearing yesterday morning that you were
18 reading entire paragraphs into the transcript; MLI-OTP-0074-1890, paragraph
19 35 thereof, you didn't do that, but the Chamber would like you to do it today
20 so that the record can be complete. That's the first thing.

21

22

23

24 Unfortunately for the Chamber, this relevance is still not clear and not
25 established.

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1 In future, you therefore should clearly explain the relevance of them when that
2 is asked of you. You can, if necessary, do so without the presence of the
3 witness. Because when I ask you what the link or the relevance is, if you don't
4 explain it to me, then the debates that we have here, that is for clarification of
5 the Chamber. If the Chamber doesn't understand, there's no point.
6 Thirdly, there was an issue raised by the Defence at the end of the hearing
7 yesterday concerning a lag or a difference between -- a difference between the
8 Arabic interpreting and the English. The Chamber would like to remind the
9 parties that if there is a question which was discussed in private session, in
10 principle, the correction must also be raised in private session. Because
11 yesterday we had a discussion in private session and, Ms Taylor, you
12 explained it again.
13 Finally, the Chamber notes that yesterday we spent a major part of the hearing
14 in private session. By way of consequence, the Chamber wishes to remind
15 counsel of the instructions which were reiterated on Wednesday in the record,
16 number 45, concerning the need that there is to comply as far as possible with
17 the principle of the publicity of proceedings and the responsibility of parties to
18 organise the questions in accordance with that principle.
19 I said that it was desirable to group the questions for private session such that
20 they could be put at the beginning or end to make it possible to have a trial in
21 public. It is not my intention to have a closed trial.
22 I hope that I am well understood.
23 And we shall continue with the cross-examination.
24 Ms Taylor, you have the floor.
25 MS TAYLOR: [9:40:21] Thank you, Mr President.

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1 Now I believe that we will have to start in private session, with your
2 authorisation, to continue the line of cross-examination which will address one
3 of the points that you just raised.

4 PRESIDING JUDGE MINDUA: [9:40:46](Interpretation) I'm certainly in
5 agreement. What happened yesterday in the last session, when you start
6 something in private session, and I'm going to ask you, "Can we now go into
7 open session?" and you're going to say, "Yes, there's just a video that I'm going
8 to show." And we show the video and for a long time. And when I ask,
9 "Now can we go into open session?" You're going to say, "There's another
10 video" and the whole session was in private session. We cannot continue like
11 that.

12 Now, you're going to make your intervention in private session, taking into
13 account what we've already said on many occasions. Please go ahead.
14 Court officer, if you would be so kind as to take us into private session.
15 (Private session at 9.41 a.m.)

16 THE COURT OFFICER: [9:41:44] (Interpretation) We're in private session,
17 your Honour.

18 PRESIDING JUDGE MINDUA: [9:41:47](Interpretation) Thank you.
19 Ms Taylor.

20 QUESTIONED BY MS TAYLOR: (Continuing)

21 Q. [9:41:54] Good morning, Mr Witness. How are you this morning?

22 A. [9:41:59] Good morning. I am very well.

23 Q. [9:42:03] That is good to hear. Now, Mr Witness, is the full name of
24 Radwan, Abou Bakr Ag Al Hassan Al Ansari?

25 A. [9:42:22] I heard his name on several occasions, but I don't remember. I

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1 know his *nom de guerre* only.

2 Q. [9:42:35] Do you recall -- if I could take you to tab 15 on the Prosecution
3 list is the English. The Arabic is tab 14 on the Prosecution list, it's
4 MLI-OTP-0020-0124 and the French is MLI-OTP-0078-9741. Should be in the
5 Prosecution's binder.

6 Mr Witness, do you have the article before you?

7 A. [9:43:58] Yes, I've got it in English. Yes, yes, I've also got it in Arabic.
8 It's not the same article. The article that I have in tab 14 is an article in English.
9 Or a translation in English.

10 Q. [9:44:34] Are you looking at the Prosecution's binder? It should be
11 MLI-OTP-0020-0124?

12 A. [9:44:52] No, I'm sorry, I was looking in the Defence binder. Please
13 excuse me. Yes.

14 Q. [9:45:08] Do you have tab 14 in front of you?

15 A. [9:45:15] Yes.

16 Q. [9:45:19] [REDACTED]?

17 A. [9:45:27] [REDACTED]

18 Q. [9:45:30] [REDACTED]?

19 A. [9:45:38] [REDACTED]

20 [REDACTED]

21 Q. [9:45:49] For the record, can you give the date and time of the article?

22 A. [9:45:59] [REDACTED] 2014.

23 Q. [9:46:06] Can you also give the time that's put on the article?

24 A. [9:46:13] [REDACTED]

25 Q. [9:46:24] Can you turn to the second page of the article, in French

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1 that's 9742. Mr Witness, does this refer to the death of someone referred to as
2 "Abou Bakr Ag Al Hassan Al Ansari", known by the name, the war name of
3 "Radwan"?

4 A. [9:47:00] Certainly.

5 Q. [9:47:01] So would it follow that that would be the name of Radwan?

6 A. [9:47:10] Yes.

7 Q. [9:47:16] Now, yesterday, Mr Witness, you mentioned that [REDACTED] you
8 told the Prosecution that you'd been told [REDACTED]

9 [REDACTED] sorry.

10 Was [REDACTED] Mauritanian?

11 A. [9:47:52] Yes, I think that I got the confirmation of that from a person who
12 I think was [REDACTED], but I'm not sure [REDACTED]

13 [REDACTED]
14 [REDACTED]

15 Q. [9:48:19] Is [REDACTED] someone who would [REDACTED] speak to you
16 in Arabic?

17 A. [9:48:29] Yes.

18 Q. [9:48:31] I'd like to refer you to tab 257 on the Defence binder, that's the
19 Arabic, it's MLI-OTP-0058-0563. And the English is tab 258 in the Defence
20 binder, that's MLI-OTP-0067-1031.

21 A. [9:49:07] The number of the tab, could you give me that once again. I
22 have a problem when it comes to noting down the figures. I forget
23 immediately. Even in a fraction of a second, I forget the numbers that you
24 give me.

25 Q [9:49:25] I apologise, Mr Witness. There are many numbers. It was tab 257

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1 and it's in the Defence binder. It's in one of the new ones that were given.

2 A. [9:50:06] Yes. It's good, I've got it.

3 Q. [9:50:16] Is this [REDACTED] that was discussed with you by the
4 Prosecution last week?

5 A. [9:50:28] I can't confirm that before reading the chat because generally I
6 have discussions on the exchange on that. But to be prudent, I get certain
7 indications to see who it is, but before reading the content of the chat, I can't
8 say to you what it is about and what type of discussion it is.

9 Q. [9:51:06] Certainly. Could we turn to page 0563, which is the Arabic.
10 And it's 1032, which is the English.

11 A. [9:51:34] In Arabic, what's the number of the page, if you would be so
12 kind? I don't have 013.

13 Q. [9:51:45] (Overlapping speakers) 0563. It should be the first
14 (Overlapping speakers)

15 A. [9:51:56] It's good. I've got it.

16 Q. [9:51:59] Mr Witness, can you please give the date of the first message
17 that's sent to you.

18 A. [9:52:12] [REDACTED] I think.

19 Q. [9:52:32] Now, Mr Witness, at transcript 46, page 72, lines 21 to 22, you
20 testified that [REDACTED] was roughly in June 2012.

21 So these messages start before [REDACTED] that's correct?

22 A. [9:53:01] I don't know. Until now, I haven't been able to read these
23 messages and these discussions, so if you want me to answer precisely, then I
24 have to read them. Here, we don't have the names of the people [REDACTED]

25 [REDACTED] If you really want

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1 me to tell you what it's about, then I need to read it completely.

2 [REDACTED]

3 [REDACTED] I can't

4 remember all of these discussions. I can't remember a discussion [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 So I'll come back to this discussion, this chat. If you want me to answer
15 precisely, I need to read it completely so that I can give you all the details that I
16 remember where it concerns this chat.

17 MS TAYLOR: [9:55:04] Mr President, it was my understanding that this
18 document was given to the witness during the preparation session, but I agree
19 that it would be helpful for the witness to be able to read the document in its
20 entirety before I put questions to him on specific messages in the document.
21 So what I would suggest is that the witness be given five minutes to read
22 through the document in its entirety.

23 PRESIDING JUDGE MINDUA: [9:55:31](Interpretation) Granted.

24 Witness, please read the messages in question that you have before you.

25 THE WITNESS: [9:55:47](Interpretation) Yes, thank you, your Honour.

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- 1 PRESIDING JUDGE MINDUA: [9:55:49](Interpretation) Ms Taylor, the
2 Chamber, we don't have the messages. I'm going to check in the dossier.
3 MS TAYLOR: [9:55:57] Mr President, I can give you the reference in English.
4 It was in the Prosecution's binder. The entire document is there. The
5 reference is tab -- sorry, it's actually in the Defence binder, I apologise. It's tab
6 258 in the Defence binder and it's MLI-OTP-0067-1031. And the entire
7 exchange is there.
8 PRESIDING JUDGE MINDUA: [9:56:36](Interpretation) Thank you very
9 much. Thank you.
10 THE COURT OFFICER: [9:56:51] The document is presently being displayed
11 on evidence channel 1, for information.
12 MS TAYLOR: [9:56:59] Just for the confirmation for the witness, it won't be
13 shown to the public, that's correct?
14 THE COURT OFFICER: [9:57:07] Of course.
15 PRESIDING JUDGE MINDUA: [9:57:15](Interpretation) Ms Taylor, we are
16 continuing in private session?
17 MS TAYLOR: [9:57:22] Mr President, I don't see any way to pose questions to
18 the witness concerning [REDACTED] in open session.
19 The questions will concern [REDACTED] It's
20 identifying. It's a natural corollary of the protective measures that have been
21 granted to him and these questions do need to be put to him.
22 PRESIDING JUDGE MINDUA: [9:58:09](Interpretation) While the witness is
23 reading the document, can't we go on to something else? This is just a
24 proposal I'm making and then we can come back to it later.
25 MS TAYLOR: [9:58:24] I think it's impossible for me to put questions to him

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1 while he's reading the document. I can't ask him to do two things at the same
2 time, to answer questions and to read the document at the same time.

3 PRESIDING JUDGE MINDUA: [9:58:43](Interpretation) Obviously not. My
4 intention wasn't to do while he was reading, but my suggestion was that he
5 could read it later and -- anyway, it doesn't matter. Let's continue.

6 THE COURT OFFICER: [10:00:05] Mr Al Hassan would like to raise
7 something, I see.

8 PRESIDING JUDGE MINDUA: [10:00:15](Interpretation) Mr Al Hassan,
9 please go ahead.

10 MR AL HASSAN: [10:00:17](Interpretation) I would like to leave for two
11 minutes, please, and return immediately.

12 PRESIDING JUDGE MINDUA: [10:00:29](Interpretation) Yes, that is fine.
13 That's granted.

14 Please communicate the instruction.

15 THE COURT OFFICER: [10:00:37](Interpretation) I have a problem with my
16 headset, but I will sort that out in a moment.

17 (Pause in proceedings)

18 PRESIDING JUDGE MINDUA: [10:03:07](Interpretation) For the record, the
19 accused has returned.

20 (Pause in proceedings)

21 PRESIDING JUDGE MINDUA: [10:04:59](Interpretation) Mr Witness, have
22 you finished yet?

23 THE WITNESS: [10:05:03](Interpretation) Yes, this is a very long chat. I've
24 read half of it and that has allowed me to refresh my memory on this chat.
25 And I now have an idea of what's in it, thanks to having read the first part.

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1 PRESIDING JUDGE MINDUA: [10:05:30](Interpretation) Thank you very
2 much, Mr Witness.

3 Ms Taylor, you may proceed.

4 MS TAYLOR: [10:05:34]

5 Q. [10:05:35] So, Mr Witness, looking at the messages at the beginning,
6 wouldn't these messages suggest to you that this is someone that you knew
7 before you came to Timbuktu in May or June 2012?

8 A. [10:05:57] On the contrary. When I read this chat, I see that the start of it
9 is with someone who is using a nickname, [REDACTED]
10 And he sends me messages and greetings of a general nature which could be
11 sent to anybody [REDACTED] so it's quite clear in the chat.

12 I thought initially that it was [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 But after 2012 - and in another message or a different exchange - this same
17 person exchanged with me and it became very clear that this person was
18 cautious. I didn't know who it was. Later, I discovered it was someone
19 that -- who was at Timbuktu and then went to [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

24 [REDACTED] I asked him to give me an
25 indicator, which only he and I would be aware of relating to a document,

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1 [REDACTED] So he gave me

2 this indication and therefore I was able to confirm [REDACTED]

3 But all this was in 2013.

4 Q. [10:08:28] Now, Mr Witness, we're going to go through these messages in
5 a little bit more detail. In particular, the first message says:

6 "How are you doing [REDACTED]? Where have you been? It's been a long time
7 since we last saw each other."

8 So wouldn't this suggest, Mr Witness, that this is someone who, in

9 [REDACTED], had already met you and knew you?

10 A. [10:09:05] Yes, that's possible. As I have already said, [REDACTED]

11 [REDACTED]

12 some of them I don't know, [REDACTED]

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

16 But I would say again on the -- I'm answering your questions on the basis of
17 my memories, my memories which have been now refreshed through this chat.

18 So this is why I'm saying to you - and on the basis of my recollections - I recall

19 that the first time [REDACTED] if I recall correctly, was when [REDACTED]

20 [REDACTED] And that's something I

21 won't forget because that was the first time that [REDACTED]

22 [REDACTED]
23 [REDACTED]

24 Q. [10:10:46] Mr Witness, I have quite a few questions for you on this

25 document, so if you could keep your responses as concisely as possible, that

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1 would help us get through this more quickly.

2 Now, on the same page, this person sends you several messages [REDACTED]

3 [REDACTED] There's messages in [REDACTED] 2012, there's

4 two messages in [REDACTED] 2012.

5 Now, Mr Witness, in [REDACTED] 2012, you had physical,

6 in-person interactions [REDACTED] that's correct?

7 A. [10:11:43] What type of interaction? Are you talking about direct
8 interaction [REDACTED]?

9 Q. [10:11:49] Direct. [REDACTED]
10 [REDACTED]

11 A. [10:11:58] [REDACTED] that's certain. I
12 appreciate the importance of time and sometimes I can answer yes or no. But
13 I'm sorry, I have to give details in my answers. If you don't want me to give
14 these details, then you should give me questions which don't need detailed
15 answers. There are some questions which I can't simply answer with a yes or
16 no, because every reply has a number of factors.

17 Q. [10:12:46] Mr Witness, I put to you that if [REDACTED] had a question
18 [REDACTED] in 2012, he could have asked you that question in person on a
19 number of occasions, before [REDACTED] 2012?

20 A. [10:13:10] Yes, but doesn't change anything. [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 So anyone who asks me a question [REDACTED] I
2 give an answer without giving any importance to the identity of this person.
3 That's just the way it is.

4 Q. [10:14:05] Mr Witness, can you turn to page 0566 in the Arabic. That's
5 1035 in the English, and if you could look at a message dated [REDACTED] 2013.

6 A. [10:14:32] 0566 you say. The tab -- are we talking about the new binder
7 or the old binder with the old documents?

8 Q. [10:14:47] Mr Witness, it's the same document that you should be looking
9 at, the same [REDACTED] exchange. If you could turn to page 0566.

10 A. [10:15:40] I'm there. Yes.

11 Q. [10:15:42] Now, Mr Witness, in one of the messages the person says:

12 [REDACTED]
13 [REDACTED]

14 Now, Mr Witness, this person -- this person says he's from [REDACTED], not that he's
15 in [REDACTED]. That's correct?

16 A. [10:16:06] Yes. But immediately afterwards it says:

17 "I know you from Tombouctou, from the days of the Islamic State."

18 Q. [10:16:24] And the person doesn't say that he's a native of Timbuktu, does
19 he?

20 A. [10:16:33] Yes, but in the same chat after that, he says that he is [REDACTED]

21 And I didn't confirm that until the indication that I got from him himself.

22 Q. [10:16:53] Mr Witness, I'll get to that exchange. On the same page, you
23 ask about [REDACTED]

24 Now Mr Witness, it's correct that in his response, the person corresponding to
25 you never states that he is in [REDACTED], does he?

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1 A. [10:17:18] No. If my memory is correct.

2 Q. [10:17:25] And when you ask if you can come to [REDACTED], the person says:

3 "I don't know, ... you can try."

4 A. [10:17:37] Listen, I am also very interested [REDACTED] At the time I was [REDACTED]

5 [REDACTED] very much aware of things -- [REDACTED] So

6 if somebody says they were in Timbuktu or that they were from [REDACTED], for me

7 to know that they were from [REDACTED]

8 people who were in Timbuktu spread out over several towns, including [REDACTED]

9 It's a very short chat, [REDACTED]

10 [REDACTED]

11 Q. [10:18:29] Now, Mr Witness, at the bottom of this page, the person

12 complains that:

13 [REDACTED]
14 [REDACTED]

15 [REDACTED] is a reference to a region in Mali, that's correct?

16 A. [10:18:59] No. [REDACTED]

17 [REDACTED]

18 Q. [10:19:19] Now, Mr Witness, if this person is complaining about [REDACTED]

19 [REDACTED], wouldn't that suggest to you that it's not necessarily a

20 Tuareg?

21 PRESIDING JUDGE MINDUA: [10:19:39](Interpretation) Ms Taylor, is this

22 not speculation, this question?

23 MS TAYLOR: [10:19:45] Mr President, I believe that the witness is capable of

24 answering who he believed the person was on the basis of the syntax and

25 language used by the person exchanging with him.

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1 THE WITNESS: [10:20:08](Interpretation) Yes, certainly through the chat I can
2 confirm that this is -- it is Tuareg. I know everybody's language, [REDACTED]

3

4

5

6 MS TAYLOR: [10:20:43]

7 Q. [10:20:44] Now, Mr Witness, it's correct that this person never uses any
8 Tamasheq words in this exchange with you?

9 A. [10:20:59] No, I don't think so. Any question about the chat requires me
10 to re-read the chat once again. As I said, [REDACTED]

11 [REDACTED] I don't recall all the details of this chat. So any question that
12 you ask me about this chat or a paragraph of this chat will require me to
13 re-read the whole of the chat.

14 I suggest that you put together all the questions you want to ask and then I can
15 answer once and for all. Because I've only read part of this chat.

16 PRESIDING JUDGE MINDUA: [10:21:54](Interpretation) Prosecutor.

17 MR DUTERTRE: [10:21:55](Interpretation) Thank you, Mr President. I think
18 it will be good for the witness to read this chat fully. We didn't show it to him
19 specifically during the witness preparation. That's my first point.

20 And secondly, he said that he'd only read half of it earlier. And for him to be
21 able to reply properly, I think he should perhaps be given the time to read the
22 whole thing.

23 PRESIDING JUDGE MINDUA: [10:22:31](Interpretation) Ms Taylor, the
24 Prosecution's request comes back to my preoccupation when the witness was
25 out earlier. I would like to give the witness the opportunity to read this

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- 1 document completely. During this time, we'll go to -- on to something else.
- 2 You can ask other questions or we can suspend the hearing and that will allow
- 3 us to come back to our discussions in public session.
- 4 In other words, we can move on to another question, the witness will read the
- 5 document during the break, or we can stop now and save the Court's time.
- 6 MS TAYLOR: [10:23:24] Thank you, Mr President. I'm quite shocked to hear
- 7 that the Prosecution did not go through this with the witness during
- 8 preparation, given that the Prosecution put specific questions to the witness in
- 9 examination-in-chief. That's the very embodiment of cherry-picking,
- 10 Mr President. I would suggest that the most appropriate course of action
- 11 would be to adjourn now, so that the witness can continue reading the
- 12 document, rather than breaking things up.
- 13 PRESIDING JUDGE MINDUA: [10:24:11](Interpretation) Mr Witness, you
- 14 wish to take the floor? Please go ahead.
- 15 THE WITNESS: [10:24:18](Interpretation) Yes. I would just like to make a
- 16 reminder, this is a very long chat. I can't read it in half an hour or two hours.
- 17 So this is why. If the questions concern certain paragraphs, I would need to
- 18 come back to each paragraph and read it two or possibly three times.
- 19 However, if there are general questions when I've read the whole chat, I could
- 20 give a brief reply.
- 21 PRESIDING JUDGE MINDUA: [10:25:00](Interpretation) Thank you,
- 22 Mr Witness, for your suggestion.
- 23 Ms Taylor.
- 24 MS TAYLOR: [10:25:04] Mr President, in that case I would suggest that I
- 25 defer this line of questioning till tomorrow.

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- 1 PRESIDING JUDGE MINDUA: [10:25:18](Interpretation) There, that's fine.
2 That's the aim I was hoping to achieve because I said, it's better to have the
3 witness to have the chance to -- the witness the chance to read the document
4 and we can move on to other matters.
5 In this case, we are going to suspend the hearing and we will have our
6 30-minute break earlier.
7 Ms Taylor, remind me, are you ready to continue now until 11?
8 MS TAYLOR: [10:26:05] Yes, Mr President.
9 PRESIDING JUDGE MINDUA: [10:26:09](Interpretation) And do you want to
10 continue in public session or in private session?
11 MS TAYLOR: [10:26:15] I can go into a session in public session. I will
12 afterwards have to go into private session, I'm afraid, but I can actually go into
13 a session now in public session.
14 PRESIDING JUDGE MINDUA: [10:26:34](Interpretation) Because as you say,
15 as you know, I'm keen that this be done in -- this trial be held in public session.
16 I wanted to give you the time to regroup your question so that you know what
17 you can ask in public session and those which require private session, and then
18 we can come to our public. Because this trial is being held for the benefit of
19 the public.
20 So we will now move into public session and we will continue until 11.
21 Court officer, public session, please.
22 (Open session at 10.27 a.m.)
23 THE COURT OFFICER: [10:27:24] (Interpretation) We are back in open
24 session, Mr President.
25 PRESIDING JUDGE MINDUA: [10:27:27](Interpretation) Thank you very

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1 much, court officer.

2 Ms Taylor.

3 MS TAYLOR: [10:27:32]

4 Q. [10:27:33] Now, Mr Witness, we're now in open session, so with that in

5 mind I'm going to show you a document and then address certain questions

6 regarding the foundation of the document afterwards in private session.

7 So if you could turn to tab 213 on the Defence binder. That's

8 [REDACTED] It's tab 203.

9 THE COURT OFFICER: [10:28:39](Interpretation) The document is on
10 evidence channel 1.

11 MS TAYLOR: [10:28:45] And just to confirm to the witness, it's not going to be
12 shown publicly.

13 THE COURT OFFICER: [10:28:53] (Interpretation) Yes, indeed. The default
14 position is for documents to be confidential. Only upon special request would
15 it be otherwise. So there is no need to be concerned. This document will not
16 go beyond the bounds of this courtroom.

17 MS TAYLOR: [10:29:18]

18 Q. [10:29:18] Mr Witness, are you familiar --

19 A. [10:29:25] I am very sorry, but I need two minutes, I need to leave the
20 room for a brief bit. I can't concentrate any further.

21 PRESIDING JUDGE MINDUA: [10:29:42](Interpretation) Madam court
22 officer, could you please escort the witness from the room. Thank you.

23 THE WITNESS: [10:29:53](Interpretation) Thank you.

24 (The witness exits the courtroom)

25 THE COURT OFFICER: [10:30:29](Interpretation) For the record, the witness

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1 is currently outside the courtroom.

2 (Pause in proceedings)

3 THE COURT OFFICER: [10:31:50](Interpretation) Your Honour, we're still
4 available to you if you wish to consult the witness, of course, to shorten the
5 time, if necessary.

6 PRESIDING JUDGE MINDUA: [10:32:04](Interpretation) Please could you
7 check. Thank you.

8 THE COURT OFFICER: Court clerk

9 MS TAYLOR: [10:32:14] The Defence also wouldn't object to having a break
10 now if that's more convenient.

11 THE COURT OFFICER: [10:32:36](Interpretation) It would seem that the
12 witness is behind the door.

13 (Speaks English) Court clerk, could you confirm that Mr Witness is ready.

14 Yes. He is currently coming back to the courtroom, for the record.

15 (The witness enters the courtroom)

16 PRESIDING JUDGE MINDUA: [10:32:54](Interpretation) Witness, can you
17 continue? Are you ready?

18 THE WITNESS: [10:32:59](Interpretation) Yes, I'm very sorry. It was for a
19 reason completely independent of my own will.

20 PRESIDING JUDGE MINDUA: [10:33:09](Interpretation) Ms Taylor, we can
21 continue.

22 MS TAYLOR: [10:33:21]

23 Q. [10:33:22] Mr Witness, if you feel like you need a break or you're tired,
24 please do not hesitate to let us know.

25 A. [10:33:32] No, I'm fine. I'm very well. I have all my concentration

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1 faculties and I'm fine.

2 Q. [10:33:45] It's been a long three weeks.

3 Mr Witness, are you familiar with an organisation called the Congr  s pour la
4 justice dans l'Azawad?

5 A. [10:34:06] Yes.

6 Q. [10:34:07] Can you tell the Court what you know about this organisation?

7 A. [10:34:12] CJA, that's an idea that some people came up with and this
8 congress became the armed organisation of the Ansar tribe and their allies.
9 They are the allies of the Malian government and they are the primary target of
10 Al-Qaeda in Timbuktu.

11 Q. [10:34:58] So would it be fair to say that it's not a terrorist association?

12 A. [10:35:05] It's rather the target of terrorists. It was created with the
13 government of Mali, which is at war against terrorism.

14 Q. [10:35:24] Without giving any identifying information, are you familiar
15 with the name Hama Ag Mahmoud?

16 A. [10:35:38] Hamad Ag Mahmoud? I think the name's not correct.

17 Q. [10:35:49] It's possible I'm mispronouncing it, or it might be spelt different
18 ways, Hama Ag Mahmoud or Hama Ag (Overlapping speakers)

19 A. [10:36:02] Yes, I know it. I heard Hamad. No, it's "Hama Al
20 Mahmoud". Yes, I know it well.

21 Q. [10:36:13] And is this someone who was involved in the CJA?

22 A. [10:36:21] Yes. He was the president of the congress when it started.

23 Q. [10:36:30] And to your knowledge, does this person have any affiliation
24 with Al-Qaeda?

25 A. [10:36:40] Not at all. Not at all.

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1 Q. [10:36:46] Are you aware of a split occurring in the CJA between, on the
2 one hand Nasser, and Hama, at about December 2016?

3 A. [10:37:04] Yes, there was internal conflict and divisions as well.

4 Q. [10:37:13] And to your knowledge, did the faction associated with Hama
5 have any affiliation with Al-Qaeda?

6 A. [10:37:34] I don't know. I don't have any information about a possible
7 relationship with Al-Qaeda.

8 Q. [10:37:48] Based on their previous politics and objectives, would it have
9 been a continuation -- I'll rephrase that.

10 You've referred to the CJA as being an ally of the Malian government and
11 being the target of attacks by Al-Qaeda. So would it follow that the faction
12 under Hama would be the same?

13 A. [10:38:22] Yes, the CJA is one single entity. The conflict and internal
14 division reflects its own membership and composition. They are allies of the
15 Mali government and Al-Qaeda attacked them on several occasions and
16 targeted some of their members.

17 Q. [10:38:52] I have some follow-up identifying questions that would need to
18 be asked in private session.

19 PRESIDING JUDGE MINDUA: [10:39:03](Interpretation) Court officer, if you
20 would be so kind as to take us into private session.

21 THE INTERPRETER: [10:39:11] The interpreter would like to point out that it
22 is the CJA, not the CGA.

23 (Private session at 10.39 a.m.)

24 THE COURT OFFICER: [10:39:22] (Overlapping speakers)

25 PRESIDING JUDGE MINDUA: [10:39:22](Interpretation) Thank you very

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1 much.

2 Ms Taylor.

3 MS TAYLOR: [10:39:25]

4 Q. [10:39:26] Mr Witness [REDACTED]

5 [REDACTED]?

6 A. [10:39:42] On what channel?

7 Q. [10:39:47] It was Defence tab 203 in the Defence binder. It was brought
8 up before on the screen. It's [REDACTED] And it should be shown on
9 evidence 1.

10 THE COURT OFFICER: [10:40:08](Interpretation) I confirm that the witness
11 has evidence 1.

12 MS TAYLOR: [10:40:17]

13 Q. [10:40:18] Mr Witness, for the record, [REDACTED]?

14 A. [10:40:32] I have a press release from the CJA and not an article. It's a
15 document, it's not a paragraph.

16 Q. [10:40:49] Yes, Mr Witness. [REDACTED]

17 [REDACTED]?

18 A. [10:40:57] Yes.

19 MS TAYLOR: [10:41:01] Mr President, I have a series of questions concerning

20 [REDACTED]

21 [REDACTED] It's crucial to go into these questions before going into the next
22 stage of our cross-examination. I don't believe it would be possible to go into
23 these questions without identifying the witness.

24 PRESIDING JUDGE MINDUA: [10:41:35](Interpretation) Please go ahead.

25 We're in private session.

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1 MS TAYLOR: [10:41:38]

2 Q. [10:41:39] Now, Mr Witness, in 2012 [REDACTED]

3 [REDACTED] is that correct?

4 A. [10:41:50] Yes.

5 Q. [10:41:53] And [REDACTED]

6 [REDACTED]; is that correct?

7 A. [10:42:06] Yes.

8 Q. [10:42:09] And [REDACTED]?

9 A. [10:42:19] Yes.

10 Q. [10:42:24] Would it be correct that, [REDACTED]

11 [REDACTED]?

12 A. [10:42:41] Yes.

13 Q. [10:42:47] If I could turn to tab 240 on the Defence list, that's Arabic,

14 MLI-OTP-0061-1512 at 1517, paragraph 20. And the English is tab 16, that's

15 MLI-OTP-0024-3096 at 3099, paragraph 20. And I'll read out the paragraph in

16 full:

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

24 Mr Witness, do you recall saying this to the Prosecution?

25 A. [10:44:34] Yes.

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1 Q. [10:44:37] And would it be correct to describe [REDACTED]
2 [REDACTED]?

3 A. [10:44:50] Yes.

4 Q. [10:44:54] Now, Mr Witness, could you turn to tab 240.

5 A. (No interpretation)

6 Q. [10:45:05] Okay. It's the same document. If you could --

7 A. [10:45:08] I am on tab 240, still the same document.

8 Q. [10:45:14] If we could turn to paragraph 22, and I'll read it out for the
9 record.

10

11

12

13 [REDACTED] Al-Qaeda's activities such as the implementation of Sharia, the
14 punishment of people who drink, the destruction of places that sell alcohol, etc.

15

16

17

18

19 [REDACTED] The reasons for this are complex - political and
20 economic - and I cannot explain them well [REDACTED]

21

22

23

24 That's quite a long paragraph, Mr Witness.

25 A. (No interpretation)

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1 Q. [10:46:50] Do you recall saying that to the Prosecution when you met
2 them?

3 A. (No interpretation)

4 Q. [10:47:01] And is that consistent --

5 A. [10:47:02] Yes.

6 Q. [10:47:03] And is that consistent with what you saw and heard in 2012
7 when you were in Timbuktu?

8 A. [10:47:12] Yes. In 2012 and 2013, and in particular in 2013.

9 Q. [10:47:24] So would it be fair to say, Mr Witness, that [REDACTED]

10 [REDACTED]
11 [REDACTED] life in Timbuktu?

12 A. [10:47:42] Yes.

13 Q. [10:47:48] And would it be fair to characterise [REDACTED]

14 [REDACTED]
15 [REDACTED]?

16 A. [10:48:05] [REDACTED]

17 [REDACTED]
18 [REDACTED]

19 THE INTERPRETER: [10:48:32] Message from the French booth: could there
20 be a delay between Ms Taylor's questions and the answer from the witness.

21 PRESIDING JUDGE MINDUA: [10:48:42](Interpretation) Ms Taylor, I think
22 you followed that.

23 MS TAYLOR: [10:48:46]

24 Q. [10:48:49] Now, Mr Witness, [REDACTED]

25 [REDACTED] could you turn to paragraph 18 of the same document, which

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1 I believe I will need to read for the record:

2 "I cannot remember if the first idea [REDACTED] came from me or if it was

3

4

5

6

7

8 [REDACTED] I do not remember when exactly the idea came up either, but
9 it was rather towards the end of the occupation than towards the start."

10 Has the interpretation come through?

11 Now, Mr Witness --

12 A. [10:50:05] Yes.

13 PRESIDING JUDGE MINDUA: [10:50:10](Interpretation) Prosecutor.

14 MR DUTERTRE: [10:50:11](Interpretation) Your Honour, I don't want to
15 interrupt, but I think we can't understand this paragraph without the previous
16 paragraph, because it's speaking about [REDACTED] and in this paragraph you
17 can't really understand what it's about.

18 PRESIDING JUDGE MINDUA: [10:50:34](Interpretation) Indeed. Paragraph
19 18 speaks about [REDACTED] towards the end of the occupation.

20 Perhaps you should speak about paragraph 17.

21 MS TAYLOR: [10:50:56] Mr President, my question isn't actually concerning
22 that particular issue. I'm reading out the paragraph because of the direction
23 that was given on Monday. The particular question I was putting to the
24 witness is a discrete aspect of this paragraph. The issue set out in paragraph
25 17 and elsewhere I will address later in my questioning, but I can't stand here

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1 and read out an entire statement.

2 PRESIDING JUDGE MINDUA: [10:51:28](Interpretation) Please put your
3 question and we'll see if we can understand it without paragraph 17.

4 MS TAYLOR: [10:51:35]

5 Q. [10:51:37] Now, Mr Witness, is it correct that [REDACTED]
6 [REDACTED]?
7 [REDACTED]?

8 A. [10:52:01] Yes. Yes. [REDACTED]

9 Q. [10:52:11] [REDACTED]
10 [REDACTED]
11 [REDACTED]?

12 A. [10:52:35] [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 Q. [10:53:09] [REDACTED]
17 [REDACTED]?

18 A. [10:53:22] Yes.

19 Q. [10:53:26] If we could turn to tab 246 on the Defence list, that's the Arabic,
20 that's MLI-OTP-0077-2721 at 2732. The English is 274 in the Prosecution's
21 binder, that's MLI-OTP-0033-0069 at 0075.

22 And I'll have to be guided by the Chamber because there are no paragraph
23 numbers in this document.

24 PRESIDING JUDGE MINDUA: [10:54:27](Interpretation) Yes, but you can
25 indicate which paragraph is in question starting from the top of the page.

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1 MS TAYLOR: [10:54:38] I don't know if it will correspond with the Arabic,
2 that's the problem, because there's no paragraph numbers to guide the witness
3 to. I will --

4 PRESIDING JUDGE MINDUA: [10:54:53](Interpretation) If you could read it
5 in English, the witness will understand immediately.

6 MS TAYLOR: [10:55:00]

7 Q. [10:55:20] If I could read out:

8 "Asked whether there was a possibility for him [REDACTED]
9 [REDACTED], P-65 indicated that he did not exclude that possibility. P-65
10 seemed to understand the reasons for the team in asking about the
11 completeness of [REDACTED]
12 [REDACTED] everything that took place."

13 Mr Witness, do you recall saying this to the Prosecution?

14 A. [10:56:04] I don't understand. When you said he hadn't [REDACTED]
15 everything during the events, what do you mean by that?

16 Q. [10:56:12] Mr Witness, if I could put that to you. We have notes from the
17 Prosecution. What would you understand that to mean? Either would it
18 mean that [REDACTED] all of the life in Timbuktu 2012, or would you be
19 referring to the fact that [REDACTED] to
20 the Prosecution?

21 A. [10:56:48] I'm not able to understand this term [REDACTED] everything
22 during the events. That's not clear to me. [REDACTED] something that
23 didn't take place? I don't understand that sentence. If the question is the
24 following: [REDACTED]

25 [REDACTED]? No. [REDACTED]

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4 Q. [10:57:55] Now, Mr Witness, [REDACTED]

5 [REDACTED] would it be correct that [REDACTED] every aspect of

6 daily life in Timbuktu while Ansar Dine was there?

7 A. [10:58:20] The question isn't clear. Could you reformulate it, please,

8 because there are several aspects to your question.

9 Q. [10:58:32] [REDACTED] in 2012 while Ansar Dine was

10 there focus more on the negative aspects of life in Timbuktu rather than the

11 positive aspects of life in Timbuktu?

12 A. [10:58:55] I can't say that. [REDACTED]

13

14

15 [REDACTED], far from doing that.

16 Q. [10:59:24] And when you say far from doing it, [REDACTED]

17

18

19 A. [10:59:44] [REDACTED]

20

21

22

23 MS TAYLOR: [11:00:21] Mr President, it's now 11 o'clock, if this is a

24 convenient time to break.

25 PRESIDING JUDGE MINDUA: [11:00:32](Interpretation) You're indeed right,

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1 Ms Taylor.

2 Court officer, would you be so kind as to take us into open session.

3 (Open session at 11.00 a.m.)

4 THE COURT OFFICER: [11:00:50](Interpretation) We are in open session
5 again.

6 PRESIDING JUDGE MINDUA: [11:00:56](Interpretation) Thank you, court
7 officer.

8 Court usher.

9 Witness, you wished to leave the courtroom precipitously, but I have assigned
10 you a task. So during the break which we're going to take, you will finish
11 reading the chat that we discussed this morning.

12 As regards the Defence, I would like to say, when we return in 30 minutes we
13 will only have one hour, so please group your questions such that that hour
14 can be in public as far as possible. And we will have the lunch break an hour
15 and a half and then we will do the same thing, such that the questions in
16 private session can be put either at the start of the session or at the end thereof.
17 That is what I wish to ask of you.

18 We shall therefore suspend our hearing for a half hour and we will be back at
19 11.30.

20 The hearing is now suspended.

21 THE COURT OFFICER: [11:02:44](Interpretation) All rise.

22 (Recess taken at 11.02 a.m.)

23 (Upon resuming in open session at 11.31 a.m.)

24 THE COURT USHER: [11:31:02] All rise.

25 Please be seated.

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- 1 PRESIDING JUDGE MINDUA: [11:31:30](Interpretation) The Court is in
2 session. We will continue with the Defence cross-examination.
3 Ms Taylor, you have the floor.
4 MS TAYLOR: [11:31:45] Thank you, Mr President.
5 And I believe we were in private session.
6 THE COURT OFFICER: [11:31:55](Interpretation) We have started again
7 (Speaks English) We are still in open -- we are in open session. We resumed
8 in open session.
9 PRESIDING JUDGE MINDUA: [11:32:01](Interpretation) Do you wish now to
10 go to private session?
11 MS TAYLOR: [11:32:05] Yes, because my line of questioning is the same.
12 PRESIDING JUDGE MINDUA: [11:32:13](Interpretation) Court officer,
13 private session, please.
14 (Private session at 11.32 a.m.)
15 THE COURT OFFICER: [11:32:24] We're in private session.
16 PRESIDING JUDGE MINDUA: [11:32:28](Interpretation) Thank you very
17 much.
18 Ms Taylor.
19 MS TAYLOR: [11:32:31]
20 Q. [11:32:34] Mr Witness?
21 A. [11:32:41] Yes.
22 Q. [11:32:42] Now going to [REDACTED]
23 [REDACTED]
24 [REDACTED] ?
25 A. [11:33:11] I'm sorry, I haven't understood the question.

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1 Q. [11:33:16] [REDACTED]

2 [REDACTED]

3 [REDACTED]?

4 A. [11:33:40] [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 MR DUTERTRE: [11:34:13](No interpretation)

9 PRESIDING JUDGE MINDUA: [11:34:16](Overlapping speakers)

10 MR DUTERTRE: [11:34:16](Interpretation) For clarity, could we perhaps

11 mention the name [REDACTED] We don't have that. It was

12 mentioned, but it's not in the transcript. It would be good to have it I think.

13 PRESIDING JUDGE MINDUA: [11:34:33](Interpretation) Ms Taylor.

14 MS TAYLOR: [11:34:34] I believe that it was said on the record, so the

15 transcript can be corrected later. I'm going to get to the other [REDACTED]

16 afterwards.

17 Q. [11:34:47] Now, Mr Witness, [REDACTED] --

18 MR DUTERTRE: [11:34:51](Interpretation) It's precisely to avoid confusion.

19 PRESIDING JUDGE MINDUA: [11:34:56](Interpretation) Yes, the transcript

20 must be clear. So can you please have it recorded in the transcript which

21 [REDACTED] we're talking about here, Ms Taylor.

22 MS TAYLOR: [11:35:13] Mr President, there were two separate

23 documentaries. The first question I raised was concerning [REDACTED]

24 [REDACTED] My second question concerned

25 another [REDACTED].

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- 1 Q. [11:35:31] Now, Mr Witness, [REDACTED]
2 [REDACTED], is it correct that [REDACTED]
3 [REDACTED] he had been critical of Islamists [REDACTED]?
4 A. [11:35:54] Yes, he was afraid. [REDACTED] he was
5 afraid, because he [REDACTED] was against
6 jihadists.
7 Q. [11:36:16] What was the name [REDACTED]?
8 A. [11:36:27] [REDACTED]
9 Q. [11:36:30] Which country was he from?
10 A. [11:36:35] He's Mauritanian [REDACTED]
11 Q. [11:36:46] What was the name [REDACTED] that had been
12 critical of jihadists?
13 A. [11:36:56] I don't recall the name. I don't recall ever having [REDACTED]
14 Q. [11:37:08] If [REDACTED] was critical of Islamists, would it
15 follow that he intended [REDACTED] to be critical of Islamists?
16 MR DUTERTRE: (No interpretation)
17 PRESIDING JUDGE MINDUA: [11:37:25](Interpretation) Prosecutor.
18 MR DUTERTRE: [11:37:26](Interpretation) I object to this question which is
19 totally speculative.
20 PRESIDING JUDGE MINDUA: [11:37:37](Interpretation) I didn't hear the
21 question because it was -- I was reading the transcript. I had something else
22 in my head. Could you please repeat the question, Ms Taylor.
23 MS TAYLOR: [11:37:52]
24 Q. [11:37:54] Mr Witness, you said that he [REDACTED]
25 [REDACTED] was against the jihadists. Was [REDACTED]

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ICC-01/12-01/18

1 [REDACTED] in 2012 also against the jihadists?

2 PRESIDING JUDGE MINDUA: [11:38:16](Interpretation) One moment,
3 Mr Witness.

4 Mr Prosecutor, is that the question?

5 MR DUTERTRE: [11:38:23] It was not worded in that way. Ms Taylor had
6 reworded it, but the idea is the same. The witness is being asked to speculate
7 on the ideas [REDACTED]

8 PRESIDING JUDGE MINDUA: [11:38:42](Interpretation) But I don't entirely
9 agree, because he [REDACTED] So I will allow the witness
10 to answer the question.

11 Mr Witness, please do so.

12 THE WITNESS: [11:38:56](Interpretation) The idea was mine I think, if I recall
13 correctly. [REDACTED]

14 [REDACTED]
15 [REDACTED]
16 [REDACTED] I don't know
17 what he wanted, [REDACTED]

18 [REDACTED]

19 PRESIDING JUDGE MINDUA: [11:40:03](Interpretation) Ms Taylor, I don't
20 want to interrupt your questioning, but I have a concern which I'd like to
21 submit to both you and the witness.

22 In your exchanges, with my interpretation, with what I'm hearing in French I
23 hear the word "jihadist". This expression "jihadist", is that what you consider
24 to be jihadist or is it your terminology or is it the Defence terminology?
25 Where does this come from?

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1 THE WITNESS: [11:40:43](Interpretation) [REDACTED]
2 [REDACTED] Usually I use one without thinking about it particularly. But the
3 terminology in the media, it's -- is Islamists, jihadists and the first name of an
4 organisation, an armed group. Sometimes I use a term because that's one
5 usually used in the media, so I just use it without thinking about it particularly.

6 PRESIDING JUDGE MINDUA: [11:41:25](Interpretation) Thank you.

7 [REDACTED]
8 [REDACTED]?

9 THE WITNESS: [11:41:40](Interpretation) [REDACTED] the
10 Mujahideen, al-Mujahideen. [REDACTED]
11 terrorists, particularly Al-Qaeda, not Ansar Dine.

12 PRESIDING JUDGE MINDUA: [11:41:57](Interpretation) Thank you.

13 Ms Taylor.

14 MS TAYLOR: [11:42:01] Just for clarification, my question concerned a
15 [REDACTED] before 2012 that concerned
16 jihadists.

17 Q. [11:42:13] Now, Mr Witness, can you turn to tab 228 -- sorry, it's 227
18 would be the Arabic, it's MLI-OTP-0018 -- sorry, 1449. And then the English
19 is tab 228 -- sorry, that's the email. And there's an attachment which is 228 on
20 the Defence list, that's MLI-OTP-0018-1450. The English is tab 162 for the
21 email, that's MLI-D28-0004-3478, and the attachment is tab 163,
22 MLI-D28-0004-3479. But if we could start with the email, Mr Witness, that
23 being tab 227 in the Arabic.

24 A. [11:43:37] Yes.

25 Q. [11:43:39] Do you have the email in front of you?

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1 A. [11:43:45] Yes.

2 Q. [11:43:46] And is this an email that you sent?

3 A. [11:43:51] [REDACTED]

4 [REDACTED]

5 Q. [11:44:11] If we could turn to tab 228, that's the Arabic. For the English
6 it's tab 163, that's MLI-D28-0004-3479.

7 A. [11:45:45] Yes.

8 Q. [11:45:49] [REDACTED]

9 [REDACTED]

10 A. [11:45:59] [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Q. [11:46:30] Now, the beginning [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Mr Witness, is this [REDACTED] referring to Al Mahdi?

21 A. [11:47:16] Zine El Abidine, that's right. You said -- did you say "El
22 Abidi" or "Zine El Abidine"? I heard "El Abidi" in the translation.

23 Q. [11:47:33] There seems to be a confusion, Mr Witness. Does this
24 description of a young man from Ansar Dine who worked -- was a member of
25 the Islamic police, the branch responsible for Hisbah, is this description

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1 referring to Abou Tourab, also known as Al Mahdi?

2 A. [11:48:00] This is the description [REDACTED]

3 [REDACTED]

4 Abou Tourab, and this is logical because Abou Tourab joined the groups in
5 Timbuktu and he was president of the Hisbah.

6 Q. [11:48:31] [REDACTED]; is
7 that correct?

8 A. [11:48:42] Yes, [REDACTED] Abou Tourab.

9 Q. [11:48:51] Now, towards the end [REDACTED] it says this --

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 So, Mr Witness, was [REDACTED] the shock
15 caused by Sharia law?

16 A. [11:49:36] [REDACTED]
17 [REDACTED] with all
18 the aspects of daily life in the town of Timbuktu. [REDACTED]

19 [REDACTED] the history of an individual - one
20 person, who joined an Islamist group - [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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Trial Hearing
Witness: MLI-OTP-P-0065

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1 [REDACTED]

2 Q. [11:51:00] Mr Witness, just if I could have some clarity on the word

3 [REDACTED] I believe that you said previously that [REDACTED]

4 [REDACTED] Would that be your

5 [REDACTED]?

6 A. [11:51:24] Yes, [REDACTED] yes.

7 Q. [11:51:31] [REDACTED]?

8 A. [11:51:43] No. [REDACTED]

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

17 Q. [11:53:04] Mr Witness, can you turn to tab 17 in the Defence binder. It's

18 [REDACTED] and the English is tab 18 in the same binder, that's

19 [REDACTED]

20 Mr Witness, did you author this post?

21 A. [11:54:10] Yes.

22 Q. [11:54:14] And is it correct that you posted:

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

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4 Were those your words?

5 A. [11:55:03] Yes. It's certain that everything I -- that everything that is in

6 this [REDACTED] comes from my head. [REDACTED]

7 Q. [11:55:16] Can you explain for the Court the context of what you're

8 writing there, what you were trying to convey?

9 A. [11:55:29] I would, perhaps, first like to have the time to read it for my
10 memory.

11 Q. [11:55:39] Certainly. Do you have it in front of you? It's one page,
12 I believe.

13 A. [11:57:16] Yes, I've read it. Could you please ask your question again.

14 Q. [11:57:22] Mr Witness, can you explain for the Court the context of what
15 you were posting here and what you were trying to say?

16 A. [11:57:35] [REDACTED] Islamist or
17 jihadist groups controlled the north of Mali completely [REDACTED]

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23 Q. [11:58:41] [REDACTED]

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ICC-01/12-01/18

1 [REDACTED]?

2 A. [11:59:06] Of course. [REDACTED]

3 [REDACTED] The Islamic jihadist groups [REDACTED]

4 [REDACTED] And they also are afraid that they
5 will distort their image and they -- give notice to the international community
6 so they would give the international community a motive to be against them.

7 [REDACTED] the world sees them through a particular
8 angle.

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 MS TAYLOR: [12:00:33] Mr President, I saw Mr Al Hassan put his hand up.
15 I don't know if that was for our attention or not.

16 PRESIDING JUDGE MINDUA: [12:00:49](Interpretation) I noted it, too, but
17 afterwards he didn't make a sign, so I thought it might not be the case.

18 Please continue, Ms Taylor.

19 MS TAYLOR: [12:01:09]

20 Q. [12:01:09] So Mr Witness, to go back to this [REDACTED]

21 [REDACTED]
22 [REDACTED]

23 [REDACTED]?

24 A. [12:01:38] Yes.

25 Q. [12:01:43] [REDACTED]

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ICC-01/12-01/18

1 [REDACTED]?

2 A. [12:01:59] [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. [12:02:30] Could we turn to tab 240 on the Defence list, this is the Arabic,
8 it's MLI-OTP-0061-1512 at 1524, paragraph 51. And the English is tab 16 on
9 the Prosecution list, that's MLI-OTP-0024-3096 at 30 -- 3105. If I could read it
10 out.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED] What these men did in Tombouctou and what they
17 said was enough to condemn them. Their deeds was enough [REDACTED]

18 [REDACTED] In the

19 meantime the west would see it as an example of what they wanted to prove."

20 A. [12:04:20] Yes.

21 Q. [12:04:23] Mr Witness, is it correct that it was [REDACTED]

22 for the west to see it as an example of what they wanted to prove?

23 A. [12:04:42] Yes.

24 Q. [12:04:43] [REDACTED]

25 [REDACTED] is that correct?

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1 A. [12:04:57] Yes.

2 Q. [12:04:59] [REDACTED]

3 [REDACTED]?

4 A. [12:05:10] Yes.

5 Q. [12:05:13] [REDACTED]

6 [REDACTED], that's correct?

7 A. [12:05:25] That's correct.

8 Q. [12:05:28] [REDACTED]

9 [REDACTED]?

10 A. [12:05:48] I don't remember that. [REDACTED]; I don't

11 remember. I don't remember [REDACTED]

12 [REDACTED]

13 Q. [12:06:14] Mr Witness, perhaps if you could turn to paragraph 59 of the
14 same document before you.

15 It says:

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 A. [12:07:34] [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q. [12:08:04] So Mr Witness, having refreshed your memory, is it correct that

6 [REDACTED]

7 [REDACTED]?

8 A. [12:08:21] Indeed.

9 Q. [12:08:26] And you didn't hear or see [REDACTED]

10 [REDACTED]?

11 A. [12:08:43] No.

12 Q. [12:08:43] And is it correct that as a result of this [REDACTED]

13 [REDACTED]?

14 A. [12:08:56] Yes, that's true.

15 Q. [12:08:57] Are you able to recall [REDACTED]?

16 A. [12:09:04] Yes. I remember [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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ICC-01/12-01/18

1 [REDACTED]

2 I only remember these [REDACTED]

3 Q. [12:10:21] Mr Witness, can you turn to page 64 of the same -- paragraph
4 64, sorry, of the same document.

5 I'll read it out for the record.

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

9 [REDACTED] the

10 [REDACTED] I spoke about earlier preaching in the street. The interpretation of
11 his words is that they would cut" off "the hand of anyone who found a ring and
12 took it. This is not correct though. According to Islam, men cannot wear
13 gold rings but one local talking about a situation when an Ansar Dine member
14 saw someone wear a gold ring and took the ring for himself. Then the Libyan
15 said that if anyone, even a member, dared take a ring from someone else, he
16 would have his hand cut off."

17 Do you recall [REDACTED]?

18 A. [12:11:53] Yes, I remember that very well. I wasn't present. I can only
19 guess. [REDACTED]

20 [REDACTED] there was a bad interpretation
21 or wrong interpretation of things.

22 Q. [12:12:34] Now, Mr Witness, can you turn to paragraph 89 of the same
23 statement and, in accordance with the decision of the Chamber, I will read it on
24 to the record in its entirety.

25 [REDACTED]

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ICC-01/12-01/18

1 [REDACTED] The
2 investigators showed me that this video has the number [REDACTED]
3 I was asked to pay attention to the footage and the commentary, which was
4 interpreted for me in Arabic. I was asked to comment on the program and
5 indicate if I thought that the documentary reflected well the reality. I had
6 already commented on some of the footage which features in the program
7 during my first interview, so I did not go into details on what is seen.

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 [REDACTED] In the same sequence,
15 one can see Iyad and near him Sanda, one Mauritanian fighter and a Tuareg
16 from Kidal.

17 [REDACTED] This is the house of Abou Tourab. [REDACTED]

18 [REDACTED]

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

24 [REDACTED] This is the Hesbah shirt I described already.

25 [REDACTED] The commentary says that Abou Tourab was amongst the new

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ICC-01/12-01/18

1 masters (*Maîtres*) of Tombouctou. To me this is true, [REDACTED]
2 [REDACTED] He was one of the people who
3 were running the administration inside the town.
4 [REDACTED] The commentary says that Abou Tourab directed the Islamic
5 Police [...] This is not correct. [REDACTED]
6 [REDACTED]
7 [REDACTED], talking
8 about the Islamic Police may have been an easier way to describe Abou
9 Tourab's role. Generally, people did not easily understand the difference
10 between the Hesbah and the Islamic Police or maybe they did not bother
11 explain it. [REDACTED] about Abou Tourab as the Head of
12 the Islamic Police. I knew he was the head of the Hesbah.
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED] This is Abou Tourab explaining they are here to apply Sharia. It
18 is said in Arabic. There is a man standing next to him. [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED] In the back of the actual vehicle in which the couple sanctioned
23 had been driven to the location of the flogging. Abou Tourab is standing in
24 front of the vehicle and is seen lashing the lady.
25 [REDACTED]

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1 [REDACTED] these

2 are the marks on the skin of the lady from the flogging she received. [REDACTED]

3 [REDACTED]
4 [REDACTED]

5 [REDACTED] I do not think that the marks one sees on her skin are the result
6 of her flogging. This is what many women get as a consequence of products
7 which make the skin fairer. I attended several floggings, I did not see anyone
8 bleeding as a result of the lashing.

9 [REDACTED] This is the Libyan man who [REDACTED] was sensitizing the
10 population in the street.

11 [REDACTED] -- sorry, that was before.

12 "00:07:53:00 The person in white turban is Mohamed IBRAHIM from Ansar
13 Dine. [REDACTED] I do not think that he belongs
14 to the Hesbah and I think that he is from outside Tombouctou. He is an
15 ordinary man. He did not have a role in Tombouctou to my knowledge.

16 [REDACTED] There is a man wearing a Hesbah vest. I do not know who he is.

17 [REDACTED]

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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ICC-01/12-01/18

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[REDACTED]
[REDACTED] The commentary says again that Abou Tourab was the head of the Islamic Police, which is incorrect.

[REDACTED]
[REDACTED] This footage [REDACTED] shows Tombouctou at the time of or after the liberation.

[REDACTED]
[REDACTED] The commentary says that the men of Abou Tourab attacked the symbols of Tombouctou and then shows footage of the destructions. This is very misleading.

It is true that the footage shows Abou Tourab and maybe some of the members of the Hesbah, but one can also see for example a man with an Islamic Police vest and he is not from the Hesbah. [REDACTED] one can also see Abou Al Baraa, who was important and not one of Abou Tourab's men either. I think Abou Al Baraa was higher up than Abou Tourab and on the same level as Abdallah CHINGUETTI. [REDACTED]

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ICC-01/12-01/18

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3 A. [12:28:03] Yes.

4 Q. [12:28:05] Now, Mr Witness, does that refresh your memory [REDACTED]

5 [REDACTED]? [REDACTED]

6

7 [REDACTED]?

8 A. [12:28:28] Yes.

9 Q. [12:28:30] And do you recall telling the Prosecution that you thought that
10 the commentary regarding [REDACTED] - saying that the marks that they were
11 showing were from flogging - was not correct and these marks were likely
12 from skin products?

13 A. [12:28:57] That's the impression that I had when I saw these marks.

14 Q. [12:29:06] And you also told the Prosecution at the same time that you
15 did not see anyone bleeding during the lashing?

16 A. [12:29:17] I don't remember having seen anyone bleeding at least.

17 Q. [12:29:30] And it's correct that [REDACTED]

18 [REDACTED]?

19 A. [12:29:41] I think so.

20 Q. [12:29:52] And when you told the Prosecutor, [REDACTED]

21 [REDACTED] is that correct?

22 A. [12:30:07] I perhaps said that, but at the moment I don't remember why I
23 supposed that.

24 Q. [12:30:19] Mr Witness, [REDACTED]

25 [REDACTED]?

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ICC-01/12-01/18

1 A. [12:30:30] Yes. [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED] this
5 is -- something was very strange.

6 THE INTERPRETER: [12:31:14] The interpreter points out that she's not sure
7 if she understood completely.

8 The English interpreter adds that it was stated that [REDACTED]
9 [REDACTED]

10 MS TAYLOR: [12:31:33] (Overlapping speakers)

11 Q. [12:31:35] Mr Witness, there appears to be a query from the interpreter.
12 They've said they didn't understand your response completely.

13 A. [12:31:46] Yes. [REDACTED]
14 [REDACTED]

15 Q. [12:31:57] Do you recall what the subject [REDACTED] was?

16 A. [12:32:09] [REDACTED]
17 [REDACTED] I don't remember really the general subject. What was strange
18 is that [REDACTED]
19 [REDACTED]

20 [REDACTED] That's very strange [REDACTED]
21 [REDACTED]

22 Q. [12:32:45] Did they tell you why [REDACTED]?

23 A. [12:32:51] I wasn't really that interested in it because the reply wouldn't
24 have made much difference. They gave the reply and basically that was it, it
25 was all over.

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-54/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

- 1 PRESIDING JUDGE MINDUA: [12:33:12](Interpretation) Ms Taylor, it's 12.30.
- 2 In fact, it's gone 12.30.
- 3 MS TAYLOR: [12:33:19] (Overlapping speakers) Yes, we can break now.
- 4 PRESIDING JUDGE MINDUA: [12:33:25](Interpretation) Very well. Thank
- 5 you.
- 6 Court officer, public session, please.
- 7 (Open session at 12.33 p.m.)
- 8 THE COURT OFFICER: [12:33:37] (Interpretation) We are in public session,
- 9 your Honour.
- 10 PRESIDING JUDGE MINDUA: [12:33:45](Interpretation) Thank you very
- 11 much, court officer.
- 12 We will now break for about an hour and we will start again at 13.30.
- 13 The hearing is suspended.
- 14 THE COURT USHER: [12:34:05] All rise.
- 15 (Recess taken at 12.34 p.m.)
- 16 (Upon resuming in open session at 1.30 p.m.)
- 17 THE COURT USHER: [13:30:43] All rise.
- 18 Please be seated.
- 19 PRESIDING JUDGE MINDUA: [13:31:09](Interpretation) Court is in session
- 20 once again.
- 21 We shall continue with the cross-examination on the part of the Defence.
- 22 Ms Taylor, over to you.
- 23 MS TAYLOR: [13:31:21] Thank you, Mr President. And I believe we'll need
- 24 to go into private session to continue the same line of questioning.
- 25 PRESIDING JUDGE MINDUA: [13:31:33](Interpretation) Madam courtroom

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-55/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 officer, private session, please.

2 (Private session at 1.31 p.m.)

3 THE COURT OFFICER: [13:31:44] (Interpretation) We are in private session,
4 Mr President, your Honours.

5 PRESIDING JUDGE MINDUA: [13:31:49](Interpretation) Thank you very
6 much.

7 Ms Taylor.

8 MS TAYLOR: [13:31:54]

9 Q. [13:31:55] Mr Witness, before the break we were discussing [REDACTED]

10 [REDACTED] Do you happen to recall if the content [REDACTED]

11 [REDACTED] included positive descriptions of life in Timbuktu while Ansar Dine
12 was there?

13 A. [13:32:28] I don't recall the content. I know it was about Timbuktu and
14 about Ansar Dine [REDACTED] during their control,
15 but I do not recall the content [REDACTED]

16 Q. [13:32:41] Mr Witness, if I could refer to the document we were looking at
17 before the break, that was tab 240 in the Defence binder. And I believe we
18 were going through paragraph 89, and if you could turn to page 1537 of the
19 Arabic, that's tab 16 on the Prosecution's binder for the English. And the
20 English is at 3117, and in describing the section concerning Abou Tourab, you
21 say:

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-56/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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[REDACTED]

Mr Witness, is it correct that certain shots or descriptions in the France 2 documentary created a misleading impression [REDACTED] the subject of the documentary as being more important than he was?

A. [13:35:15] I cannot respond to that because the film, the filming [REDACTED] - it did bring forth an important part of the situation in Timbuktu. But what I can say is that France was doing a campaign to intervene and to kick out the Islamists in northern Mali; [REDACTED]

Q. [13:35:58] And based on what you saw and heard in Timbuktu in 2012, would it be correct that some parts of the documentary showed people as being more important than what they were?

A. [13:36:23] I cannot say so specifically, [REDACTED]

Q. [13:36:40] And just to be clear, that [REDACTED]?

A. [13:36:54] Yes, certainly. [REDACTED]
I can also say that there was [REDACTED]

[REDACTED]

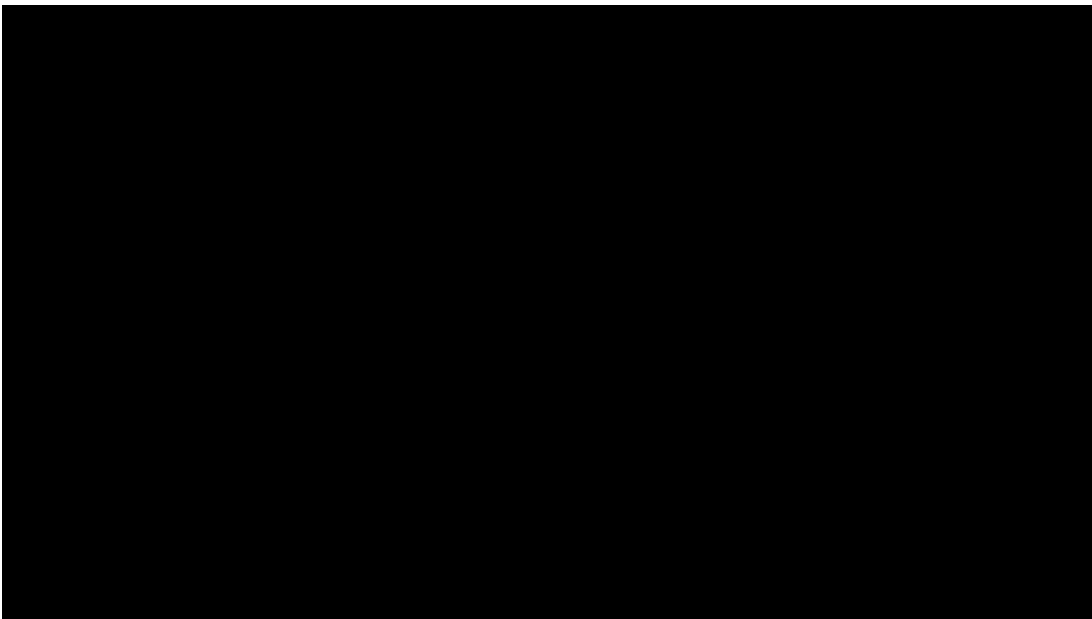
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Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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11 Q. [13:38:45] Mr Witness, when you say there was



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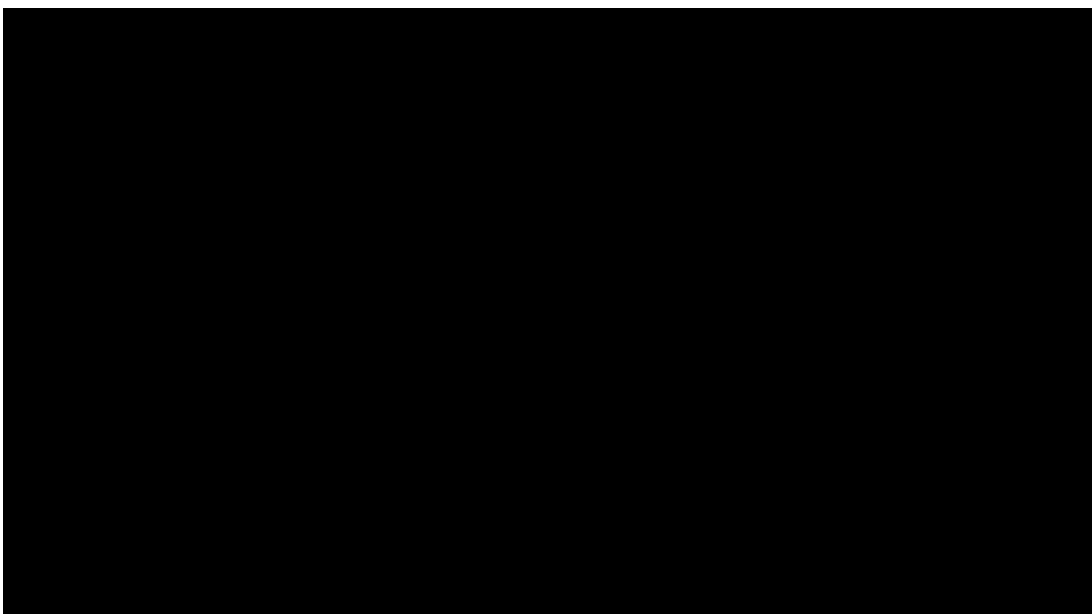
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14 A. [13:39:02] Yes, certainly.



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25 Q. [13:40:14] Mr Witness, you said that when



~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-58/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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4 A. [13:40:46] Yes, I precisely remember [REDACTED]

5 [REDACTED] The

6 details concerned the daily battles taking place in Konna.

7 Q. [13:41:07] And how were these details in favour of the Islamist groups?

8 A. [13:41:17] I do not recall very much, but they had control of a certain area.

9 There was Konna and there was a French jet taken down and details

10 concerning some battles [REDACTED]

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16 Q. [13:42:15] Do you recall who [REDACTED]?

17 A. [13:42:25] No, I do not remember who he is.

18 Q. [13:42:29] I want to go back to an issue that you raised on Thursday, that's

19 in transcript 45, page 7, lines 13 to 17. [REDACTED]

20

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24 [REDACTED]?

25 A. [13:43:30] Yes. This was something [REDACTED]

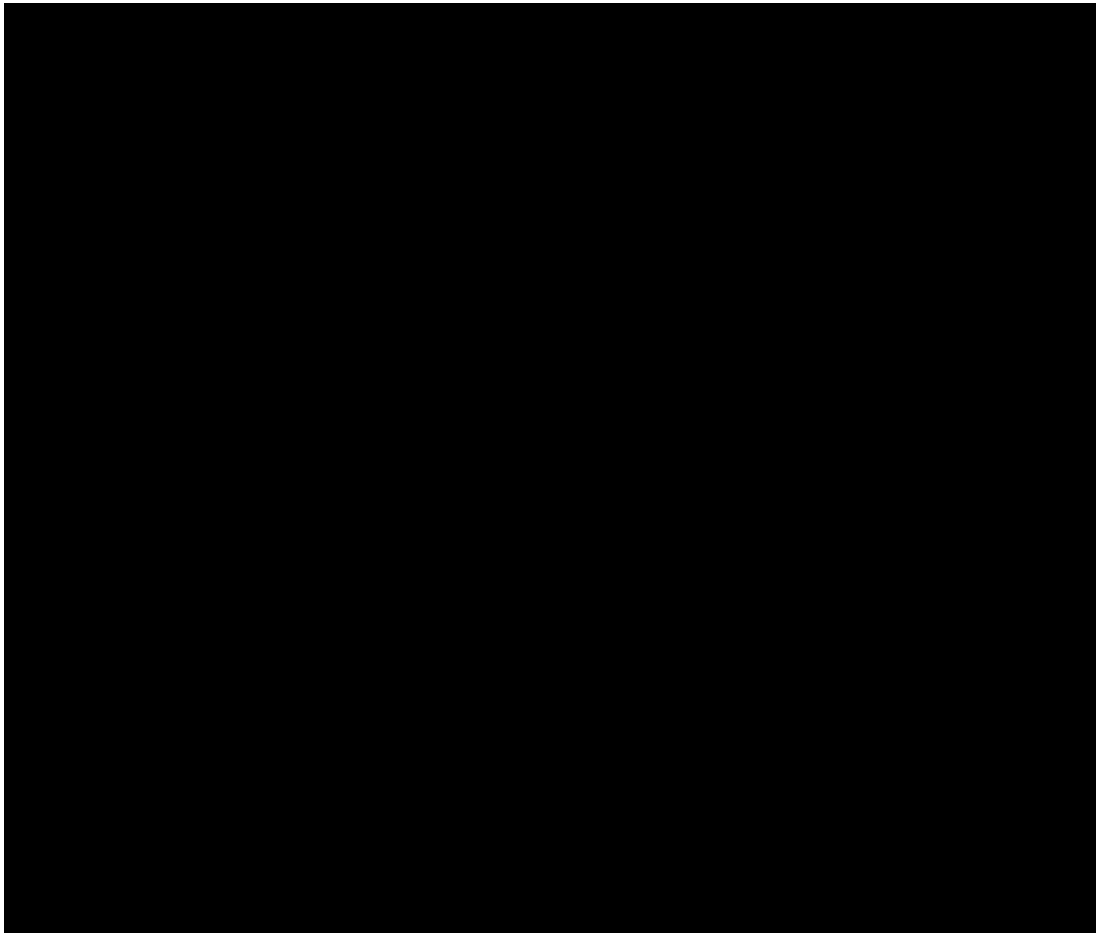
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Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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16 Q. [13:45:08] [REDACTED]?

17 A. [13:45:18] [REDACTED]

18 [REDACTED]

19 Q. [13:45:27] [REDACTED]

20 [REDACTED]?

21 A. [13:45:44] [REDACTED]

22 [REDACTED]

23 Q. [13:45:55] Now, you testified at transcript 45, page 36, lines 10 to 12, that
24 it would have been suicidal for the MNLA to have engaged in skirmishes with
25 Ansar Dine or Al-Qaeda.

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-60/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Since the MNLA did not itself possess the military strength to oppose Ansar
2 Dine, did it support French intervention in Mali?

3 A. [13:46:35] Yes, as far as I think, there was a coordination. When there
4 was a French intervention there was a coordination between MNLA and the
5 non-extremist group within Ansar Dine, led at the time in Kidal by Alghabass
6 Ag Intalla and Cheikh ag Aoussa who were from Ansar Dine and who were
7 the first to receive the French in Kidal.

8 Q. [13:47:13] Now, last Wednesday at transcript 45, page 56, you testified in
9 relation to members of the Ghanda Koy [REDACTED]

10 [REDACTED]

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

14 Now, would it be correct that one of the primary ways of convincing people
15 that the French should intervene would be making allegations against Ansar
16 Dine?

17 A. [13:48:17] Look, [REDACTED]

18 [REDACTED]

19 What happened in Mali included interests of major countries. France, with its
20 intervention in Mali, was supporting its interests in Africa, especially in the
21 African Sahel region. United States was with France in that cause because the
22 US had already intervened in Libya and drowned in Libya, even though it was
23 France who first opened up the Libyan file and facilitated the fall of Gaddafi.
24 So this was a joint agreement between the US and France. [REDACTED]

25 [REDACTED]

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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[REDACTED]

5 So [REDACTED] from the standpoint of the interests of major
6 countries, you see that everyone in that game were just lackeys.

7 Q. [13:49:54] Are you aware of any attempts by the MNLA or Mohamed Ag
8 Najim's group to [REDACTED] create a negative perception of what was
9 happening in Timbuktu when Ansar Dine was there?

10 A. [13:50:22] The problem -- here I will speak only about my understanding
11 of what happens, [REDACTED] about what I'm about
12 to say now. The departure of Ansar Dine -- the departure of MNLA doesn't
13 mean that they did not have power in general. They did leave Timbuktu and
14 this is difficult for them to explain, because the world gives importance to
15 Timbuktu because of its cultural significance more than any other region.
16 The second point is that, when the national movement left Gao, as far as I knew,
17 it had a military advantage and yet they withdrew. [REDACTED]

18 [REDACTED]
19 [REDACTED]

20 [REDACTED] France and the US could not intervene if that movement
21 had control of the city. So they wanted the movement to leave the cities so
22 that things would look like as if it's only the jihadist groups in control of the
23 cities, which will give France the right to intervene and will give Mali the right
24 to ask for a western intervention.

25 I'm saying this as someone who follows the news [REDACTED]

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-62/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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3 Q. [13:52:25] Mr Witness, just for your answers, if you don't mind speaking
4 slowly for the interpreters or having breaks between sentences.

5 Mr Witness, at transcript 45, page 57, lines 11 to 16, you said that you hardly
6 knew the mayor of Timbuktu, Halle Ousmane. Is that because, for the most
7 part, he was not present in Timbuktu in 2012 when Ansar Dine was there?

8 A. [13:52:58] I don't know if he were present or not, but I think he was. [REDACTED]

9

10 I think he either was present or sometimes would come by. I even heard that
11 the crisis committee was headed by him, [REDACTED]

12

13 Q. [13:53:36] Mr Witness, I believe in the same transcript page reference [REDACTED]

14

15 [REDACTED]?

16 A. [13:53:57] Yes, what I remember is that [REDACTED]

17

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20 Q. [13:54:24] So just to be clear, this would have been [REDACTED]

21

22 A. [13:54:34] Yes. [REDACTED]

23

24 And I don't remember this in -- I don't remember these details in clear terms.

25 Q. [13:55:01] [REDACTED]?

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-63/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 A. [13:55:08] [REDACTED]
- 2 [REDACTED]
- 3 [REDACTED]
- 4 Q. [13:55:27] Mr Witness, are you familiar with someone called Madam
- 5 [REDACTED] from Timbuktu who is the wife of [REDACTED]
- 6 [REDACTED]?
- 7 A. [13:55:44] I don't remember that I knew that person.
- 8 Q. [13:55:50] So this isn't someone you recall interacting with [REDACTED]
- 9 in 2012 or 2013?
- 10 A. [13:56:01] I didn't say that specifically. I said I just don't remember.
- 11 Q. [13:56:14] Mr Witness, can you explain [REDACTED]
- 12 [REDACTED]
- 13 [REDACTED]?
- 14 A. [13:56:42] Yes, [REDACTED]
- 15 [REDACTED]
- 16 [REDACTED]
- 17 [REDACTED]
- 18 Q. [13:57:17] Can you explain [REDACTED]
- 19 [REDACTED]?
- 20 A. [13:57:38] [REDACTED]
- 21 [REDACTED]
- 22 [REDACTED]
- 23 [REDACTED]
- 24 [REDACTED]
- 25 [REDACTED]

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-64/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Q. [13:58:32]

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A. [13:58:46]

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Q. [13:59:00] Mr Witness, can you turn to tab 239 in the Defence binder,

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that's MLI-OTP-0068-3201, page is 3207, paragraph is 25. This is tab 1 for the

7

English on the Prosecution's binder, MLI-OTP-0020-0019 at 0024, paragraph 25.

8

A. [13:59:58] (No interpretation)

9

Q. [13:59:58] And for the record, it states:

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15 Do you recall saying this to the Prosecutor?

16

A. [14:00:39] Yes.

17

Q. [14:00:40] So would it be correct that

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?

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A. [14:00:52] Yes.

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Q. [14:00:55]

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A. [14:01:15] Yes.

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~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-65/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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[REDACTED]

8 Q. [14:02:22] Mr Witness, if I could turn to paragraph 27 of your statement, it
9 says:

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[REDACTED]

15 A. [14:02:55] Yes.

16 Q. [14:02:56] Mr Witness, is it correct that
17 [REDACTED]?

18 A. [14:03:07] Yes, but allow me to clarify [REDACTED]

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[REDACTED]

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-66/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Q. [14:04:18]

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A. [14:04:31]

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Q. [14:05:33] And would it be correct that

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A. [14:05:50] Yes.

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Q. [14:06:36] Mr Witness, I'm going to refer to paragraph 29, so I'll read it on

24

to the record in its entirety:

25

"

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 [REDACTED]
2 [REDACTED] I also never try to remember dates and it
3 is therefore hard for me to remember exactly when something happened, but

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

10 A. [14:07:48] Yes.

11 Q. [14:07:49] Mr Witness, is it correct that [REDACTED]

12 [REDACTED]?

13 A. [14:08:00] I think this -- what was meant of this concerns [REDACTED]

14 [REDACTED]
15 [REDACTED]

16 Q. [14:08:24] Mr Witness, perhaps if you read the paragraph in front of you.

17 It says, [REDACTED] That's the first sentence. And

18 then it follows on to describe [REDACTED] which is the second

19 sentence. And then the fourth sentence is, [REDACTED]

20 [REDACTED]

21 So would it be correct, Mr Witness, that you're referring here to the

22 [REDACTED] in 2012 and also [REDACTED]?

23 A. [14:09:12] I think that I am in this paragraph talking about [REDACTED]

24 [REDACTED]
25 [REDACTED]

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-68/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 But when it comes to [REDACTED] 2012, how could
2 this possibly be the case? [REDACTED]

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 Q. [14:10:02] Mr Witness, I'm going to read two sentences from this
7 paragraph that's been read in full:

8 [REDACTED]

9 [REDACTED] I
10 also never try to remember dates and it is therefore hard for me to remember
11 exactly when something happened, [REDACTED]

12 [REDACTED]

13 Mr Witness, is it correct that [REDACTED]

14 [REDACTED]?

15 A. [14:10:49] Yes, I am [REDACTED]

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-69/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 believe me, this might have been imprecise interpretation and I cannot be that
2 focused when the interpretation was being carried out.

3 Q. [14:12:05] Is it correct that you never [REDACTED]
4 [REDACTED]?

5 MR DUTERTRE: (No interpretation)

6 PRESIDING JUDGE MINDUA: [14:12:32](Interpretation) Prosecutor.

7 MR DUTERTRE: [14:12:33](Interpretation) What is the basis of this question?
8 And this is a compound question in any case. So I think that has to be said as
9 well.

10 PRESIDING JUDGE MINDUA: [14:12:44](Interpretation) Ms Taylor.

11 MS TAYLOR: [14:12:45] Mr President, I can either elicit this openly or just
12 read out paragraph 30 for the foundation. But I believe it is preferable to first
13 ask the witness openly, to see if he remembers, and then I can refer him to his
14 statement. But there is a foundation, as the Prosecution is very well aware.

15 PRESIDING JUDGE MINDUA: [14:13:19](Interpretation) But the Prosecution
16 also talked about a compound question, so perhaps you could break it down.
17 Ask your question but break it down.

18 Please proceed.

19 MS TAYLOR: [14:13:35]

20 Q. [14:13:37] Mr Witness, is it correct that you [REDACTED]
21 [REDACTED] in 2012?

22 A. [14:13:54] I do not remember giving attention [REDACTED]
23 [REDACTED]

24 Q. [14:14:05] Are we to take from the fact that you didn't give attention to
25 them, [REDACTED]?

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-70/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 A. [14:14:22] I did not pay attention and I don't remember [REDACTED]

2 [REDACTED]

3 Q. [14:14:33] Mr Witness, I'm going to read to you paragraph 30 of your
4 statement.

5 "There are [REDACTED] but I do not pay any attention
6 to them. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Mr Witness, do you recall saying this to the Prosecution?

12 A. [14:15:20] I do.

13 Q. [14:15:24] And is what you said to the Prosecution, was it true and correct
14 to the best of your belief at the time you said it?

15 A. [14:15:37] Certainly it didn't have any importance and certainly I would
16 not tell the Prosecution anything I'm not sure of. But I did not give any
17 importance [REDACTED]

18 Q. [14:15:55] Would it be correct, Mr Witness, as stated at paragraph 30 of
19 your statement, that [REDACTED]
20 should not be trusted?

21 A. [14:16:15] That would depend. What I trust is [REDACTED]

22 [REDACTED]

23 Q. [14:16:30] If you could turn to tab 240 of the Defence binder, that's
24 MLI-OTP-0061-1512 at 1548, paragraph 121. And for the English it's tab 16 of
25 the Prosecution's binder, that's MLI-OTP-0024-3096 at 3126, paragraph 121.

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-71/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 I'll read it out for the record:

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

7 So, Mr Witness, is it correct that you [REDACTED]?

8 A. [14:18:01] Yes. As I said previously, [REDACTED]
9 [REDACTED]

10 Q. [14:18:10] And is it correct that [REDACTED]
11 [REDACTED]?

12 A. [14:18:29] Yes.

13 Q. [14:18:33] Do you recall telling the Prosecution that [REDACTED]
14 [REDACTED]?

15 A. [14:18:56] I don't remember having told them so, but what I know is that

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 Q. [14:19:30] Mr Witness, can you turn to tab 246 in the Defence binder,
21 that's MLI-OTP-0077-2721 at page 2734. And the English reference is tab 274
22 of the Prosecution binder, MLI-OTP-0033-0069 at 0076.

23 A. [14:20:19] Yes.

24 Q. [14:20:21] Does this conversation of [REDACTED] refer to a conversation
25 between you and the Prosecution concerning [REDACTED]

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-72/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 [REDACTED]?

2 A. [14:21:03] It's not clear to me what is here.

3 Q. [14:21:11] Mr Witness, I can read out the entire paragraph to --

4 A. [14:21:18] Yes.

5 Q. [14:21:19] "During follow-up contacts by phone, P-65 said that he

6 assumed [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 A. [14:22:51] Yes.

23 Q. [14:22:53] Is this consistent with your recollection of this conversation?

24 A. [14:23:05] I do not remember very much this conversation, but I think it is
25 consistent.

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-73/88-NB-T~~

Trial Hearing
Witness: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Q. [14:23:14] And to your knowledge, Mr Witness, did the Prosecution ever
2 organise [REDACTED]?

3 A. [14:23:25] What do you mean by arrange? [REDACTED]

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 But I do not remember how things happened, how I went there, how this was
13 coordinated, how I arranged this [REDACTED]

14 Q. [14:24:51] So, Mr Witness, would it be correct that you [REDACTED]

15 [REDACTED]
16 [REDACTED]?

17 A. [14:25:15] I do not remember [REDACTED]

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 Q. [14:25:53] Mr Witness, this conversation is from [REDACTED] It's correct,
24 isn't it, that you gave [REDACTED] to the Prosecution in [REDACTED]?

25 A. [14:26:19] I do not recall dates, but I know that the subject

~~ICC-01/12-01/18-T-047-CONF-ENG-ET-17-11-2020-74/88-NB-T~~

Trial Hearing
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1 happened -- this matter happened gradually and not in one day. That is
2 the -- at first I was contacted. And second, they met me and introduced
3 themselves to me and asked me to help them, so I said that I didn't mind.

4 And then we talked about [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED] So we met again and we discussed all the details
8 concerning [REDACTED]

9 [REDACTED] This is how this happened. I'm telling this in detail.

10 Q. [14:27:29] Well, perhaps let's go through this timeline.

11 Would it refresh your memory if I was to put to you that you had a first
12 screening interview in [REDACTED]

13 [REDACTED] to the Prosecution in

14 [REDACTED]? Does that sound correct, Mr Witness?

15 A. [14:28:12] When it comes to dates my memory is very bad, but you -- it's
16 in your hands to ascertain the dates. But as far as the sequencing of events,
17 that's what I recall indeed, yes.

18 Q. [14:28:28] Well, we can go through the documents with the dates in more
19 detail. But can I put to you, Mr Witness, that if you're having a conversation
20 with the Prosecution a year after [REDACTED]

21 [REDACTED]

22 [REDACTED] you gave to the Prosecution?

23 MR DUTERTRE: [14:29:05](Interpretation) My Lord.

24 PRESIDING JUDGE MINDUA: [14:29:07](Interpretation) Prosecution.

25 MR DUTERTRE: [14:29:09](Interpretation) I think you have to have a

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1 step-by-step approach. If he can't remember, if the Defence has specific dates
2 on basis of notes, that he says so and then we do it. We become
3 argumentative and the witness can't understand the chronology. Several
4 years have passed, so it's not fair that he can remember everything clearly.

5 PRESIDING JUDGE MINDUA: [14:29:37](Interpretation) Ms Taylor, the
6 witness has repeatedly said that he has -- he can't remember dates well. So
7 could you perhaps help him in that.

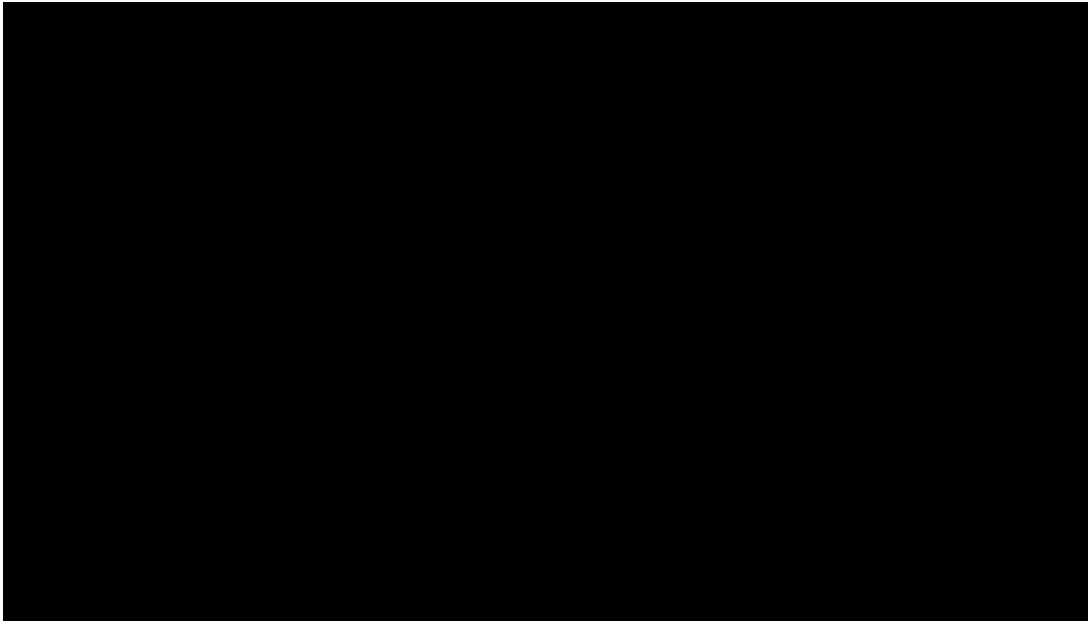
8 MS TAYLOR: [14:29:48]

9 Q. [14:29:50] Certainly, Mr Witness. If you could turn to tab 239 in the
10 Defence binder, that's MLI-OTP-0068-3201 at page 3206. This is tab 1 on the
11 Prosecution's binder, MLI-OTP-0020-0019 at 0023, paragraph 20.

12 A. [14:30:27] Page, please.

13 Q. [14:30:29] The page in Arabic is 3206. And for the record I'll read out the
14 entire paragraph.

15 "When I met the investigators in 

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[REDACTED]

So, Mr Witness, is it correct that you met the investigators in [REDACTED]
[REDACTED]?

A. [14:32:29] I confirm that I did meet them [REDACTED] The
only thing I cannot confirm is the date and time, because I have a problem with
that. But [REDACTED] all that was mentioned is
accurate.

Q. [14:32:47] Mr Witness, can you turn to tab 246 of the Defence binder,
that's MLI-OTP-0077-2721. And the English is tab 274 of the Prosecution
binder, that's MLI-OTP-0033-0069.

A. [14:33:44] Yes.

Q. [14:33:48] And if you could turn to the English, it's 0074, and the Arabic
I believe would be page 6 of the same document. And it's referring to
exchanges that you had in [REDACTED]
It's 2730 in the Arabic. And the exchanges of [REDACTED] set out your
discussions [REDACTED] And on
[REDACTED] it says that:

"P-65 said that he did not expect to manage to do so until after [REDACTED] It was
agreed that the plan to meet in [REDACTED] at the previously agreed date was still
valid."

And then on [REDACTED]:

"[REDACTED] contacted P-0065. P-065 indicated that he had [REDACTED]
[REDACTED]

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2 And then I believe you then met on [REDACTED] to
3 the Prosecution?

4 A. [14:36:14] Yes.

5 Q. [14:36:15] Does that timeline refresh your memory?

6 A. [14:36:21] Except with regards to dates. The sequencing, yes, but the
7 dates, no.

8 Q. [14:36:36] In terms of sequencing, can you turn to the next page, that's
9 0075 in the English.

10 The second paragraph on this document says:

11 "On [REDACTED] [redacted] It was explained that [REDACTED]

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16 Do you recall having this conversation with the Prosecution, Mr Witness?

17 A. [14:37:43] I don't know. I do not remember this. Which paragraph
18 exactly, please, because I can't find it in the Arabic version I have. The page
19 you mentioned to me is different.

20 Q. [14:38:03] Can you see a date, [REDACTED]? If you follow the dates.

21 A. [14:38:36] It's not clear here on my end. I can't find it.

22 Look, I don't need to go back to this. When it comes to dates, nothing will
23 refresh my memory on dates. Because if I accompany a son of mine to the
24 hospital or to a medical practice and the doctor asks me what's the birth date of
25 your son, I will need to verify that with the doctor. Nothing can refresh my

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1 memory on dates. But when it comes to the order of events and interviews
2 and how I [REDACTED] I don't
3 need to go back to this. I remember that very well.

4 Q. [14:39:26] Mr Witness, if you remember that very well, do you recall then
5 a conversation in which the Prosecution asked you about [REDACTED]
6 [REDACTED]?

7 A. [14:39:46] I do not remember the details of every conversation, but what I
8 remember is that they asked me [REDACTED] in 2012. [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED] That's what I'd like
12 to inquire about.

13 Q. [14:40:27] Mr Witness, [REDACTED]
14 [REDACTED]

15 A. [14:40:44] [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 Q. [14:41:02] Now, Mr Witness, according to this document it says that you
19 couldn't go [REDACTED]
20 [REDACTED] so would it follow that you didn't have
21 much time available [REDACTED]?

22 A. [14:41:37] I do not remember that. What I remember is that what I
23 [REDACTED]
24 [REDACTED]
25 [REDACTED] that I cannot confirm.

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1 Q. [14:42:01] Now, Mr Witness, if you were [REDACTED]

2 [REDACTED]

3 [REDACTED]?

4 A. [14:42:22] Does your question concern what I did [REDACTED] or

5 what it would usually [REDACTED]? Can you please be

6 specific.

7 Q. [14:42:44] Mr Witness, perhaps if I can read you the relevant section of

8 the note. It's 0075 in the English -- MLI-OTP-0033-0075. It says:

9 P-0065 said that when he was [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]?

14 A. [14:43:39] What is sure is that [REDACTED]

15 [REDACTED]

16 Q. [14:43:52] So just to be clear, that means that you didn't, while you were

17 there, [REDACTED]? [REDACTED]

18 [REDACTED]?

19 A. [14:44:10] I do not remember these details in full.

20 Q. [14:44:18] I believe you said earlier you [REDACTED]

21 [REDACTED]

22 [REDACTED]; that's

23 correct?

24 A. [14:44:43] Certainly. [REDACTED]

25 [REDACTED]

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[REDACTED] But I cannot state anything without being certain about it.

Q. [14:45:45] Mr Witness, out of fairness I'm going to put to you that, if you had that conversation with the person [REDACTED] otherwise you wouldn't have discussed [REDACTED] with the Prosecution in [REDACTED]

PRESIDING JUDGE MINDUA: [14:46:18](Interpretation) Mr Prosecutor.

MR DUTERTRE: [14:46:19](Interpretation) Mr President, I do believe we should simplify this question, which is starting to become somewhat argumentative furthermore.

PRESIDING JUDGE MINDUA: [14:46:31](Interpretation) Ms Taylor.

MS TAYLOR: [14:46:32] Mr President, as the Defence has explained repeatedly, we do have an obligation to put our case to the witness. If it's our case that this information is not correct or not consistent, then we do need to put that to the witness out of fairness so he has a chance to respond on the record.

THE WITNESS: [14:46:59](Interpretation) What I confirm is the following: If

I asked that person [REDACTED]

[REDACTED] So if I -- if

I had asked him so -- which I cannot confirm because of my poor memory, that

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1 must have been when I was [REDACTED]

2 [REDACTED]

3 Also I assure you, ma'am, that I did not give [REDACTED]

4 [REDACTED]
5 [REDACTED]

6 MS TAYLOR:

7 Q. [14:48:08] Now, [REDACTED] after you had a
8 screening interview with the Prosecution in [REDACTED]; that's correct?

9 A. [14:48:24] I do not know when [REDACTED], but I think I relayed
10 the order of events and [REDACTED] after the first period when
11 we had meetings.

12 Q. [14:48:44] And during this first period when you had meetings, the
13 Prosecution put to you questions concerning issues they considered to be
14 relevant to 2012; that's correct?

15 A. [14:49:09] I don't remember in general. And as far as I understood, they
16 were interested or they were doing an investigation. Let's use the term I used
17 with them at the time, and the term at the time was -- I dealt with at the time
18 was ICC investigators who were interested in me [REDACTED]

19 [REDACTED] So they got in touch with me and I
20 expressed my full interest in cooperating with the Court and they asked to
21 discuss the matter with me, so we discussed [REDACTED] This is the
22 conversation that I remember in general. So they had an interest in me

23 [REDACTED]

24 [REDACTED] This is what my poor -- as best as my poor
25 memory can give.

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1 But this was not my only interest at the time, I had other interests in my life at
2 the time and this was rather a trivial matter, which is why I cannot remember
3 in full detail.

4 Q. [14:50:34] Now, Mr Witness, on the first day of your testimony, that's
5 transcript 37, page 9, lines 25 and also at page 10, lines 1 to 5, you stated that
6 [REDACTED] it's
7 correct that you know [REDACTED]
8 [REDACTED]?

9 A. [14:51:16] I don't know what is meant by [REDACTED]

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[REDACTED]

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- 1 PRESIDING JUDGE MINDUA: [14:53:17](Interpretation) Mr Prosecutor.
- 2 MR DUTERTRE: [14:53:18](Interpretation) Yes, Mr President, in her question
- 3 beforehand the Defence said: [REDACTED]
- 4 [REDACTED] I would like the
- 5 Defence to tell us where he said that [REDACTED]
- 6 because [REDACTED] is quite a specific thing.
- 7 PRESIDING JUDGE MINDUA: [14:53:47](Interpretation) Ms Taylor, the
- 8 Prosecutor is right. The witness never said that [REDACTED]
- 9 Or did he?
- 10 MS TAYLOR: [14:53:56] Mr President, I believe the Prosecutor has actually
- 11 misconstrued what I put to the witness. I quoted the transcript of the
- 12 testimony where he said [REDACTED] and I asked him
- 13 [REDACTED]
- 14 [REDACTED] It follows. It's a question that I'm entitled to put to him
- 15 as there was a foundation. He's also repeatedly stated that [REDACTED]
- 16 [REDACTED]
- 17 PRESIDING JUDGE MINDUA: [14:54:35](Interpretation) Mr Prosecutor.
- 18 MR DUTERTRE: [14:54:36](Interpretation) Yes, but there is a jump between
- 19 [REDACTED] as the Defence has
- 20 said. I do not see any references to the witness saying that he's [REDACTED]
- 21 [REDACTED]
- 22 MS TAYLOR: [14:54:54] I believe there's an error in the French transcript.
- 23 MR DUTERTRE: [14:55:00](Interpretation) I think that the English says the
- 24 same.
- 25 PRESIDING JUDGE MINDUA: [14:55:09](Interpretation) Well, if that's the

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1 case --

2 THE INTERPRETER: [14:55:12] Message from the English booth --

3 PRESIDING JUDGE MINDUA: (Interpretation) Please rephrase.

4 THE INTERPRETER: Message from the English booth: The word [REDACTED]

5 in French can also mean [REDACTED]

6 MS TAYLOR: [14:55:27] Yes, I believe there's an error in the French. That's
7 the confusion.

8 Q. [14:55:38] So, Mr Witness, do you recall seeing [REDACTED]

9 [REDACTED]?

10 A. [14:55:55] I do. [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. [14:56:24] Mr Witness, could you turn to tab 262 of the Defence binder
15 before you. It's a new one that should have been given to you. It's

16 MLI-OTP-0078-9818 at 9819 is the English. And the Arabic would be tab 261,

17 Mr Witness, MLI-OTP-0018-0847 at 0847. And if you could turn to an

18 exchange [REDACTED]

19 Do you recall this exchange? Is this [REDACTED]?

20 A. [14:58:00] Yes, I didn't find the Arabic version, but I have here the
21 translation.

22 And I have a question: How much time do we have left in this session?

23 Q. [14:58:12] I believe three to four minutes, but that's at the discretion of the
24 Presiding Judge.

25 PRESIDING JUDGE MINDUA: [14:58:22](Interpretation) We are going to be

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1 finishing off in three minutes, Ms Taylor.

2 MS TAYLOR: [14:58:30]

3 Q. [14:58:30] The person you're exchanging messages with, [REDACTED], is
4 that [REDACTED]?

5 A. [14:58:44] No. [REDACTED] I think he was [REDACTED]

6 Q. [14:58:57] And at [REDACTED] did you say to [REDACTED]:

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

10 [REDACTED]?

11 Is this your advice?

12 A. [14:59:39] I don't know because here the chat is in English. I don't have
13 the Arabic text which would be necessary to recall the details of the
14 conversation. I need to read this conversation in Arabic to be able to give full
15 information regarding the context of the conversation and about what it was.

16 Q. [15:00:06] Mr Witness, the Arabic is in tab 261, it's in the Defence
17 materials.

18 A. [15:00:30] Yes.

19 Q. [15:00:32] Mr Witness, do you have the Arabic of the message dated
20 [REDACTED]? It's on the first page of the
21 messages.

22 A. [15:00:56] Yes.

23 Q. [15:00:59] Mr Witness, did you advise this person that, [REDACTED]

24 [REDACTED]

25 [REDACTED]?

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(Private Session)

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- 1 PRESIDING JUDGE MINDUA: [15:01:21](Interpretation) Mr Prosecutor.
- 2 MR DUTERTRE: [15:01:22](Interpretation) Yes, Mr President, I think the
- 3 witness should be allowed to read the entirety of the document to understand
- 4 the context and not just hone in on this excerpt. I think this is a manner -- it's
- 5 a matter of fairness and it's not a quiz for the witness.
- 6 PRESIDING JUDGE MINDUA: [15:01:41](Interpretation) I do indeed think
- 7 that as this is an exchange of emails in a long chat, the witness should have the
- 8 possibility to read the item.
- 9 So once again, I'm going to provide the witness with the opportunity to read
- 10 the item during his rest time and he'll be able to answer your questions
- 11 subsequently, because it is 3 o'clock, 2 minutes past 3, in fact.
- 12 Ms Taylor, we are going to move into open session to bring this hearing to a
- 13 close.
- 14 Madam courtroom officer, open session, please.
- 15 (Open session at 3.02 p.m.)
- 16 THE COURT OFFICER: [15:02:31] (Interpretation) We are in open session,
- 17 Mr President.
- 18 PRESIDING JUDGE MINDUA: [15:02:36](Interpretation) Thank you very
- 19 much, madam courtroom officer.
- 20 There we are. We are coming to the end of today's hearing and to the end of
- 21 the third session of today.
- 22 Ms Taylor, I would like to address you once again. At the end of the first
- 23 session this morning I had requested the witness to go away and read the
- 24 document that he had before him before the end of the session and I had asked
- 25 you to make an effort, as the Prosecutor had done, to group your questions in

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1 such a manner as to enable the second session of the day, the second hearing
2 that would be one length in duration, for it to be able to have some open
3 session phases and some private session phases. And I had also specified that
4 the third session of today would be one and a half hours in duration and that I
5 also wanted to have some parts of it in open session and some parts of it in
6 private session.
7 I have already said on a number of occasions that this witness is difficult to
8 question and to cross-examine by dint of his personal situation, but I have also
9 said on a number of occasions that it was not my intention to conduct a trial in
10 private session.
11 So you see that generally speaking I intervene to ask whether we are going into
12 open or private session, but for today's second session and for today's third
13 session I did not intervene. I just wanted to see how far you would go. Now
14 I realise that you are neglecting the instructions that I have given.
15 Were I to be in your position, I would make an effort, just in order to please the
16 Bench, and foresee a number of questions in open session. Because I have the
17 responsibility to protect the witness but also to respect the rules of procedure
18 for my hearings not to be in private session in their entirety.
19 So tomorrow we shall try again. I would ask you to choose some subject
20 material that will be broached in private session and other subject material that
21 shall be broached in open session. What is more, some of the questions that
22 you put this afternoon could have been put in open session, as the Prosecutor
23 did. You know, we quote an item and we know that identifying items should
24 not be given in open session and we make an effort to put questions, which is
25 what you failed to do in the second and third sessions of today. So bear that

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- 1 in mind.
- 2 Mr Witness, I'd like to thank you once again for your patience and your
- 3 availability. As you will have noted, we have finished for today and I would
- 4 request once again that you be here tomorrow morning at 9.30. In the
- 5 meantime, as you know, and as you know it is a ritual of mine to remind you,
- 6 you will not speak to anybody about your testimony.
- 7 It is now time to say thank you and goodbye to all the parties, to the
- 8 participants, thank you for your cooperation. To the court reporters and to
- 9 the interpreters, I would like to renew my gratitude to you. And I shall not
- 10 forget, of course, our security officers and the members of the public who are
- 11 very patient. Thank you to all and have a good evening. See you tomorrow
- 12 at 9.30.
- 13 Court is adjourned.
- 14 THE COURT USHER: [15:07:29] All rise.
- 15 (The hearing ends in open session at 3.07 p.m.)