

1 International Criminal Court
2 Trial Chamber VIII
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Ahmad Al Faqi Al Mahdi - ICC-01/12-01/15
5 Presiding Judge Raul Pangalangan, Judge Antoine Kesia-Mbe Mindua and
6 Judge Bertram Schmitt
7 Trial Hearing - Courtroom 1
8 Monday, 22 August 2016
9 (The hearing starts in open session at 9.03 a.m.)
10 THE COURT USHER: [9:03:25] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE PANGALANGAN: [9:04:03] Good morning, everyone.
14 Welcome to the courtroom.
15 May I ask the court officer to please call the case.
16 THE COURT OFFICER: [9:04:12] Thank you, Mr President.
17 The situation in the Republic of Mali in the case of The Prosecutor versus Ahmad Al Faqi
18 Al Mahdi, case reference ICC-01/12-01/15.
19 For the record, we are in open session.
20 PRESIDING JUDGE PANGALANGAN: [9:04:31] May I ask counsel to please
21 introduce themselves for the record. The Court will now take appearances starting with
22 the Prosecution.
23 MS BENSOUDA: [9:04:43] (Microphone not activated) Thank you, Mr President.
24 Mr President, your Honours, the Office of the Prosecutor is represented this morning by
25 Mr Gilles Dutertre, senior trial lawyer; Mr Colin Black, trial lawyer;

1 Mr Jagganaden Muneesamy, trial lawyer; Ms Sarah Coquillaud assistant trial lawyer;
2 Richard Nsanzabaganwa, cooperation adviser; Sanja Bokulic, case manager; and myself
3 Fatou Bensouda, Prosecutor.

4 PRESIDING JUDGE PANGALANGAN: [9:05:28] Thank you so much, Counsel.

5 We turn to the Defence.

6 MR AOUINI: [9:05:38] (Interpretation) Good morning, your Honour, your Honours.

7 My name is Maître Mohamed Aouini, in the Republic of Tunisia, and with me

8 Jean-Louis Gilissen, member of the Bar Association in Belgium; and with us Madam

9 Sylviane Emma Glodjinon, and Madam Judith Akebe, and Maître Amin G. Abed Ali.

10 Thank you, President. Thank you, your Honour.

11 PRESIDING JUDGE PANGALANGAN: [9:06:24] Thank you. Thank you, Counsel.

12 Any other appearances?

13 MR ABDOU: [9:06:31] Good morning, Mr President. Good morning, your Honours.

14 PRESIDING JUDGE PANGALANGAN: [9:06:34] Good morning.

15 MR ABDOU: [9:06:35] Appearing today on behalf of the victims Mohamed Abdou,

16 associate legal officer with the Office of Public Counsel for Victims, assisted by

17 Clara Gérard-Rodriguez, case manager.

18 PRESIDING JUDGE PANGALANGAN: [9:06:48] Thank you. Thank you, Counsel.

19 We are here today for the opening of the trial of Mr Ahmad Al Faqi Al Mahdi.

20 Before the charges are read to the accused, the Chamber will turn to several preliminary
21 issues.

22 First, the record will show that the Chamber has designated Mr Mayombo Kassongo as

23 the Legal Representative of Victims. Unfortunately Mr Kassongo is unable to attend the

24 commencement of the trial. In order to ensure that the victims' interests are represented,

25 Mr Kassongo has asked for the OPCV to appear on his behalf. And by way of an email

1 sent on 19 August 2016, the Chamber has accepted this request pursuant to Regulation
2 81(4)(b) to (c) of the Regulations of the Court. The Chamber has also been informed that
3 Mr Kassongo did not intend to question any of the testifying witnesses during the trial.
4 Should Mr Kassongo not arrive in time to provide his submissions later this week, they
5 may be read into the record by the OPCV. And I thank the OPCV for appearing on very
6 short notice.

7 That is the first.

8 Second, in a filing which will be notified today, but was received by the Chamber last
9 week as an advance courtesy copy, the Registry has presented the Chamber with a request
10 by one of the victims, victim a/35008/16, to withdraw his application to participate. The
11 Chamber therefore considers this victim to be withdrawn for purposes of this trial. The
12 Chamber also notes that this victim indicated that he did not wish to have his application
13 communicated to Mr Kassongo. This application was already communicated to
14 Mr Kassongo, however, with Decision 156 earlier. But in deference to the victim's
15 wishes, the Chamber, one, orders the Registry to remove Mr Kassongo's access to the
16 victim's unredacted application and corresponding Registry report, namely the
17 confidential ex parte annex 6 to filing 142 and confidential ex parte annex D to filing 144 in
18 the case record and proceed -- and orders Mr Kassongo to destroy all hard copies of these
19 same filings forthwith.

20 Third, the Chamber has received confirmation from the Defence by way of an email on
21 August 19, 2016 that it is impossible for its witnesses to testify this week and that it would
22 file a request to submit their written statements. The Defence has already sent the
23 participants and the Chamber courtesy copies of these statements by way of an email
24 yesterday.

25 May I now turn to the Prosecution. The Chamber wishes to know if there is any

1 objection from the Prosecution to the Chamber considering these statements for purposes
2 of sentencing?

3 MR DUTERTRE: [9:10:17] (Interpretation) No objection from the Prosecution,
4 Mr President, your Honours. We defer to your Honours who would give the necessary
5 weight to the statements in question. Thank you.

6 PRESIDING JUDGE PANGALANGAN: [9:10:32] Thank you. Thank you so much,
7 Counsel.

8 And Defence should note that.

9 In view of there being no objection -- Counsel.

10 MR AOUINI: [9:10:47] (Interpretation) Thank you, your Honour. No objection
11 whatsoever. Thank you.

12 PRESIDING JUDGE PANGALANGAN: [9:10:51] Thank you as well, Counsel.

13 In view of there being no objection from the opposing party, the Chamber will consider
14 these statements for purposes of sentencing. Any further comment the participants have
15 on these statements may be made during their respective submissions.

16 Fourth -- there are several of these preliminary matters. By way of a separate email sent
17 at 20.15 on 19 August 2016, the Defence informed the Chamber that it wished to make
18 submissions for six and a half hours, which is nearly four times more than they had
19 previously requested and which had been granted in decision 136. Well, this request
20 comes rather belatedly. Nevertheless the Chamber will endeavour to accommodate the
21 Defence request and make adjustments in the schedule. The schedule today and
22 tomorrow is to sit extended hours as follows: From 9 to 11, and then 11.30 to 13.30 and
23 finally from 1500 to 1700.

24 The Chamber has decided to sit extended hours on Wednesday and Thursday this week
25 in order to -- as well in order to afford the Defence the possibility of some additional time

1 while still finishing the trial this week as anticipated. This is the only measure that the
2 Chamber will take now in response to your request. Whether the Defence will get all of
3 the additional hours it requests for its submissions will be decided upon later this week.
4 Fifth, the Chamber has noted the Prosecution's request for the addition of materials to the
5 joint list of evidence sent via email on 21 August at 13.16. The Chamber understands that
6 the Defence does not object to these admissions -- sorry, to these additions, to these
7 additions. Accordingly, the Chamber grants the request and directs the parties to file the
8 updated version of the joint list of evidence as soon as practicable.
9 Sixth, the Chamber wishes to remind all participants at the outset to speak slowly and to
10 wait in between sentences for the benefit of the interpreters. This is particularly
11 important in this trial as the Court is using relay interpretation, first from Arabic to French
12 and then on to English.
13 Seventh, and this is the last of the preliminary matters, the Chamber invited the parties to
14 raise any issue with required resolution prior to the commencement of the trial by
15 25 July 2016. No such motions have been filed. However, and noting Rule 134,
16 paragraph 2 of the Rules, the Chamber will now ask the participants whether they have
17 any remaining objections or observations concerning the conduct of the proceedings
18 which have arisen since the confirmation hearings.
19 May I hear first from the Prosecution.
20 MR DUTERTRE: [9:14:16] (Interpretation) Mr President, your Honours, the OTP has
21 no objection and no remarks. Thank you.
22 PRESIDING JUDGE PANGALANGAN: [9:14:29] Thank you, Counsel.
23 For the Defence.
24 MR AOUINI: [9:14:32] (Interpretation) Thank you, President. In principle we do not
25 have any objections to the work arrangements. Since Chamber has agreed to give us

1 Thursday and Friday to continue with the hearing, then I think we will have sufficient
2 time to make the points that we want to raise. Thank you.

3 PRESIDING JUDGE PANGALANGAN: [9:14:55] Thank you. Thank you, Counsel.
4 For the victims.

5 MR ABDOU: [9:15:00] No, Mr President, we have no observations or objections --

6 PRESIDING JUDGE PANGALANGAN: [9:15:04] Thank you.

7 MR ABDOU: [9:15:05] -- at this point.

8 PRESIDING JUDGE PANGALANGAN: [9:15:07] Thank you, Counsel.

9 We will now proceed to the heart of these proceedings, the reading of the charges.

10 I address Mr Al Mahdi.

11 Mr Al Mahdi, in accordance with Article 64(8)(a) of the Rome Statute, the charges will
12 now be read to you, following which you will be invited to make an admission of guilt or
13 plead not guilty.

14 The court officer is now requested pursuant to my directions on the conduct of the
15 proceedings, court officer, please read section B of the operative part of the Decision on
16 the Confirmation of Charges.

17 THE COURT OFFICER: [9:16:01] Thank you, Mr President.

18 Al Mahdi is criminally responsible for the war crime of directing an attack, as set out in
19 Article 8(2)(e)(iv) of the Statute. In Timbuktu, between approximately 30 June 2012 and
20 11 July 2012, he intentionally directed an attack against buildings dedicated to religion
21 and historic monuments which were not military objectives as follows:

22 The Sidi Mahmoud Ben Omar Mohamed Aquit Mausoleum, the Sheikh Mohamed
23 Mahmoud Al Arawani Mausoleum, the Sheikh Sidi El Mokhtar Ben Sidi Mouhammad
24 Al Kabir Al Kounti Mausoleum, the Alpha Moya Mausoleum, the Sheikh
25 Muhammad El Micky Mausoleum, the Sheikh Abdoul Kassim Attouaty Mausoleum, the

1 Sheikh Sidi Ahmed Ben Amar Arragadi Mausoleum, the Sidi Yahia Mosque (the door),
2 and the Bahaber Babadié Mausoleum and the Ahamed Fulane Mausoleum, both adjoining
3 the Djingareyber Mosque.

4 He is criminally responsible under Article 25(3)(a) as a direct co-perpetrator, Article
5 25(3)(b) for soliciting and inducing the commission of the crime, Article 25(3)(c) for
6 facilitating the commission of such a crime by aiding, abetting or otherwise assisting, and
7 Article 25(3)(d) for contributing in any other way to the commission of such a crime by a
8 group of persons acting with a common purpose.

9 Al Mahdi is also criminally responsible under Article 25(3)(a) as a direct perpetrator for
10 his physical participation in the attack intentionally directed against the Alpha Moya
11 Mausoleum, the Sheikh Sidi Ahmed Ben Amar Arragadi Mausoleum, the door of the
12 Sidi Yahia Mosque, and the Ahamed Fulane Mausoleum and the Bahaber Babadié
13 Mausoleum.

14 PRESIDING JUDGE PANGALANGAN: [9:18:43] Thank you so much, court officer.

15 The Court will now proceed to inquire whether the accused wishes to make an admission
16 of guilt or plead not guilty.

17 Mr Al Mahdi, please rise.

18 MR AL MAHDI: [9:19:08] (Interpretation) Your Honour, regrettably I have to say that
19 what I have heard so far is accurate and reflects events. I plead guilty.

20 PRESIDING JUDGE PANGALANGAN: [9:19:25] Thank you. Thank you so much,
21 Mr Al Mahdi.

22 MR AL MAHDI: [9:19:33] (Interpretation) With your permission, your Honour, I have a
23 statement to make and I do not know whether this is the right time to read my statement.

24 PRESIDING JUDGE PANGALANGAN: [9:19:49] Let me confer with my colleagues.
25 (Trial Chamber confers)

1 PRESIDING JUDGE PANGALANGAN: [9:20:33] Mr Al Mahdi, the Chamber will hear
2 your statement.

3 MR AL MAHDI: [9:20:46](Interpretation) Thank you, your Honour.
4 Mr President, distinguished members of Chamber, ladies and gentlemen, I greet you all.
5 I would like to start by reminding myself of the words of the Almighty: All ye who
6 believe stand up firmly for justice as witnesses to Allah, even as against yourselves or
7 your parents or your next of kin. The words of the Almighty.
8 I would like to remember the words of those who said that we need to speak justice even
9 against ourselves. We have to be truth -- true to ourselves, even that truthfulness would
10 burn our hands.

11 Ladies and gentlemen, it is with deep regret and with great pain I had to enter a guilty
12 plea and all the charges brought against me are accurate and correct.
13 I am really sorry. I am really remorseful and I regret all the damage that my actions have
14 caused. I regret what I have caused to my family, my community in Timbuktu, what I
15 have caused my home nation, Mali, and I'm really remorseful about what I had caused the
16 international community as a whole.

17 My regret is directly -- or, is directed particularly to the generations, the ancestors of the
18 holders of the mausoleums that I have destroyed.

19 I would like to seek their pardon, I would like to seek the pardon of the whole people of
20 Timbuktu, I would like to make them a solemn promise that this was the first and the last
21 wrongful act I will ever commit. I seek their forgiveness and I would like them to look at
22 me as a son that has lost his way and consider me part of the social fabric of Timbuktu
23 and must not forget what I have contributed in the past to Timbuktu.

24 It is my hope that in accordance with the noble Islamic principles to be able to forgive me
25 and to accept my regret. I think if they were to do this then they would have fulfilled the

1 words of God where in the Quran where we sing those who forgive then they will be
2 rewarded by the Almighty.

3 If I was influenced by a group of deviant people from Al-Qaeda and Ansar Dine, and if
4 they were able to influence me, to carry me in their evil wave through actions that affected
5 the whole population, but even with these temporary actions I do not think that we will
6 be able to change the heritage of the city of Timbuktu.

7 Ladies and gentlemen, in this Chamber I'm willing to accept the judgment of the
8 Chamber, but I will do so with pain and with a broken heart. I will be deprived of my
9 freedom and I know I will not be able to see the loved ones.

10 However, I am pinning my hope on the fact that the punishment that will be meted out to
11 me will be sufficient enough for the people of Timbuktu to show forgiveness, and for the
12 people of Mali for forgiveness and mankind to offer forgiveness.

13 It is also my hope that the years I will spend in prison will be a source of purging the evil
14 spirits that had overtaken me. And I will keep my hopes high that the people that I have
15 hurt will be able to forgive.

16 In conclusion, I would like to make -- to give a piece of advice to all Muslims in the world
17 not to get involved in the same acts I got involved in because they are not going to lead to
18 any good for humanity.

19 In conclusion, I would like to thank all parties at the ICC, Judges, OTP, Registry and
20 staff of the detention centre for dealing with me in such a civilised and respectable way
21 where human rights were upheld to the maximum. And I applaud the way they
22 interviewed me and listened to my statement. And in particular I would like to thank
23 Maître Mohamed Aouini, who decided to defend me in this case all the way. Thank you.

24 PRESIDING JUDGE PANGALANGAN: [9:27:25] Thank you, too. The Court will
25 now proceed to ask you some questions, Mr Al Mahdi, pursuant to the Rome Statute.

1 (Trial Chamber confers)

2 PRESIDING JUDGE PANGALANGAN: [9:28:29] Mr Al Mahdi, can you please rise
3 again.

4 MR AL MAHDI: [9:28:38] (Interpretation) Yes, your Honour.

5 PRESIDING JUDGE PANGALANGAN: [9:28:39] Now you have made an admission of
6 guilt this Chamber will proceed to ask you some questions.

7 Mr Al Mahdi, the Chamber would like to know if this admission is made voluntarily. Do
8 you make this admission of guilt voluntarily of your own free will, without being
9 threatened or forced by anyone?

10 MR AL MAHDI: [9:29:08] (Interpretation) Your Honour, absolutely. This is a voluntary
11 admission from the bottom of my heart.

12 PRESIDING JUDGE PANGALANGAN: [9:29:14] Do you remember signing an
13 agreement with the Prosecution regarding an admission of guilt, complete with a
14 supporting factual basis, on February 18, 2016, and was this agreement presented to you
15 in a language you fully understand and speak?

16 MR AL MAHDI: [9:29:41] (Interpretation) Your Honour, yes, it was presented to me in
17 Arabic.

18 PRESIDING JUDGE PANGALANGAN: [9:29:44] Did you fully consult your counsel
19 before signing the agreement and making your admission in Court today?

20 MR AL MAHDI: [9:29:55] (Interpretation) Yes, I have consulted the counsels and they
21 presented all the legal advice to me.

22 PRESIDING JUDGE PANGALANGAN: [9:30:05] Thank you.

23 Do you understand that the Chamber is not bound by the terms of the agreement that you
24 signed and that the Chamber is not required to accept your admission of guilt made here
25 today?

1 MR AL MAHDI: [9:30:22] (Interpretation) Yes, I do understand that. And it is also
2 mentioned in the text of the document which was presented to me.

3 PRESIDING JUDGE PANGALANGAN: [9:30:30] By making the admission of guilt
4 and signing the agreement, you have waived many of the rights you would otherwise
5 have as an accused; do you confirm that waiver?

6 MR AL MAHDI: [9:30:46] (Interpretation) Yes, your Honour. I confirm this. And I
7 confirm what I have signed in this agreement.

8 PRESIDING JUDGE PANGALANGAN: [9:30:54] We now proceed to the questions on
9 the sentencing range.

10 Mr Al Mahdi, you understand that the Chamber is not bound by the 9-year to 11-year
11 sentencing range you have agreed to with the Prosecution?

12 MR AL MAHDI: [9:31:16] (Interpretation) Yes, I do know that.

13 PRESIDING JUDGE PANGALANGAN: [9:31:18] And you understand that the crime
14 you are admitting guilt to can carry a maximum term of 30 years?

15 MR AL MAHDI: [9:31:31] (Interpretation) Yes, I have understood that in the document
16 which was presented to me.

17 PRESIDING JUDGE PANGALANGAN: [9:31:35] And last question, counsel: You
18 understand that in the event of a conviction the Court can also order a fine or forfeiture
19 and order reparations for the victims?

20 MR AL MAHDI: [9:31:52] (Interpretation) Yes, I do know that.

21 PRESIDING JUDGE PANGALANGAN: [9:31:57] Thank you, Mr Al Mahdi. May I
22 ask my colleagues if they wish to ask their own questions?

23 (Trial Chamber confers)

24 PRESIDING JUDGE PANGALANGAN: [9:32:34] Judge Mindua wishes to ask
25 questions.

1 MR GILISSEN: [9:32:52] (Interpretation) I beg your pardon and I thank you very much,
2 your Honour. We fear that there may be a misunderstanding and I turn to my
3 colleagues from the OTP just to clear up any ambiguity.

4 Regarding the scale of possible sentencing you mentioned nine to 11 years which is not
5 binding upon the Bench.

6 This is not anything that we agreed to, this is a range, and to be more specific there will
7 not be an appeal. There could be a lesser charge or my colleagues -- sentencing, or my
8 colleagues could ask for a stiffer sentence, but in any event this is the range for which we
9 agreed that there would not be an appeal.

10 PRESIDING JUDGE PANGALANGAN: [9:33:53] Thank you.

11 Counsel for the Prosecution.

12 MR DUTERTRE: [9:33:58] (Interpretation) Yes, indeed. Under the terms of the
13 agreement that the Defence and the OTP have agreed to, and there was an agreement that
14 the OTP would seek a sentence of nine to 11 years and that the Defence would not appeal
15 a sentence of nine to 11 years.

16 PRESIDING JUDGE PANGALANGAN: [9:34:26] Thank you to both counsels. The
17 Chamber notes the clarifications.

18 We now proceed with the question of Judge Mindua.

19 JUDGE MINDUA: [9:34:39] (Interpretation) Sir, you have just made an admission, you
20 have just made an admission of guilt. And in your opening statement you stressed your
21 faith in God and your desire to see justice done. At the same time you have promised to
22 never carry out such actions ever again, the actions that you have mentioned today, and
23 you say that this is your first offence. Thus, there is something that I do not understand
24 and this is why I am asking you my question, and I hope you will be able to answer and
25 shed light on the matter: You, yourself, along with others, destroyed a number of

1 cultural and religious events -- correction, buildings, saying that you did it because of
2 your religious beliefs and now you are telling us you will no longer do any such thing.
3 Does this mean that your religious convictions have changed? Because if your religious
4 convictions have not changed regarding the destruction of cultural and religious
5 buildings, this means that as soon as you have an opportunity you will do the same thing
6 again, and thus -- and you may realise that the duration of the sentence in the eyes of
7 society and in the eyes of the guilty, well, I believe you understand the sentence that you
8 face.

9 So to sum up, allow me you to ask you this: Have you changed your mind about your
10 religious convictions?

11 MR AL MAHDI: [9:37:02] (Interpretation) First and foremost, thank you, your Honour.

12 If you review my former statements, you will see that I was not convinced originally with
13 the appropriateness to undertake such actions from the beginning because the decisions I
14 had made were made on the basis of a legal decision. I said that what I did was based on
15 a theory according to which one cannot build anything on tombs, and a tomb, according
16 to the religious beliefs, should not be over 1 inch above the ground, and those
17 mausoleums are far higher than that. So is this something agreed upon or not? Those
18 who believe that they can do it consider that it's okay that others believe that those
19 buildings should be destroyed. And I acted because I believed that one is not allowed to
20 build upon tombs.

21 But from a legal and political viewpoint one should not undertake actions that will cause
22 damage that is higher or more severe than the usefulness of the action. Such
23 mausoleums I believe are not as harmful as the contradiction they represent as they are
24 built on tombs, but the people who controlled the country at the time considered that such
25 mausoleums went against the law, and I was asked by them to destroy them. And as I

1 was under their authority I had to undertake this campaign of destruction.
2 So I was at the time president of a commission and I considered that I had to follow the
3 orders, but I believe that undertaking such actions was possible. According to Islamic
4 law, some things can be allowed, others not, and the scholars say that some things could
5 be allowed, others not. I commit myself not to undertake such action again as it will
6 cause damage to others. Thus, I believe that by doing that I do not change my beliefs, I
7 should not undertake action that will cause damage to others. This is a former belief and
8 a present belief of mine, sir.

9 JUDGE MINDUA: [9:40:53] (Interpretation) Thank you for your explanations. They
10 were rather lengthy. For the time being I will take this under advisement.

11 PRESIDING JUDGE PANGALANGAN: [9:41:09] Thank you, Judge Mindua.

12 Judge Schmitt has signified that he has no questions.

13 Thank you, Mr Al Mahdi, for answering all of the Chamber's questions.

14 And having received the admission of guilt, it is now -- the Chamber now turns to receive
15 the Prosecution's submissions and the examination of its three witnesses.

16 Madam Prosecutor, the Prosecution has been given a total of 12 hours for these purposes.

17 During this time, the Prosecution must cover all submissions it would make at trial,
18 including opening and closing statements, its presentation of evidence and submissions of
19 the kind which would be advanced at a sentencing hearing. You may also present your
20 submissions and witness examination in any order so long as it remains within the
21 allotted time.

22 Prosecution, you have the floor.

23 MS BENSOUA: [9:42:22] (Interpretation) Thank you, your Honour.

24 Mr President, your Honours, Mr Ahmad Al Faqi Al Mahdi, known as Abou Tourab, this
25 being his nom de guerre, now appears before your Chamber. He will answer charges

1 relating to the attack in Timbuktu in July and -- June and July 2012, attacks upon highly
2 significant, historic and religious buildings. These buildings, for the most part
3 mausoleums of Muslim saints, were the most well-known buildings within Timbuktu and
4 they were a major part of that ancient city's historic heritage. In a broader sense they
5 were a part of the heritage of Mali and of all of Africa and indeed the entire world. All
6 but one were recorded on the World Heritage list, and yet these buildings were
7 deliberately destroyed by Mr Al Mahdi and his co-perpetrators as the people of Timbuktu
8 stood there powerless.

9 Mr Al Mahdi, a member of Ansar Dine was directly involved in the groups that were
10 established by two armed groups, Al-Qaeda in the Islamic Maghreb, AQIM, and
11 Ansar Dine during the occupation of Timbuktu in 2012.

12 Working through these bodies, these groups, he took part in a number of activities
13 intended to impose their ideology upon the people and to dominate them. In particular,
14 he was appointed to head up the Hisbah, the morality brigade. In April 2012 he set up
15 this body and led it from the time of its creation until September 2012. As the leader of
16 the Hisbah, which he led directly, he supervised the attack upon the 10 buildings.

17 My office has gathered a large amount of diverse and highly incriminating evidence
18 showing that the accused played a central role in the destruction. He identified the sites
19 that were to be destroyed. He decided the order in which the buildings would be
20 destroyed, going from the north of the town to the south. He provided the material
21 means to carry out the destruction and he gave the orders.

22 Mr President, your Honours, this must be said and this must be said clearly: Deliberately
23 leading an attack upon historic monuments and buildings devoted to religion is a war
24 crime that is provided for in the Rome Statute. These are serious crimes that must be
25 brought to justice. As we know this is the very first time that the International Criminal

1 Court has tried a person accused of such serious crimes. Thus, today's trial is historic. It
2 is particularly historic because the period of time in question was one of destructive rage.
3 The heritage of mankind was ransacked, and this was planned, ransacked by individuals
4 and groups. Their goal was to destroy any world view that was different from them by
5 destroying the various material elements that lay at the heart of a number of communities.
6 They wanted to destroy these monuments, simply wipe them off the map.
7 Your Honours, this strikes at the very heart of this trial. What is so serious about this
8 crime is that it is a deep attack upon the identity of a population, their memory and their
9 very future. This is a crime, a crime for which there is a victim. And I speak of the true
10 wealth of communities, entire communities. This is a crime that leaves us all diminished,
11 a crime that strikes a blow and does great harm to the universal values that we must
12 protect.

13 The evidence that my office has gathered will lead you to Timbuktu, a city that was
14 oppressed, a city that bore scars, a city that was badly damaged over a 10-day period
15 in 2012. What happened in Timbuktu is truly a dark page in the history of this city.
16 Allow me to tell you that the mausoleums of the holy saints, the holy Muslim saints
17 represented something very important, they were something very important to the hearts
18 of people for many centuries.

19 I will continue my remarks in English if you will.

20 (Speaks English) Timbuktu is indeed an ancient and vibrant city.
21 Timbuktu's name is one that is commonly associated with a rich history and culture.
22 In the 15th and 16th centuries, Timbuktu became a regional centre of economic activity
23 and trade. More importantly, it blossomed into one of Africa's most vibrant intellectual
24 and spiritual capitals.
25 It played an essential role in the expansion of Islam in Africa.

1 It was, to be sure, the cradle of education, where enlightenment was nurtured for the
2 benefit of generations of students, attracting scholars from far and wide.
3 Some of these sages would be venerated as Muslim saints and mausoleums would be
4 erected on their graves to honour their memory as well as the notable contributions they
5 made to the lives of people of Timbuktu and beyond.
6 These mausoleums, which survived the ravages of time, have continued to play a
7 fundamental, even foundational role in both the life within the city gates and beyond the
8 city's borders.
9 These monuments, your Honours, were living testimony to Timbuktu's glorious past.
10 These mausoleums undoubtedly also served as a unique testament to the city's urban
11 settlements. But above all they were the embodiment of Malian history, captured in
12 tangible form from an era long gone yet still very much vivid in the memory and pride of
13 the people who so dearly cherished them.
14 The mausoleums also testify to the historical role Timbuktu played in the spread of Islam
15 in Africa and in the history of Africa itself.
16 They are relics of a great chapter in human kind's intellectual and spiritual development
17 on the continent, which gave Timbuktu its standing in the world. This is particularly
18 important in a society that is partly rooted in oral tradition. And it is notably for these
19 reasons that they are so precious and were inscribed in the World Heritage list in 1988.
20 What is more, the mausoleums of Timbuktu played and continue to play an important
21 religious role in the daily lives of the city's inhabitants. Mausoleums are sacred places of
22 worship. They are frequently visited by the city's residents. Pilgrims would also come
23 from distant places to pay their respects and to pray. Going to the mausoleums was and
24 still is an expression of one's faith and religious piety.
25 It is specifically these deeply-rooted religious practices and beliefs that Ansar Dine and

1 AQIM wanted to annihilate by destroying these mausoleums. Through their brutal and
2 callous acts, they made it impossible for the inhabitants of Timbuktu to devote themselves
3 to their religious practices during the 10 months of occupation of their city.
4 Our evidence, your Honours, will demonstrate how important these mausoleums were to
5 the people of Timbuktu.
6 During the course of this trial, you will hear from Witness P-0431. The testimony to be
7 tendered by this witness will describe how, as soon as the armed groups were driven out
8 of the city in 2013, the residents of Timbuktu returned to pray at the ruins of the
9 mausoleums. This is how deep the connection is between the mausoleums and the
10 people of Timbuktu.
11 Additionally, the mausoleums played a key role in fostering the social cohesion that is so
12 characteristic of Timbuktu. The mausoleums are related to families who take care of
13 them and resort, when needed, to masons. These masons are considered to be living
14 human treasures for their unique craftsmanship. And while they are the ones who
15 maintain these buildings, the renovation of a mausoleum is a task in which the entire
16 community joins and participates. Everyone helps the masons. At the level of
17 neighbourhoods, materials are collected and meetings are held. It is an event that brings
18 together and unites worshippers, different age groups and the community as a whole.
19 These are not the only social functions linked to the mausoleums. The mausoleums
20 which were destroyed also contributed greatly to what I would call "the workshop of
21 peaceful coexistence." Consider the names of the mausoleums.
22 They remind us that the Muslim saints to whom the mausoleums were dedicated came
23 from different backgrounds and tribes. One is called the Sidi Mahmoud Ben Omar
24 Mohamed Aquit mausoleum, after the name of the Saint Sidi Mahmoud Ben Omar
25 Mohamed Aquit, a San Hadji, who lived in the 16th century. Another one is called the

1 Sheikh Sidi Ahmed Ben Amar Arragadi, this was named after a revered Muslim scholar
2 and saint, a Kounta who lived in the 18th century. By the mere fact of their names, these
3 mausoleums conveyed a message of tolerance and peaceful existence, transcending
4 differences.

5 Last but certainly not least, the destroyed mausoleums played a crucial role in shaping the
6 identity of the people of Timbuktu. Timbuktu is known as the City of 333 Saints.

7 The mausoleums were the contemporary living symbol of the city. As one resident of the
8 city declared at the time of the destructions, and I quote, "The people are very, very angry
9 today because the mausoleum is the symbol of Timbuktu."

10 To destroy Timbuktu's mausoleums is therefore to erase an element of collective identity
11 built through the ages. It is to eradicate a civilisation's landmark. It is the destruction of
12 the roots of an entire people, which irremediably affects its social attitudes, practices and
13 structures. Another inhabitant of Timbuktu summarised this notion as follows:

14 "Timbuktu is on the verge of losing her soul; Timbuktu is threatened by outrageous acts of
15 vandalism; Timbuktu is being held under a sharpened blade ready for use in a
16 cold-blooded murder."

17 Your Honours, culture is who we are. Our ancestors created paintings, sculptures,
18 mosques, temples and other forms of cultural possessions all around us. They put their
19 hearts and souls into the creation of such cultural heritage so that it represents the cultural
20 identity of their times and is passed on for the benefit of future generations. Indeed, this
21 cultural heritage shapes the spirit and identity of our own generation and of generations
22 to come. With the passage of time, they become archetypes of social memory from which
23 individuals shape their identity and grow.

24 Make no mistake, for centuries, the mausoleums of Timbuktu have been an important
25 foundational block on which the identity of the city's inhabitants has been built. That

1 continues to be very much true today.

2 To be born and raised in Timbuktu is to be inspired and shaped by the centuries-old
3 mosques and mausoleums that personify this historic city's cultural foundation.

4 I ask all of us to imagine, if only for a second, what it must have felt like, then, in that
5 fateful day in 2012, that fateful period, to witness the wanton destruction of this cherished
6 cultural heritage, a deliberate assault on one's identity, spiritual beliefs and prized cultural
7 possessions.

8 Your Honours, all of this was reduced to dust by a destruction operation led by the
9 accused. By eradicating the mausoleums, Mr Al Mahdi intentionally destroyed
10 something that is intangible and immeasurable. Mr Al Mahdi himself comes from the
11 Timbuktu region, and as a result was fully aware of the importance of the mausoleums
12 and their significance to the city's inhabitants.

13 Nonetheless, he showed determination and focus in his supervision of the operations.
14 He ensured he was present at every single site that was targeted and destroyed. You can
15 see him in video clips presented, unreservedly holding his pickaxe. You can also hear
16 him confidently and repeatedly attempting to justify these crimes by reiterating his
17 resolve to eliminate all things he labelled as being "inappropriate" to Timbuktu.

18 Images speak a thousand words indeed, but so does the accused's expressed intent.
19 These are all found in the open source material included in the Prosecution and Defence
20 joint list of evidence.

21 Your Honours, the commission of such a crime is not merely a deplorable event. This
22 type of crime, whenever it may happen in the world, presents the international
23 community today with enormous challenges. And with your indulgence, I would like to
24 highlight three general points in this regard:

25 The first is that deliberate attacks on cultural property are often the precursor to the worst

1 outrages against a population. As some learned observers have noted, the struggle to
2 defend cultural property of a population is an integral part of the humanitarian operation
3 aimed at protecting that population.

4 The second aspect, one of greater concern, is that deliberate attacks on cultural property
5 have become actual weapons of war. They are being used to eliminate entire
6 communities and wipe out the traces left of them, their history and identity, as though
7 they never existed.

8 Let us consider the example of the town of Zvornik. As the trier of fact established in the
9 relevant case, the Serbs destroyed five mosques in that town. Later, the mayor of the
10 overrun town was quoted uttering this revisionist account: "There were never," he
11 proclaimed, "any mosques in Zvornik." To be sure, attacks on historic monuments and
12 buildings dedicated to religion are de facto attacks on the very people that hold such
13 tangible possessions dear and near to their cultural identity.

14 Lastly, the protection of cultural heritage is an essential part of the post-conflict social
15 reconstruction and reconciliation process. This is because cultural heritage gives
16 meaning as well as a sense of continuity and direction from the past to the future.

17 Cultural heritage provides reference points. Once destroyed, as noted by the UN
18 International Criminal Tribunal for the Former Yugoslavia, the restoration of cultural
19 heritage never brings back its inherent value.

20 These complex issues and concerns must propel us to act. Deliberate attacks against
21 historic monuments and buildings dedicated to religion are grave offences, with
22 significant debilitating impact, first on affected communities, but also far beyond the
23 socio-geographical space they occupy. We must stand firm in our resolve to end
24 impunity for such serious crimes.

25 Your Honours, today the accused, Mr Ahmad Al Faqi Al Mahdi has confirmed that he

1 makes an admission of guilt.

2 It is now entirely for your Honours to consider his admission of guilt, which he made
3 through the agreement he has signed with my Office.

4 This is an admission the accused has consistently given and voluntarily so, while fully
5 informed and assisted by legal counsel. The general terms of this agreement were
6 published on Friday last week. He fully recognizes the facts of the case and his own
7 individual responsibility.

8 I am pleased and satisfied with this development in the case.

9 I am satisfied because it is the first-ever admission of guilt before the Court.

10 Mr Al Mahdi was transferred to the Court less than one year ago. The current trial
11 should take only a few days. It will contribute to the expeditiousness of proceedings.
12 And such expeditiousness will benefit the victims just as much as it will benefit the
13 accused.

14 Above all, I am satisfied because Mr Al Mahdi's admission directly helps bring justice. It
15 helps uncover the truth and leads to the catharsis that should arise from any judicial
16 process. In preparation of this case, my Office collected overwhelming evidence of guilt
17 of the accused. You will have the opportunity to judge this for yourselves in the coming
18 hours. An admission of guilt facilitates the establishment of the truth. The fact that the
19 accused recognizes his criminal responsibility is crucial for Timbuktu's victims. It will
20 also support the reconciliation process in the field.

21 In addition, this admission of guilt and your Honour's ultimate judgment will set a clear
22 precedent, sending an important and positive message to the entire world.

23 One must not forget that this attack rightfully raised a chorus of protests, not only from
24 the affected community and Mali more generally, but also from the international
25 community.

1 The African Union, the United Nations Security Council, the Economic Community of
2 West African States, UNESCO and numerous States expressed their strong condemnation
3 of the war crime committed. The United Nations Security Council itself stated that "the
4 perpetrators must be held accountable," while the chairperson of the African group at
5 UNESCO emphasised that "it is not only Mali which is affected by these destructions,
6 Mali's heritage sites are Africa's heritage sites and they are also the world's heritage sites."
7 Indeed, it is our world heritage that was harmed by the destruction of nine
8 UNESCO-listed sites, which are among the 10 destroyed sites in Timbuktu.
9 Your Honours, the appeals of the Malian and the international community to take action
10 against such serious crimes must yield results.
11 It falls to your Honours to ensure that the accused is held responsible. It falls to your
12 Chamber to lay the first block of the Court's jurisprudence in this area.
13 The world in the 21st century has witnessed too many attacks against historic monuments
14 and buildings dedicated to religion. This worrying trend must be stopped in its tracks.
15 This regrettable reality must cease to be.
16 Recently, we have seen the calamitous destruction of Palmyra, and last month, just last
17 month, we saw the so-called ISIS destroy yet another historic monument: a mausoleum
18 north of Baghdad.
19 My message today is this: Our cultural heritage is not a luxury good. Our cultural
20 heritage is a vital instrument of human development.
21 To protect cultural property is to protect our culture, our history, our identity, and our
22 ways of expressing faith and practising religion for current and future generations. We
23 must protect our common heritage from desecration, ravages and the long-term effects of
24 such destructive acts.
25 The severity of the crimes committed in this case calls for an appropriate punishment, one

1 that is firm and serves as a deterrent, while taking into account all of the accused's
2 particular circumstances, including his admission of guilt and cooperation.
3 Your judgment is awaited, from the ancient streets of Timbuktu and throughout Mali to
4 all four corners of the world.
5 As I have mentioned in prior proceedings in this case: "history itself, whose physical
6 embodiment is at peril through such attacks, will not be generous to our failure to care, or
7 to act decisively."
8 I thank you, Mr President, your Honours, for your attention.
9 And with your leave, I will now give the floor to my learned colleague, Mr Gilles
10 Dutertre, the senior trial lawyer from the Prosecution team to present a more detailed
11 outline of the case. I thank you.
12 PRESIDING JUDGE PANGALANGAN: [10:09:31] Thank you.
13 Mr Dutertre.
14 MR DUTERTRE: [10:09:42] (Interpretation) Your Honour, I would just ask to have a
15 minute in order to change place. Thank you very much.
16 PRESIDING JUDGE PANGALANGAN: [10:09:47] Yes, of course.
17 (Pause in proceedings)
18 MR DUTERTRE: [10:10:55] (Interpretation) Your Honour, your Honours, the
19 Prosecutor has just mentioned the reasons why the protection of historical, religious and
20 cultural heritage is so essential, to the point that the attacks against this heritage, attacks
21 directed against religious buildings and historical monuments are war crimes which are
22 specifically sanctioned under the Rome Statute.
23 The objective of my intervention at the start of this trial, which could be the shortest
24 carried out by the ICC, is twofold.
25 First of all, it is to shed light for you and the public on the facts in this case and the

1 abundant evidence that demonstrates the guilt of Mr Al Mahdi beyond reasonable doubt.
2 It is also to explain to you why, among all the evidence that the Prosecution has brought
3 together, it has decided to present over the coming days a limited selection of the
4 evidence.

5 In this regard, I shall develop seven points successively and I think I will be finished
6 before the 11 o'clock break.

7 Firstly, your Honour, your Honours, I am quickly going to go over the occupation of the
8 town of Timbuktu by the armed groups Ansar Dine and AQIM between April 2012 and
9 January 2013. And I shall do it with a view to putting the people and facts in their
10 context. None of this is challenged by the accused.

11 Secondly, I will speak about our investigation and I shall go over the different types of
12 evidence upon which the Prosecution is basing itself in this case. This evidence is
13 accepted by the accused. Furthermore, we have filed lists of non-contested materials as
14 well as a joint list of evidence, which is something you reminded us of at the beginning.
15 And I'm talking about video evidence which shows the accused destroying mausoleums.
16 And I shall refer to certain scientific evidence.

17 Thirdly, I will also go into an important part of evidence, that is the statement given by
18 Mr Al Mahdi in September 2015 to the Prosecution. I'll present multiple facts that
19 Mr Al Mahdi expressly recognized, crimes that he admitted, again, when in 2016 he
20 signed an agreement with the Prosecution on his admission of guilt.

21 Fourthly, I'll present more in detail who Mr Al Mahdi is and the role which he played in
22 Timbuktu during the occupation of the town, evidence including his own admissions
23 show that he was an important figure, a key figure among the measures put into place by
24 the occupiers, particularly to implement the common plan which led to the attack against
25 the religious buildings and historic monuments.

1 Fifthly, I will go directly into the attack against the nine mausoleums which are
2 considered sacred, such as Sidi Yahia mosque, and I will show what Mr Al Mahdi did to
3 each site and that he had a key role in the operation.

4 Sixthly, I will explain the mode of responsibility which best reflects Mr Al Mahdi's role in
5 the attack; namely, his participation in the crime as a direct co-perpetrator, he expressly
6 recognized this role in the agreement which I have just mentioned.

7 And seventh, in light of all this, and the recognition of guilt, I will explain what the
8 Prosecution intends to do during this trial: It will limit itself in this hearing to presenting
9 some specific and relevant pieces of elements for the determination of the sentence.

10 And I will go on to my first point: What are the general circumstances of the crime?
11 Now, the circumstances are that of a town taken and occupied. It's established that an
12 armed conflict started in January 2012 in north Mali with attacks carried out in Menaka,
13 Aguelhoc and Tessalit.

14 In this context, the armed groups Ansar Dine and Al-Qaeda in the Islamic Maghreb took
15 control of northern Mali in three months. They arrived in Timbuktu at the end of
16 March/start of April, and these groups occupied the town until they fled middle of
17 January 2013 faced with the Malian army supported by French forces.

18 During all this period, from April 2012 to January 2013, members of Ansar Dine and
19 AQIM imposed their law and their power on the people of Timbuktu. In order to do so,
20 they created bodies, which is force and violence against the civilian population who were
21 without defence in Timbuktu. They set up an Islamic tribunal, a morality brigade and
22 Islamic religious police.

23 Everything functioned under the leadership of an emirate or presidency. This emirate
24 was composed of three persons: Abou Zeid, Yahia Abou Al Hammam and Abdallah
25 Al Chinguetti. Abou Zeid, of Algerian origin and a historical member of AQIM was the

1 leader of the Tariq Ibn Ziyad battalion. That is to say, one of the four battalions which
2 was the armed forces of AQIM. He was known for taking hostages. Yahia Abou Al
3 Hammam was also of Algerian origin, the leader of the Al Fourqane battalion, another of
4 the four AQIM battalions, and in September 2012 he became Emir of AQIM for the Sahel.
5 Abdallah Al Chinguetti was of Mauritanian origin, a preacher and an influential person
6 within AQIM. He was the head of the Al Fourqane battalion after the promotion of
7 Yahia.

8 This emirate of three people, your Honour, your Honours, based in Timbuktu, worked in
9 close collaboration with Iyad Ag Ghaly. Iyad Ag Ghaly is a Malian, the founder of Ansar
10 Dine, the leader as well. And he was a person who presented the members of the emirate
11 to the population when the town was taken. He was present in Timbuktu in the first
12 days to set up the new authority. Based in Kidal, he regularly came back to Timbuktu
13 during all the period of the occupation.

14 I would now ask the court officer to give us access to the evidence, if it could be shown, if
15 it could now be shown.

16 You will now see on the screen an organigram of the different organs.

17 The presidency, which is composed Abou Zeid, Yahia Abou Al Hammam, Abdallah Al
18 Chinguetti, and then the Hisbah. So the Islamic tribunal, the Islamic police and to that
19 we add the security battalion and the media commission as well. Mr Al Mahdi was the
20 leader or head of the Hisbah and it was these organs and these people who oppressed the
21 people of Timbuktu in different ways for almost a year. It was his men and structures
22 that organised and carried out the attack and the destruction of nine mausoleums and the
23 door of Sidi Yahia mosque, an attack which was carried out and supervised by the
24 accused in June 2012.

25 Your Honour, your Honours, I now come to my second point, that's to say, the

1 investigation of the Prosecution on the destruction and the evidence that has been
2 gathered.

3 The investigation was difficult.

4 PRESIDING JUDGE PANGALANGAN: [10:19:55] (Microphone not activated)

5 MR DUTERTRE: [10:20:03] (Interpretation) Thank you very much, your Honour.

6 The investigation was difficult, taking into account the security context in the north of

7 Mali and the need to avoid any risk for witnesses and victims. Over time, the

8 Prosecution was able to bring together varied and solid evidence establishing the crimes
9 and the alleged crimes in a clear way and beyond reasonable doubt.

10 In addition to the evidence relating to an armed conflict, the Prosecution evidence

11 accepted by the accused perfectly established that there were mausoleums built in

12 Timbuktu before the attack, that these buildings were historic monuments and they were

13 religious buildings as well, that these buildings were attacked, that the attackers were

14 members of Ansar Dine and AQIM following a common plan to which Mr Al Mahdi was

15 part of. And finally, that Mr Al Mahdi played a key role in the attack and the destruction

16 operations on the mausoleums and the door of Sidi Yahia mosque.

17 What is this varied and numerous evidence? Well, documentary evidence on the

18 mausoleum and the history; satellite images which show the mausoleums before and after

19 the destruction; archive photographs of the mausoleum taken at different times, including

20 photographs taken after Ansar Dine and AQMI left in January 2013; documents on the

21 legal status of these buildings from national institutions such as the Malian minister of

22 culture or UNESCO;

23 Audio recordings on the internet, found on the internet containing statements from

24 such-and-such a member of armed groups, including UNESCO -- about UNESCO;

25 Video recordings on the internet which show the destruction at the time of the attack with

1 Mr Al Mahdi in action very clearly in the picture, and you will see an extract of a video
2 with Mr Al Mahdi with a pick who is destroying the mosque;
3 We also have a geolocalisation report from expert witness P-193, which made it possible
4 to locate with certainty each video with regard to a precise mausoleum;
5 We have an expert report from P-75, which made it possible to state the dates of the
6 videos and ascribe a time frame of June and July 2012 to them;
7 We also have panoramic views 360 degrees which show the different sites;
8 Scientific police reports which have been carried out on the screens of destruction by our
9 teams;
10 Other expert reports, for example, an architect which showed the scale of the damage;
11 And documents from the Malian army and armed groups which make it possible to better
12 understand the functioning of these groups in Timbuktu;
13 And we also have the witness statements either taken by the national authorities or by the
14 Office of the Prosecutor.
15 All this evidence shows that Mr Al Mahdi is without doubt responsible for the alleged
16 crimes. And this is quite irrespective of his admissions.
17 With regard to all the evidence, we have to add the statement given to the investigators of
18 the Office of the Prosecutor, and that is the subject of the third point.
19 Mr Al Mahdi gave a statement in September 2015 to Prosecution investigators when he
20 was in detention in Niger. When they took this voluntary declaration or statement it
21 took five days and on this occasion he recognized in full the crimes and admitted his
22 responsibility.
23 And in particular, this isn't an exhaustive list, but Al Mahdi admitted that Abou Zeid
24 asked him to set up the Hisbah, the morality brigade, responsible for the prevention of
25 apparent vice and to promote proper behaviour and repress behaviour considered to be

1 against the rules of the occupiers. And that was a key part of the control strategy set up
2 by the armed groups.

3 Al Mahdi also stated that Abou Zeid had appointed him leader of the Hisbah. He led it
4 until September 2012.

5 Al Mahdi stated that before the destruction Abou Zeid told him that the decision to
6 destroy the mausoleum had been taken by Iyad Ag Ghaly.

7 Al Mahdi indicated that responsibility for carrying out the destruction was up to him
8 personally in his position as leader of the Hisbah.

9 Mr Al Mahdi stated that he had the choice of accepting or refusing to carry out the
10 destruction. He admitted having freely accepted to carry out the attack.

11 He admitted having written the Friday sermon on the destruction of the mausoleum
12 which was read out by imams the day before the attack.

13 Al Mahdi recognized having supervised the attack against these religious and historic
14 buildings and he was physically involved in it and controlled the execution of the
15 operations.

16 And more precisely on this point, he recognized the seven essential following points on
17 the way the attack occurred:

18 He determined the sequence in which the different mausoleums were going to be
19 destroyed; he gave instructions to the attackers on the way in which they should operate
20 and behave; he brought and distributed the necessary tools; he also admitted that he was
21 physically present in the sites that were attacked; he recognized that he employed his own
22 men of the Hisbah and supervised other members of groups made available to him to
23 carry out the operations; and he recognized that he physically participated in the
24 destruction of some of the sites attacked.

25 And in the agreement signed by the Prosecution in 2016, several months later, Al Mahdi

1 confirmed in his statements and he decided to plead guilty for the charges against him.

2 This agreement signed with the Prosecution lists a certain number of other co-perpetrators

3 who I shall list because it will make it possible for you to better understand who we shall

4 be seeing later when we present the evidence:

5 There was Abou Dardar, a member of the office for the media and responsible for two

6 local radio stations controlled by the occupiers;

7 There was also Radwan, co-perpetrator, member of AQIM, who is a member of the

8 Islamic tribunal and also the office responsible for the media;

9 There was Abou El Baraa, a preacher known by AQIM;

10 Abou Talha, a member of AQIM responsible for security;

11 Adama, head -- first head of the Islamic police, is now deceased;

12 Abou Baccar, a notorious member of the Hisbah;

13 Mohamed Hama, a member of the Hisbah;

14 Zakariya, member of the Hisbah;

15 Youssouf, member of the office responsible for media;

16 And also, but it's not an exhaustive list, Abou Sayaf from the battalion led by Tariq Ibn

17 Ziyad.

18 So in this context, and this is my fourth point, your Honour, your Honours, please allow

19 me to describe in greater detail who Mr Al Mahdi was and the role he played in Timbuktu

20 during the occupation of the town in 2012.

21 All that I will present to you is based on all the evidence mentioned and the interviews of

22 Mr Al Mahdi.

23 Mr Al Mahdi is from the region of Timbuktu. He's a Touareg from the Ansar Touareg

24 tribe. He is the son of a marabout. He is well-known within his tribe and exercises a

25 certain influence therein.

1 While he was a student he had been noticed by members of AQIM who were seduced by
2 his activities and his opinions. Mr Al Mahdi indicated to us that he didn't know that
3 until after the facts which are subject to the present case.

4 In 2012 when the conflict broke out, Al Mahdi said that he left Timbuktu to find shelter for
5 his family and then when the armed groups took Timbuktu at the end of March, he
6 returned there and joined him, Ansar Dine in particular.

7 He was considered one of the religious specialists within this group and in this regard he
8 joined different organs and fulfilled different roles. He was close to and worked with
9 leaders of the town, such as Abou Zeid, a key figure with whom he recognized having
10 links of friendship and trust.

11 Precisely, the evidence shows that Al Mahdi had influence on Abou Zeid from the start of
12 the occupation at the time when everything was being set up.

13 And how did this happen in practice? Well, from the first days of the occupation in
14 April 2012, Iyad Ag Ghaly and Abou Zeid organised a meeting in the town of the hotel in
15 Bouctou. Their aim was to explain to the people of Timbuktu what their objectives were
16 and to call for their support. The name of Al Mahdi figures on a list that Iyad Ag Ghaly
17 had in his possession. The list has the names of persons in the region who are erudite in
18 religious matters. Al Mahdi went to the meeting in question in the company of
19 Houka Houka, the future judge of the Islamic tribunal.

20 Al Mahdi states that the day after -- or the day after the day after Abou Zeid invited him
21 to see him. Abou Zeid explained to Al Mahdi that he had been appointed governor of
22 Timbuktu by Iyad Ag Ghaly. Abou Zeid discussed with Al Mahdi the creation of
23 institutions to be set up and in particular an Islamic tribunal of the Hisbah, the morality
24 police. They also discussed figures in the region who could -- who were educated
25 enough and able to be responsible for these institutions.

1 Two days later and still in early April 2012 Abou Zeid asked Al Mahdi to create a lead of
2 Hisbah, which he did over a period of several months. And you can now see on your
3 screen an excerpt of a France 2 report in which Mr Al Mahdi is seen wearing the Hisbah
4 vest, that is the morality brigade. You can see his profile from top and also from the back
5 to the right.

6 Therefore, Mr Al Mahdi was involved operationally with the organs that had been set up
7 by Ansar Dine and AQMI for the administration of the city and to control the population
8 as well as impose their ideology.

9 In addition to Hisbah, Mr Al Mahdi was also involved in the work of the Islamic tribunal
10 in Timbuktu as demonstrated in his statements and the documentary evidence and
11 videos. On one of the videos Mr Al Mahdi is sitting to the right of Judge Houka Houka
12 and has a discussion with him during the hearing. Furthermore, Al Mahdi actively
13 participated in the execution of the decisions of the tribunal. When it came to public
14 flagellation, for example, he explained the sentence using a loudspeaker before hundreds
15 of people gathered and mentioned the importance of the armed groups. And you can see
16 that on the excerpt from France 2, which I mentioned a short while ago where you can see
17 Mr Al Mahdi using a loudspeaker to speak to the crowd and explain what the sentence of
18 the Islamic tribunal of Timbuktu had been.

19 Several points of evidence also point to Mr Al Mahdi's direct involvement with the chiefs
20 of Ansar Dine and AQMI, such as Abou Zeid, Abdallah Al Chinguetti, Yahia Abou Al
21 Hammam and to a certain extent with Iyad Ag Ghaly. Particularly, Mr Al Mahdi
22 reported directly to Abou Zeid on his activities. He had close and restrictive meetings
23 with these chiefs, and furthermore, he was part of public demonstrations and meetings
24 such as the crisis committee meetings which hailed in Timbuktu at the time of the events.
25 Al Mahdi also gave interviews to journalists. Of course he must have obtained prior

1 authorisation for this purpose -- I mean the journalists must have obtained prior
2 authorisation for this purpose. Mr Al Mahdi therefore had freedom to express these
3 views in these matters pertaining to the structures set up in Timbuktu.
4 From mid-September he also continued to be in the leadership of Hisbah and relations
5 with Mohamed Moussa. He played an important role in the group and participated in a
6 mission to Timbuktu and Gao with Abou Zeid and Nabil Makhoulfi, who was the then
7 emir of AQMI. The purpose of the mission was to reconcile the movement to the jihad in
8 West Africa with the Tariq Ibn Ziyad battalion which was led by Abou Zeid. Iyad Ag
9 Ghaly, the chief of Ansar Dine, was also part of that mission.
10 When he returned, Mr Al Mahdi and Nabil Makhoulfi had a car accident in which
11 Nabil Makhoulfi died and Mr Al Mahdi had a fracture on his leg. Abou Zeid sent
12 his personal car to bring back Mr Al Mahdi. Therefore, we must be clear that it was not
13 anybody whosoever who could travel with Nabil Makhoulfi in the same vehicle and also
14 be provided transportation in Mr Abou Zeid's personal vehicle.
15 Al Mahdi was able to resume service in early November 2012, engaging in several diverse
16 activities. He particularly contributed to the organisation of the training of the armed
17 groups before the attack on the capital in Bamako. That training lasted 10 days in the
18 Ario region and brought together hundreds of troops. After the debacle following that
19 offensive in January 2013, Al Mahdi left Timbuktu in the company of Abou Zeid, who was
20 killed subsequently. Al Mahdi sought refuge in Libya while continuing to serve
21 Iyad Ag Ghaly and Ansar Dine. And it was during a mission commandeered by Iyad
22 that he was intercepted in 2014 in a convoy of vehicles that had tonnes of weapons and
23 ammunitions from Libya that was conveying tonnes of weapons from Libya to Mali.
24 And at that time of his own volition he became a member of the Shura, that is the religious
25 council of Ansar Dine. The evidence, documentary evidence available confirms this fact.

1 Therefore, the body of evidence portrays him as an intellectual who crossed the Rubicon
2 and became an important member of the active groups that reign in Timbuktu and over
3 its population by force and violence, including the destruction of various mausoleums as
4 illustrated.

5 In fact, therefore, Al Mahdi was the chief of the Hisbah, who was in charge of organising
6 the attacks of these Muslim mausoleums.

7 And it is at this juncture that I will move on to my next point, which is point number 5
8 pertaining to the specificity of the attack.

9 Mr President, your Honours, the attacks on the mausoleum and sacred buildings in Sidi
10 Yahia, Timbuktu, was not something that happened haphazardly at the end of 2012.

11 There were four telling signs that could have been identified. Some mausoleums were
12 somewhat destroyed before the months of April and May 2012 without resulting in their
13 absolute destruction. In any event, AQMI and Ansar Dine subsequently monitored the
14 religious activities that were taking place at those mausoleums. Mr Al Mahdi was
15 specifically in charge of this monitoring. He took notes on the conduct of the people of
16 Timbuktu at that time and in relation to those facts.

17 Then about one month before the destruction, Abdallah Al Chinguetti, member of the
18 AQMI leadership in Timbuktu, wrote a two-page document captioned "Fath Al-Shukur in
19 relation to the duties to raze to the ground the structures and tombs."

20 It is in this context that Abou Zeid consulted Al Mahdi with regard to the destruction of
21 the mausoleums. And to be very specific, Mr Al Mahdi did not raise any objection to
22 "taking away something which was not allowed," end of quote, even though he
23 recommended that the mausoleums should not be destroyed and that the population
24 should not be disturbed. This is not a fact that is challenged by the Prosecution.

25 Then during the last days of June 2012, Iyad Ag Ghaly, along with Abou Zeid,

1 Abdallah Al Chinguetti and Abou Yahia took the decision to destroy the mausoleums. It
2 is then as I've previously stated that Abou Zeid called upon Al Mahdi and told him about
3 this decision and gave him the personal duty to implement it in his capacity as the head of
4 Hisbah.

5 Then Mr Al Mahdi proceeded to undertake the necessary planning. He decided to
6 proceed with the destructions starting in the north and coming down to the south of the
7 city.

8 Everything was launched, Mr President, your Honours, on or around 30 June 2012. The
9 operations lasted some 10 days during which the 9 mausoleums of Muslim saints were
10 razed to the ground. The door of the Sidi Yahia mosque was also destroyed. Sidi Yahia is
11 the saint patron of Timbuktu.

12 Now you can see a map showing the various sites, the cemetery to the north, then the
13 Al Mokhtar cemetery to the south and all the other cemeteries which I will be talking
14 about or graves which I will be talking about subsequently.

15 The first graves were the Sidi Mahmoud graves that were attacked by Mr Mahmoud –
16 Al Mahdi and others, it contains a number of mausoleums, the mausoleum of Sidi
17 Mahmoud Ben Omar Mohamed Aquit and mausoleum Sheikh Mohamed Mahmoud
18 Al Arawani. They arrived at that location at 8 a.m. in the morning, about 100 armed
19 men, including members of the Hisbah and members of the Islamic police or of armed
20 battalions. The destruction lasted two hours, and there was only a pile of rubbish that
21 was left behind after the mausoleums were destroyed.

22 Regarding the site, Mr Al Mahdi acknowledged that he had distributed tools and gave
23 recommendations on the manner to proceed. He also admitted to having physically
24 participated in the destruction operations. There is a video available on internet showing
25 Mr Sidi Mahmoud justifying why those graves were destroyed stating, and I quote, "What

1 we have just done for these tombs is in line with our fight against deviant practices."
2 After destroying those first two mausoleums, Al Mahdi and the other attackers went to
3 the Sidi El Mokhtar graves, which were part of the Sheikh Sidi El Mokhtar mausoleums.
4 It happened on the same day at around 10 a.m.
5 Mr Al Mahdi acknowledged having supervised the destruction of the mausoleum and
6 given recommendations on how to proceed as well as provide the necessary tools and
7 food and drinks to the attackers.
8 Once again, there is a video recording of the Sidi El Mokhtar cemetery which shows
9 Mr Al Mahdi saying "If a tomb is higher than the others, it has to be brought to the
10 ground. We are going to wipe out from our landscape all that does not belong there."
11 The operations that followed upheld those statements, the mausoleums and the graves
12 were destroyed and this operation concluded around midday.
13 Then on the same day in the afternoon, the attackers went to the third cemetery, the
14 Alpha Moya cemetery. The evidence gathered shows that Mr Al Mahdi and other
15 members of the groups which were present destroyed the Alpha Moya mausoleum and
16 that attack lasted till sunset. Mr Al Mahdi acknowledged that he provided
17 recommendations and also actively participated in the said destruction. A video of that
18 event on public media also shows how Zakariya and others proceeded to destroy the
19 mausoleum.
20 That was the first day during which three cemeteries were attacked. The next day the
21 activities continued and it was the turn of the Three Saints cemetery, which is located to
22 the southwest of the city near the military camp that was attacked. This cemetery had
23 three mausoleums, Sheikh Mohamed El Micky, Sheikh Abdoul Kassim Attouaty and
24 Sheikh Sidi Ahmed Ben Amar Arragadi mausoleums. Mr Al Mahdi again acknowledged
25 having supervised the operations. He even went on to say that these mausoleums were

1 very ancient and that they were destroyed one after the other and that the task was rather
2 easy according to him.

3 Once again there is a video that shows the Three Saints mausoleum -- cemetery, rather,
4 which is not far from the Sheikh Sidi Ahmed Ben Amar Arragadi mausoleum. And the
5 witness has testified that Mr Al Mahdi participated physically in the destruction of the
6 Sheikh Sidi Ahmed Ben Amar Arragadi mausoleum.

7 Then it was the turn of the sacred door of the Sidi Yahia mausoleum, the saint patron of
8 the town, and the two mausoleums of the Djingareyber mosque. As you can see the
9 mosque is situated in the centre of the city as you can see on the map.

10 The attack of the door of that mosque took place around 2 July, and the mosque had a
11 door which a witness has referred to as one which Mr Al Mahdi denied a request to stop
12 destroying and went on to describe what happened. There is a video available on the
13 internet showing once again Mr Al Mahdi pulling off the door with his own hands.
14 Mr Al Mahdi declared to the Prosecution that he indeed pulled off the door with Radwan
15 and Abdallah Al Chinguetti. There is also video material available on the internet
16 showing him justifying his actions as being part of the fight against superstition.

17 Less than 10 days later, the other mausoleums, Bahaber Babadié and Ahamed Fulane,
18 which are west to the Djingareyber mausoleum, were also attacked around 11 July 2012,
19 around 11 a.m. in the morning. In his statement to the Prosecution, Mr Al Mahdi said
20 that he was told to destroy those two mausoleums, and I quote, "he did not have to think
21 twice about it." End of quote.

22 He asked for support for the members of the Hisbah. He supervised the operations.

23 And he confirmed to the Prosecution that he physically participated in the destruction.

24 At some point he even decided to use a bulldozer. There is evidence, video evidence
25 showing him destroying the mausoleums and giving an interview. It is this destruction

1 which marked the end of the wave of attacks between June and July 2012 for which he is
2 now charged. Later attacks took place in the fall for which we do not have available
3 material.

4 Now, Mr President, with your leave, your Honours, let me go to my sixth point, namely, a
5 legal point.

6 We have argued that the accused's responsibility as a co-perpetrator of an attack also can
7 be perceived as including encouraging the attack and facilitating its commission by aiding
8 and abetting it in one form of assistance or another and, finally, in assisting in any manner
9 whatsoever in the commission of that crime by a group of persons acting together.

10 We have quoted Articles 25(3)(a), 25(3)(b), 25(3)(c) and 25(3)(d) of the Statute. The
11 Pre-Trial Chamber confirmed all these modes of liability. And Mr Al Mahdi admitted all
12 these modes of liability in the agreement signed with our office.

13 The body of evidence speaks beyond reasonable doubt to each of these modes of
14 responsibility. That being the case, it is the position of the OTP that it is his responsibility
15 as co-perpetrator that fully represents Mr Al Mahdi's participation and commission of the
16 crime.

17 The evidence before your Chamber leaves no doubt whatsoever as to the existence of a
18 common plan, an agreement between the various members of the armed groups in
19 Timbuktu involving Mr Al Mahdi and in relation to committing the crime, the attacks.

20 The evidence further shows that Mr Al Mahdi's participation in the common plan was
21 essential and it took various forms, including the identification and selection of the sites to
22 be attacked and the drafting of the sermon on the destruction of mausoleums, which was
23 read on the Friday before the attack, as well as the statements justifying the attacks and,
24 more fundamentally, his role in the organisation, supervision and support to the other
25 direct perpetrators of the attacks on the various other sites.

1 Clearly, this crime would have been frustrated or committed in a different manner if
2 Mr Al Mahdi had not participated in the preparation and execution of the crimes against
3 the targeted sites. And he, furthermore, provided moral caution for the other attackers
4 based on his role as the head of Hisbah and the confidence that he enjoyed from Abou
5 Zeid.

6 Therefore, in this matter your Chamber must determine first of all whether Al Mahdi is
7 liable as main perpetrator or direct co-perpetrator under Article 25(3)(a). This mode of
8 liability deals with Mr Al Mahdi's criminal liability as outlined in paragraphs 18 to 20 of
9 our document.

10 However, if you find that Mr Al Mahdi does not qualify as direct co-perpetrator, you will
11 then have to look at how each of the crimes outlined in paragraphs 18 to 20 would have to
12 be determined based on the various modes of liability. It will be up to the Court,
13 therefore, to determine whether Mr Al Mahdi is liable for the crimes judged under Article
14 8(2)(e)(iv) based, if necessary, on the mode of liability that is justified by the relevant
15 material elements.

16 Let me now move on to my next point, Mr President, your Honours, which deals with
17 what the Prosecution intends to present to your Honours. How are we going to proceed?
18 First of all, and this is my last point, there is an agreement between the accused and the
19 Prosecution in which the accused recognizes his criminal liability. This agreement is
20 binding only between the Prosecution and the accused. In any event, today Mr Al Mahdi
21 in the presence of his two counsels entered a guilty plea. It is therefore now up to the
22 Court and the Court alone to assess this plea in the context of the elements or facts of the
23 crime -- of the case.

24 For this purpose, the Prosecution has provided you with the evidence which I have
25 mentioned before. The evidence has been accepted by the Defence, including some 700

1 photographs, some video material and photographs, and they are all outlined in various
2 filings. And I want to refer to filing 67, 74, 119 and 130, and we must include the agreed
3 facts to these filings as can be seen in filings 54 and 83.

4 In view of the guilty plea entered, the public must understand, therefore, today that the
5 Prosecution does not intend to deal with each of the 700 pieces of evidence that have been
6 filed before the Court, we will deal only with specific aspects; namely, starting with an
7 interactive platform, the Prosecution will use satellite images, photographs, videos and
8 other material gleaned from the Internet which are included on the list of our evidence
9 material to show the situation of the mausoleums before, during and after the destruction,
10 including the participation of the accused. These elements are authentic and have been
11 accepted by the Defence and which are solid proof corroborating the plea of guilt entered
12 by the accused.

13 The Prosecution would also use other material and this may take place under specific
14 security arrangements, and I apologise to the public for that.

15 We will be calling the following witnesses: P-0182, P-0431 and P-0151. In fact, P-0151 will
16 testify before P-0431.

17 The first Prosecution witness, P-0182, will summarise the Prosecutor's investigations into
18 the attacks against the historic monuments and will provide specific details pertaining to
19 the interview with the accused in 2015, as well as information on the conduct of the
20 accused during the interview. This information will relate to the guilt of the accused and
21 modes of liability, as well as other matters pertaining to his voluntary plea of guilt.

22 The second witness will be P-0151, who will testify specifically in relation to sites that are
23 listed on the World Heritage list.

24 And our third witness will testify particularly on the importance of the attacked sites in
25 relation to the Malian heritage and protection afforded under Malian law.

1 Mr President, your Honours, this presentation will give the Chamber and the public an
2 overview of the case, the gravity of the crime and the diversity of evidence which clearly
3 points to his criminal liability. It will also enable the Chamber to be aware of material
4 gathered viva voce in regard to this case.

5 And before I conclude, Mr President, your Honours, after giving you an overview of the
6 situation in Timbuktu, pertaining to the evidence, the role of Mr Al Mahdi and the
7 unfolding of the facts as well-as the certain legal elements, let me conclude by quoting
8 from a Malian minister's statement in April 2013 relating to the events.

9 He described the attacks, and I quote, "as an attack on what drives our soul, at the very
10 essence of our cultural values. Their purpose was to destroy our identity, and, in a
11 nutshell, our dignity."

12 That will be all, Mr President, your Honours. Thank you for your kind attention. And I
13 think it is almost about time for the break. Thank you.

14 PRESIDING JUDGE PANGALANGAN: [10:58:33] Thank you so much, Mr Duterte.
15 Indeed, it is time to take the morning break.

16 When we resume at 11.30, Mr Duterte, you will be presenting your first witness?

17 MR DUTERTRE: [10:58:49] (Interpretation) No, Mr President. Maybe I wasn't clear,
18 we are going to proceed to an interactive presentation, which I will run myself, and you
19 will see video and audio material which will then be followed by Sarah Coquillaud's turn.
20 And that will probably be in closed session. And then later in the afternoon, during the
21 third session, we should be able to call P-0182. Thank you.

22 PRESIDING JUDGE PANGALANGAN: [10:59:25] Thank you so much for that. We
23 will reconvene at 11.30.

24 THE COURT USHER: [10:59:30] All rise.

25 (Recess taken at 10.59 a.m.)

1 (Upon resuming in open session at 11.32 a.m.)

2 THE COURT USHER: [11:32:45] All rise.

3 Please be seated.

4 PRESIDING JUDGE PANGALANGAN: [11:33:03] Let us resume.

5 And Mr Dutertre, you have the floor.

6 I'm sorry, Defence counsel, please.

7 MR AOUINI: [11:33:15] (Interpretation) Thank you, President, your Honours. I
8 have noticed that the reply by Mr Al Mahdi to Judge Mindua was not interpreted as we
9 had expected and reading from live text in English and French there is a discrepancy
10 between what was said and what was recorded.

11 I think maybe your Honour did not get a clear reply or maybe the reply was not properly
12 interpreted. Therefore, I would like to make a clarification. And with your permission,
13 if you could give -- listen to Mr Al Mahdi again so that he can respond accurately. Thank
14 you.

15 (Trial Chamber confers)

16 PRESIDING JUDGE PANGALANGAN: [11:34:56] Well, in response of the request of
17 Defence counsel, Mr Aouini, we will now allow Mr Al Mahdi to address the Court.

18 Mr Al Mahdi.

19 MR AL MAHDI: [11:35:16] (Interpretation) Thank you, your Honour, your Honours.
20 I will not take long. And I apologise, maybe I spoke too quickly in a way that led to this
21 misunderstanding.

22 I was asked whether I had changed my views on the destruction of mausoleums. In fact,
23 your Honours, in the past, at present, and in the future will always be -- would always be
24 against the destruction of mausoleums. I was asked why did I destroy these mausoleums
25 when I did not believe in such destruction. In fact, that was a grave mistake, an error of

1 judgment on my part, and I have no -- had no intention of doing this. Thank you for
2 giving me the floor again, your Honours.

3 PRESIDING JUDGE PANGALANGAN: [11:36:21] Thank you very much for that
4 clarification, Mr Al Mahdi.

5 So Mr Defence counsel, we have granted your request and we will now proceed with the
6 Prosecution.

7 MR AOUINI: [11:36:42] (Interpretation) Yes, Mr President, your Honours, thank you
8 very much for according us this opportunity.

9 PRESIDING JUDGE PANGALANGAN: [11:36:50] You're most welcome, counsel.
10 Mr Dutertre.

11 MR DUTERTRE: [11:36:58] (Interpretation) Thank you, your Honours. I will now
12 give the presentation. And I apologise in advance if I sit down momentarily because I'm
13 using a small little laptop for the purposes of this presentation. I hope that's all right.

14 PRESIDING JUDGE PANGALANGAN: [11:37:18] Of course. Of course. Please.

15 MR DUTERTRE: [11:37:22] (Interpretation) Thank you, your Honour.

16 Your Honours, this presentation which you will be seeing in a few moments is an
17 interactive platform that allows us to provide an optimal presentation of the various
18 videos that the Prosecution found on the internet regarding the destruction that occurred
19 in Timbuktu in June and July 2012. These are videos that show Mr Al Mahdi and his
20 co-perpetrators destroying the various mausoleums that are mentioned in the charge.
21 This presentation will take us back in time to the very moment of the attack and in a way
22 this presentation will be a substitute for actually visiting the location.

23 We will be bringing a number of items together: First of all satellite images that the
24 Prosecution has obtained from a specialised agency; 360 degrees panoramic shots of the
25 various sites taken by OTP experts; we will also be using some archival photographs, in

1 particular from the Malian Ministry of Culture; we'll be using a number of sketches that
2 were -- and drawings made by experts; and finally, both video footage and audio
3 recordings found by the Prosecution.

4 These will be categorised site by site and will allow you to see a number of things:
5 First of all, you will see that each site was indeed intact a few days before the attack which
6 began on 30 June 2012.

7 You will also be able to see exactly what each mausoleum looked like before it was
8 destroyed by Mr Al Mahdi.

9 Secondly, this platform will allow you to see the attackers carry out the destruction at the
10 various locations.

11 You will also be able to see the various members of this group: Al Mahdi; Abdallah
12 Al Chinguetti; Radwan; Abou El Baraa, the preacher; Abou Talha, who was the head of
13 the security detail; Abou Baccar, a well-known member of the Hisbah; Zakariya, a
14 member of the Hisbah; Youssouf; Mohamed -- Mohamed Hama, a member of the Hisbah;
15 and Abdel Jalil, a combatant. These are the various people we have been able to identify.

16 Furthermore, you will also be able to see for yourselves the behaviour of Mr Al Mahdi at
17 each site, either during the actual destruction or you will see him justifying the attack.

18 Next you will see the -- or hear, rather, the statements made by the various other people
19 involved showing the existence of a common plan.

20 Finally, the presentation will allow you to see the exact way that the sites were left after
21 the destruction.

22 And then after that I think not much will remain.

23 I'd like to specify two things: First of all, it was possible to find each video because of
24 various items of information given by witnesses familiar with the location, also thanks to
25 the 360-degree panorama shots that I mentioned earlier showing various details, and also

1 our geolocation expert, Witness P-193 who has prepared a lengthy report. The Defence
2 does not challenge any of this.

3 And I think that you will see the various elements in each video and I will pinpoint the
4 various items that allowed us to specify locations.

5 The individuals on the videos were identified by various witnesses and by Mr Al Mahdi
6 himself, in particular Mr Al Mahdi recognized himself on a number of videos and he
7 identified some of the co-perpetrators.

8 Your Honours, I will now take you to the home page of this presentation, but I would like
9 to ask the court officer if evidence 2 channel could be used for the presentation of this
10 evidence.

11 THE COURT OFFICER: [11:42:46] Could you please also confirm the level of
12 confidentiality of the document, please.

13 MR DUTERTRE: [11:42:52] (Interpretation) Absolutely. I should have done so.

14 This is a public document. All the information in this particular part of the presentation,
15 all these items of information are public in nature.

16 I think it's up on the screen now. Now here you can see that there are two windows:

17 One to the left which includes the list of the various sites that were mentioned in the
18 charge; then you have the main window to the right with a satellite image of Timbuktu.

19 And the various sites that were destroyed have been located on this image thanks to their
20 GPS coordinates.

21 And I believe you saw the map in my earlier presentation, but in this particular case it's an
22 interactive presentation. You can see each particular site: Sidi Mahmoud Ben Omar

23 Mohamed Aquit mausoleum and the Sheikh Mohamed Mahmoud Al Arawani

24 mausoleum in the Sidi Mahmoud cemetery; the Sheikh Sidi El Mokhtar Ben Sidi

25 Mouhammad Al Kabir Al Kounti in the Sidi El Mokhtar cemetery; the Alpha Moya

1 mausoleum in the Alpha Moya cemetery; the Sheikh Sidi Ahmed Ben Amar Arragadi
2 mausoleum, the Sheikh Mouhamad El Micky mausoleum, and the Sheikh Abdoul Kassim
3 Attouaty mausoleum in the cemetery of the three saints; you will also see the Sidi Yahia
4 mosque, the door of this mosque was attacked; and finally two other mausoleums that
5 were destroyed.

6 Now, let us turn our attention to the first site, the Sidi Mahmoud mausoleum which was
7 razed to the ground on 30 June 2012 at 8 in the morning by Mr Al Mahdi and the
8 co-perpetrators.

9 I'll now click on that particular name and here you see that the right-hand window is now
10 divided into three smaller windows.

11 Let us begin with the top right.

12 We are zooming in on this satellite image on the cemetery. We can see the mausoleum
13 itself. You can see the actual ruins right here.

14 To the left you can see another site which I will speak to shortly.

15 I'm now going to click on the slider and you will now see two satellite images, one taken
16 on 18 June 2012 and another taken on 15 July 2012.

17 You can see on the image taken on 18 June the Sidi Mahmoud mausoleum was intact.

18 However, on the satellite image taken on 15 July, you can see that this mausoleum has
19 been completely demolished. So the destruction certainly did occur between these two
20 dates. And I make reference to the expert report, the expert report prepared by Witness
21 P-0064. The relevant information is at paragraph 138 of the factual and legal conclusions
22 of the Prosecution supporting the charge dated December 2015.

23 I will now click on map and go back one stage. Now you see these small circles around
24 the mausoleum. These are links that will allow us to view the various 360-degree shots
25 that were taken around the mausoleum by the Prosecution witnesses. Some of these

1 shots were taken in June 2013, others in June 2014 because we had additional panorama
2 shots taken. Now, the red ones here go back to 2013 and they can be seen in the lower
3 window.

4 I'll now move to the lower window and we'll zoom in to see the details. We can also go
5 to the right or to the left and we can even go in a complete circle and see the entire
6 surroundings. Thanks to these panorama shots and the details we were able to locate a
7 number of places.

8 I'll try to go a bit quicker, but unfortunately technology is not quite with me here. But
9 you can see in the background there is an antenna, and we located this. We also see the
10 border of the cemetery, and this is quite characteristic, this is in the background. These
11 various geolocation items allowed us to attribute specific locations. You can also see a
12 soldier here from the forces that were with our expert when the shots were taken because
13 it's quite a dangerous endeavour to visit the actual location.

14 Now, we're now going to slowly go back to the mausoleum that was destroyed.

15 And I will now show you something on the other side, also June 2013, but -- well, this is
16 the angle from which most of the videos were shot. And here we see this large date
17 palm.

18 I'll now move to the upper left window with three icons. One is "before," one is "during"
19 and one is "after."

20 The "before" icon is our default value and it contains five photographs and a number of
21 drawings that show the mausoleum before the destruction. And you can also see them in
22 the horizontal menu. I'm going to blow up the image. And now we'll go to the third
23 image. And this is at tab 1 of your binder. You will see to the left the Sidi Mahmoud
24 mausoleum as it existed before the time of destruction.

25 I am now going to go to the final image under "before." This is tab 2 in your binder, page

1 0705, and here you see an architectural drawing that was done when someone from the
2 Italian Ministry of Culture was on the site years before. And you can see how the
3 building was seen by various members of the international community.

4 I'm now going to click on "during." And there are a number of videos associated with
5 this and we will see the events as they unfolded. The last video will show you
6 Mr Al Mahdi justifying the destruction.

7 But before starting, I'd like to remind you what he did when he was there. He
8 recognized that he was indeed there, that he was supervising the operations, that he
9 distributed tools, he acknowledged that he had made recommendations. He also took
10 part physically in the destruction and finally gave an interview.

11 I will begin with the first video. The ERN number is 0011-0459. And the transcript is at
12 tab 3 of your binder. This is a video and it comes from France 24 television network.

13 We see the entrance of the cemetery, the name of the cemetery, which is visible above
14 the damaged gate. And you can see the actual location. I'm going to play this video
15 with the sound, even though there is nothing of particular interest on the sound.

16 (Viewing of the video excerpt)

17 MR DUTERTRE: [11:52:46] (Interpretation) And now I'll move on to the second video,
18 and this is 0011-0177, and the transcript of this video is to be found at tab 4 of your binder.

19 This is taken from a report in Arabic. And we can see armed men standing guard at the
20 cemetery. And we know from witnesses that the destruction occurred during this time
21 within the cemetery. We can see some guards who are on the wall and then others who
22 were walking in front of the wall with their weapons. I am going to play the video but
23 without sound.

24 (Viewing of the video excerpt)

25 MR DUTERTRE: [11:53:49] (Interpretation) On the last screenshot you can see two

1 men with their weapons. These were the men standing guard while the co-perpetrators
2 were destroying the buildings inside the cemetery.

3 I will now move on to the third video, this is video 0009-1749, and the transcript of the
4 video is to be found at tab 5.

5 This is something from France 2 television station, it's from a programme called
6 Envoyé spécial. We can see the weapons that the attackers put down at the foot of the
7 Sidi Mahmoud mausoleum during the attack. Once again, I will play this one without
8 any sound so that you are not troubled by the comments made by the journalist.

9 (Viewing of the video excerpt)

10 MR DUTERTRE: [11:55:09] (Interpretation) I am going to move to timestamp
11 four -- second 0.04. And here you can see the branches of the date palm that I mentioned
12 earlier and you can also see that the second person from the left is wearing the vest of a
13 member of the Islamic police.

14 I'm going to move on a little bit. And here you can see the pickaxe of one of the attackers
15 and it's being raised as the attacker destroys the mausoleum.

16 Now video 0015-0495. The transcript of this video is at tab 6, and I make reference to
17 lines 165 to 172. Please have a look at this.

18 This is taken from a news report in Arabic. We can see Abou al Baraa, a preacher,
19 well-known from the AQMI, and one of the co-perpetrators. He is destroying the
20 mausoleum. And he explains why. I'm going to play the video now. It has a number
21 of subtitles.

22 (Viewing of the video excerpt)

23 MR DUTERTRE: [11:56:45] (Interpretation) We do not have any sound. Could the
24 technicians please -- if the technicians could help us.

25 I'm told it should now work.

1 (Viewing of the video excerpt)

2 MR DUTERTRE: [11:58:05] (Interpretation) I will now go to the very beginning.

3 And you can see the person with the pickaxe, green clothing, is the one who explained

4 why the attack was carried out. And when you listen to what he said we have very clear

5 evidence that the attack was planned and premeditated.

6 I will now go to the second last piece of footage. This is something else taken from

7 0009-1749, which I mentioned earlier, the programme called Envoyé spécial France 2.

8 Once again, this is tab 5, we can see Abou Baccar from the Hisbah destroying the Sidi

9 Mahmoud mausoleum. It's easy to make him out because he's quite tall and he was

10 identified by the witnesses. I'm going to play this video without the sound and you will

11 not be hearing the journalist's voice over.

12 (Viewing of the video excerpt)

13 MR DUTERTRE: [11:59:34] (Interpretation) So the last screenshot, the person here in

14 the centre is Abou Baccar.

15 I will now move to our last video for this particular site, and this is taken from an

16 interview given by Mr Al Mahdi at the -- on site right at that particular mausoleum and he

17 justifies the destruction of the mausoleum. I'm going to play this with the sound and it

18 has been subtitled. This is tab 5, lines 323 onwards to 325.

19 (Viewing of the video excerpt)

20 MR DUTERTRE: [12:00:48] (Interpretation) So this is very clear evidence that there

21 was a common plan. And you must also remember, your Honours, that this was at the

22 very beginning of the attack and Mr Al Mahdi's remarks served as a form of moral

23 support, an encouragement for the attacks that were being carried out around him.

24 I will now go to the icon entitled "after" and you will see a number of photographs that

25 were taken after the fact. And here we have a photograph, and I have blown it up so you

1 can see the detail, and here you can see a mark -- or, rather, destruction by an instrument
2 that was used during the attack. And here you have the ruler of the expert, which gives
3 you a better idea of the actual size. This is the first one that was destroyed, Al Arawani
4 mausoleum. And this is only a few metres away.

5 This is the Al Arawani mausoleum. And I'm going to be a lot shorter in this regard
6 because for this mausoleum we didn't have any videos with regards to its destruction on
7 the Internet. But there is no doubt whatsoever that it was destroyed on the same day by
8 Mr Al Mahdi and his co-perpetrators. He clearly admitted that there was a mausoleum
9 in the cemetery and that they destroyed it on that day. And here I refer to paragraph 142
10 of the factual and legal submissions of the Prosecution in support of the charge of
11 December 2015.

12 Nevertheless, I will show you that on 18 June 2012 this mausoleum was intact, whereas on
13 15 July 2012 it was completely destroyed.

14 I will go back here and click on the panorama which finishes with 15 P-D and I can show
15 you what remains of it today. If I zoom in and with my mouse I can show you the place
16 of the mausoleum and you can see that absolutely nothing is left whatsoever.

17 I will now go to the window. And here is what it looked like previously, next to the tree
18 that you can see there.

19 The icon is empty, during is empty of course, but after you can see a photograph taken by
20 one of our experts who put the door back and measured there during this mission by the
21 scientific police.

22 Now, on 30 June around 10 o'clock in the morning when the operation finished, the
23 attackers then went to the Sidi El Mokhtar cemetery which is below the Sidi Mahmoud
24 cemetery here. If I click on the name of the mausoleum you can see the three central
25 windows that appear. And you will see that in this cemetery there are two mausoleums,

1 but in reality we've only been able to get information with regards to the largest one, and
2 it's only the largest one which is in the charge, but Mr Al Mahdi will recognize that both
3 buildings were destroyed in the cemetery.

4 Now, with regards to the satellite image of 18 June 2012 you can see that the mausoleum
5 is intact; whereas, on the satellite image of 15 July 2012 you can see that it's completely
6 destroyed.

7 So you can see the panorama here. And if I zoom in on that panorama the mausoleum Al
8 Kounti -- or, rather, what remains of it is placed exactly in the place here on the right-hand
9 side.

10 I now go towards the upper window and the "before" icon which is selected. I will click
11 on one of the photographs which show you an old archive photograph of the Al Kounti
12 mausoleum.

13 The next photograph is more recent and it comes from the Cultural and Heritage Ministry
14 in Mali. And if I zoom in on the door you can see the name of the mausoleum which is
15 written here. And also archives of the Ministry of Culture -- the Italian Ministry of
16 Culture.

17 Now, if I click on the "during" picture it contains a certain number of videos, five in order
18 to be more precise, and I will recall what Mr Al Mahdi did in the second cemetery; he
19 supervised its destruction and he gave instructions to the attackers and he went to the
20 market to go and find objects necessary for the operation, and he provided drinks and
21 food and he also spoke to the journalists once again.

22 And precisely with this first video we have an illustration of what he said to the
23 journalists. And this comes from the video 0001-7037. And the transcript thereof is in
24 tab 9, and namely at lines 964 to 966 in tab 9. This is an exclusive excerpt from the
25 mission, and so you can see Mr Al Mahdi in the El Mokhtar cemetery and he is explaining

1 what happened. And here I will show it with the sound. And this video is subtitled.

2 (Viewing of the video excerpt)

3 MR DUTERTRE: [12:08:10] (Interpretation) Here you have extremely explicit proof of
4 the common plan of Mr Al Mahdi.

5 Now, the four following videos that you will see in the menu are photographs or an
6 illustration of the small mausoleum next to it which isn't in the charges, but I will show
7 two of them because it will show you the identity of certain of the attackers and they also
8 show you the modus operandi within the cemetery.

9 I am before the -- well, this is the second last video, it's extremely short. It is taken from
10 the video 0001-7037, and this is from the M6 channel and it is still tab 9. And here you
11 can see on the left-hand side he has his weapon, Abou Baccar from Hisbah, he's also
12 standing up and is looking at the mausoleum which is being destroyed and we see his
13 back. And I shall not play it with the sound to avoid any comments of journalists. So in
14 the centre Abou Baccar from Hisbah, a subordinate of Mr Al Mahdi.

15 (Viewing of the video excerpt)

16 MR DUTERTRE: [12:09:54] (Interpretation) And I'm going to play the last video, this
17 is the same video, 0001-7037, and this is also tab 9. I'll play it without the sound to avoid
18 journalist comments. It is quite short.

19 (Viewing of the video excerpt)

20 MR DUTERTRE: [12:10:17] (Interpretation) And I come back to the start, to the
21 second, almost first second, you will see the second person from the left that you see
22 pushing the mausoleum with a white clear jacket, this is Abou Jalil, he was one of the
23 combatants of AQIM in the town and who is currently deceased, he was one of the people
24 that we were able to identify.

25 I shall now go to the icon "after." And here you will see different photographs from

1 different angles of ruins of the mausoleum that was here. You can see the door which
2 was ripped off.

3 Now, still on 30 June 2012, the operations finished towards midday and in the afternoon
4 the attackers went towards the Alpha Moya cemetery. And if I click on the name the
5 three sub-windows open in the main window, and you will see in the upper right window
6 the ruins of the Alpha Moya mausoleum and you will see that in the satellite picture of 18
7 June 2012 it's intact, whereas on 15 July 2012 image it has been destroyed.

8 There are two panorama. If I click on the one in the south, it's on that side that most of
9 the videos were taken from the side of the door.

10 I'm now going to in the upper central window. I click on the "before" icon, I show you a
11 photograph of the Alpha Moya mausoleum with a certain number of people from
12 Timbuktu who have come together before it. That's obviously before it was destroyed.

13 And I click on the "during" icon, it contains numerous videos. I won't show them all, but
14 I would remind you, first of all, before going into it what Mr Al Mahdi did, he admitted
15 he was present, he gave orders, he also physically participated in the destruction.

16 And in the first sequence, your Honour, your Honours, this comes from the video
17 0011-0459, and that's tab 3, lines 13 and 14.

18 And you can see the entry of the cemetery. And there is a car from Abou Dardar from
19 the media commission which was set up by the armed group and which on that day was
20 one of the people who carried out the guard of the cemetery. And I'm going to play this
21 with sound even if there is nothing in particular to note with regards to the sound.

22 (Viewing of the video excerpt)

23 MR DUTERTRE: [12:14:10] (Interpretation) Now, the second sequence, your Honour,
24 your Honours, also comes from the video 0011-0459, and we're still referring to tab 3 here.

25 You can see two men who are armed. They're carrying out the guard while the

1 destruction is taking place. You can hear the bangs of hits on the mausoleum. And I'm
2 going to play this. There is nothing of particular note other than the hammering.

3 (Viewing of the video excerpt)

4 MR DUTERTRE: [12:14:56] (Interpretation) And you can see the arsenal that the
5 attackers have, it is extremely voluminous. And I can also indicate to you that the person
6 on the right of the image is Youssouf, a known member of AQIM, generally involved in
7 communication and a member of the media office in Timbuktu at the time of occupation.
8 Now, the third sequence comes from 0011-0459, tab 3, line 29, and you will see the
9 destruction that's taking place. It's the start of the operations. I'll play it with the sound
10 even if you don't hear much in particular.

11 (Viewing of the video excerpt)

12 MR DUTERTRE: [12:15:58] You can clearly see the determination of the attackers
13 against this mausoleum. And we know among the witness it had one of the thickest
14 walls of all mausoleums, and I would say that the group of persons that you see sitting
15 under the tree they were right at the start, these are the people, they are on a break.
16 There was a turnover among the attackers.

17 I'm now going to play an excerpt from video 0001-6925, and it's taken from a report from
18 TF1 television channel. This is in tab 12 in your file. You can see Zakariya, the driver of
19 Hisbah destroying a wall which corresponds with the doorway. He has a pick and you
20 can also see a member of the Islamic police with his jacket and "Police" -- "Islamic Police"
21 written on his back.

22 Now I will play the video without the sound to avoid any journalistic commentary.

23 (Viewing of the video excerpt)

24 MR DUTERTRE: [12:17:50] (Interpretation) I'm now going on to the sixth extract
25 which is taken from the video 0001-7037, tab 9. This is the report of the M6 channel

1 Enquête Exclusive, you have a zoom on Zakariya you saw on the previous video, the
2 driver of Hisbah, a subordinate of Al Mahdi, who is destroying the mausoleum. He was
3 identified by Mr Al Mahdi. I'll play the video without the sound again to avoid
4 journalistic commentary.

5 (Viewing of the video excerpt)

6 MR DUTERTRE: [12:18:49] (Interpretation) This sixth video shows you Mr Al Mahdi
7 and he is behind, but he has a tool in his hand. And this is from video 0001-7037. And I
8 will play the video without the sound to avoid journalistic commentary.
9 I'd like to draw your attention to a detail. On the left of the image you can see there's the
10 wall, this is at the Alpha Moya wall that you can see here.

11 PRESIDING JUDGE PANGALANGAN: [12:19:31] Can we just pause briefly,
12 Mr Dutertre.

13 The Court notes that the accused stepped out briefly, out of the courtroom.

14 Mr Aouini, may I ask Defence counsel.

15 MR AOUINI: [12:19:56] (Interpretation) Thank you, your Honour. We would like to
16 apologise. Mr Ahmad Al Faqi Al Mahdi has left to go to the bathroom. He will be back
17 in a few minutes.

18 PRESIDING JUDGE PANGALANGAN: [12:20:12] Will you have objections if we
19 proceed with this presentation in his absence?

20 MR AOUINI: [12:20:23] (Interpretation) Your Honour, if it was possible to wait for a
21 few seconds, he will be back. He should be present during the whole presentation.

22 Thank you.

23 PRESIDING JUDGE PANGALANGAN: [12:20:36] Okay. Well, we just take a break
24 for a few minutes. The Court will remain at the Bench.

25 (Pause in proceedings)

- 1 PRESIDING JUDGE PANGALANGAN: [12:24:02] We welcome back Mr Al Mahdi.
2 And we ask Defence counsel, we ask Defence counsel in the future if proper arrangements
3 can be made if the accused needs to be excused.
4 Can we now proceed. Sorry to have interrupted, Mr Dutertre.
- 5 MR DUTERTRE: [12:24:26] (Interpretation) No problem, your Honour. It's quite
6 normal.
7 However, I don't know at what time Mr Al Mahdi left the room, so does -- could the
8 Defence confirm that they have no problem with the fact that he must have been absent
9 for a few seconds while I was giving the presentation?
- 10 MR AOUINI: [12:24:48] (Interpretation) Thank you. We apologise, your Honour.
11 Next time we will inform the Chamber if a member of the team or the accused would like
12 to leave the room.
13 Now, for the Prosecution, they can continue their presentation where they stopped when
14 we stopped the session. Thank you, sir.
- 15 PRESIDING JUDGE PANGALANGAN: [12:25:14] Thank you so much, Counsel.
16 Now, please proceed, Mr Dutertre. You can resume from where you left the last time.
- 17 MR DUTERTRE: [12:25:26] (Interpretation) Thank you, your Honour, your Honours.
18 So I was looking at video 0001-7037 from the television channel M6. And this shows
19 Mr Al Mahdi with a tool or a handle of a tool in his hand and is behind.
20 I'll show the video without the sound in order to avoid the commentary of the journalist.
21 Before starting, I would like to point out that you can clearly see that the wall of this
22 mausoleum is slanting and we are certain it's Alpha Moya because it's the only
23 mausoleum which has such slanting walls.
24 (Viewing of the video excerpt)
- 25 MR DUTERTRE: [12:26:48] (Interpretation) I will go back a bit. The person that you

1 see on the right of the picture, this is Mr Al Mahdi and he has a tool handle in his hand.
2 And he recognized, it was an agreed fact, he said it was indeed him on this video.
3 Now, the eighth video, this is taken from video 0001-6925, and this is tab 12. This comes
4 from a report from the TF1 television channel which I've already used. And you can see
5 Abou Al Baraa, he is destroying the mausoleum. I'm going to show the video without
6 sound to avoid any journalistic comments thereon.

7 (Viewing of the video excerpt)

8 MR DUTERTRE: [12:28:08] (Interpretation) Here you can see on the right-hand side
9 in green Mr Abou Al Baraa.

10 And the final excerpt comes from video 0001-6925. I'm going to play it without the
11 sound in order to avoid any journalistic comments. And I will show you Abou Jalil, the
12 combatant that I spoke to you about in the El Mokhtar cemetery, as well as Radwan from
13 the Islamic tribunal.

14 (Viewing of the video excerpt)

15 MR DUTERTRE: [12:29:26] (Interpretation) There you can see Abou Jalil, and the
16 interest of this image is that you can see it's the same attackers who came from the north
17 to the south, and they are led by Mr Al Mahdi. And on the right in blue with an orange
18 turban Radwan from the Islamic tribunal, who is presumed to be deceased to this date.
19 I will now go on to the "after" icon and I will play an interview. I would like the text to
20 figure in the record.

21 This interview was given by Sanda Ould Boumama. Sanda Ould Boumama was the
22 spokesperson of Ansar Dine, the group to which Mr Al Mahdi belonged. And he spoke
23 to RFI, Radio France International, on that day in the evening after the destruction of the
24 Alpha Moya mausoleum.

25 And I'd like you to read tab 30, lines 3 to 9 subtitled "audio."

1 THE INTERPRETER: [12:31:05] (Interpretation of the video excerpt)

2 "He said in the annex that we must go and destroy all the mausoleums and that is exactly
3 what we are doing.

4 Question: But these mausoleums are part of the UNESCO heritage.

5 Answer: That is not our business. We have said that we are here for the charia, the
6 charia and nothing else. We will have our meeting and do whatever has been
7 recommended and leave nothing undone."

8 MR DUTERTRE: [12:31:42] (Interpretation) On the next image, in the "after" icon you
9 see only a few remains of the walls. And if there is anything left it is simply because
10 those walls were the thickest walls, and this is exactly what you can see. It's a
11 mausoleum that was discussed in school and you can see the remaining walls.
12 Now, with that mausoleum came the destruction of the first day, the end of the
13 destruction of the first day, that is 30 June. Three cemeteries were attacked, four
14 mausoleums and all of that. You saw Mr Al Mahdi and his co-perpetrators active in
15 these matters, he was present at each site and provided explanations as to what was going
16 on and was also involved in the attacks using tools, hand handled tools.
17 Now, let me return to the main map and move you now to the Three Saints cemetery,
18 which is to the left, to the bottom of the image, to the west of the city next to the military
19 camp. It is made up of the Arragadi El Micky and Attouaty mausoleums. The attackers
20 went there on the next day. Mr Al Mahdi was on site and he supervised the destruction
21 of those three mausoleums.

22 I will start with the Arragadi mausoleum and using the same approach you can see the
23 ruins here in the top right window and you can see that on the satellite picture of 18 July it
24 was intact and on the satellite image of 15 July 2012 it was already destroyed.

25 At the bottom below you see a panoramic view and I'm going to display the one to the

1 west, and it is at that location that most of the videos were shot.

2 Now, going up to the central window we see the "before" icon, which is selected by
3 default, and here you can see the fourth image which depicts the mausoleum, a picture
4 from the archives of the Mali cultural heritage museum, and you see a name clearly
5 written above the door of the mausoleum. And here you see in this last picture that this
6 mausoleum had also caught the attention of the Italian Ministry of Culture.

7 Now, if you look at the "during" icon you see three videos on the horizontal bar. One of
8 the videos depicts Mr Al Mahdi, very short videos which will be played without sound,
9 and which will enable you to understand how the mausoleums were destroyed and also
10 indicate the presence of Mr Al Mahdi on site.

11 The first video is an excerpt of video 0001-6926. You can find it at tab 14. It is an excerpt
12 of the 1 p.m. news on television France 2. It's very short and you see how the walls of the
13 mausoleum collapse.

14 (Viewing of the video excerpt)

15 MR DUTERTRE: [12:35:54] (Interpretation) Second video, an excerpt of video
16 number 0009-1749, tab 5. This is an excerpt from the programme Envoyé spécial over TV
17 station France 2, which has already been used. It's a very short excerpt where you can
18 see a better view of the mausoleum and the three remaining bits of walls.

19 (Viewing of the video excerpt)

20 MR DUTERTRE: [12:36:29] (Interpretation) The third video is also an excerpt from
21 video number 0009-1749, tab 5. And I'll play the first few seconds for purposes of
22 identification where you can see Mr Al Mahdi next to the cemetery gates and all -- several
23 persons have confirmed that that was close to the Arragadi mausoleum. And he talks
24 about the inhabitants. And I'll play this excerpt without sound to avoid any journalistic
25 comments.

1 (Viewing of the video excerpt)

2 MR DUTERTRE: [12:37:11] (Interpretation) I stop at second 0.02. And you see to the
3 right of the image the profile of Mr Al Mahdi and he has admitted that he is the one
4 appearing on that video, which was shot a few metres away from the Arragadi
5 mausoleum. Here you can see the gates to the cemetery between the various columns
6 which are further reflected in the image above.

7 Now, let us move to the "after" icon. If we click on it. I will look at the third photograph
8 or third image where you can see a bed, which simply indicates that there was such a bed
9 within the mausoleum. That is the only tangible thing that remained after the attack.
10 With your leave, let me now go to the El Micky mausoleum and in our top-right window
11 you can see the ruins of that mausoleum. The Attouaty mausoleum ruins are above, I'll
12 get back to that. On 18 June 2012 it was intact and on 15 July 2012 it was destroyed.
13 Here it is displayed at the bottom of the page in the panoramic. I will show you the
14 before images, that is before the destruction. And I'm going to the central window above,
15 where you can see a picture of the mausoleum and its square platform, which is a
16 hallmark of the back of such mausoleums.

17 You see the fourth image here which shows the front of the image and the square
18 peculiarity at the front. And then there is a door and a name, and that's the fifth picture,
19 and then here again we have an excerpt from the Ministry of Culture of Italy.

20 I now go to the "during" icon where you can find two very short videos showing how the
21 mausoleum was destroyed: One was taken outside -- or, from the outside of the
22 mausoleum, while the other video was shot from within. The mausoleum can be seen
23 here to the right. It is an excerpt from video 001 -- rather, 0001-7037, which you can find
24 at tab 9. I will play this video without sound to avoid any comments by the journalists.

25 (Viewing of the video excerpt)

1 MR DUTERTRE: [12:40:29] (Interpretation) On that last image you see a few persons
2 destroying the mausoleum.
3 Second video, it is also an excerpt from video 0001-7037. I'll play it without sound to
4 avoid any comments from the journalists. It's a very short video which shows the
5 destruction of the mausoleum from the front, in front of the door.
6 (Viewing of the video excerpt)
7 MR DUTERTRE: [12:41:10] (Interpretation) Here at this location we did not find any
8 open-source videos showing Mr Al Mahdi, but he did acknowledge that he supervised the
9 destruction of those three cemeteries because that was part of what had to be destroyed.
10 Now, let me turn to the last mausoleum, the Attouaty mausoleum, at the Three Saints
11 cemetery.
12 On the satellite image of 18 June it is intact and on the satellite image of 15 July 2012 it was
13 destroyed. This is the mausoleum that you can see on the panoramic and which you will
14 see situated between the two mausoleums as depicted in the panoramic view. These are
15 the remains of that mausoleum on the right of this picture.
16 Now, if I go to the "before" icon, and I enlarge it, you can see the mausoleum and the
17 platform to the right of the door, circular in nature as they typically are. On the fourth
18 photograph you see I zoom in on the name of the mausoleum and then you also see a
19 picture of various inhabitants of Timbuktu gathering at the mausoleum. And then we
20 have a picture from the Italian Ministry of Culture as well. We did not find any
21 open-source material depicting him on this mausoleum. However, we found material
22 about the destruction of the mausoleum or after the destruction of the mausoleum.
23 And this is the way things look on video 0025-0010, which I will now play without sound
24 in order to avoid any comments by journalists. And this is all that remained after the
25 destruction of the Attouaty mausoleum.

1 (Viewing of the video excerpt)

2 MR DUTERTRE: [12:43:49] (Interpretation) Now, the three mausoleums of that
3 cemetery having been destroyed, we have now viewed seven mausoleums that have been
4 destroyed as at 1 July 2012.

5 A few days later the attackers and Mr Al Mahdi went to destroy the door of the sacred
6 Sidi Yahia mosque. It is situated at the very centre of the city. Now let me click on the
7 corresponding icons. You have a satellite image to the right of the mosque. And since
8 we are dealing with the destruction of a door, we cannot see it from this vertical position,
9 but if I click on the panoramic view of the door you can now see the door which was
10 attacked.

11 In the central window you have a photograph and a plan which shows the mythical door
12 here to the left. And as we zoom in you can see a shot or a picture of that door which
13 had not been opened for hundreds of years and which was of great value to the people of
14 Timbuktu.

15 Then we go to the "during" icon, which has four videos. And Mr Al Mahdi appears on
16 three of them. Let me remind you quite briefly of what he did at the site: He said that
17 his co-perpetrators wanted him -- to wait for him to arrive before the operations would
18 start because they were Hisbah operations. He said that they had to meet the imam of
19 the mosque, that they had talked about opening the door with Abou Zeid and Iyad. A
20 request from someone to avoid destruction was turned down, and he said that he
21 participated in the opening of the door with Radwan and Abou Al Baraa.

22 The first excerpt we would look at is from video number 0009-1749, at tab 5, and it is an
23 excerpt of a France 2 television programme known as Envoyé spécial in which you can see
24 Mr Al Mahdi, Radwan, Abou Baccar and Abdallah Al Chinguetti meeting before the
25 destruction actually took place.

1 I will now play that excerpt.

2 (Viewing of the video excerpt)

3 MR DUTERTRE: [12:47:11] (Interpretation) You notice that weapons were also
4 present at that meeting. On that picture with a whitish turban is Mr Al Mahdi.

5 Now, the second video, your Honours, is an excerpt of video number 0001-6927. It is an
6 excerpt from the 8 p.m. news on French 2 television network where you can see Abou
7 Baccar, Mr Al Mahdi's subordinate, in front of the door before its destruction. And I'll
8 play that excerpt without sound to avoid any comments from the journalists.

9 (Viewing of the video excerpt)

10 MR DUTERTRE: [12:48:08] (Interpretation) Now I move to the third video. It is at
11 that time, that is after the meeting and the arrival of the attackers on the site, it is at that
12 time that the door will be pulled out and attacked. That's an excerpt from video
13 0009-1749, at tab 5. I will play the excerpt without sound to avoid any comments from
14 the journalists.

15 Going from the left to the right, Abou Al Baraa, Radwan, and Mr Al Mahdi to the right.
16 They each are carrying a Kalashnikov strapped around their shoulders. You can see that
17 this is the same group, the same people who are going to destroy the -- who have
18 destroyed the mausoleums, who are now at the Sidi Yahia door and who are going to
19 destroy it in spite of the objections of the local population.

20 (Viewing of the video excerpt)

21 MR DUTERTRE: [12:49:38] (Interpretation) Let me backtrack a little bit to timestamp
22 second 0.20. The second person from the right is Abdallah Al Chinguetti from the
23 emirate, the presidency of Timbuktu. And then you have Radwan to the extreme right.
24 And as we go back to second 0.11 you can see Mr Al Mahdi right at the middle of the
25 image. You can see his face.

1 Now, I turn to the last segment relating to this site, still an excerpt of video 0009-1749. I
2 will play it with the sound. It is subtitled and the content are at tab 5, lines 308 to 310.
3 Mr Al Mahdi speaking, justifies the attack while the door is still being broken down using
4 an axe.

5 (Viewing of the video excerpt)

6 THE INTERPRETER: [12:50:58] (Interpretation of the video excerpt)

7 "So if you open this door it has been said that it would lead to the end of the world. We
8 are in charge of fighting superstition and that is why we have decided to pull down this
9 door."

10 MR DUTERTRE: [12:51:21] (Interpretation) Once again you see the common plan
11 and the mens rea depicted in Mr Al Mahdi's statements. The mosque is part of the
12 World Heritage and if we attack the door of the mausoleum you are actually attacking a
13 World Heritage.

14 Now, to the "after" icon you can see at the second item which comes from the National
15 Directorate of Culture Heritage, you see a picture taken in 2012 showing the status after
16 the attackers and Mr Al Mahdi left.

17 Now, here on 1 and 2 July 2012, we can now talk about the other two mausoleums,
18 Bahaber Babadié and Ahamed Fulane, which are next to the mosque Djingareyber, and
19 these other two mausoleums were also destroyed. And as you can see here on the
20 images of 18 June 2012, you can see that the images of the mausoleums are visible, but
21 then thereafter on 15 July you can see that there is no trace of those mausoleums which
22 were entirely destroyed.

23 And here in front we're going to have a 360 degree panoramic view. As it goes around
24 you can see the minaret right there. And here in front of you, this is where the two
25 mausoleums would have been situated. And I am spinning this around because you are

1 going to notice the armed -- the presence of armed vehicles and armed persons for
2 purposes of security as this filming was being undertaken.

3 (Viewing of the video excerpt)

4 MR DUTERTRE: [12:53:41] (Interpretation) (Redacted)

5 (Redacted)

6 (Redacted). As you can see, a strong

7 military presence. And it may be said that without these people or these troops it would
8 not have been possible for our experts to have access to this area, which is rather difficult
9 to access. Now, let us move back to the very beginning of the video where you can now
10 again see where the mausoleums were situated.

11 Now, on the "before" icon, let me click on the second image which shows you what the
12 two mausoleums looked like. These were very popular sites visited by the inhabitants.

13 And these mausoleums had been restored or refurbished by the Aga Khan Foundation
14 between 2008 and 2010 reflecting the interest that the mausoleums had generated over the
15 years.

16 Now, if I click on the "during" mausoleum, we have five items here showing the accused
17 person at several times being involved in the destruction of the mausoleums.

18 Now, if I take the first video, an excerpt of video 0025-0010, we are looking at a report for
19 an Arabic network which I have already referred to at tab 16 of your binder. Here you
20 can see Mr Al Mahdi in the middle of the screen destroying the mausoleum. And the
21 images will show that this activity took place at different times. And I'll be playing it
22 without the sound to avoid any comments from the journalists.

23 (Viewing of the video excerpt)

24 MR DUTERTRE: [12:57:04] (Interpretation) Now, Mr President, your Honours, let me
25 go back quickly to three parts of this video. At timestamp 05 you see Mr Al Mahdi, this

1 is an agreed fact, timestamp 19 seconds you see Mr Al Mahdi from the back, on top of the
2 mausoleum destroying it with a pickaxe. Then we go to timestamp second 41 where you
3 see at the top of the mausoleum, sitting and using his phone, we can see Mr Al Mahdi
4 from in front. And this is Al Mahdi, it's an agreed fact, an unchallenged fact.

5 Now, let us look at the second excerpt from video 0017-0027, tab 19, it is an excerpt from
6 journeyman.tv programme, from a journeyman.tv programme, where you can see the
7 accused person on top of the mausoleum with his pickaxe. And I'm going to play that
8 video without any comments from the journalists. It's a very brief, a very short video.

9 (Viewing of the video excerpt)

10 MR DUTERTRE: [12:58:39] (Interpretation) At timestamp second 00, you see at the
11 top Mr Al Mahdi with his pickaxe and that is an agreed fact.

12 Third excerpt, video 0025-0174, tab 20, it is drawn from a documentary in the Arabic
13 language where you can see the accused once again on top of the mausoleum using his
14 phone. And here you can see that he is here and his Kalashnikov is leaning on the wall at
15 the top of the picture to the left. I will now play the video.

16 (Viewing of the video excerpt)

17 MR DUTERTRE: [12:59:34] (Interpretation) Mr President, your Honours, I will now
18 play the last video for this site and for the entire presentation on which you can see
19 Mr Al Mahdi clearly at the beginning of an interview which we do not have, but he is
20 clearly identified here at the site of the mausoleum that was destroyed. This is an
21 excerpt from video 0009-0149, at tab 5 of your binder. You can see Mr Al Mahdi's face.
22 And I'm going to play the video without sound in order to avoid any comments from the
23 journalists.

24 (Viewing of the video excerpt)

25 MR DUTERTRE: [13:00:33] It was very brief, very short.

1 What you must realise, your Honours, in conclusion, that we have these videos and we
2 can see these people committing their crimes, crimes that come under the jurisdiction of
3 this Court. We see that the crimes were organised, premeditated, followed a common
4 plan. We've heard what the people said. We have identified some of the
5 co-perpetrators, and it's quite clear that the accused played a central role at each one of
6 these events.

7 This is why we have prepared this interactive platform presentation for you and you have
8 seen what occurred at each and every one of these locations.

9 I thank you for your attention, your Honours. And we intend to table the presentation
10 itself and do this by way of a filing. It will be distributed in the afternoon to the parties
11 as a courtesy and, of course, to the Chamber.

12 I will now give the floor to my colleague, Sarah, who will be giving a presentation in
13 closed session in order to protect the identity of witnesses. It will just take us a few
14 moments to switch places and prepare for the next presentation. I thank you.

15 PRESIDING JUDGE PANGALANGAN: [13:02:06] You're most welcome, Mr Dutertre.
16 I take it we will now ask the court officer to go into closed session.

17 Let me just clarify from counsel. Mr Dutertre, is it closed or private session?

18 MR DUTERTRE: [13:02:35] Closed session. (Interpretation) No one should know
19 what is being said in this courtroom other than those who are now present so as to
20 preserve the -- or protect, rather, the identity if possible --

21 THE COURT OFFICER: [13:02:50] Private session should be sufficient then. The
22 courtroom will remain open, but nobody outside the courtroom will be able to hear us.

23 MR DUTERTRE: [13:02:55] (Interpretation) Yes, but if there are things up on the
24 screen, it might be better to be in closed session.

25 PRESIDING JUDGE PANGALANGAN: [13:03:05] Okay, court officer, it is closed

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22 (Open session at 1.31 p.m.)

23 PRESIDING JUDGE PANGALANGAN: [13:31:47] Okay.

24 THE COURT OFFICER: [13:31:53] We are in open session.

25 All rise.

- 1 PRESIDING JUDGE PANGALANGAN: [13:31:58] Thank you.
- 2 (Recess taken at 1.31 p.m.)
- 3 (Upon resuming in open session at 3.08 p.m.)
- 4 THE COURT USHER: [15:08:48] All rise.
- 5 Please be seated.
- 6 PRESIDING JUDGE PANGALANGAN: [15:09:03] Welcome back.
- 7 We will now resume with the presentation by the Prosecution. We will resume in closed
- 8 session.
- 9 MS COQUILLAUD: [15:09:20] Yes, that's correct, Mr President.
- 10 PRESIDING JUDGE PANGALANGAN: [15:09:23] Thank you.
- 11 Court officer, please.
- 12 (Closed session at 3.09 p.m.)
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Trial Hearing
WITNESS: MLI-OTP-P-0182

(Open Session)

ICC-01/12-01/15

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5 (Open session at 3.34 p.m.)

6 THE COURT OFFICER: [15:35:28] We are in open session, Mr President.

7 PRESIDING JUDGE PANGALANGAN: [15:35:31] Thank you. Thank you so much.

8 Shall we now proceed with the first witness.

9 MS COQUILLAUD: [15:35:39] Yes, Mr President. If you could give us a few minutes
10 to switch seats.

11 PRESIDING JUDGE PANGALANGAN: [15:35:43] Yes, of course.

12 (Pause in proceedings)

13 MR DUTERTRE: [15:36:00] (Interpretation) Your Honour.

14 (Trial Chamber confers)

15 (The witness enters the courtroom)

16 PRESIDING JUDGE PANGALANGAN: [15:37:46] Counsel, I will now start with
17 the -- to prepare the witness for his testimony while you're fixing up.

18 MR BLACK: [15:37:57] Thank you, your Honour. That would be perfect. Please
19 excuse the noise if I'm --

20 PRESIDING JUDGE PANGALANGAN: [15:38:01] Yes.

21 Mr Witness, good afternoon.

22 WITNESS: MLI-OTP-P-0182

23 THE WITNESS: [15:38:05] Good afternoon, your Honour.

24 PRESIDING JUDGE PANGALANGAN: [15:38:07] On behalf of the Chamber I welcome
25 you to the courtroom. You are going to testify before the International Criminal Court,

1 Mr Witness, and there should be a card in front of you with a solemn undertaking to tell
2 the truth. I request you to please read out this card.

3 THE WITNESS: [15:38:28] I solemnly declare that I will speak the truth, the whole
4 truth and nothing but the truth.

5 PRESIDING JUDGE PANGALANGAN: [15:38:33] Thank you. Thank you,
6 Mr Witness.

7 I will now explain to you the protective measures that have been put in place for your
8 testimony, these measures were granted in decision 133 by this Chamber. The measures
9 are the following:

10 Face distortion has been put in place, meaning that no one outside the courtroom can see
11 your face during the testimony. There will also be the use of a pseudonym. In
12 accordance with that we will refer to you only as "Mr Witness" to make sure that the
13 public does not know your name. When you answer questions that will not give away
14 who you are or might incriminate you, we will do so in open session. We are right now
15 in open session, which means that the public can hear what is being said in the courtroom.
16 When you are asked to describe anything that relates specifically to you or you are asked
17 to mention facts that might reveal your identity, for example, any locations where you live
18 or persons close to you, you will do so in private session. When the Court is in private
19 session there is no broadcast and no one outside the courtroom can hear your answer. If
20 you're ever unsure if the hearing is in open or private session please do not hesitate to ask.
21 If ever anything gets said during open session that should have been kept in private
22 session we will do our best to protect this information. Your testimony will be broadcast
23 on a delay and we can remove any such remarks from the broadcast which will be heard
24 by the public and from the public transcripts of the proceedings.

25 The Chamber recognizes that your well-being is important during the course of this trial.

1 If at any point you feel that you would like a brief break from giving your testimony or in
2 case you do not -- in case you feel unwell, do not hesitate to let us know.

3 I now turn, Mr Witness, to a few practical matters in the giving of your testimony.
4 Everything we say here in the courtroom is written down, interpreted into English and
5 French. It is therefore important to speak clearly and to speak at a moderate or rather
6 slow pace. We want to make sure that your words can be well understood by the
7 interpreters and then by the rest of us. Please speak into the microphone and only start
8 speaking when the person asking you the question has finished. To allow for the
9 interpretation everyone has to wait a few seconds before starting to speak, so I
10 recommend to you when the lawyer has asked his or her question please count in your
11 head to three and only then give your answer.

12 If you have any questions yourself raise your hand so the Court can know that you wish
13 to say something. We will then give you the opportunity to ask that question.

14 I take it, Mr Witness, that you understood all of these? Thank you.

15 Counsel may now proceed with the testimony.

16 MR BLACK: [15:41:55] Thank you very much, your Honour.

17 QUESTIONED BY MR BLACK:

18 Q. Witness, good afternoon.

19 A. Good afternoon.

20 Q. I was going to start with a few routine reminders, but the Presiding Judge has
21 covered most of what I meant to say, so let me just emphasise the point that we need to
22 speak slowly and try to pause between our questions and answers.

23 Also, if any of my questions are unclear or you'd like clarification please just say so, I'd be
24 happy to rephrase them.

25 MR BLACK: [15:42:33] Your Honour, could we please go into closed session for

Trial Hearing
WITNESS: MLI-OTP-P-0182

(Open Session)

ICC-01/12-01/15

- 1 approximately 10 minutes? I would like to cover the witness's CV, which obviously
2 might identify him, and one other short topic before we come back.
- 3 PRESIDING JUDGE PANGALANGAN: [15:42:45] Let me ask counsel, this is private
4 session or closed session?
- 5 MR BLACK: [15:42:49] Your Honour, I would somewhat prefer closed session.
- 6 PRESIDING JUDGE PANGALANGAN: [15:42:52] And just for 10 minutes?
- 7 MR BLACK: [15:42:54] Yes.
- 8 PRESIDING JUDGE PANGALANGAN: [15:42:55] Okay.
- 9 JUDGE SCHMITT: [15:42:58] Could you please elaborate why?
- 10 MR BLACK: [15:43:01] Your Honour, it's a minor thing. As I understand it, the only
11 difference between closed and private session is just closing the curtains, so it doesn't take
12 much more time, and it's a question of whether they can read our lips in the places that we
13 talk about. I'm in your hands, your Honour, but I think closed session is the more
14 conservative choice and not much more costly in terms of time.
- 15 JUDGE SCHMITT: [15:43:26] But we are aware of the fact that this would mean that you
16 would normally have to go into closed session and not into private session, if this lip
17 reading would really be an argument. But of course if you think it might be appropriate,
18 yes, but --
- 19 (Trial Chamber confers)
- 20 MR BLACK: [15:43:47] Thank you, your Honour, and I would say that I've structured
21 my questions so that this could be the only closed session and everything else will be in
22 public session.
- 23 PRESIDING JUDGE PANGALANGAN: [15:43:56] The Court grants the request,
24 Counsel, for the request to go into closed session for approximately 10 minutes.
25 Court officer.

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Trial Hearing
WITNESS: MLI-OTP-P-0182

(Closed Session)

ICC-01/12-01/15

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8 (Open session at 3.56 p.m.)

9 THE COURT OFFICER: [15:56:50] We are in open session, Mr President.

10 PRESIDING JUDGE PANGALANGAN: [15:56:52] Thank you. Thank you so much.

11 Mr Prosecutor, please proceed.

12 MR BLACK: [15:56:56] Thank you, your Honour.

13 Q. Witness, we're back in public session now, so I'd ask you to be careful to avoid using
14 your own name or the names of other investigators or individuals who may be protected
15 witnesses. Do you understand?

16 A. That is clear.

17 Q. I'm going to ask you a series of questions related to the investigation conducted by
18 you and your colleagues in this case. My first topic relates to the kinds of evidence that
19 you've collected. The charge in this case as you know relates to an attack on buildings
20 dedicated to religion and historic monuments in Timbuktu during June and July of 2012.
21 Focused on that crime, and without naming any particular witnesses or particular sources,
22 could you describe in general terms the different kinds of evidence that you've collected in
23 your investigation?

24 A. Thank you. Your Honours, perhaps the easiest way to describe this, even though
25 evidence is collected to a large extent in parallel and there are different categories of

1 evidence at the same time, to describe the different categories of evidence, maybe I start
2 from the most general one, that is the type of information and material that is available on
3 open source and in public media.

4 We have collected this type of evidence and then, following from that, bring the
5 investigation into more focus and to approach individuals and organisations that have
6 further, more specific information about the events of interest.

7 We also collect evidence of course on the context of the situation as a whole, and then
8 we -- we collect more specific evidence on -- on the particular events that become of
9 interest to the investigation.

10 We -- when we develop the collection from -- from the open-source material, we approach
11 governments and organisations that -- that have conducted activities, that we know have
12 conducted activities in the same area and who can provide more substance to the general
13 information we have.

14 From there on we approach individuals who can explain to us and authenticate to us the
15 information that we have -- that we have collected, and this often leads to interviews with
16 witnesses that -- that result in statements.

17 Throughout this process we -- we approach individuals that -- that have been present
18 during the events and can provide their own experience, these also usually result in
19 witness statements that are an important part of the evidence collection.

20 When we reach moreover that determination or conclusion on what -- what the
21 investigation focuses on, we also approach experts to examine entities or totalities of
22 evidence to provide us with an expert analysis or an expert report, and in this case we
23 have a few important ones that help us -- help us come to conclusions about the evidence.

24 And we, also the office conducts its own and has conducted its own crime scene
25 investigations and the results of those become -- become evidence in the case.

1 And finally I would mention of course the one important piece of evidence in this case,
2 which is the September 2015 interview of Mr Al Mahdi.

3 Q. Thank you, Witness, for that, that answer.

4 I'm going to ask you a couple of follow-up questions. You've mentioned expert
5 witnesses and expert reports. We'll come back to maybe some of these, but could you
6 give just a couple of examples of the fields, you know, the subjects of expert evidence in
7 this case?

8 A. Yes. Your Honours, in this particular case we of course -- one of the focus was
9 the -- was the actual buildings and the constructions that were subject to the attack. One
10 of the expert reports is about understanding the structure of these buildings and what
11 they -- what they actually are, to explain to us, and then what happened to them when
12 they were -- when they were attacked. This is in a way of talking about it as a
13 construction.

14 We also have an expert report on the images, such as satellite images and aerial images of
15 the area where an expert can confirm with a -- with a date before and a date after that
16 there was an existing structure and at a later date it does not exist anymore. This is to
17 determine that the construction was actually destroyed.

18 We have an expert report on metadata of images and video material. This has played an
19 important role for us as far as possible to determine the exact dates of, on the one hand,
20 the so-called occupation of the city, but also the exact events that are -- that are the subject
21 for this case.

22 Q. Thank you. And you also I think alluded to documentary evidence collected from
23 governments or from international organisations. Could you give again just a couple of
24 examples of the kinds of documentary evidence you've collected?

25 A. Yes. There is of course again going to a bit of historical information. From -- from

1 the government of Mali, we collected information about the history of these buildings and
2 the history of their protection. Then also important with especially the Malian
3 governments but also other governments involved during the conflict is the development
4 of the conflict and communication and reports about what was going on in the different
5 parts of the north of Mali.

6 Organisations and even individuals went into Timbuktu very soon after the, if I can call it
7 the liberation of the city, and were able to collect documents that had been left behind by
8 the groups when they -- when they left the city. And this is one type of documents that
9 we have been able to collect.

10 Other than that, NGOs and other organisations have done a job that is related to what we
11 are doing, which is talking to local people, collecting information and -- and drafting
12 reports and also this is something we have collected.

13 Q. Thank you, sir. And just so that it's clear, you haven't necessarily personally
14 collected all this evidence, all these kinds of evidence, but the team has collected them
15 under your supervision; is that right?

16 A. That's correct.

17 Q. And do you routinely review the evidence that's collected by the team as it comes
18 in?

19 A. Yes, I do.

20 Q. And do you feel sufficiently familiar with the evidence to provide the Judges with a
21 brief summary of the evidence on a few key aspects of the case?

22 A. Yes, I do.

23 Q. Then unless I say otherwise, please assume that my questions over the next several
24 topics are asking for you to answer on the basis of all the information collected, not just on
25 your personal activities.

1 Let me ask you now a few questions about the armed groups at issue in this case based on
2 the information collected during the investigation.

3 The parties are in agreement that the town of Timbuktu was occupied by armed groups
4 from roughly April 2012 until January 2013. Does that correspond with the time frame of
5 the occupation as established by your investigation?

6 A. Yes, your Honours. That -- that is a conclusion that can be drawn. Depending
7 on -- on what one sees as the actual beginning of events or the beginning of an occupation
8 that could vary by -- by I think one or two days at the beginning, but it's -- a good
9 conclusion is that the events that we are talking about started on 1 April 2012. The
10 groups left Timbuktu during around mid-January 2013, and Malian and French forces
11 took control of the city towards the end of January. So that -- that time frame makes
12 sense.

13 Q. The two main groups participating in the occupation of Timbuktu were Al-Qaeda in
14 the Islamic Maghreb and Ansar Dine; is that correct?

15 A. That is correct.

16 Q. I'll ask you a few questions about each group starting with AQIM. The name
17 Al-Qaeda in the Islamic Maghreb suggests a regional group active also outside of Mali.
18 Is that the case?

19 A. That's correct. Geographically Maghreb does not really include Mali, but I guess to
20 have a good understanding of this, the Al-Qaeda in the Islamic Maghreb, if I can use the
21 abbreviation AQIM, developed from an organisation in Algeria that was opposed to the
22 Algerian government during the civil war in the '90s and was at the time a more local
23 group. Around the mid-2000s it developed into a more regional or if I can say
24 international group that adopted the ideology of the core Al-Qaeda. They started
25 operations in -- in both Maghreb, which is the north-west of Africa, and also the Sahel

1 region that is a bit further south and includes -- includes Mali.

2 The -- by 2012 that is relevant for this case, they had -- AQIM had two distinct emirates,
3 one was the Maghreb emirate and the other one was called the Sahara emirate, which
4 included geographic -- they were divided based on geography, and the Sahara emirate
5 was -- included the area of Mali and Timbuktu.

6 Q. Thank you. Approximately how long was AQIM active in northern Mali prior
7 to 2012, if you know?

8 A. Witnesses and information describes some kind of presence for -- for something
9 around even 10 years prior to the events, but concrete information, I would say, for
10 something around five to seven years before -- before the actual events.

11 Q. And is AQIM still active in Mali and the surrounding region today?

12 A. Yes.

13 Q. Let me turn to the other group that I mentioned, Ansar Dine. Is Ansar Dine, or is it
14 or was it also a regional or international group, or was it focused more on Mali?

15 A. Yes, your Honours, Ansar Dine is a local Malian group also described as a -- as an
16 Islamist militant group. It was formed in -- in late 2011 and based on the information we
17 have, it really is focused on -- locally on Mali.

18 Q. Can you tell the Judges who founded Ansar Dine?

19 A. Yes, your Honours, it is an individual called Iyad Ag Ghaly.

20 Q. And is Iyad Ag Ghaly a Malian citizen as far as you know, originally from the north
21 of Mali?

22 A. Yes, your Honours, he is. He is from the north of Mali. He has past links both
23 with the government of Mali and with -- with former rebel groups, in particular in the
24 rebellion in the 1990s in Mali.

25 Q. And just to be clear, the rebellion against the Malian government; is that correct?

1 A. That's correct.

2 Q. Was Ansar Dine active throughout the armed conflict in Mali as far as you know?

3 A. Yes, they were.

4 Q. And does it continue to be active in Mali today?

5 A. Yes.

6 Q. Witness, did these two groups AQIM and Ansar Dine cooperate in the occupation
7 and administration of the town of Timbuktu during 2012 and January 2013?

8 A. Yes, they did.

9 Q. And based on your investigation, were you able to determine a clear division of
10 tasks between the two groups during the occupation?

11 A. Your Honours, that's not a very simple question to answer. You cannot say that
12 there is a clear division. Of all tasks there are some issues and divisions that are clearly
13 distinct, but for the most part the conclusion of the investigation is more that it is a -- it's a
14 merger of two groups that come together and -- and with -- with divided responsibilities
15 have the same objective.

16 Q. What if anything did you hear from witnesses, from locals at the time about whether
17 they were able to distinguish effectively AQIM from Ansar Dine during the occupation,
18 again in general terms?

19 A. Yes, your Honours, different witnesses have of course different level of knowledge
20 and understanding, but in conclusion it can be said that people did not clearly know what
21 was AQIM and what was Ansar Dine in the city of Timbuktu in 2012.
22 What they may know in many cases is if -- if someone was a local or if someone was -- had
23 come to the city from the outside and had not been there before the occupation, but to
24 distinguish exactly who was a member of which group seems to be very difficult for
25 the -- for the population.

1 Q. You mentioned that the two groups had the same objective. When these two
2 groups took control of Timbuktu in 2012, did they announce their objective or objectives
3 in occupying the town?

4 A. That's correct even though I want to acknowledge the fact that we may not be aware
5 of all the objectives of these groups, but they did announce some objectives and, in
6 conclusion, I could say that if one objective is to set up their own administration, their
7 own structures and systems, that was announced and they -- they managed that and they
8 did that.

9 Q. And was one of the stated objectives, according to the groups, the imposition of new
10 rules on the community which the groups claim to be based in Islamic law or sharia?

11 A. That's correct. That was the main announced objective.

12 Q. Could you give an example or two examples of the kinds of new rules that were
13 imposed on the population by the groups?

14 A. Yes. Perhaps to -- to put it in context, the structures were set up and it was
15 announced that the rules in town would be based on -- on Islamic law and that the rules
16 were not necessarily announced as such to everyone, but through the structures that were
17 set up and the implementation of these in the everyday life people became aware of what
18 the group saw as appropriate and not.

19 One example was the dress code for women. There was the issue of -- of women being
20 out in the street on their own. There's the issue of smoking, drinking, playing music
21 and -- and also the various types -- restrictions on various types of festivities.

22 Q. And so I'm clear, you referred to the issues of women being out in the street on their
23 own, of smoking, drinking and playing music. Those things which had not been
24 prohibited before the occupation were now prohibited by the armed groups; is that right?

25 A. That's correct.

1 Q. And we'll come back to this later in connection with the September 2015 interview,
2 but did some of these new rules also impact the religious practices of the local population,
3 specifically with regard to the mausoleums in this case?

4 A. That's correct. One practice and routine by the local population was to -- was to
5 pray at the graves of their ancestors, and this was something that according to the groups
6 was -- was to be prohibited.

7 Q. And I suppose it's worth making the following point: Mali is a predominantly
8 Muslim country; is that right?

9 A. That is correct.

10 Q. And Timbuktu in particular most of the inhabitants of Timbuktu are Muslims and
11 were Muslims before, during and after the occupation; is that right?

12 A. Yes.

13 Q. But nevertheless many of the rules that were imposed by the groups were new to
14 the population of Timbuktu?

15 A. Yes.

16 Q. I believe you referred to institutions a moment ago. Let me ask you some questions
17 about that. The armed groups established a number of different institutions during the
18 occupation of Timbuktu to administer the town; is that right?

19 A. That's correct.

20 Q. Can you name a few of the most important ones?

21 A. Yes. Your Honours, there's -- there's the supreme decision-making authority,
22 which was called the Presidency. Then the groups established what was called an
23 Islamic court. There was an Islamic police. There was the Hisbah or the morality brigade.
24 There was a media commission. And there was the security battalions that were in
25 charge of protecting the city or guarding the city at the outskirts. They were also

1 implicated in the -- setting up training centres for new recruits.

2 I believe these are the most important what I would call, if you can call them institutions.

3 And apart from this, we have learned in the evidence about certain commissions and

4 other smaller groups that were used for -- to feed -- to feed these structures.

5 Q. Let me ask a few questions about the institutions that you mentioned, starting with
6 the Presidency. Who served on the Presidency?

7 A. Yes. The decision makers in the Presidency or what is the core of the Presidency is
8 headed by a man called Abdelhamid Abou Zeid, who is described as the governor of
9 Timbuktu at the time. There were two other members, one is called Yahia Abou Al
10 Hammam and the other one Abdallah Al Chinguetti.

11 Q. Were these men AQIM members or Ansar Dine members, if you know?

12 A. These are AQIM members. Abdelhamid Abou Zeid was the head of the Tariq Ibn
13 Ziyad battalion and Yahia Abou Al Hammam, the head of the Al Fourqane battalion, and
14 Abdallah Al Chinguetti was also a member of the Al Fourqane battalion.

15 Q. Do you know if any of those men were Malian nationals?

16 A. As far as I know they had -- they were not Malian nationals.

17 Q. And as far as you know, are any of those three men alive today?

18 A. I believe Yahia Abou Al Hammam may be alive. I have to say I cannot say for sure.
19 But Abou Zeid and Abdallah Al Chinguetti are not alive.

20 PRESIDING JUDGE PANGALANGAN: [16:26:15] Counsel, can I just -- I just want us
21 to keep track of the time. We are scheduled to terminate the hearing for today at around
22 5. You were given a total of 12 hours for the Prosecution, and we have two more
23 witnesses to go, so perhaps you should be aware of the time that will be needed for the
24 rest of the testimony of this witness and of the two others.

25 MR BLACK: [16:26:44] Thank you very much, your Honour. We've tried to map it

1 out so that we'll be well within the 12 hours, but I'll also move on.

2 PRESIDING JUDGE PANGALANGAN: [16:26:51] Just to be sure.

3 MR BLACK: [16:26:53] Okay. Thank you.

4 Q. Witness, you mentioned that Abou Zeid was considered the governor of Timbuktu.
5 Did evidence disclose who appointed Abou Zeid to that position?

6 A. The evidence in general does not make a lot of reference to this. It seems that it
7 was very clear to the population from the activities and from what they heard in the city
8 that this was the case, that he was the main administrative leader in Timbuktu.
9 It is from the September 2015 interview with Mr Al Mahdi that we have learned that
10 Abou Zeid himself said that he had been appointed by Iyad Ag Ghaly to be the governor
11 of Timbuktu.

12 Q. Another institution of relevance to this case was the Hisbah or morality brigade,
13 which you mentioned earlier. Based on the evidence collected, including the
14 September 2015 interview of Mr Al Mahdi, how was the Hisbah created?

15 A. Yes, your Honours, the Hisbah was -- was an integral part of the administration that
16 these groups wanted to set up in Timbuktu, and it was one of the first institutions to be
17 effectually operational. And it was during the first weeks of the occupation that -- that
18 discussions started about how it should be set up, and it was Abou Zeid, the governor,
19 that appointed Mr Al Mahdi at the head of the Hisbah, after which it was Mr Al Mahdi
20 who developed it into what it became.

21 Q. Thank you. And how long was Mr Al Mahdi the head of the Hisbah or for what
22 time period?

23 A. I would determine that he became the head of Hisbah at some point during April
24 of 2012. And we have been able to determine pretty well in time that in early September
25 he was asked to go on a mission which took him away from Timbuktu, at which place he

1 was -- at which time he was replaced.

2 Q. To keep us moving forward and conscious of the time, did members of the Hisbah
3 as well as the Islamic police and the security battalions participate in some way in the
4 destructions of the site and of the cultural sites in June and July 2012?

5 A. Yes, definitely members from all those institutions took part.

6 Q. Okay, and we may come back to the details later.

7 Let me focus for a few minutes on the buildings themselves, the buildings dedicated to
8 religion and historic monuments that were destroyed in June and July 2012. To do that,
9 please turn to tab 4 of your binder, which includes some excerpts from an expert report
10 prepared by Witness P-0104. The ERN, your Honours, is MLI-OTP-0028-0586.
11 Your Honours, and for the court officer, this is a confidential document, and we'd like it to
12 remain confidential. That's primarily to protect the identity of the author, who does
13 travel to the region sometimes. I've chosen a few pages to show to the witness which
14 would not reveal his identity and I think it could be helpful to the public to also see them.
15 Is it okay if I publicly display just certain pages of the report, although the report would
16 remain confidential?

17 PRESIDING JUDGE PANGALANGAN: [16:31:38] Yes. Yes, please proceed.

18 MR BLACK: [16:31:40] Thank you, your Honour. We'll start with just the cover page
19 of the report, which is page 0586.

20 Q. Witness, are you familiar with this report?

21 A. Yes, I am.

22 Q. And does it discuss a number of sites attacked during the occupation in Timbuktu
23 including the sites at issue in this case?

24 A. That's correct.

25 Q. And would it be accurate to say that this report is one of the pieces of evidence

1 establishing that these buildings were in fact buildings dedicated to religion and historic
2 monuments?

3 A. Yes, that's correct.

4 Q. Without getting into detail, great detail, what other kinds of evidence, if any, did the
5 team collect regarding the historic significance and the religious use of the buildings?
6 What kinds of evidence?

7 A. With regards to documentary evidence, there's -- we have some documentation
8 from the -- from the Malian government, from the process of protecting the -- protecting
9 the buildings. The other main category of evidence I would say are the interviews with
10 witnesses from the region who knew about the use of these buildings and who would
11 describe the way they were used as a dedication to religion. But also as a basis there is a
12 number of media articles and videos explaining the use of these sites and buildings.

13 Q. Of the 10 sites at issue in this case, 9 mausoleums built over the graves of Muslim
14 saints; is that correct?

15 A. That's correct.

16 Q. And you explained in basic terms one of the religious uses, that the praying at the
17 mausoleums?

18 A. Correct.

19 Q. The one cited issue in the case that was not a mausoleum was the door of the Sidi
20 Yahia mosque. And I'd ask you to look at page 0610 of the same report, which I'll put on
21 the screen. Do you recognize what's in these photographs?

22 A. Yes, I do. I also wanted to point out that there may be some sensitive information
23 on that page.

24 Q. Well, here, we'll take it off the screen just in case. It has a couple of redactions on it.

25 A. Okay. Maybe I don't see that.

1 Q. Okay.

2 A. Okay.

3 Q. Perhaps what's in the binder is different than what's on the screen, okay.

4 I guess the only question there was is it accurate that the door which was attacked is
5 physically part of one of the walls of the mosque?

6 A. That's correct.

7 Q. Approximately how old was the door itself, do you know?

8 A. Your Honours, I must say I don't know the answer to that question.

9 Q. Was it a question of years or tens of years or hundreds of years? Do you have any
10 idea?

11 A. My understanding was that it was old, it was a matter of hundreds of years.

12 Q. And was there a local custom or story regarding specifically this door and what
13 would happen if the door were opened?

14 A. Yes. The story or the explanation was that -- was that door to be opened, the day of
15 judgment would come.

16 Q. We may return to that issue later, but that is all for P-104's report for the moment.
17 So we'll take it off the screens and you could close it in your binder.

18 I have sort of three different topics about the destructions themselves. First of all, the
19 Document Containing the Charge in this case alleges that the attack occurred between
20 June 30th and approximately 11 July 2012. Can you explain how you were able to
21 determine the dates of the attack, including that starting date of June 30th?

22 A. Yes, as I've mentioned earlier, and it's a -- it's a challenging thing throughout an
23 investigation is to establish exact dates of events.

24 Now, with the various types of evidence we have, in connection with various witnesses
25 providing events in a chronological order, we've been able to -- to narrow down the range

1 of dates for -- for these specific events to the dates that you just mentioned.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 However, when knowing that the -- establishing that the start of these events must have
7 been very close to 30 June, and we know of events that took place just before, and looking
8 at the days of the week in 2012, we -- and witnesses, including Mr Al Mahdi himself, talk
9 about the Friday sermon or the Friday prayer that took place the day before the events
10 started, we can establish that the first destruction took place on the Saturday, which was
11 30 June 2012.

12 Q. Thank you. I think that covers the dates. My next question is about location.
13 How were you able to determine which particular sites were attacked and at which
14 specific locations within Timbuktu?

15 A. Yes. Of course one of the main sources of information for this is the population in
16 Timbuktu itself. Not necessarily all our witnesses, but people talking about it and
17 describing which monuments or mausoleums had been destroyed. This was widely
18 reported on at the time and it was recorded by the government and by other
19 organisations.

20 From there, we have -- we have developed, in order to determine for ourselves that this is
21 in fact the case, by obtaining satellite imagery, and other aerial images that show the
22 locations. We have conducted our own crime scene investigation to determine for
23 ourselves the exact location of the places that have been described to us.

24 Q. I'm also going to, on this topic, I'm going to show you -- if you'd look at tab 5, this is
25 MLI-OTP-0030-0629, and again it's a confidential document, but I'll only show a couple of

1 pages which will not reveal any confidential information. I'll put this on our screen. In
2 fact, I'll pass to the first page I'm going to ask about.

3 Witness, do you recognize this report?

4 A. Yes, I do. It is a report by Witness P-0193.

5 Q. And what's the general subject of this report?

6 A. This report, it's entitled "geolocalisation" -- or, "Geolocation of Videos & Images" and
7 that's exactly what it is. It's looking at details on videos and images and comparing them
8 to other images and videos, and directions in order to determine where the place is. I
9 actually, for myself, it was very helpful to reading in the introduction the other
10 description of what geolocation means, which is -- which is described as visual
11 verification.

12 Q. And on the screen you'll see there's a number of coloured boxes or lines on the
13 image and I'll also show on the screen page 0638 and 0656. Are those all examples of
14 how the person who prepared this report compared, let's say, a video against satellite
15 imagery, against our 360 presentation in order to, as you say, visually verify the location
16 of these sites?

17 A. That's correct.

18 Q. I think I misspoke, this page that's on the screen now is 0658.

19 A. I'm sorry, I cannot see that page so I cannot comment.

20 Q. It's incredibly small on the screen. I apologise.

21 And finally, before I move on to another topic, Mr Duterte showed images earlier of the
22 various sites before and after and sometimes during the destruction. I won't ask you to
23 look at those again, but is it correct to say that all 10 sites were partially or, in many cases,
24 completely destroyed by the armed groups in June and July 2012?

25 A. That is correct.

1 Q. How were you able to determine the extent of destruction?

2 A. This would be a -- of course individually for each site, but it's a sum of the different
3 activities undertaken under different collections, which is images from the site, our own
4 crime scene investigation and the findings of that, the way witnesses described it and,
5 finally, also from the aerial and satellite images the expert was able to say whether
6 something was partly destroyed or seemed to be completely erased.

7 Q. Okay, thank you. And I guess also experts visited the sites after the destruction
8 were able to document that it was -- that it had in fact been destroyed.

9 Witness, just one technical thing, it may be that if you're not seeing the evidence on your
10 screen, if you push "evidence 2" on the microphone stand that may solve it. I don't know.

11 A. Okay, I was actually trying to look for it in the binder.

12 Q. Very well.

13 I'm going to move on now to a different topic. You've referred to a September 2015
14 interview of the accused, and I'm going to ask you a series of questions about that and
15 then we'll actually look at portions of the transcript of that interview.

16 In what country did this interview take place?

17 A. It took place in Niger.

18 Q. And the accused was detained at the time on -- on national criminal charges, is that
19 right, not at the request of the ICC?

20 A. That's correct.

21 Q. Without naming any names, just using general descriptors, if you could, like
22 "investigator" or "lawyer", can you tell us who was present during the interview?

23 A. From the -- from the OTP it was myself, I was leading the interview, and I was
24 accompanied by another investigator. There was a -- there was one representative of the
25 Prosecution division, then we had a contracted interpreter. We had also anticipated this

1 interview -- because we did not know the -- the exact status and situation of Mr Al Mahdi,
2 we had anticipated it being a unique investigative opportunity and, on our request, the
3 Pre-Trial Chamber had appointed an Article 56 counsel to protect the interests of a future
4 defence. We also brought with us, we requested the Registry to appoint a counsel, a
5 Defence counsel for the purpose of Article 55(2) for this, for this interview. In addition,
6 there was some of the local Nigerien authorities attended the interview sessions.

7 Q. You refer to Article 55(2), that's an Article of the Statute that pertains to the rights of
8 someone being questioned. Is it the case that Mr Aouini was appointed at that time to
9 represent Mr Al Mahdi for purposes of that interview only? It was not yet for the
10 purposes of any case, but just as, let's say, stand-by counsel for that interview?

11 A. That's correct.

12 Q. Who led the questioning of the interview?

13 A. That was me.

14 Q. What languages were spoken?

15 A. So, mainly the questioning was done in English and interpreted into Arabic. And
16 the answers were vice versa. Some small parts during the interview we may have used
17 French for some terminology or for the purpose of the local authorities, but the main
18 language of the interview were English and Arabic.

19 Q. And did Mr Al Mahdi indicate that he could understand the interpreter and
20 understand your questions being translated from English into Arabic?

21 A. Yes, and we had confirmation of this a few times during the interview to ensure that
22 this was the case.

23 Q. In accordance with the Rules of Procedure and Evidence, was the entire interview
24 video recorded with the consent of Mr Al Mahdi?

25 A. That's correct.

1 MR BLACK: [16:50:24] Your Honours, the video and audio recordings are in evidence,
2 this weekend recently been added to the joint list of evidence. I don't intend to use them
3 today, I'll just focus on the transcript.

4 Q. And Witness, speaking of transcript, tab 7 through 34 of your binder are the
5 transcripts of the different recording sessions of the September 2015 interview of
6 Mr Al Mahdi. Have you had an opportunity to review that entire transcript since -- since
7 that time?

8 A. Yes, I have.

9 Q. And does it accurately reflect the content of the interview?

10 A. Yes, it does.

11 Q. I'll ask you questions about specific portions probably tomorrow, but let me ask you
12 some other questions before we get to that.

13 Mr Al Mahdi, as you mentioned, was interviewed pursuant to Article 55(2) of the Statute.
14 At the beginning of the interview did you inform him of his rights under that Article,
15 including his right to remain silent and his right to consult with counsel?

16 A. Yes, I did.

17 Q. Did you inform him of the fact that at that time there were grounds to believe that
18 he had committed a crime within the jurisdiction of the International Criminal Court?

19 A. Yes, including a detailed description of which crimes we thought he may have been
20 involved in.

21 Q. Did you explain to Mr Al Mahdi that his right to counsel meant the counsel of his
22 choosing and that he could choose to be represented by the counsel who is appointed by
23 the Registry or different counsel if that's what he preferred?

24 A. Yes. Due to the circumstances though we -- we asked Mr Al Mahdi if he -- if he
25 had his own counsel and he -- he did not have it. In the -- in the circumstances we had

1 asked the Registry Counsel Support Section to select a suitable counsel to be appointed to
2 represent him for the interview, but we made sure before -- before starting that Al Mahdi
3 was -- was content with using Mr Aouini as his counsel.

4 Q. And in fact did he speak with Mr Aouini, consult him before the substance of the
5 interview began and then confirmed that he was happy to proceed with the assistance of
6 Mr Aouini?

7 A. That's correct.

8 Q. How long did the interview last?

9 A. The interview spanned over the -- over five days, which was from the 1st to 5
10 September 2015. And we conducted approximately four or five one-hour sessions each
11 day.

12 Q. Okay. So I understand that there were -- there were breaks taken then during the
13 interview. For what purposes did you break?

14 A. Well, the normal routine for the purpose of the recording, for the purpose of the
15 interpreter and the others present is that we -- we do approximately one-hour sessions
16 with short breaks in between, and then halfway through the day a longer break for -- for
17 lunch. In the specific case of Mr Al Mahdi we made sure that he -- that we respected his
18 desire to break for prayers at certain times. There were also -- he would use the breaks
19 for consultation with Mr Aouini, but there were also a few occasions when he specifically
20 wanted to break to have a discussion with his counsel, and those we would accommodate.
21 So, yes, I think that's it.

22 Q. Thank you. You were able to observe Mr Al Mahdi obviously directly at the
23 interview. How far away from him were you?

24 A. Well, we were all sitting around one table, so I would say in a measure of maybe a
25 metre and a half.

1 Q. Did he appear to you to be in good physical and mental health?

2 A. Yes.

3 Q. Did you have the impression that he understood the rights that you explained to
4 him?

5 A. Yes, he did.

6 Q. Did you feel that he understood your questions?

7 A. Yes. And I can maybe confirm both this and the previous question with the fact
8 that -- that Mr Al Mahdi made -- made very relevant questions for me to clarify and that
9 to me showed that he -- he, without knowing at the time the Regulations of the Court, he
10 knew what was at stake and he asked for clarification about the issues that were explained
11 to him.

12 Q. Also when he answered your questions, did his answers make sense?

13 A. Are you talking about the -- when we're talking about the rights or the --

14 Q. Well, in general.

15 A. Yes, his answers made sense.

16 Q. In general, would you say that you were able to communicate effectively with him
17 and that he appeared to be actively engaged in the interview?

18 A. Yes, this was my understanding.

19 Q. And based on -- I'll pause. And based on your firsthand observations in your
20 interactions with Mr Al Mahdi did he appear to participate voluntarily in the interview?

21 A. Yes, this is another thing that we tried to make very clear from the start.

22 In -- because of the circumstances, it was clear to us that Al Mahdi was brought to the
23 interview, he was in detention, he was brought there without necessarily knowing exactly
24 what was going to happen and the explanation I gave to him was even though it was not
25 necessarily fully voluntary for him to be there at that point, that he could at any -- that

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1 he -- the continuation of the interview would -- would be completely voluntary, and I
2 think it came across to me as if he understood this completely and he took part
3 voluntarily.

4 Q. Thank you.

5 MR BLACK: [16:57:37] Your Honour, the next portion and the final portion really of
6 this examination will be to look at specific passages of the transcript. Certainly I have 20
7 or 30 minutes of that, at least, so I think it probably makes sense to break now for the day
8 and resume in the morning if your Honours are amenable to that.

9 PRESIDING JUDGE PANGALANGAN: [16:57:58] That is fine, Counsel. Thank you.

10 MR BLACK: [16:58:01] Thank you.

11 PRESIDING JUDGE PANGALANGAN: [16:58:01] I think it's a good time to break.

12 So we resume tomorrow. Thank you.

13 THE COURT USHER: [16:58:07] All rise.

14 (The hearing ends in open session at 4.58 p.m.)