

Trial Hearing
WITNESS: MLI-V43-V-0001

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Wednesday, 9 February 2022
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:24] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:32:32](Interpretation) Court is in session.
15 Good morning to all.
16 Madam Courtroom Officer, could you please call the case.
17 THE COURT OFFICER: [9:32:40] Good morning, Mr President, your Honours.
18 Situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan Ag
19 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: [9:32:58](Interpretation) Thank you very much,
22 Madam Courtroom Officer.
23 Now, as we do every morning, we shall be taking the appearances for the various
24 teams, starting with the Office of the Prosecutor.
25 Mr Prosecutor.

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1 MR DUTERTRE: [9:33:11](Interpretation) Good morning, Mr President. Good
2 morning, your Honours.
3 The Office of the Prosecutor is represented today by Madam Yayoi Yamaguchi, to my
4 right; by my colleague, Florie Huck, just behind me; and by Mr Damien Grzeziczak,
5 seated to the back as well. And I thank you and I'd like to greet everybody in and
6 around the courtroom, and also those who are assisting us.
7 PRESIDING JUDGE MINDUA: [9:33:43](Interpretation) Thank you very much,
8 Mr Prosecutor.
9 I'm now turning to the Defence.
10 Counsel.
11 MS TAYLOR: [9:33:46] Good morning, Mr President. Good morning,
12 your Honours. Good morning to everyone in and outside the courtroom.
13 The Defence for Mr Al Hassan is represented today by Mr Iain Edwards, by
14 Maître Julia Basile and Ms Diletta Marchesi, and myself, Melinda Taylor. Thank you
15 very much.
16 PRESIDING JUDGE MINDUA: [9:34:08](Interpretation) Thank you very much,
17 Ms Taylor.
18 Now, lastly, I shall turn to the LRVs.
19 Counsel.
20 MR LUVENGIKA: [9:34:15](Interpretation) Good morning, Mr President. Good
21 morning, your Honours.
22 The victims are represented at this hearing by Madam Anouk Kermiche; by Madam
23 Carla Boglioli, who is an intern and has joined our team; by my learned friend
24 Maître Mayombo Kassongo; by Maître Seydou Doumbia, who is out in the field; and
25 by Maître Julie Goffin; and by myself, Fidel Nsita. Thank you.

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- 1 PRESIDING JUDGE MINDUA: [9:34:51](Interpretation) Thank you very much,
2 Maître Nsita.
3 And I'd like to make the most of this opportunity to welcome the intern
4 Maître Carla Boglioli.
5 MR LUVENGIKA: [9:35:01](Interpretation) Boglioli.
6 PRESIDING JUDGE MINDUA: [9:35:06](Interpretation) Boglioli. Thank you very
7 much.
8 So this morning we shall be continuing with the testimony of the first witness for
9 the Legal Representative for Victims. That is Witness V-0001.
10 So now I shall be turning to Madam Witness.
11 Good morning, Madam Witness. Are you well?
12 WITNESS: MLI-V43-V-0001 (On former oath)
13 (The witness speaks Tamasheq)
14 (The witness gives evidence via video link)
15 THE WITNESS: [9:35:45](No interpretation)
16 PRESIDING JUDGE MINDUA: [9:35:47](Interpretation) Thank you very much,
17 Madam Witness. I would like to once again welcome you on behalf of the Chamber.
18 THE WITNESS: [9:35:56](Interpretation) I'd also like to greet you.
19 PRESIDING JUDGE MINDUA: [9:36:06](Interpretation) As I was saying, on behalf
20 of the Chamber, I would like to welcome you once again.
21 I'd like to remind you that you are still under oath and that you must speak the truth,
22 the whole truth and nothing but the truth.
23 THE WITNESS: [9:36:44](Interpretation) Yes, I took the solemn undertaking and I
24 swore to you that I would say nothing but the truth.
25 PRESIDING JUDGE MINDUA: [9:36:53](Interpretation) Very well. Thank you.

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1 And I would like for you to bear in mind the advice that I gave you with regard to
2 addressing the Court. You should speak slowly, clearly, and observe pauses.

3 THE WITNESS: [9:37:31](Interpretation) Yes, I remember that.

4 PRESIDING JUDGE MINDUA: [9:37:33](Interpretation) Very well. Thank you
5 very much.

6 So this morning the Defence will be starting its cross-examination. That doesn't
7 mean to say that the Defence is systematically doubting everything that you have said,
8 but it is their job. The Defence also has to question you. So I would like you to
9 answer with goodwill to the questions that are put to you.

10 THE WITNESS: [9:38:34](Interpretation) Yes, that's how justice works.

11 PRESIDING JUDGE MINDUA: [9:38:42](Interpretation) Very well. Thank you
12 very much.

13 So, Ms Taylor, I'm going to hand over to you. But, of course, I don't want to give
14 you a makeshift calculation, but if I have understood correctly you have two hours
15 and 22 minutes; is that correct?

16 MS TAYLOR: [9:39:06] Mr President, that's the first time I hear that calculation, so
17 obviously we accept it, but that's -- we were not aware of that beforehand.

18 PRESIDING JUDGE MINDUA: [9:39:23](Interpretation) Well, it's -- that's how it is.

19 THE INTERPRETER: [9:39:29] Correction from the English booth:

20 The Presiding Judge actually said that you have already 42 minutes, but it's difficult
21 to understand. Maybe he should repeat.

22 MS TAYLOR: [9:39:39] I apologise, Mr President. There seems to be some
23 confusion from the English booth as to the exact calculation, and they've asked if you
24 can repeat it.

25 I can check the French.

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- 1 PRESIDING JUDGE MINDUA: [9:40:00](Interpretation) Two hours and 42 minutes.
- 2 MS TAYLOR: [9:40:06] Thank you very much for that clarification. It's very
- 3 helpful.
- 4 QUESTIONED BY MS TAYLOR:
- 5 Q. [9:40:16] Good morning, Madam Witness. How are you this morning?
- 6 A. [9:40:30] I am fine. I've had a good morning. Thank you.
- 7 Q. [9:40:34] Madam Witness, I'd like to apologise for not meeting you at the
- 8 courtesy meeting. Unfortunately, I was in quarantine. But I believe you met my
- 9 colleague, Maître Julia Basile.
- 10 Just to add as well to what the honourable Presiding Judge said, to make it easier for
- 11 the interpreters, if you could use short sentences. And if I put up my hand, that
- 12 means no disrespect to you. It's simply to ask you to pause --
- 13 PRESIDING JUDGE MINDUA: [9:41:15](Interpretation) Ms Taylor, of course it's
- 14 difficult for us to follow the interpretation from Tamasheq, but I have just been told
- 15 by the French booth that they haven't finished interpreting and that you started
- 16 talking too fast.
- 17 MS TAYLOR: [9:41:32] Thank you, Mr President.
- 18 THE WITNESS: [9:42:04](No interpretation)
- 19 MS TAYLOR:
- 20 Q. [9:42:07] Madam Witness, I'm going to start with some information of a personal
- 21 nature. So with the leave of the Presiding Judge, we'll go into private session.
- 22 PRESIDING JUDGE MINDUA: [9:42:23](Interpretation) Madam Courtroom Officer,
- 23 private session, please.
- 24 (Private session at 9.42 a.m.)
- 25 THE COURT OFFICER: [9:42:32] We are in private session, Mr President.

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- 21 (Open session at 9.50 a.m.)
- 22 THE COURT OFFICER: [9:50:52] We are back in open session, Mr President.
- 23 PRESIDING JUDGE MINDUA: [9:50:56](Interpretation) Thank you very much,
- 24 Madam Courtroom Officer.
- 25 Please continue, Ms Taylor.

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1 MS TAYLOR:

2 Q. [9:51:06] Madam Witness, after your first husband divorced you, did he
3 continue to give money to you and your children?

4 A. [9:51:40] Yes, he would give us money.

5 MS TAYLOR: [9:51:45] Mr President, I have a brief question to ask in closed
6 session -- private session.

7 PRESIDING JUDGE MINDUA: [9:51:54](No interpretation)

8 MS GOFFIN: [9:51:58](Interpretation) Yes, Mr President. Thank you.

9 I'm in -- in the same vein as the question you put earlier as to the very private relation
10 between Madam Witness and her former husband, and we didn't broach this in any
11 manner, this is rather private.

12 PRESIDING JUDGE MINDUA: [9:52:24](Interpretation) Did you hear what was said,
13 Ms Taylor? Would you like us to move into private session now, or would you like
14 to answer the objection on the part of Maître Goffin first?

15 MS TAYLOR: [9:52:36] Mr President, I would still like to go into private session, but
16 I would note that there are certain connotations that stem from the type of divorce. I
17 don't intend to go into that, but it was not to do with private reasons for the divorce
18 but more -- certain implications of a type of divorce. But I'm not going into that
19 issue.

20 PRESIDING JUDGE MINDUA: [9:53:06](Interpretation) Very well, Ms Taylor. But
21 the issue is that we have to be mindful of the private life of the witness and not be
22 overly intrusive. Of course, the witness is a vulnerable individual.

23 Madam Courtroom Officer, private session, please.

24 (Private session at 9.53 a.m.)

25 THE COURT OFFICER: [9:53:37] We are in private session, Mr President.

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- 10 (Open session at 10.13 a.m.)
- 11 THE COURT OFFICER: [10:13:46] We are back in open session, Mr President.
- 12 PRESIDING JUDGE MINDUA: [10:13:54](Interpretation) Thank you, Court Officer.
- 13 Counsel Taylor, please proceed.
- 14 MS TAYLOR:
- 15 Q. [10:14:00] Now, Madam Witness, is it correct that your husband did not speak
- 16 Songhai?
- 17 PRESIDING JUDGE MINDUA: [10:14:15] Maître Goffin.
- 18 MS GOFFIN: [10:14:16](Interpretation) Excuse me, your Honour, but perhaps one
- 19 must specify which husband are we talking about.
- 20 PRESIDING JUDGE MINDUA: [10:14:28](Interpretation) Counsel Taylor.
- 21 MS TAYLOR:
- 22 Q. [10:14:31] The husband that was with you at the hospital, the second husband.
- 23 Is it correct that your second husband who was with you at the hospital did not speak
- 24 Songhai?
- 25 A. [10:15:04] It's true that he did not speak either Tamasheq nor Songhai.

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1 Q. [10:15:14] So is it correct, Madam Witness, that the nurses could have given you
2 an injection without him knowing what it was for?

3 A. [10:15:53] That was not possible because he was always there with us. He
4 refused to leave the room.

5 Q. [10:16:02] But is it correct, Madam Witness, that he himself did not understand
6 what the nurses were speaking to you about?

7 A. [10:16:32] It is true that he did not understand the language spoken by
8 the nurses. And he -- he was just scared that they would give the pill.

9 Q. [10:16:54] Madam Witness, is it correct, though, that they did give you pills?

10 A. [10:17:27] Yes, they did give me tablets.

11 Q. [10:17:35] Now, Madam Witness --

12 A. [10:17:39] It was for them a way to prove that I wasn't lying about the fact that I
13 had malaria.

14 Q. [10:17:46] Now, Madam Witness, yesterday, at page 62, you testified you don't
15 speak Arabic, and as a result you and your husband did not have conversations.
16 You communicated in sign language.

17 I'm going to let the interpreters interpret that, and then I have a question.

18 A. [10:18:47] Yes, it is true that we were only communicating using sign language.

19 Q. [10:18:59] So, Madam Witness --

20 A. [10:19:00] He never spoke to me. I don't want to speak to him, and all we did
21 was fight.

22 Q. [10:19:09] So, Madam Witness, is it correct that after you got pregnant you never
23 had a verbal conversation with your second husband about your pregnancy
24 symptoms?

25 A. [10:19:59] You're talking about my second husband, because I wasn't in touch

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1 with my first husband, so he wasn't aware of what was going on.

2 Q. [10:20:12] Madam Witness, when you were living -- when you were married to
3 your second husband, and after you realised you were pregnant, is it correct that you
4 never had a verbal conversation with your second husband about your pregnancy
5 symptoms?

6 A. [10:21:24] Yes, he saw that I was sick, I was vomiting. And he also saw that I
7 did not have my periods. And I know that I always feel ill and have vomiting when
8 I'm pregnant.

9 Q. [10:21:48] Now, Madam Witness, is it correct that after you were vomiting and
10 were sick, you never had a verbal discussion or conversation with your second
11 husband about these things?

12 A. [10:22:50] I would say to him in sign language that I was ill and he would reply
13 back in his language. Sometimes I could understand the words he said and he
14 would say, "Even though you are sick, your genitals are not."

15 Q. [10:23:14] Madam Witness, can you explain how you understood these words in
16 Arabic.

17 A. [10:23:50] I'll explain that to you. It sometimes happens that we can actually
18 understand a few words, but not the whole sentence. But from the context, you can
19 actually make out what the person's saying.

20 Q. [10:24:09] So is it correct, Madam Witness, that you were guessing what he was
21 saying from the context?

22 A. [10:24:42] Yes, because the person with whom you're sharing the house, and
23 even though it's through sign language, you try and understand what he's telling you.

24 Q. [10:25:03] I'm going to turn to visits from your sister and mother. Yesterday at
25 page 64 and 65 you testified that they would come to the house when they knew that

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1 your second husband was present. So my question concerns how is it that your
2 mother and sister knew that your husband was present? Were you able to
3 communicate with them?

4 A. [10:26:33] What happened was they would come in the morning or when they
5 would deem he'd be in the house. Or when they would -- or in the afternoon when
6 they would think he would be in the house, they would come knock at the door so
7 that he could open the door.

8 Q. [10:27:03] So was it correct that they also came sometimes when he was not
9 present?

10 A. [10:27:31] I can't say anything because I was inside the house, and only when he
11 would be in the house would I know that they haven't come -- that she hasn't come.

12 Q. [10:27:49] I'm going to turn to the period after the Islamists left Timbuktu. At
13 page 74, lines 15 to 16, you testified that you went to the hospital and consulted with
14 a doctor. Did you talk to the doctor about getting an abortion?

15 A. [10:29:06] Yes, I did go to the hospital with the intention of getting an abortion
16 done because I did not want to keep this pregnancy. The nurses told me that this
17 was not possible because I was three months gone.

18 Q. [10:29:29] Now, Madam Witness, yesterday at lines 15 to 16 you testified that
19 you also consulted with a doctor. What did you consult with the doctor about?

20 A. [10:30:14] Are you talking about when they arrived or after they left?

21 Q. [10:30:24] Madam Witness, I'm talking about after the Islamists left, you testified
22 that you went to the hospital and consulted with a doctor.

23 My question is, what did you consult with the doctor about? This is when you were
24 pregnant with your second husband.

25 PRESIDING JUDGE MINDUA: [10:30:50](Interpretation) Maître Goffin.

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1 MS GOFFIN: [10:30:55](Interpretation) Perhaps there's a translation error, because in
2 the French transcript there is no doctor, but a nurse, and in French it says,
3 page 74 -- sorry, 75, line 3.

4 PRESIDING JUDGE MINDUA: [10:31:18](Interpretation) Yes.
5 Counsel Taylor.

6 MS TAYLOR: [10:31:23] I'll ask the question again to elicit, because in the English it
7 had "doctor".

8 PRESIDING JUDGE MINDUA: [10:31:31](No interpretation)

9 MS TAYLOR: [10:31:33]

10 Q. [10:31:33] Madam Witness, when you went to the hospital did you see a doctor
11 before speaking to the nurses?

12 A. [10:32:05] No, I just spoke to the nurses, if you're talking about the first occasion
13 that I went to the hospital.

14 Q. [10:32:16] Madam Witness, I'm speaking about the second occasion you went to
15 the hospital. This is after your husband left. You testified you went to the hospital
16 a second time after your husband had left.

17 Did you consult with a doctor this time you went to the hospital after the Islamists
18 left?

19 A. [10:33:25] Are you listening to me?

20 Q. [10:33:31] Madam Witness, I don't know if you heard my question, but this time
21 you went to the hospital after the jihadists or Islamists had left, after your
22 husband -- second husband had left, did you consult with a doctor?

23 A. [10:34:28] No, I just saw the nurses. They are the ones who consulted me and
24 informed me that I could not abort, that I had to go home and that I had to put myself
25 in the hands of God.

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1 Q. [10:34:47] And why did you not see a doctor?

2 PRESIDING JUDGE MINDUA: [10:35:02](Interpretation) Mr Prosecutor.

3 MR DUTERTRE: [10:35:05](Interpretation) Mr President, I believe that this question
4 is purely speculative and I believe that the objection is quite clear.

5 PRESIDING JUDGE MINDUA: [10:35:18](Interpretation) Ms Taylor, I do believe
6 that this question is not important. Move on to something else.

7 MS TAYLOR: [10:35:25] Thank you, Mr President.

8 Although I do fail to see how it could be speculative to ask the witness about what
9 she herself did or didn't do. But I do have a follow-up question which is directly
10 relevant.

11 Q. [10:35:41] Which is, when you spoke to the nurses, Madam Witness, did you ask
12 them to examine your shoulder?

13 A. [10:36:17] Yes, I did ask them to examine my shoulder. They told me that it
14 was sprained.

15 Q. [10:36:31] So was it correct, Madam Witness, that they would have been in
16 a position to issue medical certificates for you?

17 PRESIDING JUDGE MINDUA: [10:36:50](Interpretation) Maître Goffin.

18 MS GOFFIN: [10:36:51](Interpretation) Yes, Mr President, I believe that we are going
19 here into purely speculative matters. We are presuming that Madam Witness at that
20 moment in time was able to ask the-- a medical certificate. And I would remind you
21 that she does not know how to either read or write.

22 And the mindset that she had at the moment, I don't see how she could have been
23 mindful enough to ask for a medical certificate at that moment in time.

24 PRESIDING JUDGE MINDUA: [10:37:30](Interpretation) Yes, your question was,
25 were the nurses able or in a position to provide you with a medical certificate. That's

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1 speculation. Why don't you ask did you ask for a medical certificate and then we'll
2 see that she wasn't interested or wasn't thinking about such a thing.

3 MS TAYLOR: [10:37:53] Mr President, may I respond briefly with the sound cut off
4 to the witness. And may I ask my learned colleague not to make these objections
5 which go into substance while the witness is still on line.

6 PRESIDING JUDGE MINDUA: [10:38:12](Interpretation) Madam Courtroom Officer,
7 could you please cut off the feed to the witness.

8 THE COURT OFFICER: [10:38:22] Mr President, the sound has been cut.

9 PRESIDING JUDGE MINDUA: [10:38:25](Interpretation) Thank you very much.
10 Ms Taylor.

11 MS TAYLOR: [10:38:28] Thank you, Mr President.

12 I'm happy to reformulate my question in the way suggested by Mr President, but I
13 would like to explain that in the Bamako proceedings this witness informed
14 the Bamako judge that she did not obtain a certificate for rape because she was
15 pregnant at the time when she went to the hospital.

16 Now, while that may prevent her from getting a -- her being examined for rape, it
17 does not prevent her from being examined for a shoulder injury or for obtaining a
18 certificate.

19 Now, given this witness specifically herself testified in relation to the circumstances of
20 not obtaining a certificate, we should be permitted to put a question to her on this
21 point.

22 PRESIDING JUDGE MINDUA: [10:39:26](Interpretation) Ms Taylor, I doubt that
23 very much.

24 Now, three months later when she was putting the question about having an abortion,
25 is she then going to ask for a medical certificate for facts associated with her shoulder

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1 that happened three months earlier? I really doubt that. But you can reformulate
2 your question and we'll see what happens.

3 MS TAYLOR: [10:39:51] Thank you, Mr President.

4 I believe I wasn't clear. I understand from the Bamako proceedings that she
5 explained to the judge that she had not subsequently requested the hospital to issue
6 a report concerning her examination of rape because she hadn't been examined for
7 rape. So my question pertains to not her asking for a certificate at the time of
8 the examination, but rather whether she would have been in a position to request
9 the nurses that examined her to issue a certificate subsequently.

10 PRESIDING JUDGE MINDUA: [10:40:29](Interpretation) Maître Goffin, did you
11 follow what was going on?

12 Maître Nsita.

13 MR LUVENGIKA: [10:40:34](Interpretation) Yes, thank you, Mr President, for
14 allowing me to address the Court. But as Maître Goffin underscored at an earlier
15 stage, all these questions are speculative. We have before us a witness who is
16 illiterate and who does not reason in the same manner as people who are educated.
17 She was a victim of facts that were lengthy in duration and that gave rise to
18 a pregnancy, and that the time when she went to the hospital to consult on her
19 pregnancy, whilst the rape was ongoing, had been ongoing for a long time.
20 Now, with her level of intelligence we do not see how this would have come to her
21 mind, how she would have been alive to that to ask for a medical certificate, even for
22 the pain that she had in her shoulder, which was a minor concern in -- against her
23 pregnancy. So we are of the mind that she -- this question really does not have
24 a *raison d'être*.

25 Thank you.

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1 PRESIDING JUDGE MINDUA: [10:41:45](Interpretation) Ms Taylor, I believe that as
2 Maître Nsita explained, the witness is illiterate and I believe that we can move on to
3 something else.

4 MS TAYLOR: [10:41:52] Well, Mr President, may I use the question that you
5 proposed I use, which is to ask her -- and, again, I want to make clear I was not asking
6 in relation to the time she was examined, but if at any point in time she asked these
7 nurses who examined her to issue a certificate.

8 PRESIDING JUDGE MINDUA: [10:42:17](Interpretation) Well, let's try that and see
9 what she has to answer.

10 Please go ahead, Ms Taylor.

11 Now let's re-establish the connection with the witness, please, Madam Courtroom
12 officer.

13 THE COURT OFFICER: [10:42:30] Mr President, the sound has been re-established.

14 PRESIDING JUDGE MINDUA: [10:42:35](Interpretation) Thank you very much,
15 Madam Courtroom Officer.

16 Ms Taylor.

17 MS TAYLOR: [10:42:39]

18 Q. [10:42:40] Madam Witness, in the time period since when you were examined
19 by these nurses, have you ever asked them or the hospital to issue a certificate
20 concerning their examination of your shoulder?

21 A. [10:43:37] No, I did not try to obtain a certificate. When I was informed that I
22 could no longer abort, I did not try to get a certificate and I went home.

23 PRESIDING JUDGE MINDUA: [10:43:52](Interpretation) There we are, Ms Taylor.
24 We have the answer. Let's move on to something else.

25 MS TAYLOR: [10:43:57]

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1 Q. [10:43:57] Now, Madam Witness, I'm going to speak about the same time period
2 and the time period when the Malian and the French forces entered into Timbuktu in
3 2013.

4 Madam Witness, is it correct that when the French forces arrived, they were searching
5 for people that they thought were jihadists?

6 A. [10:45:00] Yes, that is indeed true.

7 Q. [10:45:05] And were they searching for them among the lighter skinned
8 population of Timbuktu?

9 A. [10:45:44] I wouldn't be able to express myself with regard to that difference as
10 to the difference in skin colour. What I do know is that the Malian army and
11 the French army came to Timbuktu searching for the mujahideen.

12 Q. [10:46:12] Is it right that most of the light-skinned population, that is the Arabs
13 and the light-skinned Tuaregs, fled Timbuktu at this point, that is when the Malian
14 and the French army entered?

15 PRESIDING JUDGE MINDUA: [10:46:33](Interpretation) Maître Goffin.

16 MS GOFFIN: [10:46:35](Interpretation) Yes, thank you, Mr President. I would
17 really like to be able to ascertain the relevance of this question because the witness
18 said that she stayed at home, and I do not see why her opinion on this matter is
19 relevant with regard to what she said yesterday.

20 PRESIDING JUDGE MINDUA: [10:46:56](Interpretation) Ms Taylor.

21 MS TAYLOR: [10:46:58] Mr President, I would have to cut off the sound to the
22 witness.

23 PRESIDING JUDGE MINDUA: [10:47:07](Interpretation) Madam Courtroom Officer,
24 could you please cut off the feed to the witness.

25 THE COURT OFFICER: [10:47:13] Mr President, the sound has been cut.

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1 PRESIDING JUDGE MINDUA: [10:47:18](Interpretation) Thank you very much,
2 Madam Courtroom Officer.

3 Ms Taylor.

4 MS TAYLOR: [10:47:23] Thank you very much, Mr President.

5 These questions relate directly to the witness's testimony on issues of stigma and
6 discrimination that occurred after the Islamists left Timbuktu. And it arises, more
7 importantly, from the specific words of the victim's own victim application form.
8 And the reference is tab 5 of the Defence batch, MLI-V43-0002-0008 at 0012 where she
9 stated that her parents didn't associate with her because they were afraid of reprisals
10 from the Malian forces. So I'm trying to establish the context of this fear of reprisals
11 and I do believe we should be entitled to do so.

12 If the witness can't answer, she's perfectly entitled to say that, but we should be
13 allowed to put the questions.

14 PRESIDING JUDGE MINDUA: [10:48:32](Interpretation) Yes, Maître Goffin, I do
15 believe that the Defence should be allowed to put this question. We are going to
16 re-establish the feed with the witness.

17 Madam Courtroom Officer, please, the sound, please.

18 THE COURT OFFICER: [10:48:53] Mr President, the sound has been re-established.

19 PRESIDING JUDGE MINDUA: [10:48:55](Interpretation) Thank you very much,
20 Madam Courtroom Officer.

21 Ms Taylor.

22 MS TAYLOR: [10:49:00]

23 Q. [10:49:01] Madam Witness, is it correct that most of the Arab and Tuareg,
24 light-skinned Tuaregs, fled Timbuktu after the Malian and the French army entered
25 Timbuktu?

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1 A. [10:49:56] Yes, it is true that anybody could -- who could leave the town did so.
2 It was only the residents who could not leave.

3 Q. [10:50:10] Now speaking of this time period when the French and Malian army
4 entered Timbuktu, did you see or hear anything about the local population breaking
5 into shops that belonged to Arabs?

6 A. [10:51:19] Yes, I did hear speak of that. I'm not somebody who accompanies
7 people, or anything like that, but I heard that the shops were broken into by
8 the population.

9 Q. [10:51:44] And, Madam Witness, did you hear or see anything about incidents
10 concerning local Arabs who were killed or abducted by the Malian army?

11 PRESIDING JUDGE MINDUA: [10:52:06](Interpretation) Maître Goffin.

12 MS GOFFIN: [10:52:07](Interpretation) Yes, Mr President. We are coming entirely
13 out of the scope of the testimony with the witness. Could we please cut the sound.

14 PRESIDING JUDGE MINDUA: [10:52:23](Interpretation) Madam Courtroom Officer,
15 could you please cut the sound off to the witness.

16 THE COURT OFFICER: [10:52:26] Mr President, the sound is cut.

17 PRESIDING JUDGE MINDUA: [10:52:29](Interpretation) Thank you very much,
18 Madam Courtroom Officer.

19 Maître Goffin.

20 MS GOFFIN: [10:52:33](Interpretation) As I was saying, we're really coming out of
21 the scope of the witness's testimony. We're asking here to talk about things that she
22 wasn't an eyewitness to. We know what conditions she left her house and
23 then -- the house and then shut herself up in her own house. So we're asking her to
24 express herself on -- about things that are rather important that she was not able to
25 witness herself. She might have heard rumours at a later stage after the facts

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1 happened.

2 I really don't see what the relevance of this line of questioning is, in view of

3 the fact -- in view of the actual substance of her testimony. Thank you.

4 PRESIDING JUDGE MINDUA: [10:53:18](Interpretation) Thank you, Maître Goffin.

5 Now what would you like to answer to that, Ms Taylor?

6 MS TAYLOR: [10:53:23] Well, Mr President, in the interest of time I can move to my

7 next question. But I would like to note that her testimony hasn't been limited to

8 what she saw with her eyes. But the LRV, with this witness and with many

9 witnesses, have asked them about what they heard, and have asked such questions.

10 So it's not consistent with the practice of this Chamber or the practice of the Court to

11 limit a witness's testimony to what they only saw with their eyes. But in the interest

12 of time I will move on to my next question.

13 PRESIDING JUDGE MINDUA: [10:54:01](Interpretation) Yes, indeed, I do agree

14 with you, Ms Taylor. Please move on to the next question.

15 But I would like to point out to Maître Goffin that on occasion you have put

16 a question or questions to a witness about what she saw or heard about in general

17 terms.

18 Please go ahead, Ms Taylor.

19 Madam Courtroom Officer, could we please establish or re-establish the feed with

20 the witness.

21 THE COURT OFFICER: [10:54:35] Mr President, the sound has been re-established.

22 PRESIDING JUDGE MINDUA: [10:54:40](Interpretation) Thank you very much,

23 Madam Courtroom Officer.

24 Ms Taylor.

25 MS TAYLOR:

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1 Q. [10:54:46] Now, Madam Witness, you testified that many people fled Timbuktu
2 at this point, including the Arabs and Tuaregs, and this was after the Malian and
3 French army entered Timbuktu.

4 Based on what you yourself heard, is it correct that there was a concern that they
5 could be subject to reprisals or retaliation even if they were not working with
6 the Islamists?

7 PRESIDING JUDGE MINDUA: [10:55:48](Interpretation) Yes, Mr Nsita.

8 MR LUVENGIKA: [10:55:50](Interpretation) Mr President, I thought that our
9 learned friend had decided to abandon that line of questioning, but we note that she
10 is still continuing with this line.

11 Now, at an earlier stage when an objection was raised, she said that this line of
12 questioning was justified by the trauma that the victim claims to have suffered even
13 after the departure. But nevertheless, we do not see the relevance or the nexus
14 between these questions and the witness's testimony. Thank you.

15 PRESIDING JUDGE MINDUA: [10:56:29](Interpretation) Ms Taylor.

16 MS TAYLOR: [10:56:32] Mr President, firstly, I would invite again my learned
17 colleagues not to make these interventions when the sound is cut off to the witness.

18 Secondly, I never said I would abandon this line of questioning. I said I would move
19 to my next question. Having cut off already one question, that obviously
20 complicates our line of questioning.

21 I can move to my final question, but I'm not going to abandon this line of questioning
22 because I still need to get to the very specific point that I addressed with this Chamber
23 when the sound was cut off, which the Chamber permitted us to explore.

24 Now, because -- I can cut off the sound to explain what that point is, or I can just ask
25 that question. But it was already addressed, and I do believe the Chamber, if I may

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1 refer to her victim application form, did indeed say that it was relevant.

2 PRESIDING JUDGE MINDUA: [10:57:30](Interpretation) Please go ahead,

3 Ms Taylor. Let's just gain time here, save time. And put the question and let's see
4 whether the witness can answer it.

5 MS TAYLOR:

6 Q. [10:57:42] Madam Witness, is it right that your parents didn't associate with you
7 because they were afraid they could be subjected to reprisals by the Malian forces?

8 A. [10:58:38] I do not know why this happened, why they put themselves in that
9 situation. But what I do know is that my relatives detested me, and they do still.

10 Q. [10:58:56] Madam Witness, I'm going to turn to a document. It should not be
11 shown to the public. It's Defence tab 5. I don't know if you have it before you, or if
12 it could be shown on your screen. I know you can't read. I'm not going to ask you
13 to read it. It's MLI-V43-0002-0008. If you could confirm if that's on your screen.

14 Madam Witness, this is a victim application --

15 I think we should go into private session. I apologise.

16 PRESIDING JUDGE MINDUA: [10:59:41](Interpretation) Madam Courtroom Officer,
17 private session, please.

18 (Private session at 10.59 a.m.)

19 THE COURT OFFICER: [10:59:47] We are in private session, Mr President.

20 (Redacted)

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18 (Open session at 11.03 a.m.)
19 THE COURT OFFICER: [11:03:15] We are back in open session, Mr President.
20 PRESIDING JUDGE MINDUA: [11:03:22](Interpretation) Thank you so much,
21 Court Officer.
22 It's 11.03. We're going to have our first break. We're going to suspend the session
23 and we will resume at 11.30.
24 The session is suspended. Thank you.
25 THE COURT USHER: [11:03:40] All rise.

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1 (Recess taken at 11.03 a.m.)

2 (Upon resuming in open session at 11.33 a.m.)

3 THE COURT USHER: [11:33:35] All rise.

4 Please be seated.

5 PRESIDING JUDGE MINDUA: [11:33:53](Interpretation) The hearing is resumed

6 and we're going to continue the cross-examination by the Defence. I would like to

7 give the floor to the Defence team.

8 Counsel Taylor, you've got the floor.

9 MS TAYLOR: [11:34:14] Thank you very much, Mr President.

10 Just before the break we were about to put a question that was in closed session or

11 private session. Can we go back into private session to put that question?

12 And with your leave, may my colleague, Maître Basile, read out the extract in French

13 in private session.

14 PRESIDING JUDGE MINDUA: [11:34:43](Interpretation) Yes.

15 Court Officer, private session, please.

16 (Private session at 11.34 a.m.)

17 THE COURT OFFICER: [11:34:58] We are in private session, Mr President.

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- 13 (Open session at 11.52 a.m.)
- 14 THE COURT OFFICER: [11:52:07] We are in open session, Mr President.
- 15 PRESIDING JUDGE MINDUA: [11:52:11](Interpretation) Thank you, court officer.
- 16 Counsel Taylor, please proceed.
- 17 MS TAYLOR: [11:52:16]
- 18 Q. [11:52:17] Madam Witness, you just referred to a training session where people
- 19 recorded your names. Can you explain what you mean by a training session. What
- 20 happened during this session?
- 21 A. [11:53:01] In fact, when we meet there are people who record the names of
- 22 the victims, and it was such a meeting.
- 23 Q. [11:53:17] And was this meeting arranged by the organisation that helped you
- 24 fill out your form, the one we just discussed?
- 25 A. [11:54:07] No, on this day they just recorded the names and they taught us how

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1 to make yoghurt and how to prepare milk. That's all.

2 Q. [11:54:30] Now, Madam Witness, you said you're not someone who goes out
3 much, that you stayed at home. Was this form completed at your house, this victim
4 form?

5 A. [11:55:30] In fact, I told them what happened to me and they wrote it down. At
6 that point of time they had actually recruited a Songhai interpreter. I did not speak
7 Songhai, but they did not recruit an interpreter whose language I understood.

8 Q. [11:56:00] Okay. So if I can understand, when you were interviewed in relation
9 to this victim application form, it was in Songhai?

10 A. [11:56:39] During that time all meetings were held in Songhai. There were
11 things I did not say and there were things I did say. And I don't know if they wrote
12 them down.

13 Q. [11:57:00] You've referred to meetings. How many meetings were there,
14 approximately?

15 A. [11:57:54] There was a meeting in my zone in Timbuktu and another zone, and
16 the interpreters were -- spoke the Songhai language that I did not understand.
17 Now, this time around the interpreters were speaking the same language as I spoke
18 and they were made available to me.

19 Q. [11:58:25] Now, these meetings that occurred in Timbuktu and another zone,
20 were they attended by other victims of the 2012 *crise*?

21 A. [11:59:26] To be honest, I don't know. The interpreters who spoke my
22 language were not made available to me. And I was there and I wanted to say
23 things. I would say things and I couldn't be understood and there were things that I
24 did not understand.

25 Q. [11:59:56] Now, yesterday at page 78 you testified that after the Islamists left,

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1 thanks to some help that you were able to receive, you were able to survive. By

2 "help" do you mean financial assistance?

3 A. [12:01:03] There were certain projects that gave us some financial assistance and
4 then there were various meetings during which we -- or for which we received some
5 financial assistance. And financial assistance for two other projects as well.

6 MS TAYLOR: [12:01:28] May I ask one question in private session.

7 PRESIDING JUDGE MINDUA: [12:01:37](Interpretation) Yes, indeed.

8 Madam Courtroom Officer, private session, please.

9 (Private session at 12.01 p.m.)

10 THE COURT OFFICER: [12:01:48] We are in private session, Mr President.

11 (Redacted)

12 (Redacted)

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- 9 (Open session at 12.04 p.m.)
- 10 THE COURT OFFICER: [12:04:39] We are back in open session, Mr President.
- 11 PRESIDING JUDGE MINDUA: [12:04:46](Interpretation) Thank you very much,
- 12 Madam Courtroom Officer.
- 13 Ms Taylor.
- 14 MS TAYLOR: [12:04:51]
- 15 Q. [12:04:53] Now, Madam Witness, do you recall travelling to Bamako to speak to
- 16 a judge about what happened to you in 2012? What happened when the Islamists
- 17 were in Timbuktu.
- 18 A. [12:05:58] Yes, I do remember that. I did go. But it's the same story over
- 19 again as to the availability of the interpreters. But I had explained to them that I did
- 20 need an interpreter, but they did not provide one or make one available for me. So I
- 21 wasn't able to say everything that I wanted to say.
- 22 Q. [12:06:27] I'll get to that point, Madam Witness.
- 23 Did you ask the judge to obtain compensation or reparations as part of this
- 24 complaint?
- 25 A. [12:07:44] Yes, I did tell them, but I told them in Songhai. I don't know

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1 whether -- whether I was understood or not. I explained to him that I had suffered,
2 had been in pain. I was also -- did not have any accommodation. I was also
3 affected by my mother's case. I told him all of that. However, I was not called back
4 after the president was arrested.

5 I was also -- I also suffered because I was rejected by my parents.

6 Q. [12:08:30] Madam Witness, did you withdraw your complaint or do you know if
7 your complaint was withdrawn before you appeared here as a witness?

8 A. [12:09:14] I do apologise. Can you repeat what you just said for me to
9 understand it correctly?

10 Q. [12:09:21] I apologise, Madam Witness. It's my fault for not being clear.
11 According to a document we have, you participated as a civil party, that is you filed
12 a complaint before a judge in Bamako. Do you know if this complaint was
13 withdrawn before you appeared here yesterday as a witness?

14 A. [12:10:38] Since my return, I have not been back. And there was also an
15 upheaval within the territory. A leader was arrested. I only came back on this
16 occasion.

17 THE INTERPRETER: [12:11:01] Says the Tamasheq booth.

18 MS TAYLOR: [12:11:08] Mr President, I have a few questions about the text of
19 the documents which concern names.

20 With your leave, may I go into private session?

21 PRESIDING JUDGE MINDUA: [12:11:25](Interpretation) Madam Courtroom Officer,
22 private session, please.

23 (Private session at 12.11 p.m.)

24 THE COURT OFFICER: [12:11:36] We are in private session, Mr President.

25 (Redacted)

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21 (Open session at 12.26 p.m.)

22 THE COURT OFFICER: [12:26:12] We are back in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [12:26:18](Interpretation) Thank you very much,

24 Madam Courtroom Officer.

25 Ms Taylor.

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1 MS TAYLOR: [12:26:23] Thank you, Mr President.

2 Q. [12:26:24] Madam Witness, when you were in Bamako, did you hear anything
3 on the radio or the television or at workshops concerning the Al Hassan case at the
4 ICC?

5 A. [12:27:29] In fact, I heard about the Al Hassan case just like that. I heard certain
6 information, and other information I was not privy to. This is information that came
7 to me, but I've never seen it.

8 Q. [12:27:56] Madam Witness, I'm going to read an extract from your complaint
9 and ask you a question.

10 And the reference is MLI-OTP-0081-0216-R03 at 0259.

11 This is your response when you were asked to relate what happened to you in 2012.

12 And with the leave of the Judge, if my colleague, Maître Basile, could read it in
13 French.

14 PRESIDING JUDGE MINDUA: [12:28:36](Interpretation) One moment, counsel,
15 because this is being interpreted to the witness.

16 THE INTERPRETER: [12:28:40] Message from the English booth: Could
17 Madam Basile please read it slowly for the Tamasheq interpreters to be able to
18 interpret it.

19 MS BASILE: [12:28:52](Interpretation) "During the year 2012" --

20 PRESIDING JUDGE MINDUA: [12:28:57](Interpretation) Please wait, Madam Basile.
21 The interpretation into Tamasheq has not yet finished.

22 THE INTERPRETER: [12:29:24] Message from the English booth: The Tamasheq
23 booth is looking for the document. Could it please be read slowly for the purpose of
24 interpretation. Thank you.

25 Could this message please be conveyed to Maître Basile.

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- 1 PRESIDING JUDGE MINDUA: [12:29:38](Interpretation) There we are.
- 2 MS BASILE: [12:29:40](Interpretation) "During 2012, subsequent to the invasion of
3 the town of Timbuktu by the terrorist forces called the jihadists, a man in -- dressed in
4 multicoloured attire and armed came into our family."
- 5 MS TAYLOR:
- 6 Q. [12:30:00] Madam Witness, were these all your own words?
- 7 A. [12:30:52] It was about my husband. They asked me questions about my
8 husband. And I was asked if he came home, and I said he did. And I described
9 what he was wearing, his attire.
- 10 Q. [12:31:09] Madam Witness, my question was, according to this complaint, it said:
11 "During 2012, following the invasion of the city of Timbuktu by the terrorist force,
12 that is the jihadists," are these words your words?
- 13 PRESIDING JUDGE MINDUA: [12:31:54](Interpretation) Counsel Goffin.
- 14 MS GOFFIN: [12:31:55](Interpretation) I think we must cut off the witness's sound.
- 15 PRESIDING JUDGE MINDUA: [12:32:08](Interpretation) Court Officer, please
16 proceed to cut off the witness's sound.
- 17 THE COURT OFFICER: [12:32:23] The sound to the witness has been cut.
- 18 PRESIDING JUDGE MINDUA: [12:32:29](Interpretation) Thank you, Court Officer.
19 Counsel Goffin.
- 20 MS GOFFIN: [12:32:35](Interpretation) There are two problems here. We're asking
21 the witness if it's her own words, and I -- and this was basically -- this was already
22 raised before, and I'm not sure that Mrs -- that Madam Witness would remember.
23 And I don't think she would remember a translation in a language that's not hers. So
24 there are two difficulties here. So I was actually wondering, is it really necessary to
25 pursue this question.

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1 PRESIDING JUDGE MINDUA: [12:33:22](Interpretation) Yes, Counsel Goffin,
2 you are right in theory. There are two difficulties. But Counsel Taylor would like
3 to check the content of the declaration, even though there is a language problem.
4 Perhaps the witness has forgotten.

5 And, Counsel Taylor, you could repeat your question and we'll see if the witness
6 remembers.

7 MS TAYLOR: [12:33:50] Certainly, Mr President.

8 Just to explain, the reason why we're asking this question is there are identical
9 phrases in the different accounts given by different witnesses at this time period. So
10 we're trying to establish a foundation for putting to the witness whether these phrases
11 came from the witness or whether they came from the interpreter.

12 PRESIDING JUDGE MINDUA: [12:34:18](Interpretation) Right. So we're going to
13 reconnect the sound and you can ask the question again to the witness.
14 Court Officer, please connect the sound to the witness.

15 THE COURT OFFICER: [12:34:37] Mr President, the sound to the witness has been
16 re-established.

17 PRESIDING JUDGE MINDUA: [12:34:43](Interpretation) Thank you, Court Officer.
18 Counsel Taylor.

19 MS TAYLOR:

20 Q. [12:34:48] Madam Witness, according to the document we have, it says that in
21 response to a judge's question, the first words of your response are that:

22 "During 2012, following the invasion of the city of Timbuktu by the terrorist forces,
23 that is the jihadists, a man wearing multicoloured cloths and a weapon came to our
24 family."

25 Now my question, this phrase, "following the invasion of the city of Timbuktu by

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1 the terrorist forces, that is the jihadists," was that language you yourself used, or did it
2 come from the interpreter?

3 A. [12:37:06] I don't know because I do not speak the same language as
4 the interpreter. But I was talking about the man who came to my -- who came to my
5 house. He came the first time around, and then he came a third. When he came
6 the third time around, he was actually with this person.

7 Now, he could have said something else that I'm completely unaware of.

8 Q. [12:37:41] Now, Madam Witness, I'm going to another page of the complaint,
9 which shouldn't be shown to the witness. It's page 0262.

10 According to this document, the judge heard from another female victim at 10 hours
11 40, that is less than two hours before you. And in response to a question concerning
12 what happened to her, the first question, she used the phrase, "*Courant 2012, à la suite*
13 *de l'invasion de la ville de Tombouctou par les forces terroristes dites Djihadistes*," so her
14 response uses the same words that are written down in your first response.

15 So my question is, Madam Witness, do you have any explanation as to why this
16 individual who appeared on the same day as you used the same words in response to
17 her first question?

18 PRESIDING JUDGE MINDUA: [12:38:55](Interpretation) Counsel Taylor, I don't
19 think the witness can answer that question. First of all, she's illiterate. And she's
20 not the one who responded. You can actually draw your own conclusions when
21 the time comes.

22 Can we just move on.

23 MS TAYLOR: [12:39:13] Certainly, Mr President.

24 Q. [12:39:17] Madam Witness, when you testified did you ever use phrases or
25 language that you had heard in workshops or from lawyers?

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1 A. [12:40:30] Yes, I did use certain terms, certain words that I did hear during our
2 meetings and training programmes. I heard women who used them.

3 MS TAYLOR: [12:40:49] Mr President, I just have a few questions to ask in private
4 session.

5 PRESIDING JUDGE MINDUA: [12:40:59](Interpretation) For how much time,
6 Counsel Taylor?

7 MS TAYLOR: [12:41:06] These questions could be -- it's just a couple of questions.
8 It was just to ask if she recognises an individual.

9 PRESIDING JUDGE MINDUA: [12:41:18](Interpretation) Right.
10 Court Officer, private session, please.

11 (Private session at 12.41 p.m.)

12 THE COURT OFFICER: [12:41:36] We are in private session, Mr President.

13 (Redacted)

14 (Redacted)

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20 (Open session at 12.47 p.m.)
21 THE COURT OFFICER: [12:47:41] We're in open session, Mr President.
22 PRESIDING JUDGE MINDUA: [12:47:54](Interpretation) Would you like to be in
23 private session?
24 MS TAYLOR: [12:47:56] Yes, Mr President, because it concerns the name, and I do
25 believe the name would have to be in private session.

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- 1 PRESIDING JUDGE MINDUA: [12:48:12](Interpretation) Court Officer, private
- 2 session, please.
- 3 (Private session at 12.48 p.m.)
- 4 THE COURT OFFICER: [12:48:24] We are in private session, Mr President.
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15 PRESIDING JUDGE MINDUA: [12:54:14](Interpretation) Yes, Counsel Taylor.
16 Can I just say -- remind you that you have 18 minutes more. But the Chamber can
17 give you more time to finish this in the session.
18 MS TAYLOR: [12:54:36] Certainly, Mr President.
19 And just if I may ask if Mr Al Hassan can leave at 1 o'clock to pray, not to leave
20 the hearing. But if he may be excused to pray at 1 o'clock so that we can continue
21 this session and finish and that the witness can be excused.
22 PRESIDING JUDGE MINDUA: [12:54:57](Interpretation) Yes, by all means. I see
23 that the Prosecutor wants to intervene.
24 MR DUTERTRE: [12:55:06](Interpretation) With your indulgence, your Honour,
25 there is a question for which I would like a suspension so I can talk to my team. And

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1 this would actually lead us to over 18 minutes, so I was wondering if we could have
2 our break and then resume at 2.30. This could have an impact on
3 the cross-examination.

4 PRESIDING JUDGE MINDUA: [12:55:38](Interpretation) Right.

5 So, Counsel Taylor, you've heard what he said. We're going to actually stop at 1 and
6 you can continue later on.

7 MS TAYLOR: [12:55:47] Mr President, if I may, I'm not quite understanding
8 the Prosecutor's intervention. Is there something they need to disclose to us? Is
9 this -- if it impacts upon our cross-examination then I would prefer to get it earlier
10 than later.

11 PRESIDING JUDGE MINDUA: [12:56:09](No interpretation)

12 MR DUTERTRE: [12:56:10](Interpretation) Yes, it's a communication issue. This is
13 something recent, and I'm looking at it, but I would like to talk to my team. So
14 the break would be most welcome.

15 PRESIDING JUDGE MINDUA: [12:56:25](Interpretation) But as I said, we would
16 have our break after the presentation of the Defence.
17 What are you suggesting?

18 MR DUTERTRE: [12:56:33](Interpretation) This is something that could lead to
19 questions from the Defence, so if we go to 1, then I could -- I would discuss
20 the question with my team and the Defence could resume at 2.30, if you're okay with
21 that.

22 PRESIDING JUDGE MINDUA: [12:56:50](Interpretation) So I'm going to consult my
23 colleagues quickly.

24 (Trial Chamber confers)

25 PRESIDING JUDGE MINDUA: [12:57:55](Interpretation) Mr Prosecutor,

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1 the problem is that we've got to start another witness after the lunch break. So
2 Counsel Taylor is going to finish with her question. We will -- the Chamber will
3 give you about one or two minutes to consult with your team and then we're going to
4 conclude.
5 One minute, please.
6 Yes, Prosecutor.
7 MR DUTERTRE: [12:58:29](Interpretation) We will comply with this.
8 PRESIDING JUDGE MINDUA: [12:58:32](Interpretation) Counsel Nsita.
9 MR LUVENGIKA: [12:58:33](Interpretation) I have some concerns.
10 If the Defence is going to extend the cross-examination, it's really going to basically
11 eat into the break. And we've just received a list of 29 documents that the Defence
12 would like to use during the cross-examination of the witness, so we really would like
13 to have some time to analyse this and the only time is during the lunch break.
14 Thank you.
15 PRESIDING JUDGE MINDUA: [12:59:06](Interpretation) Right. So that can be
16 resolved. So we can start the afternoon session a bit late and that will compensate,
17 like 10 minutes late.
18 Right. So we're going to save time.
19 Let's continue, Counsel Taylor.
20 So court -- court officer, we're going to return to open session.
21 So it's 1 o'clock. Mr Al Hassan is allowed to go and pray.
22 (Open session at 12.59 p.m.)
23 THE COURT OFFICER: [12:59:55] We're in open session, Mr President.
24 PRESIDING JUDGE MINDUA: [12:59:58](Interpretation) There we are. Thank you
25 very much, Madam Courtroom Officer.

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1 We are in open session, so I shall repeat that Mr Al Hassan has been authorised to go
2 and pray and shall be back very fast.

3 Ms Taylor.

4 MS TAYLOR: [13:00:11] Thank you, Mr President.

5 I do recall that the figure of 18 minutes was mentioned previously. And I would
6 also ask your leave, if the disclosure from the Prosecution does raise issues that
7 impact upon our cross-examination, that we do have the possibility of potentially
8 recalling this witness. Not that we want to do so, but obviously if it does impact
9 upon our cross-examination, we should be entitled. Because I understood that was
10 the issue of the Prosecutor, that they understood that it could impact. So we
11 would -- we would review the disclosure and then we would send a message to
12 the Chamber to that effect, with your permission.

13 PRESIDING JUDGE MINDUA: [13:00:58](Interpretation) Yes, indeed, Ms Taylor.
14 Let's go ahead, please.

15 MS TAYLOR: [13:01:02] Thank you very much, Mr President.

16 Q. [13:01:03] Now, Madam Witness, on the screen -- there should be on the screen,
17 although I don't think there is, it's Defence tab 4, MLI-V43-0002-0001 at 0007. And I
18 know you can't read, but according to this document we have a birth certificate that
19 was issued in 2013 concerning your son.

20 Was this when your son was baptised?

21 A. [13:02:26] I am only aware of the birth certificate that was drafted for my -- or
22 issued for my son that was issued a few days ago in Bamako. I'm not aware of any
23 other. That was on our last arrival in Bamako.

24 Q. [13:02:55] Well, Madam Witness, according to this document it states that
25 the extract was issued in 2015. That's a couple of years before you went to Bamako.

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1 Can you explain that? Did you go to Bamako in 2015?

2 A. [13:04:08] In fact, at the time the question was put to me as to whether a paper
3 existed or not, I said no. It might have been that at that time they issued a paper for
4 him.

5 Q. [13:04:28] Madam Witness, who obtained this document? Was it a person or
6 an organisation that obtained it for you?

7 A. [13:05:12] In my opinion, it was at that time when I informed them that there
8 was no paper that they got this paper issued. Because at that time they would issue
9 papers for children who didn't have any papers.

10 Q. [13:05:38] So, Madam Witness, was it a specific organisation, such as WILDAF
11 or CAFO, that helped you to obtain this document?

12 A. [13:06:32] Well, at that moment in time, it was the people from WILDAF who
13 asked me whether my child had a paper or not. I said no. So it might have been at
14 that moment in time that they had such a paper issued.
15 When I went to see the judge, I said that he did not have a paper or any papers, and it
16 might have been that such a piece of paper was issued for him at that moment in
17 time.

18 MS TAYLOR: [13:07:02] Mr President, I have a couple of questions concerning
19 the name that is on this document. If I may ask this in private session.

20 PRESIDING JUDGE MINDUA: [13:07:14](Interpretation) Yes, indeed, Ms Taylor.
21 Courtroom Officer, private session, please.

22 (Private session at 1.07 p.m.)

23 THE COURT OFFICER: [13:07:38] We are in private session, Mr President.

24 (Redacted)

25 (Redacted)

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17 (Open session at 1.19 p.m.)
18 THE COURT OFFICER: [13:19:24] We are in open session, Mr President.
19 PRESIDING JUDGE MINDUA: [13:19:30](Interpretation) Thank you very much,
20 Madam Courtroom Officer.
21 Mr Prosecutor, please.
22 MR DUTERTRE: [13:19:37](Interpretation) Yes, thank you, Mr President.
23 We have received the lesser redacted forms at 15.31. We researched the three
24 combinations of the names, and nothing came up, so we checked again. And when
25 we did so we realised that there was an identity in existence between the person

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1 mentioned in the identity form and the person mentioned in our email. I'm talking
2 in elusive manner here.

3 That being so, the Defence can very well put the questions that they wish to
4 the witness with regard to that individual. It doesn't pose a problem with us
5 whatsoever if they want to clarify something. I don't think that it's an issue, to my
6 mind.

7 PRESIDING JUDGE MINDUA: [13:20:38](Interpretation) Ms Taylor, so you
8 followed what they just said.

9 Now, Mr Prosecutor, would you like to have a minute to consult your team or not?

10 MR DUTERTRE: [13:20:48](Interpretation) No, not at all. We didn't know what
11 this person had to do with the organisation that we're talking about. We just
12 researched it on Monday. It didn't come up with anything. We did it again today.
13 But the questions for the Defence are very simple. Actually, I could do it in her
14 place.

15 PRESIDING JUDGE MINDUA: [13:21:07](Interpretation) Maître Goffin, did you
16 want to say something?

17 MS GOFFIN: [13:21:11](Interpretation) Yes, Mr President.

18 This was for reasons of organisation, just to indicate to you that I have one point or
19 three brief questions that have brought up -- that will probably elicit very brief
20 answers in re-examination, so I think 5 minutes, to my mind, I will need. And I --

21 PRESIDING JUDGE MINDUA: (Overlapping speakers)

22 THE INTERPRETER: [13:21:35](Overlapping speakers)

23 MS GOFFIN: [13:21:37](Interpretation) Yes, I would like, with the authorisation of
24 the Chamber, to ask some final questions.

25 PRESIDING JUDGE MINDUA: [13:21:43](Interpretation) Very well. You have five

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- 1 minutes to put your questions.
- 2 MS GOFFIN: [13:21:50](Interpretation) Thank you.
- 3 PRESIDING JUDGE MINDUA: [13:21:59](Interpretation) Come on, Maître Goffin.
- 4 Let's save time.
- 5 QUESTIONED BY MS GOFFIN: (Interpretation)
- 6 Q. [13:22:13] Madam Witness, good afternoon. Can you hear me well?
- 7 A. [13:22:15] Yes, I can hear you.
- 8 Q. [13:22:17] Very well. Now, Madam Witness, I would like to rapidly come back
- 9 over three minor matters before wrapping up.
- 10 Now, Madam Witness, how old are you today, firstly?
- 11 PRESIDING JUDGE MINDUA: [13:22:31](Interpretation) Maître Goffin, we are in
- 12 open session. Is that not a problem?
- 13 I'm looking at the parties. Very well.
- 14 So I think that the witness can answer that question.
- 15 A. [13:23:09] Thirty-nine years of age.
- 16 Q. [13:23:14] (Overlapping speakers)
- 17 A. [13:23:15] Thirty-nine according to me, but I'm not certain.
- 18 Q. [13:23:19] Thank you. Very well.
- 19 The Defence presented to you a participation form with a Nina map indicating a very
- 20 different age to the one you have just given us. Do you have an explanation to
- 21 provide us with regard to that?
- 22 A. [13:24:32] Yes, I shall explain to you how that came about. They made
- 23 the same mistake that they made with regard to my date of birth, the same mistake
- 24 that they made when they gave the name and first name of my son. But I had given
- 25 them my Nina card and on that basis they should have been aware of my date of birth.

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1 So I do not know what happened.

2 Q. [13:25:02] Do you have another document in your possession, Madam Witness,
3 that would provide a date of birth that would be the correct one?

4 A. [13:25:37] I only have the identity card, the identity card which I have on my
5 person. I can even show it to you now if you want. I don't know what's on it
6 because I am illiterate.

7 Q. [13:25:57] I'm very thankful to you, Madam Witness.

8 I'd just like to say to you that this ID card was annexed to the form that was used by
9 the Defence.

10 I'm going to stop here, Madam Witness and I'd like to thank you once again and
11 thank you, Mr President.

12 PRESIDING JUDGE MINDUA: [13:26:15](Interpretation) Maître Goffin, which
13 identity card are you talking about that is annexed to the document?

14 MS GOFFIN: [13:26:23](Interpretation) The identity card that the witness has just
15 made mention of.

16 THE INTERPRETER: [13:26:28] Overlapping speakers.

17 MS GOFFIN: [13:26:32](Interpretation) It's not a Nina card, but an ID card.

18 PRESIDING JUDGE MINDUA: [13:26:38](Interpretation) Thank you very much for
19 that clarification.

20 So we have reached the end of this testimony, unless Ms Taylor would like to put an
21 additional question.

22 Ms Taylor.

23 MS TAYLOR: [13:26:46] Thank you very much, Mr President.

24 I think it's -- it arises directly out of these questions, and I believe that we're speaking
25 about tab -- Defence tab 5, MLI-V43-0002-0008 at page 0010, which has a birth date

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1 of 1992.

2 QUESTIONED BY MS TAYLOR:

3 Q. [13:27:08] Now according to this Nina card, Madam Witness, it says it was
4 issued on 1 June 2013.

5 So who obtained this Nina card for you in June 2013?

6 A. [13:28:23] No, I don't know what my date of birth is. Since I was issued with
7 this card, this is a card that I present to everyone whenever my date of birth is
8 requested.

9 Q. [13:28:37] Madam Witness, on the first page of this form it also gives your date
10 of birth as 31 December 1992. Is it correct that the persons, individuals who filled
11 out this form for you, did not ask you your date of birth or take any steps to verify
12 your date of birth?

13 A. [13:30:02] In fact, when I felt that it was necessary for me to have an identity
14 card, they had -- he had gone away to have this card issued. He chose as date of
15 birth the -- the age that I am at.

16 THE INTERPRETER: [13:30:23] Correction from the Tamasheq booth: In reality, I
17 do not have a certificate of birth.

18 MS TAYLOR: [13:30:33]

19 Q. [13:30:34] Madam Witness, you just said he went away to have this card issued,
20 or they went away. Who are you speaking about?

21 A. [13:31:20] The first identity card was made in Bamako by a child I knew. It's
22 the family that made the I card.

23 Q. [13:31:40] A member of your family made this identity card. Can you tell us
24 who in your family made this identity card?

25 A. [13:32:15] It's a young person in Bamako. I told him that I don't have an I card

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1 so he went to get me one.

2 Q. [13:32:28] What is this person's names?

3 PRESIDING JUDGE MINDUA: [13:32:33](Interpretation) Counsel, you've actually
4 exhausted your questioning time. You're asking for the name, so we will go into
5 private session and then we will stop.

6 MS TAYLOR: [13:32:48] Thank you, Mr President.

7 PRESIDING JUDGE MINDUA: [13:32:50](Interpretation) Private session, please, just
8 for the name.

9 (Private session at 1.33 p.m.)

10 THE COURT OFFICER: [13:33:03] We're in private session, Mr President.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

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17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Open session at 1.34 p.m.)

22 THE COURT OFFICER: [13:34:00] We are back in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [13:34:05](Interpretation) Thank you, court officer.

24 So I'm turning to the witness.

25 Witness, the Chamber would once again like to thank you very sincerely for having

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1 replied to the questions in a clear-cut fashion and with a lot of benevolence and
2 courage.

3 THE WITNESS: [13:35:12](Interpretation) Thank you so much as well.

4 PRESIDING JUDGE MINDUA: [13:35:16](Interpretation) Your deposition is over.

5 On behalf of the Chamber, I would like you -- I would like to wish you good luck and
6 all the best for your future.

7 THE WITNESS: [13:36:08](Interpretation) I would like to thank you, and I wish you
8 a very long life. I wish you and your colleagues a very long life, and thank you for
9 having asked these questions. And I hope I've actually provided you with answers,
10 sir.

11 PRESIDING JUDGE MINDUA: [13:36:29](Interpretation) Thank you and have a safe
12 journey back home.

13 (The witness is excused)

14 PRESIDING JUDGE MINDUA: [13:36:30](Interpretation) Now I'm going to
15 turn -- I'm going to turn to the Legal Representative of Victims. You've got a concern
16 with the time. It's 1.35 and I think we can resume at 2.45. That way you've got
17 some more time. What do you say?

18 MR LUVENGIKA: [13:36:55](Interpretation) Yes, your Honour. We will try and do
19 our best and we will comply with the decision the Chamber.

20 PRESIDING JUDGE MINDUA: [13:37:08](Interpretation) Thank you so much.
21 You're very kind.

22 Now we're going to suspend our hearing and we shall reconvene at 2.45.

23 The hearing is suspended. Thank you so much.

24 THE COURT USHER: [13:37:20] All rise.

25 (Recess taken at 1.37 p.m.)

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- 1 (Upon resuming in open session at 2.47 p.m.)
- 2 THE COURT USHER: [14:47:15] All rise.
- 3 Please be seated.
- 4 PRESIDING JUDGE MINDUA: [14:47:45](Interpretation) Court is in session. Good
- 5 afternoon.
- 6 This afternoon we are going to start with the testimony of the second witness of
- 7 the Legal Representative of Victims, V-0002.
- 8 But before that, as we have a new witness, I would like to ensure that the different
- 9 teams are the same, or perhaps they've changed.
- 10 Let's start with the Office of the Prosecutor.
- 11 MS SARDACHTI: [14:48:29](Interpretation) Good afternoon, your Honour. Good
- 12 afternoon, your Honours.
- 13 This afternoon the Prosecution is represented by Gilles Dutertre, senior trial lawyer;
- 14 Garcia; and myself, senior trial lawyer. Thank you.
- 15 PRESIDING JUDGE MINDUA: [14:48:43](Interpretation) Thank you, Madam
- 16 Prosecutor.
- 17 I now turn towards the Defence.
- 18 MR EDWARDS: [14:48:48] Good afternoon, your Honours.
- 19 The representation of the Defence is the same as this morning.
- 20 PRESIDING JUDGE MINDUA: [14:49:00](Interpretation) Thank you very much,
- 21 Counsel.
- 22 I now turn towards the Legal Representatives of Victims.
- 23 MR LUVENGIKA: [14:49:08](Interpretation) Thank you, your Honour,
- 24 your Honours.
- 25 The legal representatives has not changed and we have the same composition as

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- 1 before. Thank you very much.
- 2 PRESIDING JUDGE MINDUA: [14:49:21](Interpretation) Thank you very much.
- 3 So I now turn towards Madam Witness.
- 4 Good morning, Madam Witness. Can you hear me?
- 5 WITNESS: MLI-V43-V-0002
- 6 (The witness speaks French)
- 7 (The witness gives evidence via video link)
- 8 THE WITNESS: [14:49:34](Interpretation) Yes, I can hear you. Good afternoon.
- 9 PRESIDING JUDGE MINDUA: [14:49:42](Interpretation) Thank you. On behalf of
- 10 the Chamber, I would like to welcome you.
- 11 THE WITNESS: [14:49:59](Interpretation) Thank you.
- 12 PRESIDING JUDGE MINDUA: [14:50:00](Interpretation) You are going to testify
- 13 with a view to helping the Chamber establish the truth in the case concerning
- 14 Mr Al Hassan.
- 15 THE WITNESS: [14:50:10](Interpretation) Yes.
- 16 PRESIDING JUDGE MINDUA: [14:50:12](Interpretation) Protective measures have
- 17 been put in place such that your identity is not revealed to the public.
- 18 THE WITNESS: [14:50:21](Interpretation) Yes.
- 19 PRESIDING JUDGE MINDUA: [14:50:22](Interpretation) Every time that you have
- 20 to give details which could reveal your identity, we will speak in private session. As
- 21 such, nobody outside, apart from the people in this courtroom, will be able to hear
- 22 you.
- 23 THE WITNESS: [14:50:42](Interpretation) Yes.
- 24 PRESIDING JUDGE MINDUA: [14:50:45](Interpretation) I shall now take your
- 25 solemn undertaking under Rule 66(1) of the Rules of Procedure and Evidence. So,

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1 on your table, you certainly have a document with the form in front of you.

2 THE WITNESS: [14:51:03](Interpretation) Yes, I have it.

3 PRESIDING JUDGE MINDUA: [14:51:04](Interpretation) Very well.

4 So I would ask you -- this is the solemn undertaking by which you swear to tell
5 the truth. And I would ask you to speak aloud what is written on this document, if
6 you would be so kind.

7 THE WITNESS: [14:51:23](Interpretation) I solemnly declare that I will tell the truth,
8 the whole truth and nothing but the truth.

9 PRESIDING JUDGE MINDUA: [14:51:33](Interpretation) Thank you very much,
10 Madam Witness. You are now under oath.

11 The representatives of the witnesses unit -- Victims and Witnesses Unit, as well as
12 the Legal Representative of Victims, have already explained to you what that means.

13 THE WITNESS: [14:51:58](Interpretation) Yes.

14 PRESIDING JUDGE MINDUA: [14:52:02](Interpretation) So I have some practical
15 instructions for you to keep in mind throughout your testimony.

16 THE WITNESS: [14:52:11](Interpretation) Yes.

17 PRESIDING JUDGE MINDUA: [14:52:13](Interpretation) So you have to know that
18 everything that is said in this courtroom is transcribed by court reporters and is
19 simultaneously interpreted into several languages by interpreters.

20 THE WITNESS: [14:52:33](Interpretation) Yes.

21 PRESIDING JUDGE MINDUA: [14:52:33](Interpretation) So it is important to speak
22 clearly and slowly.

23 THE WITNESS: [14:52:40](Interpretation) Okay.

24 PRESIDING JUDGE MINDUA: [14:52:41](Interpretation) Do not start speaking until
25 the person who is questioning you has finished putting their question. This pause is

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1 essential for your testimony to be duly recorded.

2 THE INTERPRETER: [14:53:04] The interpreter didn't hear the response.

3 PRESIDING JUDGE MINDUA: [14:53:07](Interpretation) If you have a question,

4 please raise your hand in order to indicate that you wish to intervene.

5 Have you understood?

6 THE WITNESS: [14:53:19](Interpretation) Yes, I've understood well.

7 PRESIDING JUDGE MINDUA: [14:53:21](Interpretation) Very well.

8 So you will first have questions put to you by the Legal Representative of Victims,

9 thereafter possibly by the Office of the Prosecutor and, finally, by the Defence.

10 And we will see if the Chamber also has questions to put to you. It doesn't yet.

11 Without any further ado, I therefore give the floor to the Legal Representative of

12 Victims for the examination-in-chief.

13 Counsel, you have the floor, Maître Nsita.

14 MR LUVENGIKA: [14:54:23](Interpretation) Thank you very much, President,

15 Judges.

16 QUESTIONED BY MR LUVENGIKA: (Interpretation)

17 Q. [14:54:25] Good morning, Madam Witness.

18 A. [14:54:27] Good morning.

19 Q. [14:54:28] Can you see me clearly?

20 A. [14:54:31] Yes, I can see you clearly.

21 Q. [14:54:34] Very well. So I would like to put questions to you on behalf of

22 the Legal Representatives of Victims. And I'm not going to go back over the very

23 clear instructions that the Presiding Judge has given to you. But we both speak

24 French and you might have a tendency to answer directly after my questions,

25 whereas there are court reporters and there are interpreters doing their work who

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1 have to interpret us into French -- from French into Arabic and other languages. So
2 if my questions are not clear, please do not hesitate to ask me to repeat for more
3 clarity, and I will, of course, reformulate them so that you can better understand
4 the scope of the question.

5 Presiding Judge, I shall start, obviously, with questions of an identifying nature and
6 with personal information. And as such, I would ask for leave to go into private
7 session.

8 PRESIDING JUDGE MINDUA: [14:55:57](Interpretation) Indeed, counsel.

9 Court Officer, private session, please.

10 (Private session at 2.56 p.m.)

11 THE COURT OFFICER: [14:56:10] We are in private session, Mr President.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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7 (Open session at 3.07 p.m.)

8 THE COURT OFFICER: [15:07:44] We are back in open session, Mr President.

9 PRESIDING JUDGE MINDUA: [15:07:49](Interpretation) Thank you very much,
10 Madam Court Officer.

11 Please continue, Maître Nsita.

12 MR LUVENGIKA: [15:07:56](Interpretation)

13 Q. [15:07:59] Madam Witness, do you remember having filed an application for
14 participation with the International Criminal Court? An application to participate in
15 proceedings.

16 A. [15:08:18] Yes.

17 Q. [15:08:19] Within the framework of this application, could you explain what
18 the objectives are that the members that you have or that the members have gone to
19 the Court for. So can you explain why the members have seized the Court.
20 Or put in another way, can you explain to the judges how this organisation came into
21 being and what its objectives are.

22 A. [15:09:07] The organisation came into being after the inauguration of
23 the monument, and our association -- or we had the idea of doing it with
24 the monument and -- as a symbol of peace. And that was -- it's a very important
25 monument, and so this monument has to be maintained. So by maintaining this

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1 monument, there people would come to take photos of it and we would be -- asked
2 them to take pictures. But they would give more than we asked, happily, and what
3 we earned for the monument we organised every year since the anniversary --

4 Q. [15:10:02] Please. I'm sorry to interrupt you, but I just wanted you to explain to
5 us progressively -- or perhaps I'll ask questions so that you can explain things to us
6 progressively.

7 When you speak about *un*, which could be one or we in French, we're a bit lost.
8 So when it comes to the initiative, where did this initiative come from? Who had
9 the initiative?

10 A. [15:10:28] Well, the initiative came from myself. I can say that. I got
11 the women together and I said that we would go into maintaining the monument.
12 And that is how we created -- or got this number of women together. I went around
13 the neighbourhood. I got them out so that we could sweep, so that we could
14 maintain the monument, and we had the idea of creating an association built around
15 maintaining the monument with those women. And that's how we created
16 the association built around that.

17 Q. [15:11:09] And how did you come to maintain this monument, whereas it's
18 a public building belonging to the state?

19 A. [15:11:16] The monument belongs to the state, but there are guardians of it.
20 But it wasn't well maintained when they were responsible for it. They hadn't looked
21 after it. There was an old guard who couldn't even sweep it up. And that's why
22 when we came we went to the town hall and they said go to the *gouvernorat*, and there
23 they told us you need to go somewhere else. And then we had -- we decided that we
24 wanted to maintain this monument out of love for it.

25 Q. [15:12:01] What you are doing with this monument, is that covered by an official

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1 document of any kind?

2 A. [15:12:08] Yes, yes. The mayor gave us authorisation to maintain and to keep
3 the monument in good condition.

4 And in addition to that, we have a document which is a document which comes from
5 the mayor, which is an authorisation.

6 Q. [15:12:31] And what is the social objective of your organisation? What
7 objective does your organisation have?

8 A. [15:12:44] Well, it had two objectives. Now the first objective was for
9 the maintenance, and the second objective was gathering women together from all
10 ethnic groups in itself, social cohesion and for a lasting peace. And the third
11 objective was that we would earn some money from the monument and then
12 the women could also work in the gardens and plant seeds with the money that
13 they'd earned from the monument.

14 Q. [15:13:28] I think you've already said this, but how many members does your
15 organisation have?

16 A. [15:13:36] Well, approximately 50 in the organisation.

17 Q. [15:13:40] Do you know, in terms of individuals now, how much that would be?

18 A. [15:13:52] More than 600 women involved in the monument. Because these are
19 associations. Women aren't represented individually. They are there in
20 associations and each association can have 30, 35 members, 25 members. So there
21 are a lot of us there.

22 MR LUVENGIKA: [15:14:22](Interpretation) Your Honour, with your permission I
23 would ask the court officer to show a document, MLI-V43-000 -- (No interpretation).

24 THE INTERPRETER: [15:14:59] MLI-V43-0001-0008.

25 PRESIDING JUDGE MINDUA: [15:15:47](Interpretation) We've got the document

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1 pulled up, evidence 1.

2 MR LUVENGIKA: [15:16:03](Interpretation)

3 Q. [15:16:05] Witness, can you see the image that's being displayed on your screen?

4 Unfortunately, I do not have any technical control, but on this photo you see can you
5 tell us where is the monument.

6 A. [15:16:33] The monument is to my right.

7 Q. [15:17:05] Could we give you a pen or -- so that you can actually pinpoint its
8 location. With your pen can you actually point to the exact site where
9 the monument is located.

10 A. [15:17:25] That is the monument.

11 Q. [15:17:33] The -- is it -- what about the building with the blue roof? What
12 building is that?

13 Did you hear my question, Witness? Witness, did you hear my question?

14 A. [15:17:49] Yes, I understood.

15 MR EDWARDS: [15:17:52] If it assists, there's no dispute as to where this monument
16 is, if that helps my learned friend. In other words, if he wants to lead her, then we
17 won't object, of course.

18 PRESIDING JUDGE MINDUA: [15:18:10](Interpretation) So you followed Counsel
19 Edwards, he is being cooperative.

20 Now there is a problem of principle. From the field, is it possible for the witness to
21 pinpoint the document to the exact location?

22 I'm actually asking the question to the court officer here.

23 THE COURT OFFICER: [15:18:43] Mr President, we could send the document to
24 the field and have it printed there, but it would take a few minutes.

25 PRESIDING JUDGE MINDUA: [15:18:54](Interpretation) Right. Not for this one.

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1 We've got the cooperation of the Defence team, but next time we must resolve this
2 problem.

3 MR LUVENGIKA: [15:19:05](Microphone not activated)

4 PRESIDING JUDGE MINDUA: [15:19:10](Interpretation) Mic please, Counsel Nsita.

5 MR LUVENGIKA: [15:19:14](Interpretation) Perhaps for the next document,

6 MLI-V43-001-009, if you could kindly send the document to the witness and print that,
7 and have them print it out, that would be great.

8 Thank you, dear colleague, for your -- for intervening. I had no problems with

9 identifying the document. I just wanted to basically set the stage so that

10 the participants, like the judge, can actually see the background where we are

11 evolving, the *monument de la paix*, the *école de la paix* and the *jardin de la paix*. It's

12 the general *de cour* where the events took place.

13 Q. [15:20:28] Witness, I'm just going to come back to what you just said some while
14 ago with regard to the activities of the members of the organisation. Can you tell me
15 what these activities are in the monument and around the monument?

16 A. [15:21:03] I said that inside and around the monument we would organise
17 cleaning activities and sanitation activities. We would organise days where we

18 would plant seeds and we -- at the end of the year on 27 March, which was

19 the anniversary of the document. So the authorities would -- would help us, would

20 ask us to take care of the monument and we would be paid for this. And this money
21 was used to buy seeds for the garden, for gardening.

22 So it's -- we would take care of the garden, and we would also do other activities as
23 well.

24 Q. [15:22:15] So if I've understood you well, your organisation basically worked on
25 donations. Over and above the donations, were there other streams of revenue?

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1 A. [15:22:39] Now, we had donations from people who were benevolent who
2 would support us, and the people in charge -- holding office in Timbuktu before 2013.
3 But previously there was no one. It's after the crisis that people started helping us.

4 Q. [15:23:06] So over and above the cleaning activities that you just stated, were
5 there other activities that were done in the monument?

6 A. [15:23:17] So we would organise awareness campaigns on peace, on social
7 cohesion and on living together. We would organise conferences. And also
8 we -- on the 27th -- on each 27th there were three days of activity, one for cleaning,
9 one for planting trees. And the third day, in the morning, it was the awareness
10 campaign on social cohesion, living together and peace. And in the afternoon there
11 were reminders and invitations issued to the international community to come and
12 see the monument, the peace monument.

13 Q. [15:24:22] You spoke about activities in the *jardin de la paix* or the peace garden.
14 Could you please tell us -- give us more details on this activity. You talked about
15 seeds. Where would these seeds come from and where would these seeds go?

16 A. [15:24:46] These seeds were bought after the activities in the monument. We
17 would divide the money up, thanks to the goodwill of people, and we -- women
18 would share it. The women would use the money to buy seeds to plant them in
19 the garden.

20 There are 42 associations that were looking after the gardening activities. So we
21 would organise our activities. People who were -- with good intentions would
22 actually give the money, and we would share that. We would also buy. We would
23 pay -- we would use the money to buy water, to buy the brooms, and we would share
24 the money. And the people who are in the garden would do the gardening and buy
25 the seeds with the money.

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1 Q. [15:25:53] Yes. You just talked about the soap manufacturing unit. What are
2 the other activities developed by the women's association, apart from the gardening?

3 A. [15:26:09] There is an association that manufactures soaps. There's one
4 association that manages a hairdressing centre. They would actually sell all kinds of
5 hair related products. The Kgalagadi soap manufacturer.
6 There's also another association that teaches children to become cooks, and train them
7 in handicraft, and also doing pearl work.
8 There's also an association that is a dairy association. So each association has its own
9 activity, but most of them are involved in gardening.

10 Q. [15:27:17] We're going to come back to the gardens now.

11 In the garden, what are the agricultural products produced by these association?

12 A. [15:27:31] So for the gardens, they -- they actually produce salad, beetroot, carrot,
13 tomatoes, lettuce. There is also the moringa tree, gumbo trees, potatoes. There are
14 many fruit and vegetables grown in the garden, in the peace garden.

15 Q. [15:28:01] Can you tell us how big is this peace garden.

16 A. [15:28:04] It spans over 11 hectares. This is basically given to the women of
17 Timbuktu for gardening.

18 So, previously, women were only working on the four hectares, but -- and this was
19 closed. And during the crisis the gardens were completely neglected. Now there
20 are no -- now the four hectares is no longer fenced. It's opened up.

21 Q. [15:28:43] So we will actually come back to that, to the situation before and after
22 crisis. But I wanted to know, the produce from the gardens, how would the women
23 use up the stocks?

24 A. [15:29:03] Well, there are -- there are three markets in Timbuktu. The two big
25 marks are Yoboutao and Yobouta (phon). The women would take the produce from

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1 the peace garden and sell it in the markets. So this was -- the peace garden was
2 supplying the two markets with salad, vegetables and fruit.

3 Q. [15:29:38] And what about the associations that are not working in
4 the gardening field, how would they get rid of their stock?

5 A. [15:29:46] In the market again. In the market again. So once you produced
6 your things, you would take it to the market.

7 The gardeners wouldn't go to the market. They would actually sell their produce.
8 And there are other women who would take the produce to the market.

9 And the women who were making pearls, they would themselves go and sell their
10 pearls in the market. They would put them in a plate. And each association was
11 actually selling its own produce in the market.

12 Q. [15:30:37] Thank you, Witness.

13 The profits stemming from these products, what would the members of
14 the association do with these profits? Were these profits given to the associations, or
15 is it -- was it distributed amongst its members?

16 A. [15:31:13] This is for the members of the association. Each association has
17 a part where they do the gardening, and then they sell their produce. And
18 the money would go back to the women. The money would go back to the women.

19 Q. [15:31:40] And what would the women do with this money?

20 A. [15:31:45] As you know, currently women work very hard. I'm so sorry, but
21 they are the ones who bear the responsibility of the entire family in our region in
22 Timbuktu. They have more responsibilities. They work more. They are the ones
23 who take care of the children, their schooling, their clothes. And -- and it's with this
24 money that the women take care of their families.

25 Q. [15:32:33] Thank you. We are now going to move on to another chapter.

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- 1 We're going to talk about the arrival of the jihadists in Timbuktu.
- 2 For introducing this chapter I would request that we move to private session, but it
- 3 won't be for a very long time.
- 4 PRESIDING JUDGE MINDUA: [15:33:03](Interpretation) Okay, Mr Nsita.
- 5 Private session, please, Court Officer.
- 6 (Private session at 3.33 p.m.)
- 7 THE COURT OFFICER: [15:33:15] We are in private session, Mr President.
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
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- 9 (Redacted)
- 10 (Redacted)
- 11 (Open session at 3.36 p.m.)
- 12 THE COURT OFFICER: [15:36:11] We're back in open session, Mr President.
- 13 PRESIDING JUDGE MINDUA: [15:36:13](Interpretation) Thank you, Court Officer.
- 14 Counsel Nsita.
- 15 MR LUVENGIKA: [15:36:17](Interpretation) Thank you, your Honour.
- 16 Q. [15:36:19] Witness, what happened in 2012 when the jihadists arrived, with
- 17 regard to your activities of your organisation?
- 18 A. [15:36:43] Now, during the arrival of the jihadists, everyone fled. Women were
- 19 dispersed. Each person was in their -- confined to their houses. There was no
- 20 activity. Everyone was hiding in their houses. No one stepped out.
- 21 The monument and the gardens were completely neglected. The women would
- 22 never step out of their homes.
- 23 Q. [15:37:16] Let me take the example of the garden. So what happened to
- 24 the seeds which were planted?
- 25 A. [15:37:31] You see, when the garden was neglected, everything spoiled.

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1 The plants that begin to grow died because there was no one to take care of them.

2 There was nothing.

3 Q. [15:37:50] And what happened to the monument?

4 A. [15:37:55] The monument also sustained damage, because the tourists would
5 come and they would actually take photos. Newlywed couples would come and
6 take photos. There were drawings on the wall that would attract people. And
7 the jihadists actually said that this was *haram* and they would -- they painted it with
8 black. No one could actually draw anything because it was considered to be *haram*,
9 so they actually put black paint on these drawings. The monument was damaged.

10 The doors fell off. And it was in ruins.

11 Q. [15:38:57] And how did the members of the association feel about all this?

12 How did they take it? How did this impact their day-to-day lives?

13 A. [15:39:10] It was very hard. It was very hard because the monument gave us
14 a reason to come together and live together. We could do activities and there
15 were -- and it's also -- it also was a source of revenue. Now there was no activity in
16 the monument. Everything came to a grinding halt and it was extremely hard for
17 the women.

18 Q. [15:39:45] Did all this have consequences on the markets in Timbuktu?

19 A. [15:39:50] Now, if there are -- if there is no monument and no garden, we really
20 cannot find fruit. The fruit don't grow in the machines. It's the gardens that
21 actually supplied the markets in Timbuktu with fruit and vegetables. Without
22 gardening there was no produce and we couldn't sell anything.

23 Q. [15:40:27] Do you know how women were dealing with the situation to support
24 the schooling of their children?

25 A. [15:40:39] It was a very hard -- these were very hard times because you needed

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1 to work to earn money. When you're actually deprived of your work, how can you
2 actually earn money? How can you get children to school? How can you eat?
3 How can you live? Because, before school, you really need to eat. You need to
4 have food. You need to have condiments.

5 Now, if there is no work, life is very hard.

6 Q. [15:41:17] And how did you get to know about all this?

7 A. [15:41:25] When I came back to Timbuktu, the women came to me. They were
8 annoyed. They said that I left them and the document -- the monument was
9 destroyed. The garden was destroyed. There's no longer gardening. And
10 I -- I was in pain when I heard all this. I was in pain.

11 Q. [15:42:08] Did you return to Timbuktu?

12 A. [15:42:09] I returned just after the city was freed.

13 Q. [15:42:18] That is?

14 A. [15:42:19] That is when the jihadists left the city.

15 When the jihadists left the city, people who wanted to go back to Timbuktu went back
16 to Timbuktu in 2013.

17 Q. [15:42:39] Currently, has the situation returned to the pre-crisis times of 2012?

18 Has -- is -- are activities going on?

19 A. [15:42:53] Yes, it has. The activities are. The situation has
20 established -- re-established because -- but not to the pre-crisis levels, not like in 2012.
21 There are partners who came and supported the women.

22 Q. [15:43:11] Who were these partners who came to help the women? Can you
23 tell me more about them.

24 A. [15:43:20] There is AMSS, through an organisation that escapes my mind. But
25 it was AMSS that implemented things that paid for the seeds. There is HCR. There

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1 are -- there is *Action Contre la Faim*. And the ambassador of Mali herself
2 and -- the ambassador of Mali in Germany, and they actually worked in the garden.

3 Q. [15:43:59] What did these organisations do from a tangible perspective?

4 A. [15:44:05] HCR supported five associations, *Action Contre la Faim* that paid for
5 the seeds, paid for the seeds. There is AMSS that closed two hectares.

6 Perhaps I'm a bit confused here, but I knew that two hectares were closed. There
7 were five associations that were supported, and *Action Contre la Faim* also paid for
8 the seeds. And there is the ambassador who said that the signboards were in bad
9 shape. There was no water. And she repaired the solar panels. In fact, she
10 repaired a machine that got the solar panels to work.

11 So there was also a shortage of water and that really did not help us get back to
12 pre-crisis levels.

13 Q. [15:45:20] Can you tell us who amongst the women came to see you when you
14 returned to Timbuktu.

15 A. [15:45:37] There is one. Can I say his name?

16 PRESIDING JUDGE MINDUA: [15:45:57](Interpretation) No, no, no, we're in public
17 session.

18 MR LUVENGIKA: [15:46:00](Interpretation)

19 Q. [15:45:57] Yes, you're right in having hesitated. We're going to move to private
20 session for a very short span of time.

21 PRESIDING JUDGE MINDUA: [15:45:57](Interpretation)

22 Court Officer.

23 (Private session at 3.46 p.m.)

24 THE COURT OFFICER: [15:46:26] We're in private session, Mr President.

25 (Redacted)

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25 (Open session at 3.48 p.m.)

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- 1 THE COURT OFFICER: [15:48:50] We are back in open session, Mr President.
- 2 PRESIDING JUDGE MINDUA: [15:48:58](Interpretation) Thank you very much,
- 3 Madam Courtroom Officer.
- 4 Maître Nsita, please continue, please.
- 5 MR LUVENGIKA: [15:49:05](Interpretation) Yes.
- 6 Q. [15:49:08] Madam Witness, I asked you a moment ago if you knew if
- 7 the occupation of the jihadists in Timbuktu had an impact on social cohesion, which
- 8 was the objective sought. Could you tell us about the symbolic dimension of
- 9 the monument which represented peace.
- 10 A. [15:49:33] I haven't understood the question well.
- 11 Q. [15:49:42] When there was the occupation of Timbuktu, did that have an impact
- 12 on the social cohesion of women?
- 13 A. [15:49:51] The occupation had an impact because the women separated, they
- 14 dispersed. We no longer saw each other. Nobody went to anybody's house during
- 15 the entire occupation. There were no visits.
- 16 So, you know, when people are no longer together, how does it feel to -- you don't
- 17 have that feeling of being together and you can forget each other. Some even left
- 18 the town. Others left the town, even. So the women didn't see each other anymore.
- 19 They didn't meet each other anymore. That was the impact. We were dispersed.
- 20 Q. [15:51:03] Yes, Madam Witness, still on the subject of the consequences of
- 21 the occupation and the impact of the occupation. What impact did it have on
- 22 the poverty of the inhabitants of Timbuktu in general?
- 23 A. [15:51:39] Counsel, when a town becomes a dead town, nobody can go out,
- 24 nobody can go in. There are no sales. There's no market, no fair. What is the fate
- 25 of that town?

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1 The population suffered during the occupation. It suffered financially. When you
2 don't have money, how are you going to pay for food when you don't go out?
3 Women couldn't go out. Everything that people earned for their life, for their social
4 life to meet our needs, where could we go to get that?
5 We used to go out to earn money. We used to go out to go to the garden, to go to
6 the market. And if all of that can't be done, life was hard.

7 Q. [15:52:41] Yes, thank you, Madam Witness. I just wanted to make a small
8 observation. I ask questions, but you address the judges when you speak to
9 the judges.

10 So I'm coming almost to the end of my examination-in-chief. I just wanted to ask
11 you about the impact. We've spoken about the poverty in general of the inhabitants
12 in Timbuktu, but does that poverty continue today, to this day?

13 A. [15:53:25] I can say that it's okay, but sometimes your product, you can't -- you
14 can only sell them in Timbuktu because of the insecurity. Everybody says within
15 Timbuktu because of the insecurity. When it comes to the markets, tomatoes, your
16 products, you just sell them inside Timbuktu.

17 Q. [15:53:56] Thank you very much, Madam Witness, I've finished with my
18 questions.

19 Your Honour, your Honours, I have finished with my examination-in-chief.

20 PRESIDING JUDGE MINDUA: [15:54:16](Interpretation) Very well.

21 Thank you, Maître Nsita, for your presentation. I have to congratulate you because
22 you've been clear, exhaustive and concise. The Chamber is very grateful for that.

23 So we have two documents which have been examined by the witness.

24 I don't know, Madam Courtroom Officer, are we going to mark the documents, are
25 we going to give them numbers? What would you propose?

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- 1 THE COURT OFFICER: [15:54:54] Mr President, the documents are printed and
2 they're with the witness at the field location, so if the LRV wish to have them
3 annotated, we could do that now.
- 4 PRESIDING JUDGE MINDUA: [15:55:11](Interpretation) So, Counsel, you have
5 the floor.
- 6 MR LUVENGIKA: [15:55:14](Interpretation) Thank you, your Honour.
- 7 Q. [15:55:13] I just wanted to ask Madam Witness to be so kind, when it comes to
8 the document we provided the witness with, please, Madam Witness, could you write
9 where you have the monument and where the school is and where the garden is.
10 Could you just mark those on the document.
- 11 A. [15:55:41] Yes.
- 12 MR EDWARDS: [15:55:50] Your Honour, what --
- 13 PRESIDING JUDGE MINDUA: [15:55:52](Interpretation) Maître Edwards.
- 14 MR EDWARDS: [15:55:53] While that's being done, I wonder if my learned friend
15 would be able to give us an indication of the date of this document, if he's able to tell
16 us. The photograph, of course.
- 17 PRESIDING JUDGE MINDUA: [15:56:10](Interpretation) Indeed, Mr Edwards.
18 Maître Nsita, did you follow?
- 19 MR LUVENGIKA: [15:56:21](Interpretation) I think that on the image which was
20 taken from Google Maps there's the date of 16 April 2019 and it's indicated
21 16 April 2019. It's indicated afterwards, approximately.
- 22 PRESIDING JUDGE MINDUA: [16:07:00] Maître Edwards.
- 23 MR EDWARDS: [15:56:46] That's very helpful for one of the two documents. I saw
24 the date on that document.
- 25 There's another document, another photograph which doesn't have a date. I wonder

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1 if my learned friend could enlighten us about that document. That was the one I
2 was actually interested in.

3 PRESIDING JUDGE MINDUA: [15:57:08](Interpretation) Maître Nsita.

4 MR LUVENGIKA: [15:57:09](Interpretation) Your Honour, the photograph that my
5 colleague is speaking of is current. At least it's a photograph which is from 2012, or
6 after 2012. It was taken after 2012.

7 PRESIDING JUDGE MINDUA: [15:57:42](Interpretation) I think you're satisfied
8 with that, Mr Edwards.

9 So we have therefore finished with the examination-in-chief and I would very
10 sincerely like to thank the Legal Representatives for that.

11 And, of course, I turn towards the Office of the Prosecutor.

12 Madam Prosecutor.

13 MS SARDACHTI: [15:58:04](Interpretation) Thank you, your Honour. We would
14 like to ask one single clarifying question, if we may.

15 PRESIDING JUDGE MINDUA: [15:58:14](Interpretation) Please do. That's very
16 efficient.

17 Madam Witness, the Office of the Prosecutor has a question by way of clarification for
18 you.

19 QUESTIONED BY MS SARDACHTI: (Interpretation)

20 Q. [15:58:27] Good afternoon, Madam Witness. I represent the Prosecution. I've
21 got a question to put to you.

22 I'm reading the transcript at page -- lines 1 to 7 and what you said, "The population
23 suffered during the occupation. It suffered financially." So my question is to know
24 how you know that. And above all, could you explain to the Chamber how you
25 know, and take your time to do so, and if you need to give names we can go into

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- 1 private session.
- 2 (Redacted)
- 3 (Redacted)
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- 11 MS SARDACHTI: [16:00:02](Interpretation) Perhaps we can go into private session.
- 12 PRESIDING JUDGE MINDUA: [16:00:06](Interpretation) Indeed, we can go into
- 13 private session.
- 14 Private session, please, Court Officer.
- 15 (Private session at 4.00 p.m.)
- 16 THE COURT OFFICER: [16:00:20] We're in private session, Mr President.
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
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1 (Redacted)

2 (Open session at 4.03 p.m.)

3 THE COURT OFFICER: [16:03:46] We are back in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [16:03:55](Interpretation) Thank you, Court Officer.

5 We have now finished with the questions of the Office of the Prosecutor.

6 Of course, now it's the Defence's turn. And I imagine that it's for tomorrow, is it not,

7 Mr Edwards?

8 MR EDWARDS: [16:04:10] I'm ready to start, but I'm in your Honour's hands.

9 PRESIDING JUDGE MINDUA: [16:04:21](Interpretation) You're ready to start, but

10 we don't have the time.

11 I'm now turning towards Madam Witness.

12 Madam Witness, we are coming to the end of our day and, of course, your testimony

13 for today. As you will have seen, your testimony is not yet over. You will therefore

14 continue tomorrow from 9.30.

15 In the meantime, I would like to thank you most sincerely for having replied in a very

16 clear way to the questions that were put to you.

17 THE WITNESS: [16:05:14](Interpretation) Thank you.

18 PRESIDING JUDGE MINDUA: [16:05:21](Interpretation) Between now and

19 tomorrow you are prohibited from talking about your testimony to anyone, to

20 members of your family or to friends, should you be in contact with them.

21 THE WITNESS: [16:05:37](Interpretation) Yes, sir.

22 PRESIDING JUDGE MINDUA: [16:05:39](Interpretation) Very well. Thank you.

23 So, before closing the session, I would like -- once again like to express all my

24 gratitude to the parties and participants, to the court reporters and to the interpreters,

25 to the security guards and, of course, to our public in the gallery and afar. I wish

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- 1 you all a very good evening and until tomorrow morning.
- 2 Court is adjourned.
- 3 THE COURT USHER: [16:06:13] All rise.
- 4 (The hearing ends in open session at 4.06 p.m.)