

~~--ICC-01/12-01/18-T-048-CONF-ENG CT 18-11-2020 1/75 SZ-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 v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
- 5 Mahmoud - ICC-01/12-01/18
- 6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
- 7 Judge Kimberly Prost
- 8 Trial Hearing - Courtroom 1
- 9 Wednesday, 18 November 2020
- 10 (The hearing starts in open session at 9.32 a.m.)
- 11 THE COURT USHER: [9:32:12] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE MINDUA: [9:32:40](Interpretation) Court is in session.
- 15 Good morning to everyone.
- 16 Madam courtroom officer, could you please call the case.
- 17 THE COURT OFFICER: [9:32:49] Thank you, Mr President.
- 18 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
- 19 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
- 20 And for the record, we are in open session.
- 21 PRESIDING JUDGE MINDUA: [9:33:12](Interpretation) Thank you very much,
- 22 courtroom officer.
- 23 Now, for the record, we shall now deal with the appearances, starting with the Office
- 24 of the Prosecutor.
- 25 Mr Dutertre, please.

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- 1 MR DUTERTRE: [9:33:26](Interpretation) Good morning, Mr President. Good
- 2 morning, your Honours.
- 3 Good morning, Mr Witness. Good morning to everyone.
- 4 The Prosecution team today is still comprised with Mr Lucio Garcia, Madam
- 5 Sarah Coquillaud, and myself Mr Dutertre.
- 6 PRESIDING JUDGE MINDUA: [9:33:46](Interpretation) Thank you very much,
- 7 Mr Prosecutor.
- 8 I am now turning to the Defence.
- 9 Ms Taylor, please.
- 10 MS TAYLOR: [9:33:52] Good morning, Mr President. Good morning,
- 11 your Honours. The Defence for Mr Al Hassan is represented by Kirsty Sutherland,
- 12 Molly Thomas, Dolly Chahla, and myself, Melinda Taylor.
- 13 And I note for the record again that Mr Al Hassan is not present in the courtroom but
- 14 has been required to participate from the detention centre because of COVID.
- 15 Thank you.
- 16 PRESIDING JUDGE MINDUA: [9:34:23](Interpretation) Thank you very much,
- 17 Ms Taylor.
- 18 And now Legal Representative of Victims.
- 19 Mr Kassongo.
- 20 MR KASSONGO: (Interpretation) Good morning, Mr President, good morning.
- 21 The Legal Representative of Victims team this morning comprises Madam Claire
- 22 Laplace, who is assisting me, and myself Mr Kassongo. We'd like to thank you very
- 23 much. Thank you.
- 24 PRESIDING JUDGE MINDUA: [9:34:49](Interpretation) Thank you very much,
- 25 Mr Kassongo.

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1 Today we shall continue with the testimony of the 16th Prosecution witness, Witness
2 P-0065.

3 Good morning, Mr Witness, can you hear me?

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

5 (The witness speaks Arabic)

6 THE WITNESS: [9:35:14](Interpretation) Good morning. I hear you very clearly.

7 PRESIDING JUDGE MINDUA: [9:35:24](Interpretation) Thank you very much,

8 Mr Witness.

9 The Chamber would once again like to voice its acknowledgment of your availability
10 and thank you for everything you've done thus far.

11 Today you will continue with your testimony and you should be aware that you are
12 still under oath and that you should speak the truth, nothing but
13 the truth -- the whole truth and nothing but the truth.

14 I would like you now to also remember everything that I have told you with regard to
15 taking the floor.

16 I'd like now to turn to the Defence, because Ms Taylor would like to address
17 the Chamber, I believe.

18 MS TAYLOR: [9:36:09] Thank you, Mr President. In fact, it will be Ms Sutherland
19 on behalf of the Defence.

20 PRESIDING JUDGE MINDUA: [9:36:20](Interpretation) Ms Sutherland, please.

21 MS SUTHERLAND: [9:36:23] Good morning, your Honour.

22 Mr Al Hassan has of course the right to be present -- or had the right to be present in
23 the courtroom and we have a right to visit our client in the detention centre. Both of
24 these have been suddenly curtailed without much notice, without proper information,
25 or -- and without giving the Defence the opportunity to be heard.

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1 The Defence continues, as we all do, to operate in a state of uncertainty regarding
2 the expected length and extent of the measures imposed in respect of the incidents of
3 COVID in the detention centre. This lack of -- there is a lack of transparency
4 regarding what is going on. There are rumours of further incidents and we have no
5 idea how long to endure the infringements on the ability to communicate properly
6 with our client.

7 We cannot currently visit the detention centre and all of these issues compound
8 the many challenges that we already face, which are having a tangible impact on our
9 ability to prepare.

10 Accordingly, we respectfully request the Chamber to direct the Registry to issue a full
11 report ahead of the next witnesses and to hear the Defence on the potential impact on
12 our preparation.

13 PRESIDING JUDGE MINDUA: [9:38:12](Interpretation) Thank you very much,
14 Ms Sutherland.

15 Of course, the Chamber has been informed that the accused is following the trial from
16 the detention facility associated with an incident that took place due to COVID, and
17 the Defence does indeed have the right to continue to see and enter into contact with
18 their client. That is indeed in keeping with the rights of the accused. The Chamber
19 will be giving very specific instructions to the Registry for this situation to be
20 immediately remedied.

21 There we are. That's all that I can tell you for the time being. But, of course,
22 because these are medical issues, certainly the doctor will be giving his opinion, and
23 then we'll see. But otherwise the Chamber is on your side and you are right in so
24 saying.

25 There we are.

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1 Ms Taylor, let us continue now with the cross-examination of the witness, please.

2 Mr Prosecutor.

3 MR DUTERTRE: [9:39:42](Interpretation) Thank you, Mr President.

4 Briefly, yesterday at the beginning of the hearing the Chamber had raised a number
5 of issues, namely that the entirety of paragraph 35 of the record 0018-90 (sic) should
6 be read out for the transcript with the indication that it should have been done
7 yesterday.

8 Now, I don't believe that it has yet been done, so I think it would be a good thing,
9 because we are starting the hearing, to seize this opportunity in order to do so.
10 Thank you.

11 PRESIDING JUDGE MINDUA: [9:40:20](Interpretation) Thank you very much,
12 Mr Prosecutor.

13 Ms Taylor, you've heard. Indeed, the paragraph 35. So over to you.

14 MS TAYLOR: [9:40:31] Thank you, Mr President. Obviously, the timing of
15 cross-examination is very much dependent on the number of objections. So if we are
16 constantly faced with objection after objection, many of which are completely
17 spurious and based on the Prosecution's failure to read the English transcripts, that
18 impacts upon our ability to get to certain parts of our cross-examination, including
19 reading out relevant sections.

20 Now we do intend to read out this paragraph, but it should not be read out in
21 a vacuum. We intended to read it at the relevant part of our cross-examination that
22 would provide appropriate context. I can read it out now, but it's reading it out in
23 a vacuum. So I do believe that the Defence should be entitled to structure its
24 cross-examination in the same way the Prosecution was given the same right to
25 structure its examination-in-chief and it's entirely arbitrary to expect the Defence to

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- 1 constantly chop and change to suit the whims of the Prosecution.
- 2 PRESIDING JUDGE MINDUA: [9:42:00](Interpretation) Very well, Ms Taylor.
- 3 The Chamber has followed what you have just said, but do not forget that, in due
- 4 course, you need to read out that paragraph.
- 5 I am under the impression that the interpretation into French is very slow in coming.
- 6 That's why everyone seems to be looking at me. So please do your very best.
- 7 That's why. Yes, please do your best. Thank you.
- 8 Ms Taylor, please.
- 9 QUESTIONED BY MS TAYLOR: (Continuing)
- 10 Q. [9:42:31] Good morning, Mr Witness. How are you this morning?
- 11 A. [9:42:35] Good morning. I'm doing well, thank God.
- 12 Q. [9:42:39] Now, Mr Witness, if you recall -- and please bear in mind we're in open
- 13 session, but do you recall reading a document yesterday? Have you had sufficient
- 14 time to review it?
- 15 Sorry, Mr Witness, you need to respond.
- 16 A. [9:43:02] The first document I did read during the break yesterday. And
- 17 the second document, since it was just one page, I read today, I read now.
- 18 MS TAYLOR: [9:43:19] Mr President, the contents of this document go directly into
- 19 his profession. So I do believe that to actually put questions to him I would need to
- 20 respect the protective measures and go into private session.
- 21 PRESIDING JUDGE MINDUA: [9:43:44](Interpretation) What do you mean
- 22 the protective measures? Because in the -- in the interpretation I understood that
- 23 you need to be respecting the protective measures. I haven't understood.
- 24 MS TAYLOR: [9:43:56] Mr President, the protective measures which apply to this
- 25 witness means that we cannot discuss anything relating to the profession of this

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- 1 witness in open session.
- 2 PRESIDING JUDGE MINDUA: [9:44:13](Interpretation) You are right.
- 3 Madam courtroom officer, private session, please.
- 4 (Private session at 9.44 a.m.)
- 5 THE COURT OFFICER: [9:44:32] We are in private session, Mr President.
- 6 PRESIDING JUDGE MINDUA: [9:44:39](Interpretation) Thank you very much.
- 7 Ms Taylor.
- 8 MS TAYLOR: [9:44:40]
- 9 Q. [9:44:40] Mr Witness, do you have tab 261 in front of you? It's in the Defence
- 10 binder, it's MLI-OTP-0018-0847.
- 11 A. [9:44:54] Yes.
- 12 Q. [9:44:55] And --
- 13 A. [9:44:56] I have it here.
- 14 Q. [9:45:07] For the record I will just give the English MLI as well. It's tab 262,
- 15 MLI-OTP-0078-9818 at 9819.
- 16 Mr Witness, can you explain what this document is?
- 17 A. [9:45:27] This is a chat between me and [REDACTED] and I can
- 18 explain it in full.
- 19 Q. [9:45:40] Mr Witness, did you give these chats to the Prosecution?
- 20 A. [9:45:48] Yes, I believe so.
- 21 Q. [9:45:52] In 2012 did you have more exchanges with [REDACTED]?
- 22 A. [9:46:05] I do not remember all of it. I don't know.
- 23 Q. [9:46:11] Can you explain why you chose to give this specific exchange to
- 24 the Prosecution?
- 25 A. [9:46:23] [REDACTED]

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3 Q. [9:46:55] So it's correct that you made a selection of the messages to give to
4 the Prosecution?

5 A. [9:47:12] There isn't a selection by me or by the investigators. [REDACTED]

6

7 [REDACTED] I gave those chats over. And in that closed meeting -- in this
8 closed meeting, I would be glad to be given two minutes to explain my relationship
9 with the Court, which is the reason I am here, so that is to make that clear to everyone
10 and to avoid any confusion that I am siding with a party against another party.

11 Q. [9:48:13] Mr Witness, I'm simply putting questions to you regarding what
12 happened.

13 PRESIDING JUDGE MINDUA: [9:48:22](Interpretation) Mr Prosecutor.

14 MR DUTERTRE: [9:48:24](Interpretation) Yes, thank you, Mr President. I believe
15 that the witness said that he could explain -- he said that he could explain this chat,
16 and we haven't given him the opportunity to do so. I think that when he starts
17 explaining he should be able to do so, because this is important for the manifestation
18 of the truth. I know that we are in the cross-examination, but we need to leave him
19 the opportunity to explain. It's a question of fairness.

20 PRESIDING JUDGE MINDUA: [9:48:52](Interpretation) Ms Taylor, please.

21 MS TAYLOR: [9:48:54] Mr President, as a question of fairness, I think it's due to
22 remark that during examination-in-chief on at least two occasions the witness asked
23 to explain various issues. One of the issues was, was the Court interested in
24 knowing why people in Timbuktu join Al-Qaeda? Another time he asked to explain
25 the different approaches of Ansar Dine. On both occasions the Prosecution stopped

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1 him and said we will address these points later. And they never did in
2 examination-in-chief.

3 I'm not trying to stop the witness from answering relevant questions, but I am trying
4 to explain that my role as the Defence is to simply put questions to him. I am acting
5 as an independent counsel before this Court. I am not here to take any personal
6 perspective on any witness. And I think it's important to clarify that to the witness
7 that my role in this court is simply to pose questions, no more, no less.

8 PRESIDING JUDGE MINDUA: [9:50:16](Interpretation) Please go ahead. Put your
9 question, Ms Taylor.

10 MS TAYLOR: [9:50:20]

11 Q. [9:50:20] Mr Witness, since we haven't had the opportunity of meeting you, I'm
12 trying to obtain information concerning the process by which these messages were
13 selected. Now I believe you have said that the Prosecution asked you to [REDACTED]
14 [REDACTED] is that correct?

15 A. [9:50:52] Yes. I understand that. And you always say the Prosecution asked
16 you and I always say I had a relationship with the investigators, and my request
17 earlier was to make it clear to everyone in the Chamber on my relationship with
18 the Court.

19 Q. [9:51:23] Mr Witness, do you understand that investigators are part of
20 the Prosecution?

21 A. [9:51:37] I understand that I have a willingness to cooperate with the ICC, for
22 any party in the ICC, be it investigators, Prosecution, or Defence. And I understand
23 very well that information taken from me by the investigators and the evidence that I
24 provide to investigators will be available to both Prosecution and Defence. But my
25 willingness to cooperate with the ICC means cooperating with everyone within

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1 the ICC, be it investigator, Prosecutor, or Defence. And when I received the request
2 to meet Defence, I declined.

3 THE ARABIC INTERPRETER: [9:52:38] Statement unclear.

4 THE WITNESS: [9:52:39](Interpretation) But I asked that one of the investigators be
5 present to make my point in the presence of the investigator. So I assure everyone
6 that my presence here is part of my willingness to cooperate with the entire ICC, not
7 with the Office of the Prosecutor, nor with the Office of Defence only.

8 MS TAYLOR: [9:53:04]

9 Q. [9:53:04] Mr Witness, do you still have access to these [REDACTED] messages?

10 A. [9:53:16] Certainly. But since I've left I stopped all my communications. [REDACTED]

11 [REDACTED]
12 [REDACTED]

13 Q. [9:53:50] Mr Witness, would you agree to provide full copies of these messages
14 to the Defence if we were to submit a request to you?

15 A. [9:54:06] Certainly, I do not have any objection to that.

16 Q. [9:54:11] [REDACTED]

17 [REDACTED] Would you be willing to
18 arrange for those [REDACTED] to be transmitted to the Defence?

19 A. [9:54:38] [REDACTED]

20 [REDACTED]
21 [REDACTED]

22 [REDACTED] What I assure you, ma'am, and what I assure
23 everyone here - yourself, the Prosecution, or the Judges - I am fully ready to any form
24 of cooperation within my capacity, any form of cooperation. And I stress any form.
25 That is anything I can do, I will do and provide.

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1 And everything, of course, depends on several factors. Some factors are within my
2 reach and some are not, and some factors may require certain measures.
3 Ma'am, I am fully ready in this regard and I am fully convinced that justice cannot be
4 rendered if it serves one side only and I am fully willing to cooperate with the Office
5 of the Defence in any way possible.

6 Q. [9:56:08] We are of course very glad to hear that.

7 Now, Mr Witness, turning back to these message exchanges, can you have a look at
8 the post of [REDACTED] I apologise, it's [REDACTED]

9 A. [9:56:58] Yes.

10 Q. [9:57:01] Did you write this exchange?

11 A. [9:57:06] Yes. This is a chat between me and [REDACTED]

12 Q. [9:57:12] I'll just read the exchange for the record.

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

17 And then [REDACTED] says: [REDACTED]

18 And I believe this is you, you respond at [REDACTED]

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 The person saying [REDACTED] says: [REDACTED]

23 [REDACTED]

24 You then say: [REDACTED]

25 [REDACTED]

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1 Were these your posts?

2 A. [9:58:23] Yes, certainly.

3 Q. [9:58:26] And would this suggest that you knew [REDACTED]

4 [REDACTED]?

5 A. [9:58:45] [REDACTED]

6 [REDACTED]

7 As I previously said, the chat requires some explanation. I can see that I am
8 probably deviating from the question a little.

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 [REDACTED]

23 [REDACTED]

24 And here I take you back to the question on [REDACTED]

25 [REDACTED]

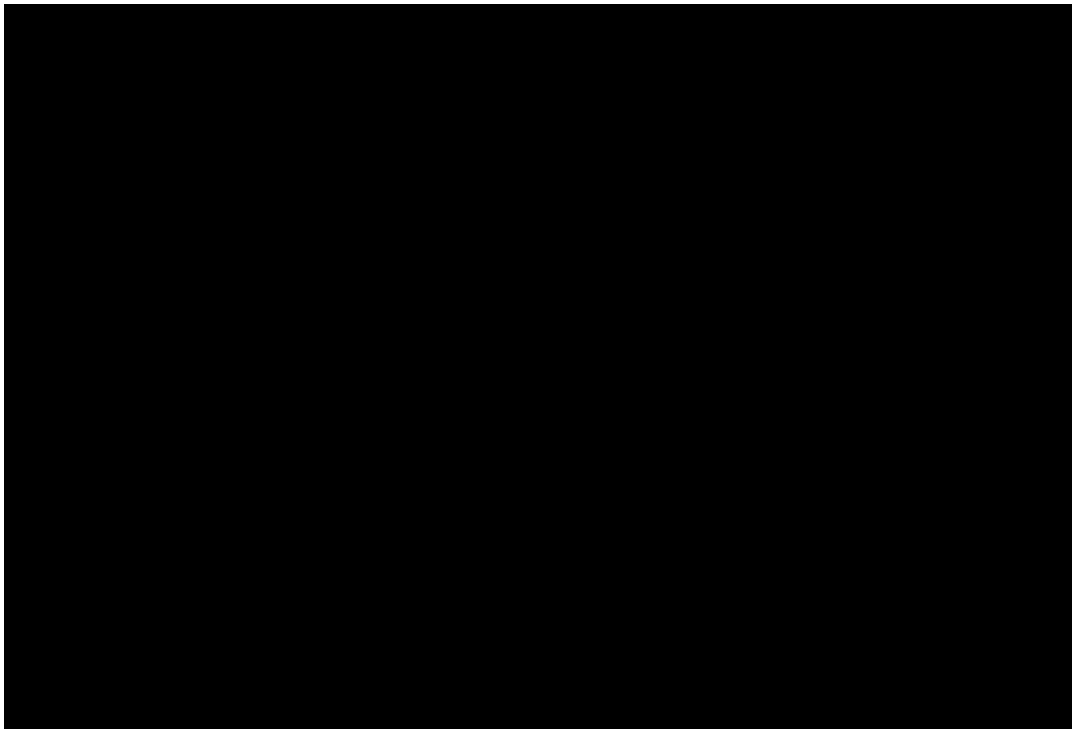
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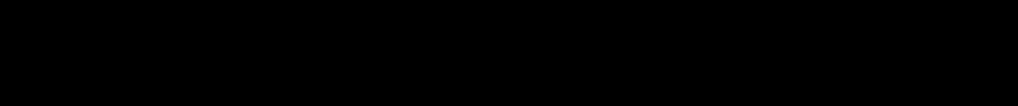


13 Q. [10:02:35] Thank you for that explanation [REDACTED]
14 Now, Mr Witness, it's correct that Al Mahdi, Abou Tourab [REDACTED]
15 [REDACTED] had an accident;
16 that's correct?

17 Mr Witness, you need to verbally respond for the record. I can see you nodding.

18 A. [10:03:16] I was waiting for the interpretation to finish.

19
20



21 Q. [10:03:36] And after he had his accident, [REDACTED]
22 [REDACTED]?

23 A. [10:03:51] No. The person who had an accident is Mr Al Faqi [REDACTED]
24 [REDACTED] If I had mentioned that [REDACTED]
25 [REDACTED] it might have been either my mistake or that I was not

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1 focused or probably an interpretation issue. They said that Al Faqi was injured.

2 [REDACTED] That's what I think, as far as my -- as good as my
3 memory can serve me.

4 Q. [10:04:42] Mr Witness, do you mind turning to tab 259 of the Defence binder for
5 the Arabic, being MLI-OTP-0018-1089. The English is tab 157, MLI-D28-0004-3469.

6 Do you have it in front of you, Mr Witness?

7 A. [10:05:51] Yes.

8 Q. [10:05:52] Is this an email that you sent?

9 A. [10:05:58] It is.

10 Q. [10:06:01] What is the date, Mr Witness?

11 A. [10:06:05] [REDACTED]

12 Q. [10:06:11] The content says:

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

18 Does this refresh your memory, Mr Witness?

19 A. [10:06:35] Yes.

20 Q. [10:06:42] So would it be correct that [REDACTED]

21 [REDACTED]?

22 A. [10:06:55] I think so.

23 Q. [10:07:00] And was that person Mr Al Hassan?

24 A. [10:07:07] No. [REDACTED]

25 [REDACTED]

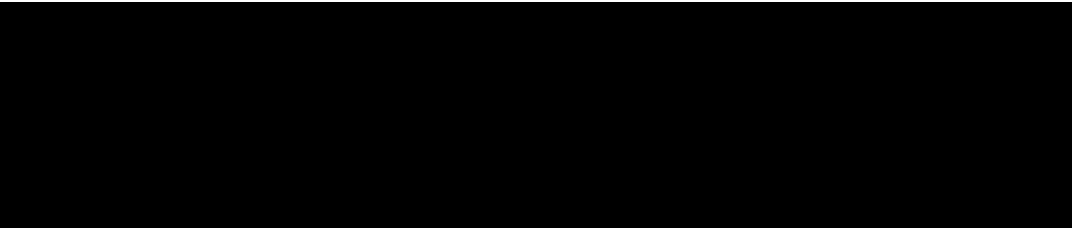
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5 Q. [10:07:50] Now, after Mr Al Hassan was arrested and brought to the Court, do
6 you recall [REDACTED] videos that you thought showed
7 Mr Al Hassan?

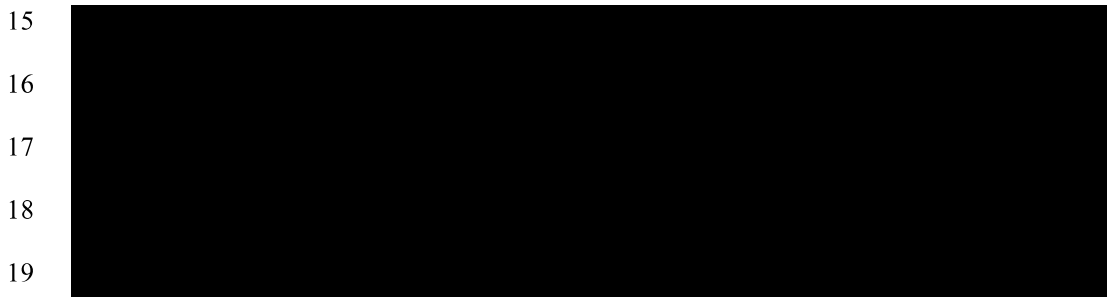
8 A. [10:08:10] Yes.

9 Q. [10:08:14] I'm just going to show you two screenshots. This is tab 172 on
10 the Defence binder. That's MLI-D28-004-3502. And tab 173 on the Defence list,
11 being MLI-D28-0004-3503.

12 And can they be shown on -- the first be shown on evidence 1.

13 [REDACTED] ?

14 A. [10:09:38] [REDACTED]



20 Q. [10:10:32] Just so the record is very clear, can we turn to tab 225 in the Defence
21 binder, that's MLI-OTP-0066-0446.

22 Now, Mr Witness, I'll read out the relevant paragraph:

23 "P-65 indicated that since" --

24 A. [10:11:15] What I have here is 225, it's in English.

25 Q. [10:11:21] Yes, there's no Arabic version, so I'll read out the relevant

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1 paragraph onto the record:

2 "P-65 indicated that since 31 March 2018 as he became aware of the transfer of
3 Al Hassan to the ICC and as he knew he was about to meet with the team," - being
4 the Prosecution - [REDACTED]

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

11 And perhaps if I can preface this with there's a first sentence saying this is occurring
12 on [REDACTED] during a meeting between P-65 and the Prosecution, and it mentions
13 one investigator, [REDACTED] associate investigator.

14 A. [10:13:33] Yes.

15 Q. [10:13:34] Mr Witness, are the videos that were shown on the screen [REDACTED]
16 [REDACTED] showing Mr Al Hassan?

17 A. [10:13:47] Yes, [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 Thank you for using the term "investigators" instead of "Prosecution".

21 Q. [10:14:14] Now if we could bring back MLI-D28-0004-3503 back on to the screen.
22 It's tab 173 in front of you from the Defence binder, Mr Witness.

23 Is it being shown on evidence 1?

24 A. [10:15:08] Yes.

25 Q. [10:15:11] Mr Witness, is it correct that this shows two videos which correspond

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1 to the flogging of a member of Ansar Dine from September 2012, four videos
2 corresponding to the execution of Mohamed Moussa and two clips corresponding to
3 the interview in the media office in December 2012?

4 A. [10:15:50] That is correct.

5 Q. [10:15:53] Thank you. Now, last --

6 A. [10:16:01] Also an observation, all those who appear in these images, whether
7 whoever is being whipped or executed, are from Ansar Dine.

8 Q. [10:16:22] Now, Mr Witness, last Tuesday the Prosecutor played the video
9 which is on tab 193 of the Prosecution's list, that's MLI-OTP-0018-0379, and in
10 the transcript 39, page 29, lines 18 to 20, [REDACTED]

11 [REDACTED] At transcript 39,
12 page 30, lines 21 to 23, you also testified that you [REDACTED]

13 [REDACTED] And I'm just going to bring up the video onto the screen so you
14 can see the video I'm referring to.

15 THE COURT OFFICER: [10:17:25] The document is displayed on the evidence 2
16 channel.

17 MS TAYLOR: [10:17:42]

18 Q. [10:17:42] Now, Mr Witness, [REDACTED]

19 [REDACTED]?

20 PRESIDING JUDGE MINDUA: [10:17:54](Interpretation) Prosecutor.

21 MR DUTERTRE: [10:17:57](Interpretation) My lord, it's some days ago it was played.
22 Perhaps it's important for the witness to see it again, because I'm sure he can't
23 remember everything. So perhaps he should see it again before answering
24 the question fully.

25 PRESIDING JUDGE MINDUA: [10:18:18](Interpretation) Prosecutor, perhaps you

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

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- 1 are talking a bit too quickly. Perhaps he might remember the video.
- 2 Witness, do you remember the video?
- 3 THE WITNESS: [10:18:33](Interpretation) Yes, I remember this. But I ask for
- 4 permission to leave for two minutes?
- 5 PRESIDING JUDGE MINDUA: [10:18:51](Interpretation) Clerk officer, would you
- 6 help and escort the witness, please.
- 7 THE WITNESS: [10:19:01](Interpretation) Thank you.
- 8 (The witness exits the courtroom)
- 9 PRESIDING JUDGE MINDUA: [10:19:36](Interpretation) Mr Al Hassan, yes.
- 10 THE COURT OFFICER: [10:19:42] Mr Al Hassan, your microphone is turned off.
- 11 Could you please turn it on.
- 12 MR AL HASSAN: [10:19:56](No interpretation)
- 13 THE ARABIC INTERPRETER: [10:20:01] Unclear statement.
- 14 PRESIDING JUDGE MINDUA: [10:20:02](Interpretation) Please go ahead. I think
- 15 it's on now.
- 16 MR AL HASSAN: [10:20:09](Interpretation) I just need two minutes, please, with
- 17 your permission.
- 18 PRESIDING JUDGE MINDUA: [10:20:21](Interpretation) Please proceed,
- 19 Mr Al Hassan.
- 20 Court officer, could you please accompany Mr Al Hassan.
- 21 (Mr Al Hassan leaves the video-link location)
- 22 (Pause in proceedings)
- 23 (The witness enters the courtroom)
- 24 THE WITNESS: [10:21:47](Interpretation) My apologies.
- 25 PRESIDING JUDGE MINDUA: [10:21:51](Interpretation) Very well.

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- 1 Ms Taylor, please proceed. Mr Al Hassan will join us shortly.
- 2 MS TAYLOR: [10:22:02] Mr President, may I have permission to wait for
- 3 Mr Al Hassan to be back?
- 4 PRESIDING JUDGE MINDUA: [10:22:12](Interpretation) Very well. We will wait
- 5 for him.
- 6 (Pause in proceedings)
- 7 (Mr Al Hassan enters the video-link location)
- 8 PRESIDING JUDGE MINDUA: [10:24:26](Interpretation) Mr Al Hassan has
- 9 returned.
- 10 Ms Taylor, please continue.
- 11 MS TAYLOR: [10:24:33]
- 12 Q. [10:24:34] I was informed by my Arabic speaking colleague that the first thing I
- 13 said wasn't actually interpreted into Arabic, so I'll just repeat that to make sure that
- 14 the witness receives it.
- 15 Last Tuesday the Prosecution played video tab 193 on the Prosecution's list, that's
- 16 the video up in front of you. And at transcript 39, page 29, lines 18 to 20, [REDACTED]
- 17 [REDACTED]
- 18 [REDACTED] Page 30, lines 21 to 23 of the same transcript, you testified that
- 19 [REDACTED]
- 20 Now, [REDACTED]?
- 21 A. [10:25:42] I do.
- 22 Q. [10:25:45] I'd like to play the video until the 30-second mark. And for
- 23 the record, the transcript is tab 194 on the Defence binder -- Prosecution binder, it's
- 24 MLI-OTP-0069-7535. The translation is tab 195 on the Prosecution binder, that's
- 25 MLI-OTP-0069-7539.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

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1 If we could play it with sound.

2 (Viewing of the video excerpt)

3 MS TAYLOR: [10:27:17]

4 Q. [10:27:17] Now, Mr Witness, the person being interviewed says salam twice,
5 doesn't he? He starts and stops and then starts again?

6 A. [10:27:33] It seems the first time he makes a greeting there was a gesture noticed

7 [REDACTED]

8 [REDACTED]

9 Q. [10:27:56] Now, if we could go back to the 00 mark at the beginning, and if we
10 could freeze it there. Can you see a yellow notepad in front of the person being
11 interviewed?

12 A. [10:28:17] I can.

13 Q. [10:28:19] And if we could play it without sound until the 30-second mark and if
14 you could focus on the person's face.

15 (Viewing of the video excerpt)

16 MS TAYLOR: [10:29:06]

17 Q. [10:29:06] Does this show the person being questioned?

18 A. [10:29:13] It does.

19 Q. [10:29:14] And during it could you see his eyes going downwards to the desk?

20 A. [10:29:31] I did not notice that.

21 Q. [10:29:34] If we could play it again from 0 to 30 seconds. And if you could
22 focus on his eyes.

23 (Viewing of the video excerpt)

24 MS TAYLOR: [10:30:17]

25 Q. [10:30:17] Mr Witness --

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WITNESS: MLI-OTP-P-0065

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1 A. [10:30:19] (No interpretation)

2 Q. [10:30:21] -- can you see his eyes flickering downwards during the interview?

3 A. [10:30:28] Yes, I see that he looks up and down [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Q. [10:31:28] [REDACTED]

11 [REDACTED]?

12 A. [10:31:44] I would not say so. I am giving the impression [REDACTED]

13 [REDACTED]

14 PRESIDING JUDGE MINDUA: [10:31:55](Interpretation) Mr Prosecutor.

15 MR DUTERTRE: [10:31:58](Interpretation) The witness has answered, but I wanted
16 to say that this question is speculative.

17 PRESIDING JUDGE MINDUA: [10:32:03](Interpretation) Very well. The witness
18 has answered.

19 Ms Taylor.

20 MS TAYLOR: [10:32:07] We note the Prosecutor's position that this is speculative.

21 Q. [10:32:17] Now, Mr Witness, could we turn to tab 210 on the Prosecution list,
22 this is MLI-OTP-0018-0113. It's a video. It's going to be played without sound on
23 evidence 2.

24 (Viewing of the video excerpt)

25 MS TAYLOR: [10:33:15]

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Trial Hearing
WITNESS: MLI-OTP-P-0065

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- 1 Q. [10:33:15] Mr Witness, who is the person in the video?
- 2 A. [10:33:21] Abdallah Al Chinguetti.
- 3 Q. [10:33:22] [REDACTED]?
- 4 A. [10:33:28] [REDACTED]
- 5 Q. [10:33:35] [REDACTED]?
- 6 A. [10:33:44] It is -- it was.
- 7 Q. [10:33:49] And behind him we can see a Kalashnikov, can't we?
- 8 A. [10:33:57] Yes, beside him.
- 9 Q. [10:34:00] And that was his gun?
- 10 A. [10:34:06] It was.
- 11 Q. [10:34:10] And he's wearing the undergarment of a camouflage jacket, isn't he?
- 12 A. [10:34:19] Yes.
- 13 Q. [10:34:23] And a green turban?
- 14 A. [10:34:29] Yes.
- 15 Q. [10:34:32] Now, at transcript 45, page 27, lines 1 to 4, you testified that [REDACTED]
- 16 [REDACTED]
- 17 [REDACTED]
- 18 [REDACTED]
- 19 Now I would like to show you another video. It's tab 197 on the Prosecution's list, its
- 20 MLI-OTP-0018-0091. The transcription is tab 198 on the Prosecution's list, that's
- 21 MLI-OTP-0052-0053. And the English translation is at tab 199 on the Prosecution's
- 22 list, that's MLI-OTP-0052-0055.
- 23 Now, at transcript 39 you said that [REDACTED]
- 24 [REDACTED]; that's correct?
- 25 A. [10:36:02] Yes, I believe so.

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WITNESS: MLI-OTP-P-0065

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1 Q. [10:36:06] [REDACTED] ?

2 A. [10:36:19] [REDACTED]

3 Q. [10:36:21] [REDACTED] ?

4 A. [10:36:30] [REDACTED]

5 [REDACTED]

6 [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 Q. [10:38:25] Mr Witness, [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 A. [10:38:44] Yes, that's exactly what I believe.

24 Q. [10:38:48] Can we play the video without sound.

25 (Viewing of the video excerpt)

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 MS TAYLOR: [10:39:46]

2 Q. [10:39:46] Now, Mr Witness, it's correct that Mr Al Hassan isn't looking directly
3 at the camera throughout, is he? He's looking up and down.

4 A. [10:39:58] Yes. [REDACTED]

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

8 [REDACTED] I see here that Al Hassan is looking in -- to multiple directions [REDACTED]

9 [REDACTED]
10 [REDACTED]

11 [REDACTED]

12 Q. [10:41:06] I am going to play the same video with sound and I think it might be
13 helpful to have the transcript in front of you, the transcription being tab 198 in
14 the Prosecution's binder and the English translation being tab 199 in the Prosecution's
15 binder.

16 THE INTERPRETER: [10:41:24] Message from the English booth: We were not able
17 to locate the translation, unfortunately.

18 MS TAYLOR: [10:41:30] I apologise, I believe they're in the Prosecution binders, but
19 I'm not sure if they were given to the interpreters.

20 THE INTERPRETER: [10:41:38] Under 199 there is no translation.

21 THE ARABIC INTERPRETER: [10:41:44] Message from the interpreters:

22 The Arabic booth does not have the Prosecution binders. Thank you.

23 MS TAYLOR:

24 Q. [10:41:54] What we can do, Mr Witness, to make it easier for the interpreters is
25 to look at the transcripts.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

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- 1 Mr Witness, can you have a look at transcript tab 198.
- 2 For the record, that's MLI-OTP-0052-0053. And the English is tab 199 of
- 3 the Prosecution's binder, being MLI-OTP-0052-0055.
- 4 THE INTERPRETER: [10:42:52] Message from the English booth: My mistake, I
- 5 have located it. Apologies.
- 6 THE WITNESS: [10:43:00](Interpretation) I have 120 here, it's a [REDACTED] But
- 7 if this concerns the video, I don't need a text because [REDACTED] I
- 8 have a full command of the language used on the video.
- 9 MS TAYLOR: [10:43:21] It was to make it easier for the interpreters, Mr Witness,
- 10 because everything has to be interpreted into three languages. It's in
- 11 the Prosecution's binder as well. Not the Defence binder. Are you able to locate it
- 12 in front of you in the Prosecution binder, tab 198?
- 13 And does the Arabic booth have the transcript as well or is it just the English booth?
- 14 THE INTERPRETER: [10:44:01] The English booth can give it to the Arabic booth.
- 15 MS TAYLOR: [10:44:26]
- 16 Q. [10:44:26] Mr Witness, I believe we, with the kind help of the interpreters, we
- 17 may be able to play it with sound. So we can do that first and then go to
- 18 the transcripts.
- 19 So if we can play it with sound.
- 20 (Viewing of the video excerpt)
- 21 THE INTERPRETER: [10:45:00] (Interpretation of the video excerpt)

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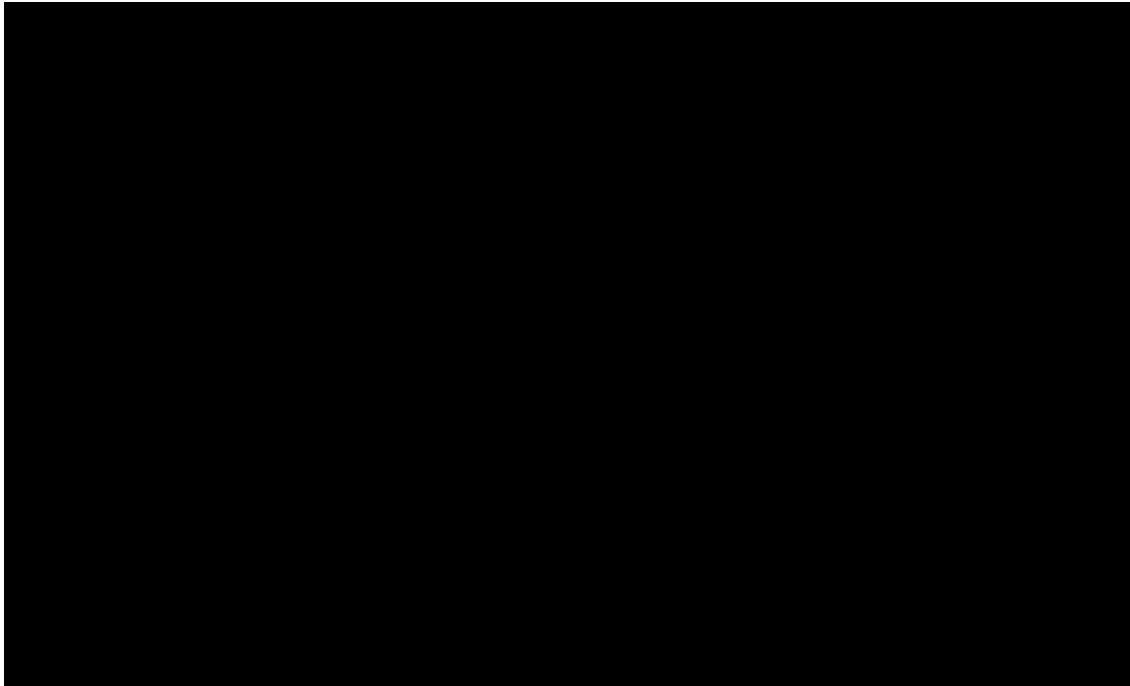
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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

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12 End of transcript.
13 MS TAYLOR: [10:46:21]
14 Q. [10:46:24] Mr Witness, it's correct that he keeps repeating certain words and
15 stumbling on them, doesn't he?
16 A. [10:46:40] Yes.
17 Q. [10:46:43] And if we can look at the transcript in front of you, line 4 in English,
18 line 3 in Arabic, he repeats the word "people" twice. In line 6 in English, line 4 in
19 Arabic, he repeats "hostile" twice.
20 I can see you nodding, Mr Witness, but if you could answer onto the record.
21 Lines 6 to 7 in the English, line 5 in Arabic, he repeats "positive steps" three times.
22 Mr Witness, can you answer for the record. I see you nodding. Or are you waiting
23 for the interpretation?
24 A. [10:47:33] Indeed I was waiting for the interpretation.
25 The answer is yes.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Q. [10:47:42] Line 9 in the English, which is line 6 in the Arabic, he repeats "break"
2 twice.

3 A. [10:48:30] (No interpretation)

4 Q. [10:48:30] I don't have the witness's response.

5 THE ARABIC INTERPRETER: [10:48:52] Can you repeat the last line, please.

6 MS TAYLOR: [10:48:56] Certainly. Line 9 in the English, which is line 6 in
7 the Arabic, he repeats "break" twice.

8 THE ARABIC INTERPRETER: [10:49:25] Well, I'm afraid I don't understand what
9 this corresponds to in Arabic, which word in Arabic.

10 THE WITNESS: [10:49:40](Interpretation) Maybe if I can go back to the text myself,
11 I can be of help. Can you please give me the number of the paragraph.

12 MS TAYLOR:

13 Q. [10:49:49] Yes, I think it would be helpful to have it in front of you.

14 The transcript is tab 198 of the Prosecution's binder and it's MLI-OTP-0052-0053, is
15 the Arabic.

16 And if it's possible to put that on evidence 1 for the witness. And it's line 6 in
17 the Arabic I was referring to.

18 A. [10:50:32] I have it now.

19 Yes. It's clear. Here he repeated "breaking the ice".

20 Q. [10:50:56] And in line 10 in the English, line 6 in the Arabic, he starts to say
21 the word "people" and then changes it to "the unarmed people"?

22 A. [10:51:12] Yes.

23 Q. [10:51:17] Line 12 in the English, line 7 in the Arabic, "under" is repeated twice?

24 A. [10:51:26] Yes.

25 Q. [10:51:28] And line 13 in the English and line 8 in the Arabic, "working" is

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WITNESS: MLI-OTP-P-0065

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1 repeated twice?

2 A. [10:51:43] Yes.

3 Q. [10:51:45] Now, Mr Witness, earlier you testified that you thought that [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 PRESIDING JUDGE MINDUA: [10:52:12](Interpretation) Prosecutor.

8 MR DUTERTRE: [10:52:19](Interpretation) This is a topic example of a speculative

9 question and the Prosecution is raising an objection.

10 PRESIDING JUDGE MINDUA: [10:52:32](Interpretation) Mr Prosecutor, I believe
11 that first of all you need to listen to the witness's answer. This is not just speculation.

12 [REDACTED] we do not

13 know, neither you nor I. So I would like to know whether the witness can answer.

14 Mr Witness, can you answer that question?

15 THE WITNESS: [10:53:01](Interpretation) What I can say is that [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED] I don't

23 remember -- I don't remember [REDACTED]

24 [REDACTED]

25 Q. [10:53:57] [REDACTED]; that's correct?

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WITNESS: MLI-OTP-P-0065

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- 1 A. [10:54:05] [REDACTED]
2 [REDACTED]
3 Q. [10:54:18] I would like to show the video without sound, this is
4 MLI-OTP-0018-0091, and then stop at the 4:13 mark.
5 We're going to play that again from the beginning until the 4:13 and then we'll stop at
6 the 4:13.
7 (Viewing of the video excerpt)
8 MS TAYLOR: [10:55:38]
9 Q. [10:55:38] Now, Mr Witness, this very large jacket that [REDACTED] is wearing,
10 it's open at the top, isn't it, until the bottom of the scarf?
11 A. [10:55:56] It is.
12 Q. [10:55:57] And did you see his hand movements when he was speaking? Were
13 they --
14 A. [10:56:06] I did.
15 Q. [10:56:07] Was his left hand moving near his face above the table level?
16 A. [10:56:14] It was.
17 Q. [10:56:17] I'd like to turn to another video, this is tab 200 on the Prosecution's list,
18 it's MLI-OTP-0018-0092. The transcript is tab 201 on the Prosecution's list, that's
19 MLI-OTP-0052-0058. And the translation is tab 202 on the Prosecution's list, that's
20 MLI-OTP-0052-0060.
21 And if we could play it until the 9:18 mark, stopping there.
22 (Viewing of the video excerpt)
23 MS TAYLOR: [10:57:30]
24 Q. [10:57:30] Mr Witness, does the jacket appear closed in this shot?
25 A. [10:57:43] It does, [REDACTED]

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5 Q. [10:58:32]

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7 A. [10:58:41]

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11 Q. [10:59:10] I'd like to play the video from the 4-second mark until 10 seconds,
12 with sound.

13 (Viewing of the video excerpt)

14 MS TAYLOR: [10:59:41]

15 Q. [10:59:41] Mr Witness, do you recognise that voice?

16 A. [10:59:46] I do.

17 Q. [10:59:52]

18 A. [11:00:02] That is certain, given that he's present as it can be told from his voice.

19 Q. [11:00:13] And that overly large jacket that is wearing, is that

20 's jacket?

21 A. [11:00:27] I cannot confirm that. That's a question that ought to be put to

22 I don't know if they were exchanging vests or not.

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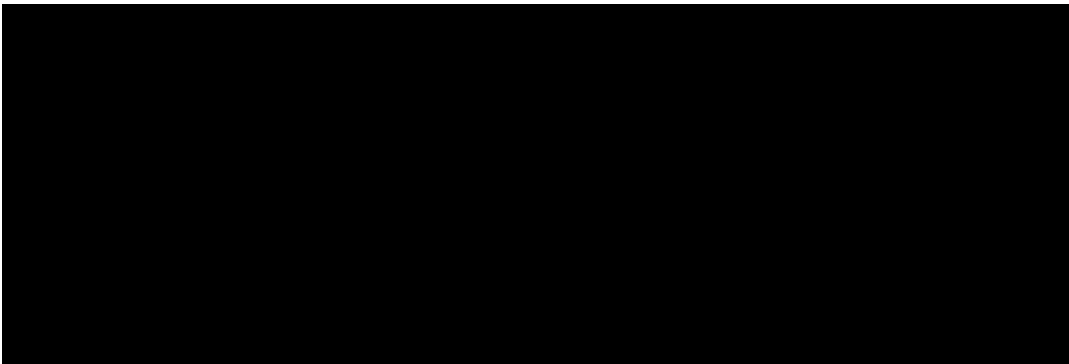
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Trial Hearing
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(Private Session)

ICC-01/12-01/18

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Q. [11:01:36]

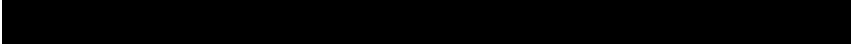


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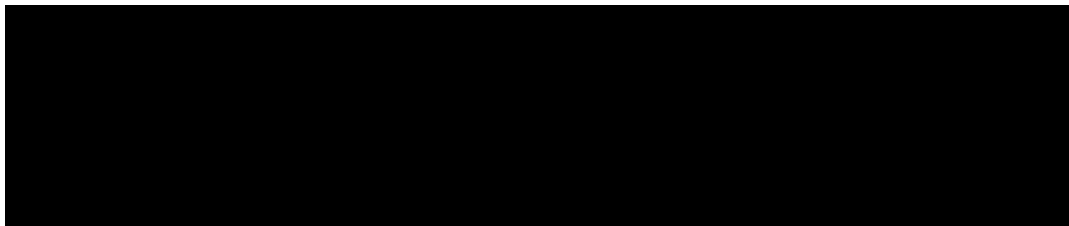
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A. [11:01:51]



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14 PRESIDING JUDGE MINDUA: [11:02:31](Interpretation) There we are. It is 11.02.

15 We need to rise for half an hour. And we shall reconvene at 11.30.

16 But first and foremost we need to go into open session, please, madam courtroom
17 officer.

18 (Open session at 11.02 a.m.)

19 THE COURT OFFICER: [11:03:00] We are in open session, Mr President.

20 PRESIDING JUDGE MINDUA: [11:03:06](Interpretation) Thank you very much,
21 madam courtroom officer.

22 We shall now suspend the hearing for half an hour, we shall reconvene at 11.30.

23 The hearing is suspended.

24 THE COURT USHER: [11:03:20] All rise.

25 (Recess taken at 11.03 a.m.)

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

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- 1 (Upon resuming in open session at 11.34 a.m.)
- 2 THE COURT USHER: [11:34:17] All rise.
- 3 Please be seated.
- 4 PRESIDING JUDGE MINDUA: [11:34:44](Interpretation) The session is resumed.
- 5 Ms Taylor, you have the floor to continue your cross-examination.
- 6 MS TAYLOR: [11:34:56] Thank you, Mr President.
- 7 I would like to note for the record that throughout the break, we attempted on
- 8 multiple occasions to contact Mr Al Hassan using the privileged line and we were
- 9 unable to do so, as there was no one in the room to hear the telephone ringing.
- 10 So we've been unable to consult with our client during the break.
- 11 PRESIDING JUDGE MINDUA: [11:35:28](Interpretation) We have been informed of
- 12 this now as a court. Precise information will be investigated and we will make
- 13 arrangements that you can contact Mr Al Hassan during the luncheon break.
- 14 MS TAYLOR: [11:35:48] Now, I believe I might have some questions I can put to the
- 15 witness in open session, before going back into private session.
- 16 PRESIDING JUDGE MINDUA: [11:36:07](Interpretation) We are in a public hearing
- 17 right now, Ms Taylor.
- 18 MS TAYLOR: [11:36:12] And just to confirm to the witness that the image isn't being
- 19 shown to the public.
- 20 Q. [11:36:19] Now, Mr Witness, before the break, you referred to negotiations
- 21 occurring in Burkina Faso. Can you explain the context of those negotiations.
- 22 A. [11:36:41] The negotiations in Burkina Faso were the launching of
- 23 the negotiations, the kick off, that is the negotiations between Mali and neighbouring
- 24 countries -- between those countries and Ansar Dine. A delegation went to
- 25 Ouagadougou. This was an attempt by the president of Burkina Faso to bring

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(Open Session)

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1 around the negotiating table the parties to the conflict.

2 Q. [11:37:19] And the purpose of these negotiations was to find a peaceful solution,
3 a negotiated solution?

4 A. [11:37:31] Yes, to solve the problem without war, to solve it through
5 the negotiating table, as is always the purpose of engaging in negotiations.

6 Q. [11:37:45] And you mentioned Ansar Dine being involved in these negotiations;
7 that's correct?

8 A. [11:37:57] Yes.

9 Q. [11:38:01] And it's correct, isn't it, Mr Witness, that it was only later in 2013 that
10 Ansar Dine was designated a terrorist organisation?

11 A. [11:38:26] Yes. There was a delegate of the president of Burkina Faso who met
12 Iyad in Kidal. The negotiations or the preparations thereof started afterwards, there
13 was a delegation headed by Alghabass Ag Intalla in 2013. Everyone was in their
14 respective camps. Even Ansar Dine, that embraced the global jihadist thinking, was
15 in a camp and those with a national agenda were in another camp. And although
16 they were apart, each had the right to voice their objectives without being connected
17 to the other party.

18 MS TAYLOR: [11:39:27] I'll need to now pose questions concerning the content of
19 what was shown to him. So I believe we'll have to go into private session.

20 PRESIDING JUDGE MINDUA: [11:39:44](Interpretation) Could we now go into
21 private session, please.

22 (Private session at 11.39 a.m.)

23 THE COURT OFFICER: [11:39:55] We are in private session, Mr President.

24 PRESIDING JUDGE MINDUA: [11:40:02](Interpretation) Thank you very much.
25 Ms Taylor.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 MS TAYLOR: [11:40:06]
- 2 Q. [11:40:06] Now, Mr Witness, at transcript 28, lines 18, you testified that you
3 believed Mr Al Hassan had been chosen because he was a local and a member of
4 the Kel Ansar tribe. [REDACTED] It's correct, isn't
5 it, that Mr Al Hassan was addressing issues concerning the rights of people in
6 Azawad?
- 7 A. [11:40:43] Yes, certainly.
- 8 Q. [11:40:49] And the purpose [REDACTED] was to ensure that these issues were
9 taken into consideration in the negotiations?
- 10 A. [11:41:07] I believe so, yes. Or you could say to show the stance of the groups
11 on these ongoing negotiations.
- 12 Q. [11:41:28] Now if we could play the same video that you were hearing before
13 from the 4-second mark until the 10-second mark, and that video is
14 MLI-OTP-0018-0092. We'll play it with sound.
15 (Viewing of the video excerpt)
- 16 MS TAYLOR: [11:42:27]
- 17 Q. [11:42:27] Mr Witness, can you hear what the person is saying?
- 18 A. [11:42:35] Yes, I can distinguish the person who had this voice because of his
19 voice, but I cannot tell what he said exactly. And the person is [REDACTED]
- 20 Q. [11:42:52] Would you like me to play it again?
- 21 A. [11:42:58] Yes, I'll try again.
22 (Viewing of the video excerpt)
- 23 THE WITNESS: [11:43:18](Interpretation) It's difficult. I cannot distinguish
24 the parts of his speech.
- 25 MS TAYLOR: [11:43:27]

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Q. [11:43:28] [REDACTED]?

2 A. [11:43:36] [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

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

7 [REDACTED]?

8 A. [11:44:34] [REDACTED]

9 [REDACTED]

10 Q. [11:44:49] And Mr Al Hassan was playing a role?

11 PRESIDING JUDGE MINDUA: [11:44:57](Interpretation) Mr Prosecutor.

12 MR DUTERTRE: [11:45:00](Interpretation) I do object to this question, which is
13 leading the witness to speculate as a matter of conjecture.

14 PRESIDING JUDGE MINDUA: [11:45:15](Interpretation) I think that you are
15 suggesting that Mr Al Hassan was playing a role, and I think that is speculation.

16 MS TAYLOR: [11:45:22] I'll move on.

17 Q. [11:45:23] Mr Witness, you were never part of an armed group, were you, in
18 2012?

19 A. [11:45:38] Never.

20 Q. [11:45:42] Can I show you tab 38 of the Defence binder, it's MLI-D28-0004-2938.
21 It's also on evidence 1.

22 A. [11:46:39] Yes.

23 Q. [11:46:40] Is this image familiar to you?

24 A. [11:46:46] It is. That's me, as far as I can see. But I don't know when and
25 where this photo was taken.

~~ICC-01/12-01/18-T-048-CONF-ENG-CT-18-11-2020-36/75-SZ-T~~

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Q. [11:47:00] And in this image are you -- can you describe what you're wearing?

2 A. [11:47:07] Yes. There is a blue dress, blue clothes.

3 Q. [11:47:22] [REDACTED]?

4 A. [11:47:36] [REDACTED] I can assure here that

5 I was in totally civilian clothes for celebrations, not for combat. And I'd like to say

6 that I have tens of photos with all sorts of weapons. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED] But I assure you, I was not a member of any organisation. Quite

10 the contrary. They once asked me [REDACTED] to put on some

11 attire and to hold a rifle, and I tried to do so. They took a photo of that, but I could

12 not carry on in that way. So I took off the attire and I put away the rifle and they

13 asked me to go back to Timbuktu.

14 And as it seems here as well, the shot was taken besides a well that was used to

15 provide water, and this is likely in the [REDACTED] area, [REDACTED] It

16 looks clear that everyone in this vehicle were there to get water from the well. But I

17 do not recall when and where this photo was taken, but I assure you that I have tens

18 like this photo and many other photos. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. [11:49:43] So the fact that you're filmed holding a weapon or in front of

22 a weapon doesn't mean it's your weapon, does it, Mr Witness?

23 A. [11:50:01] That is true.

24 Q. [11:50:04] Because these weapons were everywhere?

25 A. [11:50:10] Yes.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Q. [11:50:14] And you were just posing for a photograph?

2 A. [11:50:22] Yes. Everyone did so. Even children did so.

3 Q. [11:50:31] And you wore a -- you said you wore a uniform and a gun and had
4 photos taken because someone asked you to?

5 A. [11:50:50] Yes. This was at one time [REDACTED] a group of
6 armed people. They told me that I had to put on a vest and to hold a rifle. I tried
7 that. They took some photos of that, but I was irritated and I said I cannot hold a
8 rifle and move with that rifle, move carrying that rifle. I hated weapons. So I put
9 away the rifle and that's when -- that's when they decided to send me back to
10 Timbuktu.

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

14 [REDACTED] But I -- but honestly, I could not stand
15 the rifle and I could not stand being with them with the rifle.
16 As for taking a photo with a rifle, that's different from actually carrying a rifle in your
17 hands.

18 Q. [11:52:16] Can we turn to tab 41 on the Defence list. This is MLI-D28-0004-2941.
19 It can be shown on evidence 1.

20 Do you recognise these images, Mr Witness?

21 A. [11:53:14] I don't.

22 Q. [11:53:19] The person in the blue boubou, you don't recognise that person?

23 A. [11:53:30] It's not clear from this photo.

24 Q. [11:53:37] Perhaps if you could tell me what flag you see in this photo.

25 A. [11:53:46] That's the flag of the National Movement for the Liberation of

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Azawad.

2 Q. [11:53:57] So, Mr Witness, you weren't a member of the MNLA armed group,
3 were you?

4 A. [11:54:11] Never.

5 Q. [11:54:15] And you've said that at that time everyone had guns, even children
6 had photos taken with them?

7 A. [11:54:29] I did. I said everyone took photos with rifles, even children took
8 photos carrying rifles. [REDACTED] they use
9 the photos to talk about enlisting children in combat. But if you traced the history of
10 the photo, you will find that it was just that the child wanted to take a photo carrying
11 a rifle. He was not really someone who held arms.

12 Now, when it comes to this photo, if this person were me, which I cannot confirm
13 because I can't confirm myself from the back, this -- if that's the case, this must have
14 been near [REDACTED]

15 Q. [11:55:24] Now, Mr Witness, I'll bring you to tab 1 of the Prosecution's list for
16 the English, but the Arabic would be tab 239 of the Defence binder. The Arabic
17 being MLI-OTP-0068-3201 at 3263 at paragraph 271. The English is
18 MLI-OTP-0020-0019 at 0082 at paragraph 271. And I'll read the paragraph on to
19 the record:

20 "There were many floggings carried out in Tombouctou as Sharia sanctions. There
21 were different cases which were sanctioned by flogging, from minor offences such as
22 drinking alcohol, which might get the culprit 50 lashes, to adultery, which was 100
23 lashes."

24 I apologise, Mr Witness, do you have it in front of you? It's paragraph -- sorry, it's
25 tab 239.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 A. [11:56:45] I have it in English.
- 2 Q. [11:56:48] Do you have the Arabic, it's tab 239 in the Defence binder?
- 3 A. [11:57:03] No. The tab please, again.
- 4 Q. [11:57:07] 239 in the Defence binder.
- 5 A. [11:57:32] 239 is also in English here.
- 6 Q. [11:57:40] Are you in the Defence binder or the Prosecution binder?
- 7 A. [11:57:49] I have it now.
- 8 Q. [11:57:53] And it should be paragraph 271 of that document, Mr Witness.
- 9 A. [11:58:14] I have it now.
- 10 Q. [11:58:17] I'll continue reading the paragraph:
- 11 "There were three floggings for adultery in Tombouctou. I witnessed [REDACTED]
- 12 two of them and I mentioned one of them already in this interview, when I spoke
- 13 about the Islamic court."
- 14 Now the one that you spoke about regarding the Islamic court, was that the one
- 15 concerning June 2012?
- 16 A. [11:59:20] The question is not specific in clear terms.
- 17 Q. [11:59:26] Mr Witness, do you recall saying this to the Prosecution when you
- 18 met them [REDACTED]?
- 19 A. [11:59:50] I don't remember this paragraph, but you're -- but you're welcome to
- 20 put a question regarding the whipping and I -- and to what I witnessed. In this
- 21 paragraph I am talking about what I remembered at the time. Now, you could put
- 22 a question to me regarding what I remember now, and such question ought to be
- 23 specific, and I'll make sure that my answer is precise.
- 24 Q. [12:00:26] Now, Mr Witness, [REDACTED] the Prosecution recorded the interview and
- 25 then read it back to you, didn't they, to check that it was accurate?

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 A. [12:00:41] Yes.

2 Q. [12:00:43] And you have said that your memory [REDACTED] was better than what it
3 is today?

4 A. [12:00:55] Sometimes that's the case. But on other things my memory today is
5 better. [REDACTED] one full month of focusing on
6 those events refreshed other aspects that I did not remember at first, although time
7 has overshadowed certain other aspects.

8 I cannot tell whether my memory today is better or at that time was better. At that
9 time, time was on my side. But in addition, another helpful factor was that I was
10 fully dedicated for a whole month to the events of 2012, and there were videos played
11 and replayed, interviews likewise, all of that refreshed my memory.

12 Q. [12:01:55] Mr Witness, this one month of refreshing your memory, are you
13 referring to the preparation session with the Prosecution?

14 A. [12:02:13] I'm here comparing my memory today and my memory at that time
15 when I met the investigators.

16 Q. [12:02:24] Thank you, Mr Witness.

17 I just wish to be clear for the record. You said there was one month of refreshing
18 your memory where you watched videos. Are you referring to the present period
19 and the period before your testimony where you watched videos during
20 the preparation session?

21 A. [12:02:58] I am pointing at the time I arrived in the Netherlands. There were
22 instructions not to be in touch with whomever, and I handed over my phone when I
23 arrived and I became isolated from the outside world, except for the Court. And
24 the days and weeks I -- and I was talking about the days and weeks I spent here,
25 looking again at the videos.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Q. [12:03:41] Now, Mr Witness, is it correct that you told the Prosecution [REDACTED]
2 that you were present for two of the three adultery Sharia floggings?

3 PRESIDING JUDGE MINDUA: [12:03:54](Interpretation) Mr Prosecutor.

4 MR DUTERTRE: [12:03:55](Interpretation) This question can be repeated over and
5 over again, but I think the witness has already answered, so it's an asked and
6 answered situation. He's already provided us with his response. It might be
7 a response that is not sufficient for the Defence, but he has already answered.

8 PRESIDING JUDGE MINDUA: [12:04:19](Interpretation) Ms Taylor, I'm rereading
9 the transcript and, indeed, the witness has already answered.

10 MS TAYLOR: [12:04:29] My understanding was that he went off on a tangent. But
11 in any case, I will move on.

12 Q. [12:04:36] Do you also recall telling the Prosecution that you (microphone not
13 activated) [REDACTED] you
14 were not always present in Timbuktu?

15 A. [12:04:54] Yes, [REDACTED]
16 when I was outside Timbuktu.

17 Q. [12:05:08] Mr Witness, if I can refer you to tab 244 of the Defence list, that's in
18 Arabic, that's MLI-OTP-0077-2703 at 2708 to 2709. And the English is tab 260 on
19 the Defence list, that's MLI-OTP-0033-0049 at 0053.

20 And the relevant paragraph says [REDACTED] and the description is:

21 '[REDACTED] incidents of application of Sharia law in Tombouctou.

22 P-65 was not present at the time of the incidents. He had to leave Tombouctou [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 It's in Arabic.

2 Now, if we can go to the first page of this document, you will see it refers to

3 a screening note of a face-to-face meeting between Prosecution investigators and

4 yourself [REDACTED]

5 PRESIDING JUDGE MINDUA: [12:07:15](Interpretation) Mr Prosecutor.

6 MR DUTERTRE: [12:07:18](Interpretation) Yes, Mr President. For it to be clear for

7 the record and for the witness as well, I think [REDACTED]

8 [REDACTED] so he knows what we're talking about. Because there's a name [REDACTED]

9 that has been given, it's quite generic and elliptic. We can't expect the witness to

10 remember [REDACTED]

11 [REDACTED] so that he knows exactly what we're talking about.

12 PRESIDING JUDGE MINDUA: [12:07:47](Interpretation) Ms Taylor.

13 MS TAYLOR: [12:07:47] This is again an utterly unnecessary and facile interjection.

14 [REDACTED] I will get to that step.

15 These interruptions constantly telegraph the position of the Prosecution to

16 the witness.

17 Now, the Prosecutor is constantly trying to hijack our line of questioning. We have

18 a right to plan our questioning in a way that's logical and consistent with our

19 objectives.

20 Now, in line with the Chamber's directive, I read out the relevant paragraph. I've

21 now gone to the date of the interview, and, yet, before I even had the chance to pose

22 a question to the witness, the Prosecution stood up, objected and wasted our time

23 whilst telecasting his position to the witness.

24 This really needs to stop.

25 PRESIDING JUDGE MINDUA: [12:08:56](Interpretation) Well, you announced

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 the screening note, so let's go.

2 MS TAYLOR: [12:09:06]

3 Q. [12:09:06] Mr Witness, now I've read out the relevant paragraph to you, and in
4 that relevant paragraph it says that you explained to the Prosecution that, [REDACTED]
5 [REDACTED], there were two incidents of the application of Sharia law where you
6 were not present.

7 Do you recall explaining that to the Prosecution?

8 A. [12:09:38] I do. There were [REDACTED] incidents, [REDACTED]

9 [REDACTED] On these [REDACTED] I was not present, [REDACTED]

10 [REDACTED]

11 Q. [12:09:55] [REDACTED]

12 [REDACTED]

13 Now [REDACTED] we can bring it up. It's

14 tab 263, being MLI-OTP-0018-2699 at 2701.

15 A. [12:11:35] Yes.

16 Q. [12:11:39] On this page can you see a [REDACTED]?

17 A. [12:11:58] I do.

18 Q. [12:12:02] And [REDACTED]?

19 A. [12:12:12] I do not see a video.

20 Q. [12:12:15] Can you see [REDACTED]?

21 A. [12:12:25] Yes, I see here [REDACTED] a video of Mokhtar

22 Belmokhtar. Here it's titled [REDACTED] I don't know, but

23 I thought this belongs to Mokhtar Belmokhtar.

24 Q. [12:12:53] Mr Witness, I think you're on the wrong page. Perhaps if you could

25 look at the screen in front of you.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 A. [12:13:06] I am looking at the screen and it's compatible with the page I have,
2 but this is not comprehensible in, in complete -- in a complete way. I'm reading
3 the Arabic here. In Arabic it says, [REDACTED]
4 This is a zipped file. I see this at the very beginning. Then I see another file with
5 the same name, but this one is a video file. And then I see the Mali market image,
6 the Abdallah Chinguetti during his speech image. Then Abdullah receiving chants
7 of God is the greatest by an audience after the sermon, an image.
8 This is what I see, this is what I can distinguish in this file I have before me.

9 Q. [12:14:01] Mr Witness, I feel like we're looking at different files. Can you look
10 at the screen and you'll see [REDACTED] --

11 A. [12:14:12] I am looking at the screen.

12 Q. [12:14:14] And you'll see a folder, which is [REDACTED] and that folder has the words
13 not in Arabic, but in Roman letters, [REDACTED] And underneath
14 it, there's several [REDACTED] No, don't go down, it's at the top. There are several, there's
15 one, two, three, four, five videos. The first video is [REDACTED]

16 [REDACTED]
17 [REDACTED]

18 Do you see those files, Mr Witness?

19 A. [12:15:33] I do.

20 Q. [12:15:34] And they're in the folder [REDACTED]?

21 A. [12:15:45] Possibly, I don't know.

22 Q. [12:15:49] Now, Mr Witness, could you turn to tab 178 of the Defence binder,
23 that's MLI-D28-004-3516.

24 A. [12:16:06] 108 you said?

25 Q. [12:16:08] 178.

~~ICC-01/12-01/18-T-048-CONF-ENG-CT-18-11-2020-45/75-SZ-T~~

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 A. [12:16:44] Yes.

2 Q. [12:16:45] Now, Mr Witness, this is a screenshot from the video

3 [REDACTED] The reference of this screenshot is

4 MLI-D28-004-3516. [REDACTED]?

5 A. [12:17:25] [REDACTED] [REDACTED]

6 Q. [12:17:34] If you could go to tab 179 of the Defence binder. It's

7 MLI-D28-0004-3517 and it's a screenshot at the 5-second mark of

8 [REDACTED]

9 A. [12:18:17] Yes.

10 Q. [12:18:19] [REDACTED]?

11 A. [12:18:26] [REDACTED]

12 Q. [12:18:36] Can you turn to tab 180 of the Defence binder, that's

13 MLI-D28-0004-3518. Actually, I don't think we need to go through all the different

14 second marks. So I'll take you to tab 181 of the Defence binder, that's

15 MLI-D28-0004-3519 and this is a screenshot taken from a different video, it's

16 [REDACTED]

17 [REDACTED]?

18 A. [12:19:42] [REDACTED]

19 [REDACTED]

20 Q. [12:19:55] Could you turn to tab 184 of the Defence binder, that's

21 MLI-D28-0004-3522 and it's a screenshot of a video [REDACTED]

22 A. [12:20:31] Yes.

23 Q. [12:20:33] [REDACTED]?

24 A. [12:20:38] [REDACTED]

25 [REDACTED]

~~ICC-01/12-01/18-T-048-CONF-ENG-CT-18-11-2020-46/75-SZ-T~~

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 [REDACTED]
- 2 Q. [12:21:00] And if we could go to tab 185 of the Defence binder, that's
- 3 MLI-D28-0004-3523, this is titled [REDACTED] and it's at the 26-second mark.
- 4 A. [12:21:42] Yes.
- 5 Q. [12:21:43] [REDACTED]?
- 6 A. [12:21:48] It is.
- 7 Q. [12:21:51] If you could turn to tab 186 of the Defence binder, that's
- 8 MLI-D28-0004-3524 and it's a screenshot titled -- from a video titled [REDACTED]
- 9 [REDACTED] and it's at the 23-second mark.
- 10 A. [12:22:19] [REDACTED]
- 11 Q. [12:22:26] [REDACTED]
- 12 [REDACTED] that's correct?
- 13 A. [12:22:36] Yes. [REDACTED]
- 14 Q. [12:22:42] Mr Witness, [REDACTED]
- 15 [REDACTED] incidents where you were not present?
- 16 A. [12:23:01] [REDACTED]?
- 17 Q. [12:23:08] Mr Witness, the paragraph I read out to you said that there were [REDACTED]
- 18 incidents [REDACTED]?
- 19 A. [12:23:32] I believe I was not present at [REDACTED]
- 20 [REDACTED]
- 21 Q. [12:23:47] Mr Witness, can you turn to tab 239 of the Defence binder. It's
- 22 MLI-OTP-0068-3201 at 3208. The relevant paragraph is 31. And the English is
- 23 Prosecution binder 1, MLI-OTP-0020-0019 at 0025, paragraph 31.
- 24 And I'll read it out for the record:
- 25 [REDACTED]

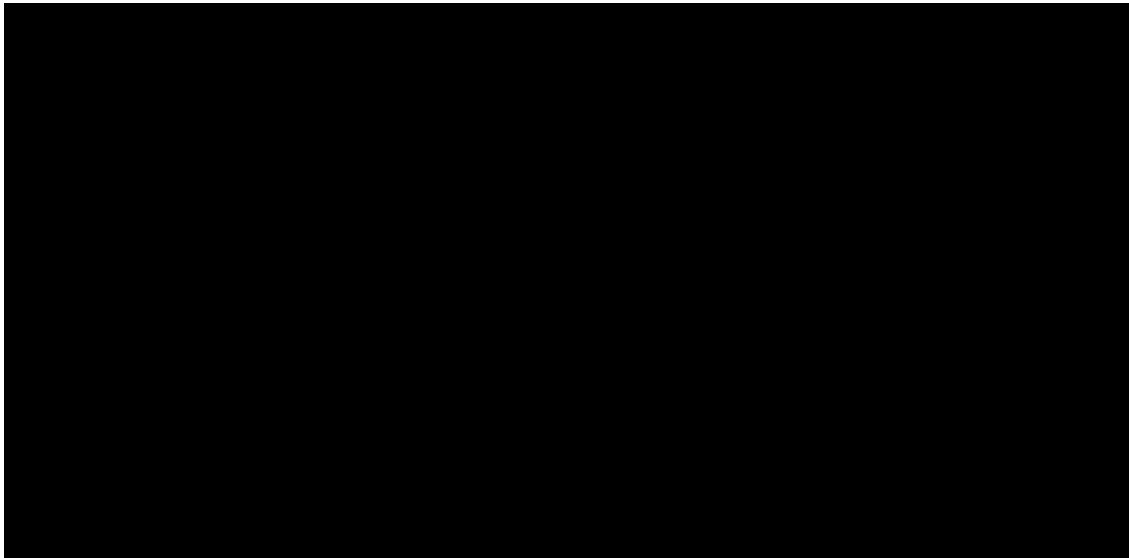
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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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10 A. [12:25:44] Yes, I have an observation here to make. Here it's written he
11 gave -- gave it to [REDACTED] This is not true. [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED] So
15 this is a -- an issue with the Arabic translation.

16 Q. [12:26:25] My question actually concerned the sentences above, which is:

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

21 A. [12:26:50] [REDACTED] I
22 can't say -- I could not say this. If I said it, then it must be a mistake. It's either me
23 that committed this mistake or it could be a translation error. [REDACTED]

24 [REDACTED]

25 [REDACTED] I was not absent. I was present.

~~ICC-01/12-01/18-T-048-CONF-ENG-CT-18-11-2020-48/75-SZ-T~~

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Q. [12:27:24] And when was this [REDACTED] ?

2 A. [12:27:30] [REDACTED]

3 [REDACTED] But I do not remember the date.

4 Q. [12:27:43] Was it before or after Ramadan?

5 A. [12:27:52] I don't know. I cannot be specific. But it's easy to find out when

6 [REDACTED]

7 Q. [12:28:02] [REDACTED] ?

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

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. [12:28:51] [REDACTED]

15 [REDACTED] ?

16 A. [12:29:04] I forgot his name and I have not been in

17 touch with him, neither before nor after,

18 and I only have a vague memory of him.

19 [REDACTED]

20 [REDACTED]

21 MS TAYLOR:

22 Q. [12:29:27] Mr Witness, would you mind writing the names down on a piece of

23 paper and, then, I believe, would be a good time for the break.

24 A. [12:29:46] Certainly.

25 THE COURT OFFICER: [12:30:54] (Microphone not activated)

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 PRESIDING JUDGE MINDUA: [12:30:56](Interpretation) Microphone.
- 2 THE COURT OFFICER: [12:30:56] Thank you. The document will be displayed on
- 3 the evidence 1 channel and will bear the number MLI-REG-0001-0015.
- 4 Correction: The document will be displayed on the evidence 2.
- 5 PRESIDING JUDGE MINDUA: [12:31:35](Interpretation) Yes, indeed it is now
- 6 displayed on evidence 2.
- 7 MS TAYLOR: [12:31:44] And is now a good time to adjourn given that it's 12.32,
- 8 I believe?
- 9 PRESIDING JUDGE MINDUA: [12:31:55](Interpretation) Could we please go into
- 10 open session, madam courtroom officer.
- 11 (Open session at 12.32 p.m.)
- 12 THE COURT OFFICER: [12:32:12] We're in open session, Mr President.
- 13 PRESIDING JUDGE MINDUA: [12:32:18](Interpretation) Thank you very much,
- 14 courtroom officer.
- 15 We shall now take our lunch break and we shall reconvene at 1.30.
- 16 The hearing is suspended.
- 17 THE COURT USHER: [12:32:33] All rise.
- 18 (Recess taken at 12.32 p.m.)
- 19 (Upon resuming in open session at 1.30 p.m.)
- 20 THE COURT USHER: [13:30:54] All rise.
- 21 Please be seated.
- 22 PRESIDING JUDGE MINDUA: [13:31:25](Interpretation) The Court is once again in
- 23 session.
- 24 We will continue with the Defence cross-examination. But before I hand the floor to
- 25 Ms Taylor, I have some instructions for Defence counsel.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 The Chamber received the email sent by Defence this morning. The Chamber
2 nevertheless believes that the fact that protective measures have been accorded to this
3 witness does not reduce the Defence's obligation to comply with paragraph 83 and 84
4 of the directives for the conduct of procedure.
5 In reality, the Chamber has repeated this obligation in its decision according
6 protective measures to the witness and on numerous occasions during his testimony.
7 The Chamber notes that this morning we spent the entire first session in private
8 session. Therefore, the Chamber would wish to remind the counsel of
9 the instructions repeated on a number of occasions regarding the need to respect, as
10 far as possible, the principle of the public nature of debates and the responsibility of
11 the parties to organise their questions in accordance with this principle.
12 The Chamber further notes that during the two sessions this morning,
13 Defence counsel asked neutral questions, for example relating to the videos. It
14 would have been quite possible to put these questions in public session.
15 Furthermore, the Chamber notes that in this case the witness is very aware of
16 the need not to divulge any information that could reveal his identity in a public
17 session.
18 Finally, the Chamber notes that the witness always has the possibility to request
19 a private session if he believes that his reply to a question could reveal his identity.
20 Therefore, the Chamber stresses once again very firmly that Defence counsel should
21 make all reasonable effort to comply with the Chamber's directives.
22 Thank you.
23 We can now continue with the cross-examination.
24 Ms Taylor, you have the floor.
25 MS TAYLOR: [13:36:00]

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

- 1 Q. [13:36:01] Good afternoon, Mr Witness.
- 2 A. [13:36:06] (Overlapping speakers)
- 3 Q. [13:36:09] How was your lunch?
- 4 A. [13:36:12] It was good.
- 5 Q. [13:36:14] Did you have time to relax?
- 6 A. [13:36:19] Yes. Yes, I was able to do that.
- 7 Q. [13:36:25] That's very good to hear.
- 8 Now, Mr Witness, I'm going to put some questions to you concerning your meeting
- 9 with the Prosecution in January 2020.
- 10 Mr Witness, you've heard the Presiding Judge's instructions, if you feel the need to
- 11 answer anything in private session, please let me know.
- 12 A. [13:36:57] Okay.
- 13 Q. [13:37:01] Mr Witness, do you recall meeting Prosecution investigators in
- 14 January 2020?
- 15 A. [13:37:10] Yes.
- 16 Q. [13:37:13] And how was this meeting organised?
- 17 A. [13:37:23] They contacted me, we fixed a date, and we met directly at that place
- 18 at the appointed time on the appointed day.
- 19 Q. [13:37:42] Do you recall when they contacted you?
- 20 A. [13:37:55] I don't remember. I don't remember either the date or the time of
- 21 the contact moment.
- 22 Q. [13:38:07] Do you recall if you had one or several contacts leading up to your
- 23 meeting?
- 24 A. [13:38:20] Yes. There were a number of contacts to fix the date of the meeting
- 25 and then the time and then a contact to confirm that. And then, if I recall correctly,

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Trial Hearing
WITNESS: MLI-OTP-P-0065

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1 there was a third contact to give me the address.

2 Q. [13:38:54] Did these contacts occur by email or by phone?

3 A. [13:39:06] I think that this contact was mostly on WhatsApp message.

4 Q. [13:39:21] I'm going to ask for further detail about that in private session later.

5 Did you initiate the contact or did the Prosecution?

6 A. [13:39:37] They contacted me.

7 Q. [13:39:45] Did they explain why they were contacting you?

8 A. [13:39:53] Yes, they wanted me to meet with them.

9 Q. [13:39:58] Did they explain why they wanted to meet with you?

10 A. [13:40:09] I don't recall us having discussed much in the way of details with
11 regard to the purpose of the meeting. But when we got together face to face they
12 explained this to me. In the messages they just talked about the meeting, the time
13 and the place, and that was all.

14 Q. [13:40:36] And what did they explain to you when they met you in person?

15 A. [13:40:49] The question is not so clear to me. Do you mean when I met them in
16 2020, is that what you're asking?

17 Q. [13:41:01] Mr Witness, at lines 9 of page 65 you said "I don't recall us having
18 discussed much in the way of details with regard to the purpose of the meeting, but
19 when we got together face to face they explained to me." What they did explain to
20 you?

21 A. [13:41:24] We're talking about 2020, yes? I just want to have that confirmed to
22 make sure we're all talking about the same meeting in 2020.

23 Q. [13:41:35] Yes, Mr Witness, January 2020.

24 A. [13:41:46] Yes. I don't remember exact details, but I had understood that they
25 had come to meet me as part of the Al Hassan case -- or so that I -- so that I could give

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1 testimony in the Al Hassan case, that that's what I remember.

2 Q. [13:42:12] Now, Mr Witness, by this point you'd already met the Prosecution
3 several times and given several statements. Did they explain to you why it was
4 necessary to collect another statement from you in January 2020?

5 A. [13:42:38] I don't know whether they explained that in detail. I had
6 the impression that they wanted to complete their -- the information previously
7 received. So that's the impression I had and I wasn't really interested in any more
8 details. But what I do recall is that it was all in relation to the Al Hassan case.

9 Q. [13:43:15] Mr Witness, can you turn to tab 242 of the Defence binder, that's
10 MLI-OTP-0078-0416 at 0419, and paragraph 15. The English binder is tab 23, that's
11 MLI-OTP-0074-1890 at 1982, paragraph 15.

12 For the record, it states:

13 "For the current occasion, I was approached and asked to meet the investigators.
14 I was told that the investigators wanted to conduct some additional questioning with
15 me about some particular incidents that I appear to have knowledge about based on
16 my earlier statements and the material I provided to the Prosecution."

17 A. [13:44:32] Could you please repeat the paragraph number.

18 Q. [13:44:43] The paragraph number --

19 A. [13:44:46] Could you tell which tab that paragraph you just read out is at, please.

20 Q. [13:44:52] Tab 242 --

21 A. [13:44:54] It's the tab number I need.

22 Q. [13:44:56] Tab 242 of the Defence binder.

23 A. [13:45:14] I'm there. And what is the paragraph, please?

24 Q. [13:45:22] Paragraph 15.

25 A. [13:45:46] Yes.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

- 1 Q. [13:45:48] Do you have it in front of you?
- 2 A. [13:45:52] Yes, I have it.
- 3 Q. [13:45:58] Now, Mr Witness, while the -- in the course of organising this
- 4 interview, did the Prosecution explain to you that they wanted to conduct additional
- 5 questioning about particular incidents that you appeared to have knowledge about?
- 6 A. [13:46:27] I don't recall the details of that. All I recall is that this meeting
- 7 focused on Al Hassan, but the conversations we'd had previously, those I don't recall.
- 8 Q. [13:46:48] If I could turn to paragraph 16, it says:
- 9 "Considering the upcoming proceedings against Al Hassan, I was informed that
- 10 particular questions about my knowledge regarding his involvement in the incidents
- 11 would be posed. I was also encouraged to mention anything I may not have
- 12 mentioned in the past interviews, and that may be relevant for establishing the truth
- 13 about roles and responsibilities of Al Hassan and others during the events in
- 14 Timbuktu."
- 15 A. [13:47:25] (Overlapping speakers)
- 16 Q. [13:47:26] By upcoming proceedings were you informed that the trial against --
- 17 A. [13:47:29] Yes.
- 18 Q. [13:47:30] -- Mr Al Hassan was about to start in 2020.
- 19 A. [13:47:38] Yes, I think so.
- 20 Q. [13:47:42] And the Prosecution asked you or encouraged you to provide
- 21 additional information concerning Al Hassan's role and responsibilities in particular
- 22 incidents?
- 23 A. [13:48:00] (Overlapping speakers)
- 24 Q. [13:48:00] Mr Witness, was this interview recorded?
- 25 A. [13:48:03] Yes.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

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1 I believe so.

2 Q. [13:48:16] Was the recording read back to you before you signed the statement?

3 A. [13:48:27] Yes.

4 Q. [13:48:32] So, Mr Witness, I'm going to turn to a particular incident and I'm
5 going to try to address it without referring to your role.

6 Now, Mr Witness, if you could turn to paragraph 41 of the same document.

7 A. [13:49:24] Yes, I have it in front of me.

8 MS TAYLOR: [13:49:27] Mr President, may I read out the last sentence only to avoid
9 referring to issues in public session? I can read it all out, but I'm slightly concerned
10 that the first or the second sentence could be identifying.

11 PRESIDING JUDGE MINDUA: [13:49:51](Interpretation) Please go ahead,
12 Ms Taylor.

13 MS TAYLOR: [13:49:55]

14 Q. [13:49:57] Now this paragraph is referring to two documents. And for
15 the reference, I'll put them in the record, it's MLI-OTP-0018-1033 and
16 MLI-OTP-0018-1036.

17 And according to this statement you were asked to explain what you recalled about
18 the incident using these documents as a reference.

19 A. [13:50:37] Yes, I think that was it.

20 Q. [13:50:42] So it would be correct, Mr Witness, that they asked you to look at the
21 documents first and then put questions to you about the contents?

22 A. [13:51:01] Which documents are you referring to? Are you talking to this
23 statement, the witness statement?

24 Q. [13:51:11] Mr Witness, the documents in question are, I believe, at --

25 A. [13:51:21] (Overlapping speakers)

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

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1 Q. [13:51:23] Okay, it's clear?

2 A. [13:51:25] Yes, I understand, I've got it now.

3 Q. [13:51:29] And if we could turn to paragraph 44 --

4 MS TAYLOR: I think I'll have to go into private session for this.

5 PRESIDING JUDGE MINDUA: [13:51:48](Interpretation) Court officer, private
6 session, please.

7 (Private session at 1.51 p.m.)

8 THE COURT OFFICER: [13:51:59] We are in private session, Mr President.

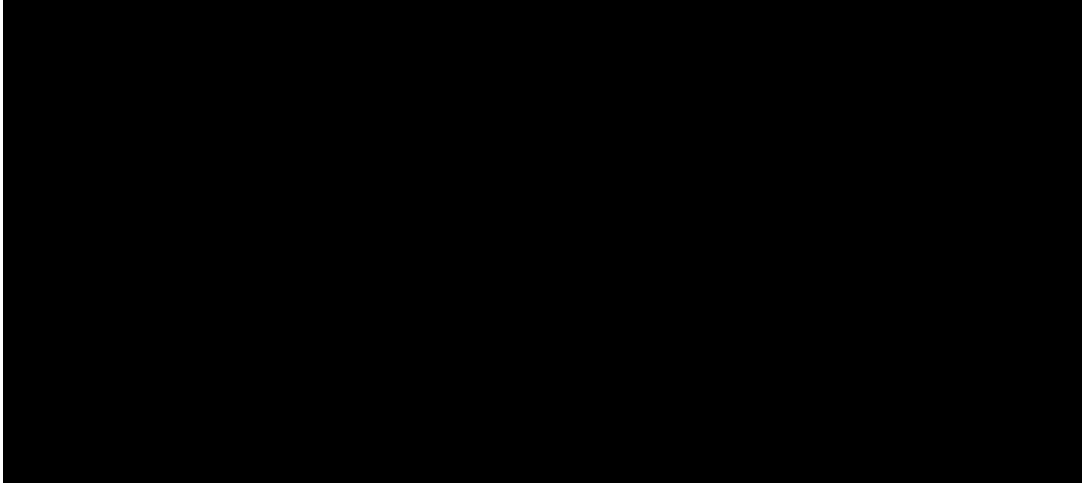
9 PRESIDING JUDGE MINDUA: [13:52:07](Interpretation) Thank you very much.
10 Ms Taylor.

11 MS TAYLOR: [13:52:10]

12 Q. [13:52:11] It states:

13 "I have difficulties remembering this particular incident. I believe it is possible that

14 I was not present at the execution of this sentence. 

15 

23 A. [13:53:24] Yes.

24 Q. [13:53:25] Mr Witness, is this consistent with what you told the Prosecution in
25 January 2020?

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 A. [13:53:37] Yes.

2 Q. [13:53:37] So just to be clear, in January 2020 you had difficulties remembering
3 this particular incident?

4 A. [13:53:49] Yes.

5 Q. [13:53:50] And you believed it was possible that you were not present at the
6 execution of this sentence?

7 A. [13:54:07] What I do know is that I told them exactly -- I told them what I told
8 them in the light of my recollections at the time.

9 Q. [13:54:27] Now if I could turn to tab 233 of the Defence binder, that's
10 MLI-OTP-0080-0636 at 0653. And unfortunately we don't have an Arabic version of
11 this. I can read out -- it's the first paragraph on this page, it says:

12 "Para[graph] 41-46, review of documents MLI-OTP-0018-1033: the witness said that
13 it appears from the paragraph in his statement that he was present ... [REDACTED]

14 [REDACTED] P-0065 stated that [REDACTED] he has the impression
15 he was present even though he does not remember. He added that the information
16 was all true as it appears. But he does not remember whether he was present or not.
17 [REDACTED]."

18 And, Mr Witness, the preparation session I believe was conducted about two weeks
19 before your testimony; that's correct?

20 A. [13:56:11] (Overlapping speakers)

21 Q. [13:56:12] And is it correct that --

22 A. [13:56:14] Yes.

23 Q. [13:56:14] -- two weeks before your testimony you did not remember whether
24 you were present or not.

25 A. [13:56:30] Which event are you talking about? [REDACTED]

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 [REDACTED]? And if that's it, I really don't remember up to this date

2 whether I was present or not.

3 Q. [13:56:48] Yes, that's the incident I was referring to.

4 A. [13:56:58] Yes.

5 Q. [13:57:00] Now, during transcript 41, that's the testimony of 5 November,
6 the Prosecution showed you photos of this incident. This is at transcript 41, page 49,
7 lines 25 to page 50, line 1. And it's correct that you couldn't remember [REDACTED]

8 [REDACTED]?

9 A. [13:57:31] Yes.

10 Q. [13:57:39] If we look at [REDACTED] the Arabic of this
11 email, this is [REDACTED] it's tab 68 on the Prosecution's binder, it's
12 MLI-OTP-0018-1033. And the English is tab 69 on the Prosecution's list, that's
13 MLI-OTP-0068-1012. [REDACTED] Do you have that, Mr Witness?

14 A. [13:58:31] No. No. I was listening to what you were saying and I was waiting
15 for the question. Do you really need me to look at the content [REDACTED]?

16 Q. [13:58:51] Yes, Mr Witness, it's tab --

17 A. [13:58:53] (No interpretation)

18 Q. [13:58:54] If you could turn to tab 68 and 69 of the Prosecution's binder, there's

19 [REDACTED]

20 A. [13:59:15] Yes, I have got it, I'm here. I've got it in front of me.

21 Q. [13:59:46] Do you have both [REDACTED] in front of you?

22 The attachment is at tab --

23 A. [13:59:54] Yes.

24 Q. [13:59:55] (Overlapping speakers)

25 A. [14:00:02] Yes.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Q. [14:00:04] Mr Witness, would you agree that [REDACTED] is quite
2 lengthy?

3 A. [14:00:14] Yes, yes, very long.

4 Q. [14:00:19] [REDACTED] ?

5 A. [14:00:32] [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 Q. [14:01:11] [REDACTED]
9 [REDACTED] ?

10 A. [14:01:22] [REDACTED]
11 [REDACTED] I
12 have the impression that I was present at that time, even if I don't remember. And
13 when I say I don't remember if I was present, that doesn't mean I wasn't present. It
14 just means if I was present, I don't remember. There were other events which were
15 more important which are wiped from my memory.

16 Q. [14:02:13] Going back to the paragraph I read to you earlier, that's paragraph 44
17 of your statement from January, you said: [REDACTED]
18 [REDACTED]

19 A. [14:02:35] Indeed. There's a major difference [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Q. [14:03:33] Mr Witness, can you turn to tab 117 of the Defence binder, that's

2 MLI-D28-0004-3429.

3 A. [14:04:19] Yes.

4 Q. [14:04:24] [REDACTED]

5 [REDACTED]

6 A. [14:04:46] I'm sorry. No, I was on another document. I'm sorry.

7 Yes, 117.

8 Q. [14:05:06] Do you have that in front of you?

9 A. [14:05:10] Yes, yes, I've got it.

10 Q. [14:05:17] [REDACTED]

11 [REDACTED]

12 A. [14:05:33] I don't know. I can't confirm that.

13 Q. [14:05:43] [REDACTED]

14 [REDACTED] ?

15 A. [14:06:02] I can't say that. I can't say that. I don't remember. I don't

16 remember in detail.

17 Q. [14:06:11] Mr Witness, can you turn to tab 254 of the new Defence binder, it's

18 the Arabic version of a document -- oh, that's the English, I apologise. Sorry. If you

19 could turn to tab 503.

20 A. [14:06:37] Tab 503 in the new or the old binder?

21 Q. [14:06:49] I apologise. Tab 503 was the reference to the Prosecution's list of

22 evidence. But the physical copy is at tab 255 of the Defence binder. That's

23 MLI-OTP-0018-0777. The English, for the record, it was tab 504 of the Prosecution's

24 list, but the physical copy is tab 254 of the Defence binder, being MLI-OTP-0078-9758.

25 A. [14:07:44] Yes, I've got 255 in front of me. This is a chat.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 Q. [14:07:53] Can you go to the first page --
- 2 A. [14:08:00] Yes, I've got the first page in front of me.
- 3 Q. [14:08:04] -- and identify the participants in this chat?
- 4 A. [14:08:12] This is a chat between myself [REDACTED], I think.
- 5 Q. [14:08:22] Can you turn to page 0787. And for the --
- 6 A. [14:08:49] Yes.
- 7 Q. [14:08:50] (Overlapping speakers) -- English it's 9769 and there's a chat of
- 8 [REDACTED]
- 9 Does this message exchange -- and please feel free to read the whole page if that's
- 10 easier.
- 11 A. [14:09:28] Yes.
- 12 Q. [14:09:51] And it might help to start with the preceding chat, which is [REDACTED] of
- 13 the same day.
- 14 A. [14:10:09] [REDACTED] That's a long chat, [REDACTED]
- 15 Q. I think there's a confusion --
- 16 A. At [REDACTED]
- 17 Q. [14:10:29] There's a confusion, Mr Witness. I'm asking you to start by looking
- 18 at the chat messages starting at [REDACTED], and then continuing to [REDACTED]
- 19 (Pause in proceedings)
- 20 THE WITNESS: [14:12:30](Interpretation) Yes. I have read this page. Where
- 21 should I read to? I've come to [REDACTED]
- 22 MS TAYLOR: [14:12:49]
- 23 Q. [14:12:50] I think that's sufficient.
- 24 Mr Witness, in these message exchanges are you [REDACTED]
- 25 [REDACTED]?

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

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1 A. [14:13:03] Yes.

2 Q. [14:13:06] [REDACTED]

3 [REDACTED] ?

4 A. [14:13:26] Yes, but now I can't remember the context. [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] That's it.

11 Q. [14:14:30] [REDACTED]

12 [REDACTED] you thought it would demonstrate something?

13 Irrespective of that, were your own views, that's what you said [REDACTED] ?

14 A. [14:14:51] Yes. But what I want to clarify is that this chat [REDACTED] and

15 myself is a chat [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED] without telling

20 the truth and without appearing to be very serious of what's said. [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED] But this doesn't mean that what I'm

24 saying is the truth. And this is what I really want to say, [REDACTED] is slight

25 misrepresentation [REDACTED]

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Trial Hearing
WITNESS: MLI-OTP-P-0065

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1 Q. [14:16:10] [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]?

5 A. [14:16:35] That's possible. [REDACTED]

6 [REDACTED]

7 [REDACTED] without knowing that it was a brother and
8 sister.

9 [REDACTED]

10 [REDACTED]

11 These are all possibilities, but I'm telling you what is the most probable as far as I am
12 concerned.

13 Q. [14:17:26] Now, going back to your interview with the Prosecution in

14 [REDACTED], if I could refer you to paragraphs 54 to 55 of tab 242 in the Defence
15 binder, that's MLI-OTP-0078-0416 at 0424-0425. And the English reference is tab 23
16 of the Prosecution's binder, that's MLI-OTP-0074-1890 at 1897.

17 MS TAYLOR: Mr President, I can try to do some questions in open session, but then
18 I believe in order to show the video and related images it will be necessary to go into
19 private session. Would it be helpful, though, if I read out the relevant paragraph in
20 private session before we go into open session, otherwise I would have to leave out
21 sentences?

22 PRESIDING JUDGE MINDUA: [14:19:37](Interpretation) Please go ahead,
23 Ms Taylor.

24 MS TAYLOR: [14:19:40]

25 Q. [14:19:40] So, Mr Witness, I'm just going to read this out in private session and

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WITNESS: MLI-OTP-P-0065

(Private Session)

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1 then pose some questions in open session. This concerns [REDACTED]

2 [REDACTED]

3 Paragraph 51 says:

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] I was asked to explain what I recall about the incident using the email as
7 a reference."

8 And I think we can now go into open session.

9 PRESIDING JUDGE MINDUA: [14:20:30](Interpretation) Open session, if you
10 would be so kind, court officer.

11 (Open session at 2.20 p.m.)

12 THE COURT OFFICER: [14:20:43] We're in open session, Mr President.

13 PRESIDING JUDGE MINDUA: [14:20:46](Interpretation) Thank you very much.

14 Ms Taylor.

15 MS TAYLOR: [14:20:53]

16 Q. [14:20:53] Now, Mr Witness, is it correct that the Prosecution asked you to read
17 a particular document referred to at paragraph 51, and then after you read that
18 document they asked you questions about the incident?

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

20 Q. [14:21:19] And you were asked to base your responses or relate your responses
21 to the contents of the email?

22 A. [14:21:33] Yes.

23 Q. [14:21:34] And you told the Prosecution -- after having read this email, you told
24 the Prosecution that Mr Al Hassan was present but you had no recollection as
25 concerns what he was doing?

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1 A. [14:21:52] Yes, I think so.

2 Q. [14:21:54] And, Mr Witness, it's correct this is the first time that you mentioned
3 Mr Al Hassan being present at this incident?

4 A. [14:22:11] I don't remember exactly, but I think it's true.

5 MS TAYLOR: [14:22:22] I think we'll have to go into private session.

6 PRESIDING JUDGE MINDUA: [14:22:29](Interpretation) Private session, please,
7 court officer.

8 (Private session at 2.22 p.m.)

9 THE COURT OFFICER: [14:22:40] We're in private session, Mr President.

10 PRESIDING JUDGE MINDUA: [14:22:47](Interpretation) Thank you very much.
11 Ms Taylor.

12 MS TAYLOR: [14:22:51]

13 Q. [14:22:51] Mr Witness, do you remember that earlier today I showed you

14 [REDACTED] videos
15 in which you identified Mr Al Hassan?

16 A. [14:23:13] Yes.

17 Q. [14:23:16] These videos didn't include this incident, did it?

18 A. [14:23:26] No. You mean the sanction concerning the -- the sanction concerning
19 the adultery, the *hadd*? I think that this question is confusing me. I'm not able to
20 remember all of that. But if there's an email or if there's a video or a film or a video,
21 a specific video you'd like me to comment on, you can show it to me, because
22 I'm -- I'm meant to give you a quick answer to a question, but I can't give you an
23 answer, so that's a difficult situation for me. If I say yes or no, I have the impression
24 that I haven't really answered or that I've answered to the side of the question or in
25 a camouflaged way or a disguised way. I don't remember the details of the

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1 conversation between the investigators and myself.

2 Q. [14:24:45] I'll turn to this video, Mr Witness.

3 Now, the Prosecution played the video MLI-OTP-0018-0407 and at transcript 42,
4 page 10, lines 9 to 12, at the 10-second mark of this video you identified a particular
5 individual who was wearing a khaki green jacket, a beige tunic and a red and white
6 scarf over his head.

7 So I'm just going to show that video at the 10-second mark.

8 Or not.

9 THE COURT OFFICER: [14:26:37] You have the floor on evidence 2.
10 I have called a technician.

11 MS TAYLOR: [14:27:18] It may be an issue of the projector having been used
12 previously on evidence 2.

13 THE COURT OFFICER: [14:27:27] Indeed. But we have given you the floor back.
14 We can, we can try with the evidence 1 channel.

15 PRESIDING JUDGE MINDUA: [14:27:38](Interpretation) Prosecutor.

16 MR DUTERTRE: [14:27:40](Interpretation) Thank you, your Honour.

17 Just for the clarity in the transcript, Ms Taylor referred to 44, page 10. I don't think
18 corresponds to what she thinks she's talking -- I don't know if that corresponds to it.
19 It was page 42, lines -- it was transcript 42, line 10, page 10, lines 9 to 12, but I think it's
20 page 9, lines 16 to 19, just to be clear on that.

21 PRESIDING JUDGE MINDUA: [14:28:16](Interpretation) Ms Taylor, is that correct?
22 Could you confirm it?

23 MS TAYLOR: [14:28:19] Well, the reference I have is transcript 42, page 10, lines 9 to
24 12, and that's what we were showing to the witness, but I'd have to verify that
25 afterwards. In any case, I don't believe it's dispositive because I'm about to show an

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- 1 image to the witness.
- 2 PRESIDING JUDGE MINDUA: [14:28:44](Interpretation) Very well.
- 3 Please go ahead.
- 4 MS TAYLOR: [14:28:50] Mr President, may I sit while we sort out the technical
- 5 details?
- 6 PRESIDING JUDGE MINDUA: [14:28:59](Interpretation) Please do, Ms Taylor, if
- 7 you're tired.
- 8 MR DUTERTRE: [14:29:08](Interpretation) While we're waiting, your Honour,
- 9 we are referring to the edited transcript and perhaps Ms Taylor is referring to
- 10 the real-time transcript, but I'm positive with regard to the reference.
- 11 PRESIDING JUDGE MINDUA: [14:29:29](Interpretation) Very well.
- 12 Prosecutor, have you checked the transcript in French or in English?
- 13 MR DUTERTRE: [14:29:56](Interpretation) In English, your Honour.
- 14 PRESIDING JUDGE MINDUA: [14:29:57](Interpretation) Thank you very much.
- 15 THE COURT OFFICER: [14:30:05] In the meantime, the Registry will try to play
- 16 the video on the evidence 1 channel.
- 17 MS TAYLOR: [14:30:14] I believe we'll have to play it from -- oh, can we play it from
- 18 this laptop, is that what you're playing on evidence 1?
- 19 THE COURT OFFICER: [14:30:21] No, from the document that I uploaded in
- 20 Ringtail.
- 21 MS TAYLOR: [14:30:26] Because there's various videos that we need to play from
- 22 the laptop because they're the original MP4 version.
- 23 THE COURT OFFICER: [14:30:38] Noted. We will wait for the technician then.
- 24 (Pause in proceedings)
- 25 MS TAYLOR: [14:34:39] While we're waiting, I can confirm that the reference given

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- 1 by the Defence was to the real-time transcript and the Prosecution reference is to
2 the edited, so it's the same reference, just different versions of the transcripts.
- 3 PRESIDING JUDGE MINDUA: [14:35:03](Interpretation) Thank you very much,
4 Ms Taylor.
- 5 (Pause in proceedings)
- 6 PRESIDING JUDGE MINDUA: [14:36:38](Interpretation) Ms Taylor,
7 the court officer has informed me that the repair will take a little longer than normal.
8 Could one perhaps move to something else while the technician is resolving
9 the problem, in order to gain some time here?
- 10 MS TAYLOR: [14:37:02] The problem is, Mr President, is I have about six pages
11 based on videos and images which I intended to show to the witness. And given
12 that issues of identification were at stake, we did want to use the higher quality
13 versions. So I can try, but then there's a risk that the quality of the version being
14 shown wouldn't be as high resolution.
- 15 PRESIDING JUDGE MINDUA: [14:37:43](Interpretation) To save time, Ms Taylor, I
16 think we could try. And if we see that it doesn't work, then we'll decide what we do.
- 17 MS TAYLOR: [14:37:57] If we can start then by playing or bringing up on evidence 1
18 MLI-OTP-0018-0407, and if we could freeze it at the 10-second mark.
- 19 (Viewing of the video excerpt)
- 20 MS TAYLOR: [14:39:04]
- 21 Q. [14:39:05] Now, Mr Witness, it's correct, isn't it, that the person on the far left,
22 you identified him as Mr Al Hassan?
- 23 A. [14:39:17] Yes.
- 24 Q. [14:39:18] And for the record, he's wearing a beige tunic, a green khaki jacket
25 and a red and white scarf over his head.

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- 1 A. [14:39:35] Yes.
- 2 Q. [14:39:40] Can we play another video in which the same individual can be
- 3 shown. It's tab --
- 4 PRESIDING JUDGE MINDUA: [14:39:52](Interpretation) Prosecutor.
- 5 MR DUTERTRE: [14:39:55](Interpretation) It's important for the record to give
- 6 the exact and precise timestamp.
- 7 PRESIDING JUDGE MINDUA: [14:40:05](Interpretation) You said 10 seconds,
- 8 Ms Taylor, but here I see 10:05, that's what I'm on my screen. So could you please
- 9 make it clear.
- 10 MS TAYLOR: [14:40:16] 10:05. I apologise. I actually can't see underneath my
- 11 rostrum.
- 12 THE COURT OFFICER: [14:40:26] I hereby confirm that the Registry has paused
- 13 the video at mark 00:00:10:05.
- 14 PRESIDING JUDGE MINDUA: [14:40:43](Interpretation) Perfect. Thank you.
- 15 MS TAYLOR: [14:40:45] Could we show the following video. It's
- 16 MLI-OTP-0018-0742. We can play it without sound.
- 17 (Viewing of the video excerpt)
- 18 MS TAYLOR: [14:41:37]
- 19 Q. [14:41:37] Mr Witness, were you able to see the same individual in this video?
- 20 A. [14:41:43] Yes.
- 21 Q. [14:41:46] Can you turn to in your binder, and if we could bring it up on
- 22 evidence, it's tab 146 of the Defence binder, that's MLI-D28-0004-3458.
- 23 Mr Witness, it's showing on the screen. There might be a clearer version on
- 24 the screen.
- 25 A. [14:42:54] Yes. That's clear.

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1 Q. [14:42:58] This is the 11-second mark of this video.
2 And if we could bring up MLI-D28-0004-3453. This is a zoomed version of the same
3 image.

4 Mr Witness, here today under oath do you still maintain that is Mr Al Hassan?

5 A. [14:44:03] I may be wrong, but I don't think this is a photo of Mr Al Hassan.

6 Q. [14:44:17] We have another image of the same person. This is tab 147 on
7 the Defence list, if we could bring it up. It's MLI-D28-0004-3459 and this is an image
8 taken from 12 seconds into the video MLI-OTP-0018-0742.

9 And I believe we can start showing things from evidence 2. So perhaps if we just
10 take a minute and then we can start broadcasting them from the Defence laptop.

11 PRESIDING JUDGE MINDUA: [14:45:18](Interpretation) Excellent. Then let us
12 wait that one minute.

13 (Pause in proceedings)

14 MS TAYLOR:

15 Q. [14:45:48] So this is, I believe, 12 seconds into the video MLI-OTP-0018-0742.

16 And in this image we can see the same individual, can't we?

17 A. [14:46:05] Yes. If you have a better quality video with better image, why are
18 you not showing that rather than showing these screenshots? Because when I
19 looked at the first video I had no doubt that it was Al Hassan. But the photo,
20 the photo which I saw enlarged is not Al Hassan, it's not the same person. Which is
21 why I am asking you to show the high quality video so that I can determine whether
22 it is Mr Al Hassan or not.

23 Q. [14:46:54] Mr Witness, all of these images come from the high quality video.
24 The video that was shown in court was a lower quality video. We can play the video
25 in its entirety and then go through image by image now that we have evidence 2.

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- 1 These are all from the same video, I believe it was MLI-OTP-0018-0742. So we can
2 play it without sound in its entirety.
3 (Viewing of the video excerpt)
4 MS TAYLOR:
5 Q. [14:47:59] Do you wish me for me to play it again, or?
6 A. [14:48:05] Yes, please.
7 MS TAYLOR: [14:48:09] For the record, we'll play it again.
8 (Viewing of the video excerpt)
9 THE WITNESS: [14:48:41](Interpretation) I don't think that is Al Hassan. Looking
10 at this better quality video, I don't think that is Al Hassan.
11 Q. [14:48:56] Mr Witness, I can stop it at the same second marks that corresponded
12 to the images that I showed to you. So the first was I think at the 11-second mark.
13 A. [14:49:26] Yes. That's a clear picture.
14 Q. [14:49:31] Does that appear to be Mr Al Hassan?
15 A. [14:49:38] It doesn't seem to be Al Hassan in this photo.
16 Q. [14:49:49] And if we could go again to the 12-second mark, given that's
17 the image I showed previously.
18 A. [14:50:07] No, that doesn't at all seem to be Al Hassan.
19 Q. [14:50:16] Now, during your testimony you also claim to have identified Khalid
20 in this video.
21 And I have a reference, but it's entirely possible it's the real-time reference. It's
22 transcript 42, page 10, lines 15 to 20. And I'm going to bring up an image of the
23 person shown in the video MLI-OTP-0018-0737 at the 15:16 mark. And it's ...
24 A. [14:51:01] That is clearly Khalid. I'm quite sure about that.
25 Q. [14:51:52] Now I'm going to show you a series of images from the video that we

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- 1 looked at before, which is MLI-OTP-0018-0742.
- 2 If we could bring up tab 136 on the Defence list, it's MLI-D28-0004-3448 and it's
- 3 9 seconds into the video.
- 4 (Viewing of the video excerpt)
- 5 THE WITNESS: [14:52:39](Interpretation) Yes.
- 6 MS TAYLOR: [14:52:43]
- 7 Q. [14:52:44] And do you identify Khalid in this image?
- 8 A. [14:52:51] Yes, he has a black turban. He's the person between the woman to
- 9 be flogged on the extreme right of the photo, and the other person.
- 10 Q. [14:53:08] If we could bring up MLI-D28-0004-3451, this is 22 seconds into
- 11 the video.
- 12 A. [14:53:45] Yes. I think this is the same person.
- 13 Q. [14:53:51] And do you maintain that this is Khalid?
- 14 A. [14:54:05] I'm not a hundred per cent certain. In this -- in this photo I'm not
- 15 sure.
- 16 Q. [14:54:18] Now, last week the Prosecution played a particular section from
- 17 [REDACTED]
- 18 That's [REDACTED] that was tab 34. The transcript being tab 35 on
- 19 the Prosecution's list, MLI-OTP-0028-0839 at 0845. And the relevant section was
- 20 from [REDACTED]
- 21 And to give the transcript reference, but again I apologise, this could be the real-time
- 22 transcript, in which case we can correct it afterwards. Transcript 43, page 6, lines 15
- 23 to 18, you describe these images as referring to an activity organised by *Hesbah* in
- 24 January 2013. And I'm going to play those sections with sound.
- 25 We just need confirmation that we can play it with sound.

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1 (Viewing of the video excerpt)

2 THE INTERPRETER: [14:56:34] (Interpretation of the video excerpt) [REDACTED]

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17 MS TAYLOR: [14:58:01] If we could go back to the [REDACTED] and freeze.

18 Q. [14:58:16] Is this the person - the person who is speaking - is this the person you
19 identified as having the *nom de guerre* Chourahbil?

20 A. [14:58:33] Yes, Chourahbil, at least that's what I think.

21 Q. [14:58:41] And he was a member of *Hesbah* who was present in Timbuktu in
22 January 2013.

23 A. [14:58:55] He was in fact -- or well, whether he belonged to *Hesbah* or another
24 organisation is something I can't determine. I know that he's Libyan. I know that
25 this activity was organised by the *Hesbah*. [REDACTED] going from

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1 the *Hesbah* headquarters to this place, which is what makes me say that he is
2 a member of *Hesbah*.

3 Q. [14:59:27] If I could bring up tab 139 of the Defence list. This is
4 MLI-D28-0004-3451.

5 Mr Witness, is it possible that the person with the black turban is Chourahbil?

6 A. [14:59:56] No.

7 MS TAYLOR: [15:00:07] I see we're at the 3 o'clock mark.

8 PRESIDING JUDGE MINDUA: [15:00:15](Interpretation) You are quite correct,
9 Ms Taylor.

10 Court officer, we can return to open session, please.

11 (Open session at 3.00 p.m.)

12 THE COURT OFFICER: [15:00:35] We are in open session, Mr President.

13 PRESIDING JUDGE MINDUA: [15:00:43](Interpretation) Thank you very much,
14 court officer.

15 Mr Witness, we have arrived at the end of your testimony for today, but of course, as
16 you can see, the Defence cross-examination has not finished. In the meantime, we
17 thank you very much for your availability and for having replied very -- in a very
18 detailed manner to the questions put to you. So you will be back here tomorrow
19 morning at 9.30 in order to continue. In the meantime, as you know, you've got used
20 to this now, you must not talk to anyone at all of your testimony.

21 And now I would like to thank all who have been part of this hearing today,
22 the parties and the participants. And I think all those surrounding the courtroom,
23 the court reporters and the interpreters. Let us not forget the security officers. And
24 I would also like to thank our public.

25 We will now adjourn the hearing and we will be back tomorrow morning at 9.30.

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- 1 THE COURT USHER: [15:02:22] All rise.
- 2 (The hearing ends in open session at 3.02 p.m.)
- 3 CORRECTIONS REPORT
- 4 The following corrections, marked with an asterisk and not included in the
- 5 audio-visual recording of the hearing, are brought into the transcript.
- 6 Page 48 lines 19-20:
- 7 
- 8 Is corrected to
- 9 
- 10 Page 48 line 20:
- 11 "THE ARABIC INTERPRETER: [12:29:24] Name in Arabic not clear." Is deleted.