

Trial Hearing
WITNESS: MLI-OTP-P-0081

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Thursday, 18 February 2021
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:07] All rise. The International Criminal Court is
12 now in session. Please be seated.
13 PRESIDING JUDGE MINDUA: [9:32:30](Interpretation) The Court is in
14 session.
15 Good morning to everyone.
16 Court officer, would you be so kind as to call the case.
17 THE COURT OFFICER: [9:32:46] Thank you, Mr President.
18 The situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference
20 ICC-01/12-01/18.
21 And for the record, we are in open session.
22 PRESIDING JUDGE MINDUA: [9:33:04](Interpretation) Thank you very
23 much, madam court officer.
24 As usual, we are going to start with the introductions, starting with the Office
25 of the Prosecutor.

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1 Prosecutor.

2 MR SANDOVAL: [9:33:16] Good morning, Mr President, good morning,
3 your Honours. I am Raymond Sandoval, trial lawyer in the Office of the
4 Prosecutor, appearing today with Lucio Garcia and Gilles Dutertre.
5 Lucio Garcia, trial lawyer and Gilles Dutertre, senior trial lawyer.

6 PRESIDING JUDGE MINDUA: [9:33:34](Interpretation) Thank you very
7 much, Prosecutor.

8 I now turn towards the Defence.

9 MS TAYLOR: [9:33:41] Good morning, Mr President, good morning, your
10 Honours. The Defence for Mr Al Hassan is represented today by Mr Michael
11 Rowse and myself, Melinda Taylor. Thank you.

12 PRESIDING JUDGE MINDUA: [9:33:58](Interpretation) Thank you very
13 much, Ms Taylor.

14 I now turn to the legal representative of victims.

15 MR KASSONGO: [9:34:07](Interpretation) Thank you, your Honour. Good
16 morning, your Honour, your Honours, the legal representatives' team has not
17 changed. I am assisted by Madam Claire Laplace and myself, I am
18 Maître Kassongo. Thank you.

19 PRESIDING JUDGE MINDUA: [9:34:22](Interpretation) Thank you very
20 much, Maître Kassongo.

21 We are now going to hear the testimony of the 21st Prosecution witness,
22 Witness P-0081.

23 I now turn towards the witness.

24 Good morning, Witness. Can you hear me?

25 Good morning, Witness. Can you hear me?

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1 THE INTERPRETER: [9:35:13] The interpreter signals there was no sound
2 coming.
3 PRESIDING JUDGE MINDUA: [9:35:25](Interpretation) Court officer, can the
4 witness's microphone be switched on?
5 THE COURT OFFICER: [9:35:41] (Interpretation) Witness, could you please
6 repeat.
7 PRESIDING JUDGE MINDUA: [9:35:49](Interpretation) Good morning,
8 Witness.
9 WITNESS: MLI-OTP-P-0081
10 (The witness speaks French)
11 (The witness gives evidence via video link)
12 THE WITNESS: [9:35:53](Interpretation) Good morning, your Honour.
13 PRESIDING JUDGE MINDUA: [9:35:55](Interpretation) Very well. Can you
14 hear me very well?
15 THE WITNESS: [9:35:58](Interpretation) Yes, I can hear very well.
16 PRESIDING JUDGE MINDUA: [9:36:02](Interpretation) Thank you. Thank
17 you.
18 On behalf of the Chamber, I would like to welcome you. You are going to
19 testify with a view to helping the Chamber establish the truth in the case
20 concerning Mr Al Hassan.
21 Witness, protective measures have been put in place so -- to ensure that your
22 identity is not revealed to the public. Whenever you have to give details
23 which might reveal your identity, we shall speak about them in private session.
24 In this way, nobody apart from the people inside this courtroom will be able to
25 hear you.

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1 Have you understood that?

2 THE WITNESS: [9:36:59](Interpretation) I have understood that well.

3 PRESIDING JUDGE MINDUA: [9:37:03](Interpretation) Very well, thank you
4 very much.

5 I now am going to carry out your solemn undertaking under Rule 66(1) of the
6 Rules of Procedure and Evidence.

7 Witness, on your table you will certainly have a paper in front of you, do you
8 see it?

9 THE WITNESS: [9:37:24](Interpretation) Yes.

10 PRESIDING JUDGE MINDUA: [9:37:27](Interpretation) A solemn
11 undertaking according to which you have to swear to tell the truth. I shall
12 read it aloud -- I shall read aloud what is written in this document or you'll
13 please read what's written on this document.

14 THE WITNESS: [9:37:44](Interpretation) I solemnly declare that I will tell the
15 truth, the whole truth and nothing but the truth.

16 PRESIDING JUDGE MINDUA: [9:37:53](Interpretation) Thank you very
17 much, Witness. You are now under oath.

18 The representatives of the victims and witnesses' unit and the representatives
19 of the Prosecution have already explained to you what that means.

20 So I have some instructions of a practical nature to give you.

21 Please, throughout your testimony, bear in mind that everything said in this
22 courtroom is transcribed by transcribers and it is simultaneously interpreted
23 into several different languages by interpreters. It's therefore important to
24 speak clearly and slowly.

25 Please do not start speaking until the person who is putting a question to you

1 has finished asking that question.

2 You can count up to three in your head before answering the question. This
3 pause is essential to ensure that your testimony is duly recorded.

4 Of course, if you have any questions, please raise your hand to indicate that
5 you wish to intervene.

6 And, if you so -- if you want us to stop the session at any time, please indicate
7 that to me. Have you understood?

8 THE WITNESS: [9:39:48](Interpretation) Yes, I've understood that well.

9 PRESIDING JUDGE MINDUA: [9:39:53](Interpretation) Thank you very
10 much. We are now going to hear your testimony. You will be questioned
11 first of all by the Office of the Prosecutor's representatives; thereafter, possibly
12 by representatives of victims; and obviously there will be the
13 cross-examination conducted by the Defence.

14 Without further ado, I give the floor to the Prosecutor.

15 Prosecutor, please go ahead.

16 MR SANDOVAL: [9:40:31] Thank you, Mr President.

17 Mr President, your Honours, I would like to commence in closed session to ask
18 a few questions to confirm the witness's identity.

19 PRESIDING JUDGE MINDUA: [9:40:46](Interpretation) Court officer, please,
20 could you take us into closed session or private session.

21 (Private session at 9.40 a.m.)

22 THE COURT OFFICER: [9:41:00] We are in private session, Mr President.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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21 (Redacted)

22 (Open session at 9.44 a.m.)

23 THE COURT OFFICER: [9:44:41] We are back in open session, Mr President.

24 MR SANDOVAL: [9:44:41]

25 Q. Mr Witness --

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- 1 PRESIDING JUDGE MINDUA: [9:44:51](Interpretation) Thank you very
2 much.
3 Prosecutor, please continue.
- 4 MR SANDOVAL: [9:44:55] Thank you, Mr President.
- 5 Q. [9:44:57] Mr Witness, during witness preparation, we reviewed the two
6 statements you provided to the Prosecution and associated material, which
7 have been accepted for submission by this Chamber under Rule 68(3) of the
8 Rules of Procedure and Evidence.
9 You noted a number of corrections or clarifications during witness preparation
10 and I will be eliciting these as we address the various documents.
11 Let's start with your first statement.
12 In your court binder, tab 1, you will see a document entitled, "Witness
13 statement", with the ERN on the lower right-hand corner, MLI-OTP-0012-1152.
14 During the witness preparation session, this statement, being in English, was
15 read out to you in French.
16 Do you see this statement in front of you, Mr Witness?
- 17 A. [9:46:11] Yes.
- 18 Q. [9:46:15] If you could turn to page 27 of this document, with the ERN
19 MLI-OTP-0012-1178, you will see a signature above the handwritten date, 21
20 March 2014.
21 Do you see that signature?
- 22 A. [9:46:45] Yes, I can see it.
- 23 Q. [9:46:49] (Overlapping speakers) and is this your signature?
- 24 A. [9:46:53] Yes, that's my signature.
- 25 Q. [9:46:56] (Overlapping speakers) and do you see your signature at the

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1 bottom of all the other pages of this document?

2 A. [9:47:04] Yes.

3 Q. [9:47:06] Is this the statement you provided to the OTP investigators in
4 March 2014?

5 A. [9:47:15] Yes.

6 Q. [9:47:20] So Mr Witness, I will now go through the corrections and
7 clarifications to this first statement which you raised during the witness
8 preparation.

9 If you could turn to paragraph 27 on page 1157, and by "1157", I'm referring to
10 the last four digits of the ERN found on the lower right-hand corner of the
11 page.

12 In this paragraph, you stated that you do not remember exactly when you
13 arrived in Aguelhok, but you clarify this during witness preparation.

14 Can you now specify the date of your arrival in Aguelhok?

15 A. [9:48:20] 23 September 2011.

16 Q. [9:48:31] Thank you, Mr Witness.

17 Now turning to paragraph 128, which is on page 1177 of the statement, you
18 explained in this paragraph that your report was incorrect when it stated that
19 IFM students came to the camp on or after 22 January - and, for the record, the
20 report that you referred to is the document in tab 5 of the court binder with
21 ERN MLI-OTP-0012-1185.

22 So during witness preparation, you indicated the correct date on which the
23 IFM students arrived at the camp. Can you tell us this date?

24 A. [9:49:34] The 19th.

25 Q. [9:49:48] The 19th of which month, in which year, Mr Witness?

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- 1 A. [9:49:54] January 2012.
- 2 Q. [9:49:56](Overlapping speakers) Thank you, Mr Witness.
- 3 THE INTERPRETER: [9:49:57](Overlapping speakers) Could --
- 4 MR SANDOVAL: [9:49:57]
- 5 Q. [9:49:57] For the record, what does --
- 6 THE INTERPRETER: [9:50:08] Could counsel be asked to leave a pause --
- 7 MR SANDOVAL: [9:50:12]
- 8 Q. [9:50:12] -- "IFM" stand for?
- 9 THE INTERPRETER: [9:50:12] -- between asking questions; otherwise, the
- 10 interpretation won't be correctly taken down in the record please.
- 11 THE WITNESS: [9:50:13](Interpretation) It was training.
- 12 MR SANDOVAL: [9:50:20]
- 13 Q. [9:50:21] Thank you, Mr Witness.
- 14 Now turning to paragraph 130, on the same page of your statement, 1177, you
- 15 state in this paragraph that you were brought to the IFM by your captors and
- 16 made to kneel down at the IFM.
- 17 During witness preparation you clarified this location.
- 18 So to which location were you, in fact, brought by your captors?
- 19 A. [9:50:53] We were taken behind the IFM.
- 20 Q. [9:50:57] (Overlapping speakers) and in which location were you made to
- 21 kneel down?
- 22 A. [9:51:05] Behind the IFM --
- 23 Q. (Overlapping speakers) Thank you, Mr Witness.
- 24 THE INTERPRETER: [9:51:08] And counsel is still talking over the
- 25 interpreting.

1 MR SANDOVAL: [9:51:12]

2 Q. [9:51:12] (Overlapping speakers) I'm turning to tab 5 of the court binder.

3 This is the report I already referred to earlier, with ERN MLI-OTP-0012-1184.

4 Do you see this document?

5 A. [9:51:30] Yes.

6 Q. [9:51:40] (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. [9:52:41] Yes.

16 Q. [9:52:53] Thank you, Mr Witness. And during witness preparation you

17 indicated that you wished to make a clarification of the following sentence

18 found in this report, which is on page 1185, towards the end of page, and the

19 sentence reads as follows:

20 (Interpretation) He let it be known that it was the enemy and not the camp

21 soldiers and then he gave security instructions for reinforcements not to get

22 close to them because the enemy could take advantage of it.

23 (Overlapping speakers)

24 (Speaks English) Do you see that sentence in the document, Mr Witness?

25 A. [9:53:41](No interpretation)

26 Q. [9:54:00] So again, Mr Witness, this -- this is on -- in tab 5 of your court

1 binder, the document with ERN MLI-OTP-0012-1184. Do you have that
2 document in front of you?

3 A. [9:54:17] Yes.

4 Q. [9:54:21] (Overlapping speakers) and it's on the second page, page 1185 of
5 this -- of this report, towards the bottom of the page.

6 THE COURT OFFICER: [9:54:31] Mr Prosecutor, could you please mark
7 a break when the witness is giving his answer; otherwise, you are overlapping
8 with the interpretation.

9 MR SANDOVAL: [9:54:43]

10 Q. [9:54:47] So are you on page 1185? The second page of this report, Mr
11 Witness?

12 A. [9:54:54] Yes, I can see the sentence.

13 Q. [9:55:00] (Overlapping speakers) So during witness preparation, you
14 wished to make a clarification of that sentence. What clarification did you
15 wish to make in relation to this sentence?

16 A. [9:55:11] I said that it wasn't the captain that directly ordered that, but it
17 was the major colonel who ordered the captain to tell the troops that to not
18 approach the enemy because the enemy could infiltrate. So the captain gave
19 the instructions that the colonel had ordered.

20 Q. [9:55:40] Thank you, Mr Witness. Now if you could turn to tab 12 of the
21 court binder, and this document has ERN MLI-OTP-0067-0299-R02.

22 MR SANDOVAL: [9:56:12] Mr President, your Honours, the accused appears
23 to be making a signal.

24 PRESIDING JUDGE MINDUA: [9:56:27](Interpretation) Yes, I have noticed it.
25 Yes, Mr Al Hassan?

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- 1 You have the floor, Mr Al Hassan?
- 2 MR AL HASSAN: [9:56:41](Interpretation) From the beginning of this hearing,
3 I cannot see anything. Can you hear me?
4 Can you hear me? Can you hear me?
- 5 MS TAYLOR: [9:56:57] Mr President?
- 6 MR AL HASSAN: [9:56:57](Interpretation) Can you hear me?
- 7 PRESIDING JUDGE MINDUA: [9:57:09](Interpretation) Yes, I understand.
8 We are going to try to solve that.
9 Madam, could you find out what's happening.
10 Ms Taylor?
- 11 MS TAYLOR: [9:57:17] (Overlapping speakers) Mr President, I thought I
12 heard Mr Al Hassan say that from the beginning of the hearing he hasn't been
13 able to see anything; so there appears to be an issue with the transmission to
14 the detention unit.
- 15 PRESIDING JUDGE MINDUA: [9:57:33](Interpretation) That's what I've
16 understood, Ms Taylor, we are trying to solve that (Overlapping speakers)
- 17 THE COURT OFFICER: [9:57:38] (Overlapping speakers) I am informed that
18 Mr Al Hassan sees the small square that we are seeing on the screen where
19 Mr Al Hassan is appearing.
- 20 MR AL HASSAN: [9:57:52](Interpretation) I said that I have not been able to
21 see anything from the beginning of the hearing. Nor could I see the witness.
- 22 THE COURT OFFICER: [9:58:23] The technician is now contacting the
23 transmission room where Mr Al Hassan is sitting.
- 24 PRESIDING JUDGE MINDUA: [9:58:38](Interpretation) So we are going to
25 have a short break for the situation to be resolved. Mr Al Hassan, since the

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- 1 start of the hearing, we've been able to see you very well, but it's bizarre that
2 you can't see us.
3 Prosecutor?
4 MR SANDOVAL: [9:58:56] (Overlapping speakers) Mr President, your
5 Honours, could we just clarify whether the accused has been able to hear what
6 has been said so far during this hearing.
7 PRESIDING JUDGE MINDUA: [9:59:12](Interpretation) Exactly, well, he said
8 that he hadn't heard anything. He sees nothing. He can't hear anything.
9 Yes, Mr Prosecutor?
10 MR SANDOVAL: [9:59:26] (Overlapping speakers) Mr President --
11 MR AL HASSAN: [9:59:26](Interpretation) What I meant is that I have been
12 able to see you, but not see the witness. I have not been able to see the
13 witness.
14 PRESIDING JUDGE MINDUA: [9:59:42](Interpretation) Very well, now I
15 understand better.
16 So, court officer.
17 Prosecutor, you have the answer to your question. The accused sees and
18 hears us, but does not see the witness.
19 THE COURT OFFICER: [10:00:38] Mr Al Hassan, could you please confirm
20 that you can now see the witness?
21 MR AL HASSAN: [10:00:51](No interpretation)
22 PRESIDING JUDGE MINDUA: [10:00:52](Interpretation) Very well, we can
23 now continue as the accused can see the witness. Prosecutor.
24 MR SANDOVAL: [10:00:59] Thank you, Mr President.
25 Q. [10:01:02] So Mr Witness, if you could turn to tab 12 of the court binder,

- 1 and this is a document with ERN MLI-OTP-0067-0299-R02, you will see
2 a document entitled, "*Declaration de témoin*".
3 THE INTERPRETER: "Witness statement".
4 THE WITNESS: [10:01:29] Yes, I can see that.
5 MR SANDOVAL: [10:01:31]
6 Q. [10:01:31] (Overlapping speakers) If you could turn to page 5 of this
7 document with ERN, MLI-OTP-0067-0303, you will see a signature above the
8 handwritten date, 19 December 2018.
9 Do you see that?
10 A. [10:01:56] Yes, I can see that.
11 Q. [10:01:59] (Overlapping speakers) Is that your signature?
12 A. [10:02:02] Yes, that is my signature.
13 Q. [10:02:02] (Overlapping speakers) And do you see your signature at the
14 bottom of all the other pages?
15 A. [10:02:12] Yes, I can see that.
16 Q. [10:02:15] (Overlapping speakers) Is this the statement you provided to
17 OTP investigators in December 2018?
18 A. [10:02:23] Yes.
19 Q. [10:02:24] (Overlapping speakers) Now Mr Witness, do you have any
20 further corrections or clarifications to make to your two statements?
21 A. [10:02:36] No.
22 Q. [10:02:38] (Overlapping speakers) Do you affirm, Mr Witness, that the
23 contents of your two statements - incorporating the corrections and
24 clarifications you have just explained - are to the best of your knowledge and
25 belief true and correct?

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1 A. [10:02:57] Yes.

2 Q. [10:03:02] (Overlapping speakers) Do you have any objections to the
3 submission of your two statements into evidence?

4 A. [10:03:14] Yes.

5 Q. [10:03:16] (Overlapping speakers) So if I could just repeat that, Mr
6 Witness. Do you have any objections to the submission of your two
7 statements into evidence?

8 A. [10:03:27] I haven't understood the question --

9 Q. [10:03:39] (Overlapping speakers) Mr Witness, do you have any
10 objections to the submission of your two statements into evidence?

11 A. [10:03:48] Yes.

12 Q. [10:03:54] If so, what objections do you have, Mr Witness?

13 A. [10:04:00] I have not entirely understood but you can submit this
14 evidence. There is not a problem.

15 A. [10:04:18] (Overlapping speakers) Thank you, Mr Witness.

16 MR SANDOVAL: [10:04:20] Your Honours, for the record, we are submitting
17 documents with the following ERNs into evidence in accordance with this
18 Chamber's 26 January 2021 decision on the Prosecution's application under
19 Rule 68(3) of the Rules in relation to this witness.

20 So the witness's first statement with ERN MLI-OTP-0012-1152-R01; annex 1 to
21 this first statement with ERN MLI-OTP-0012-1180; annex 2 to the first
22 statement with ERN MLI-OTP-0012-1181; annex 3 to the first statement with
23 ERN MLI-OTP-0012-1182; the fifth document has ERN MLI-OTP-0012-1184; the
24 sixth document has ERN MLI-OTP-0012-1191; the seventh document has ERN
25 MLI-OTP-0012-1193; the eighth document has ERN MLI-OTP-0012-1194; the

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1 ninth document has ERN MLI-OTP-0012-1195; the tenth document has ERN
2 MLI-OTP-0012-1197; the eleventh document has ERN MLI-OTP-0012-1199; and
3 finally, the twelfth document is the witness's second statement with ERN
4 MLI-OTP-0067-0299-R02.

5 Your Honours, I will now be moving on to a brief supplementary examination
6 of this witness.

7 As your Honours have ruled in your 26 January 2021 decision on the Rule 68(3)
8 application in relation to this witness, I have 30 minutes within which to
9 conduct my supplementary examination of this witness.

10 May I proceed, your Honours?

11 PRESIDING JUDGE MINDUA: [10:07:26](Interpretation) Please do continue,
12 Mr Prosecutor, we are happy that the conditions in Rule 68(3) have been met.
13 Please continue.

14 MR SANDOVAL: [10:07:37] (Overlapping speakers) And Mr President, your
15 Honours, I will remain in public session.

16 Q. [10:07:44] So Mr Witness (Overlapping speakers)

17 PRESIDING JUDGE MINDUA: [10:07:52] (Overlapping speakers)(No
18 interpretation)

19 THE COURT OFFICER: We are in open session, Mr President.

20 PRESIDING JUDGE MINDUA: [10:07:55](Interpretation) Thank you,
21 courtroom officer.

22 Please continue, Mr Prosecutor.

23 MR SANDOVAL: [10:08:01] (Overlapping speakers) Thank you, Mr
24 President.

25 Q. [10:08:01] So Mr Witness, if you could go to your first statement - and,

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1 this is in tab 1 of the court binder with ERN MLI-OTP-0012-1152 - in paragraph
2 123, which is on page 1176 of the statement, you stated that you thought it was
3 the Mujahideen who attacked Aguelhok. So as far as you're aware, Mr
4 Witness, which armed groups comprised the Mujahideen?

5 *A. [10:08:39] The first time they took us, we did not know who it was but
6 when we arrived at their base that is when we learnt it was the Mujahideen.
7 But well before we were told of Mujahideen, we were also told it was AQMI.
8 But they said not to say AQMI, but to say Mujahideen. And later they said to
9 say it was Ansar Dine.

10 Q. [10:09:23] And how did you find out that the AQMI comprised the
11 Mujahideen?

12 A. [10:09:34] Oumar Ould Hama (sic) told us.

13 Q. [10:09:52] And when did Oumar tell you this?

14 A. [10:09:59] When -- when we arrived at the base.

15 Q. [10:10:14] Thank you, Mr Witness. And you referred as well to al-Qaeda.
16 What is the relationship between al-Qaeda and AQMI?

17 A. [10:10:38] I -- I can't say anything about that.

18 Q. [10:10:50] Thank you, Mr Witness.

19 Now Mr Witness, I will proceed to show you a photo to see if you recognise the
20 person in the photo.

21 MR SANDOVAL: [10:11:01] And this photo, your Honours, can be broadcast
22 publicly.

23 Q. So I will be showing you a photo with ERN MLI-OTP-0022-0468 and this
24 is in tab 16 of your court binder.

25 MR SANDOVAL: Your Honours, we will be broadcasting this photo on

1 evidence 2.

2 Q. [10:12:44] Mr Witness, do you see the photo on your screen?

3 A. [10:12:48] Yes, I can see it.

4 Q. [10:12:53] (Overlapping speakers) And do you recognise this person?

5 A. [10:13:01] Yes, I can recognise him.

6 Q. [10:13:01] (Overlapping speakers) And who is he?

7 A. [10:13:02] This is Oumar Ould Hamaha.

8 Q. [10:13:13] (Redacted)

9 A. [10:13:17] (Redacted)

10 Q. [10:13:28] Thank you, Mr Witness.

11 Now Mr Witness, I will be playing a video with ERN MLI-OTP-0011-0007.

12 The video is indicated in tab 13 of the court binder.

13 MR SANDOVAL: [10:13:28] Its transcript, your Honours, is found in tab 14 of
14 the court binder with ERN MLI-OTP-0040-0425, while the French translation of
15 the transcript is in tab 15 of the court binder with ERN MLI-OTP-0040-0430.

16 Your Honours, I intend to broadcast this video publicly and for the witness to
17 respond to my questions in open session, except for the last portion of the
18 video, which should be addressed in private session as it is of an identifying
19 nature.

20 Q. [10:14:39] Mr Witness, we discussed this video briefly during the witness
21 preparation, and we know that it is difficult for you to watch it. I will try to
22 play as little of the video as possible but I do need to play some of it for the
23 Court; so I ask that you bear with me as this will not take long.

24 I will play less than two minutes of the video without sound and, after that, I
25 will forward to five portions without playing the rest of the video. I will then

1 play an additional five seconds in the latter part of the video.

2 So I will ask you precise questions on what you see in the different scenes of
3 the video at which I'll pause, and I will be done with my examination after that.

4 So would that be all right, Mr Witness?

5 A. [10:15:56] Yes.

6 Q. [10:16:02] Thank you very much, Mr Witness. If at any point you feel
7 that you cannot watch any particular scene, please let me know and we will
8 move on. Thank you very much for your understanding.

9 MR SANDOVAL: [10:16:19] So again, your Honours, I will be broadcasting
10 this video on evidence 2.

11 PRESIDING JUDGE MINDUA: [10:16:29](Interpretation) Please go ahead,
12 Mr Prosecutor.

13 MR SANDOVAL: [10:16:34] Thank you, Mr President.

14 So I will first play the first two minutes of the video without sound and there
15 will be no need to subsequently play the video with sound.

16 (Viewing of the video excerpt)

17 MR SANDOVAL: [10:17:05]

18 Q. [10:17:06] Do you see the video on your screen, Mr Witness?

19 A. [10:17:11] Yes, I can see it.

20 (Viewing of the video excerpt)

21 MR SANDOVAL: [10:18:38] For the record, your Honours, I have paused at
22 timestamp 00:01:56:23.

23 Q. So Mr Witness, were you able to watch that portion of this video?

24 A. [10:19:00] Yes.

25 Q. [10:19:06] (Overlapping speakers) And, as far as you can tell, Mr Witness,

- 1 where was this video taken?
- 2 A. [10:19:13] In Aguelhok.
- 3 Q. [10:19:22] And how are you able to say that?
- 4 A. [10:19:27] I know all these locations.
- 5 Q. [10:19:36] And how do you know this location?
- 6 A. [10:19:42] I was there and this was the new camp.
- 7 Q. [10:20:00] And Mr Witness, can you tell when this video was taken?
- 8 A. [10:20:05] This was the 24th of January 2012.
- 9 Q. [10:20:17] And when you refer to the new camp, Mr Witness, where is
- 10 this new camp?
- 11 A. [10:20:27] It's just behind the old camp.
- 12 Q. [10:20:38] And during this event, where were you stationed?
- 13 A. [10:20:45] I didn't understand your question.
- 14 Q. [10:20:51] So Mr Witness, you referred -- you referred to a new camp and
- 15 to an old camp in Aguelhok. Where were you stationed at the time of the
- 16 attack?
- 17 A. [10:21:07] We were in the old camp, the one that fell.
- 18 Q. [10:21:14] Thank you, Mr Witness. So I will now forward the video to
- 19 timestamp 00:03:18:14, and, as previously mentioned, I will not play the rest of
- 20 the video, I will just directly forward to that timestamp.
- 21 MR SANDOVAL: [10:21:48] So I will broadcast this video still or this image
- 22 on evidence 2.
- 23 (Viewing of the video excerpt)
- 24 MR SANDOVAL: [10:22:21]
- 25 Q. [10:22:21] Do you see the image on your screen, Mr Witness?

- 1 A. [10:22:26] Yes, I do.
- 2 Q. [10:22:32] (Overlapping speakers) For the record, I am showing
3 timestamp 00:03:20:06.
- 4 Mr Witness, what location is depicted in this scene?
- 5 A. [10:22:51] It's the antenna, which is just behind the camp.
- 6 Q. [10:23:06] And again, for the record, when you refer to camp, where is
7 this camp?
- 8 A. [10:23:13] This is the old camp just by the new camp.
- 9 Q. [10:23:25] And where -- where are these two camps that you referred to,
10 the new camp and old camp?
- 11 A. [10:23:34] The new camp is near the old camp.
- 12 Q. [10:23:51] And just to be clear, is this in Aguelhok?
- 13 A. [10:23:57] Yes.
- 14 Q. [10:24:02] And again, Mr Witness, how do you know that this location is
15 between the old camp and the new camp in Aguelhok?
- 16 A. [10:24:14] I didn't say between the two camps. The antenna is near the
17 new camp. It's not between the two.
- 18 Q. [10:24:38] Thank you for that clarification, Mr Witness. And how are
19 you able to tell that this scene is -- is at that location that you just described?
- 20 A. [10:24:50] I didn't understand.
- 21 Q. [10:25:02] That's fine, Mr Witness. So I'll proceed to another timestamp
22 and this will be timestamp 00:07:06:07, and I will again be broadcasting this on
23 evidence 2.
- 24 Do you see this image in front of you, Mr Witness?
- 25 A. [10:25:44] Yes, I do.

- 1 Q. [10:25:49] And for the record, I'm showing timestamp 00:07:06:15.
- 2 Mr Witness, do you recognise the person in this scene?
- 3 A. [10:26:07] Yes.
- 4 Q. [10:26:07] (Overlapping speakers) And who is this person?
- 5 A. [10:26:14] This is Sheikh Abou Aoussa Mohammed.
- 6 Q. [10:26:31] (Redacted)
- 7 A. [10:26:35] (Redacted)
- 8 MR SANDOVAL: [10:26:41] So Mr President, your Honours, as I previously
- 9 indicated, I wish to request that we go into closed session so I can play and
- 10 show the last excerpt of the video and ask a few questions to the witness. I
- 11 will remain in closed session for less than five minutes.
- 12 PRESIDING JUDGE MINDUA: [10:27:07](Interpretation) Thank you,
- 13 Mr Prosecutor.
- 14 Court officer, private session, please.
- 15 (Private session at 10.27 a.m.)
- 16 THE COURT OFFICER: [10:27:20] We are in private session, Mr President.
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
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Page redacted - Private session

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22 (Open session at 10.35 a.m.)

23 THE COURT OFFICER: [10:35:41] We are back in open session, Mr President.

24 PRESIDING JUDGE MINDUA: [10:35:53](Interpretation) Thank you very
25 much.

1 Prosecutor.

2 MR SANDOVAL: [10:35:57] Thank you, Mr President, your Honours, I am
3 done with the video and, your Honours, that concludes my
4 examination-in-chief. I have no further questions.

5 PRESIDING JUDGE MINDUA: [10:36:14](Interpretation) Very well,
6 Prosecutor. The Chamber would like to thank you, you've kept your word.
7 So the conditions envisaged in Rule 68(3) have been met.

8 I therefore turn to the Legal Representative of Victims in order to know
9 whether they intend to question the witness having heard the Prosecutor.

10 Mr Kassongo?

11 MR KASSONGO: [10:36:52](Interpretation) Thank you, your Honour,
12 your Honours. The legal representatives would wish to ask one small
13 question for clarification taking into account the position of the witness.

14 PRESIDING JUDGE MINDUA: [10:37:08](Interpretation) Thank you very
15 much, Mr Kassongo.

16 I now turn to Ms Taylor, do you have any objections thereto?

17 MS TAYLOR: [10:37:18] Thank you, Mr President. I think as always, it will
18 depend on the content of the question. So if the legal representative puts it,
19 then we can object if we have grounds to do so.

20 PRESIDING JUDGE MINDUA: [10:37:39](Interpretation) Thank you very
21 much, Ms Taylor.

22 Mr Kassongo, we give you leave to ask your question.
23 Please, go ahead.

24 MR KASSONGO: [10:37:46](Interpretation) Thank you very much,
25 your Honour, and thank you, your Honours.

1 QUESTIONED BY MR KASSONGO: (Interpretation)

2 Q. [10:37:54] First of all, I'd like to thank the witness. I'd like to say good
3 morning to the witness.

4 The legal representatives of victims would like to come back to a particular
5 point concerning an ethnic group or a difference that could be given by the
6 witness, and, for that, I would ask the witness to be careful not to give any
7 identifying information away - and, if these details come to the fore, not to give
8 them and maybe clarification is necessary in private session - but I will not ask
9 him to give such details.

10 What I would like to do is say good morning to you, Witness. Taking in
11 account your position and your statement and your testimony, could you tell
12 us if, in your opinion - and, according to what you have seen - if there is
13 a difference between the Tuareg and Tamasheq? And if the difference there is,
14 could you tell us how that can be seen or how that can be perceived?

15 Thank you.

16 A. [10:39:59] Between the Tuareg and the Tamasheq, there isn't a difference.
17 Tamasheq is the language spoken. There's no difference, they are all the same
18 people. It's the ethnic -- when you speak about the ethnic group, it's the
19 Tamasheq. That is the language spoken by them.

20 Q. [10:40:29] Thank you very much for your clarification. The legal
21 representative would like to know if -- having been captured and having spent
22 time in contact with these troops or these groups, if you were able to see the
23 relations between them -- between Tuareg and Tamasheq, where you were
24 captured? And, if possible, whether everything was done with good
25 collaboration with the rebels?

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1 I will simplify my question.

2 In the relations that you had, were you able to see Tamasheq and Tuareg
3 among the people that were captured?

4 A. [10:41:30] Yes.

5 MR KASSONGO: [10:41:34](Interpretation) This is an answer that was
6 satisfactory to us. I think that the legal representatives are satisfied with the
7 answers that were given by the witness and we would like to thank the witness
8 and the Chamber for giving us leave, and we would like to thank you.

9 Thank you, Witness.

10 PRESIDING JUDGE MINDUA: [10:42:08](Interpretation) Thank you very
11 much, Maître Kassongo.

12 So, I now turn towards the Defence, given that I see no reaction from the
13 Prosecution; so Ms Taylor, are you ready for your cross-examination?

14 MS TAYLOR: [10:42:32] Thank you, Mr President. Bearing in mind the time,
15 we would ask if it would be possible to have the morning break earlier so that
16 we can distribute the binders to the interpreters and get the rostrum in order
17 et cetera.

18 And we anticipate that we won't take long for our cross-examination, so it
19 won't prolong the day.

20 PRESIDING JUDGE MINDUA: [10:43:00](Interpretation) Very well,
21 Ms Taylor, we grant your request. What time would you like us to restart?
22 Reconvene?

23 MS TAYLOR: [10:43:11] If we could have the same time period, I imagine 30
24 minutes, and if we could just start it earlier and finish it earlier so that we come
25 back at quarter past 11.

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1 PRESIDING JUDGE MINDUA: [10:43:26](Interpretation) Very well. So we
2 are going to suspend the hearing now and we shall reconvene at 11.15.
3 Court is suspended.

4 (Recess taken at 10.43 a.m.)

5 (Upon resuming in open session at 11.17 a.m.)

6 THE COURT USHER: [11:17:29] All rise. Please be seated.

7 PRESIDING JUDGE MINDUA: [11:17:48](Interpretation) The hearing is now
8 in session.

9 We are going to start the cross-examination by Defence. Ms Taylor, you have
10 the floor.

11 QUESTIONED BY MS TAYLOR:

12 Q. [11:18:12] Good morning, Mr Witness. My name is Melinda Taylor, I'm
13 the Defence counsel for Mr Al Hassan. I believe that we briefly saw each
14 other at the witness familiarisation session.

15 If you have any difficulties hearing me, if you could just raise your hand so I
16 can address it with the court officer in case there's an issue with the
17 transmission.

18 A. [11:18:45] No, no problems.

19 Q. [11:18:48] Now, Mr Witness, based on what you have experienced and
20 what you have heard, would it be correct that in 2012 and even to the current
21 day --

22 PRESIDING JUDGE MINDUA: [11:19:12](Interpretation) Excuse me,
23 Ms Taylor, I see that I'm the only one here with the binder. My colleagues,
24 don't seem to have a copy.

25 MS TAYLOR: [11:19:24] I apologise, Mr President, I understood from the new

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1 system that we only had to print one binder for the presiding judge.

2 PRESIDING JUDGE MINDUA: [11:19:41](Interpretation) I think you're right,
3 but I was asked by my colleague whether she could have one. Is there a spare
4 one, perhaps?

5 MS TAYLOR: [11:19:55] We've given some to the interpreters, but I don't
6 know if they can spare one?

7 I believe there's one that the interpreters could spare, and we can also bring
8 some more after the break. I apologise for that.

9 PRESIDING JUDGE MINDUA: [11:20:13](Interpretation) Thank you. I see
10 that the interpreters are very kind.

11 Thank you. I think that's resolved now, we are going to have a copy.

12 Mr Duterte?

13 MR DUTERTRE: [11:20:32](Interpretation) This may be a technical problem,
14 but the Defence has also to upload into e-Court -- into e-Court a digital binder.
15 There seems to be the need to have a digital binder with the -- marked "cross"
16 or marked with the name of the witness and so on, so that your Honours can
17 have access to that.

18 PRESIDING JUDGE MINDUA: [11:21:03](Interpretation) Thank you for that
19 technical precision, Mr Duterte.

20 That is the information I think you require, Ms Taylor.

21 Now we seem to have what we need and my colleague has her own copy.

22 Thank you.

23 MS TAYLOR: [11:21:26] If you don't mind, Mr Presiding Judge, may I just
24 verify with the court officer in Bamako that they have access to the Defence
25 documents? Otherwise we can run them through the Defence laptop, but it

- 1 might be better to verify that now. I believe they do.
- 2 PRESIDING JUDGE MINDUA: [11:21:47](Interpretation) Yes, please, Court
3 officer?
- 4 THE COURT OFFICER: [11:21:51] (Overlapping speakers) Indeed, Ms Taylor,
5 we had been informed yesterday evening, I believe, that the binder was
6 available in e-Court and we have forwarded this information to our
7 colleagues in the transmission room.
- 8 MS TAYLOR: [11:22:05] Thank you very much for that confirmation, and if
9 there's any issues with the transmission, we can of course run it through the
10 Defence laptop.
- 11 Q. [11:22:14] Mr Witness, I apologise for these logistical delays.
12 I repeat my question: Mr Witness, based on what you experienced and what
13 you have yourself heard and learnt from others, is it correct that in 2012, and,
14 even now, there have been conflicting reports as concerns what happened in
15 Aguelhok and who was there?
- 16 A. [11:22:46] I haven't understood your question.
- 17 Q. [11:23:00] Mr Witness, have you heard different accounts as concerns
18 what happened in Aguelhok?
- 19 A. [11:23:12] No.
- 20 Q. [11:23:22] Mr Witness, are you aware that in 2012, the MNLA initially
21 claimed to have been present in or around Aguelhok in January 2012?
- 22 A. [11:23:48] I -- I don't know anything about any of that.
- 23 Q. [11:23:57] Did you hear or did anyone tell you about an MNLA
24 communiqué claiming to have been involved in intercepting the Malian army
25 from reinforcing the troops at Aguelhok?

- 1 A. [11:24:17] No.
- 2 Q. [11:24:25] And have you heard - or, has anyone told you about an MNLA
3 communiqué claiming that the deaths at Aguelhok were caused by Ukrainian
4 pilots who were engaged in friendly fire?
- 5 A. [11:24:49] No, no, I've never heard talk of that.
- 6 Q. [11:24:58] And were you aware that in July 2012, after your release, the
7 Malian government filed a complaint to the ICC which claimed that the MNLA
8 were responsible for executions at Aguelhok?
- 9 A. [11:25:23] No.
- 10 Q. [11:25:31] Mr Witness, is it correct that the first time you told anyone or
11 gave a report about Aguelhok was in November 2012?
- 12 A. [11:25:42] No, I haven't understand -- understood what you're trying to
13 say.
- 14 Q. [11:25:57] When was the first time you told your superiors or anyone in
15 the army about what happened in Aguelhok?
- 16 A. [11:26:09] After our liberation, I gave a report to my superiors, so in the
17 army. Other than that, I didn't talk about it to anybody at all.
- 18 Q. [11:26:37] Did you give a verbal report before you gave a written report?
- 19 A. [11:26:43] By which you mean?
- 20 Q. [11:26:55] When you were released and you came to Bamako, did you
21 verbally tell anyone about what happened to you?
- 22 A. [11:27:05] To this point, I haven't understood what you're saying.
- 23 Q. [11:27:21] Mr Witness, when you were released, did you go to Bamako?
- 24 A. [11:27:30] Yes.
- 25 Q. [11:27:35] And when you arrived in Bamako, did you meet with members

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1 of the Malian army?

2 A. [11:27:45] Yes.

3 Q. [11:27:54] And when you met them, did they ask you what had
4 happened?

5 A. [11:28:00] No. No.

6 Q. [11:28:07] So no one spoke to you or asked where you had you been?

7 PRESIDING JUDGE MINDUA: [11:28:20](Interpretation) Mr Prosecutor.

8 MR SANDOVAL: [11:28:22](Overlapping speakers) Mr President, I object,
9 your Honour, that's been asked and answered.

10 PRESIDING JUDGE MINDUA: [11:28:35](Interpretation) I would have liked
11 to go with you, Mr Prosecutor, but I do have the impression that the witness
12 hasn't quite understood the question.

13 So Ms Taylor, would you like to try one more time and we can see whether the
14 witness can reply.

15 MS TAYLOR: [11:28:54]

16 Q. [11:28:54] Mr Witness, apart from your superiors in the army, when you
17 came back to Bamako, did you tell anyone about what had happened to you?

18 A. [11:29:07] I said that I didn't. There was just the report that I made, and,
19 other than that, I didn't talk to anybody about it.

20 Q. [11:29:26] And this report was given 11 months after the events, that's
21 correct?

22 A. [11:29:36] I don't recall the exact date.

23 Q. [11:29:51] Mr Witness, is it correct that there'd been several changes in the
24 Malian military and political landscape during that time?

25 A. [11:30:09] I'm not following you.

1 Q. [11:30:23] Now, Mr Witness, between the attack on Aguelhok and the
2 date you gave your report, is it correct that there was a coup d'état in Bamako?

3 A. [11:30:34] Before our liberation.

4 Q. [11:30:55] And is it the case that in November 2011, there was a split in
5 the army and in the Malian authorities between those who favoured
6 negotiation with Ansar Dine and those who favoured international
7 intervention?

8 A. [11:31:18] I truly do not understand your question.

9 Q. [11:31:35] As a soldier, were you aware of different positions as concerns
10 whether there should be a negotiated solution to the events in the north?

11 A. [11:31:49] Which events are you referring to?

12 Q. [11:32:07] To the presence of different groups in the north.

13 A. [11:32:16] I know -- I know nothing of that. Apart from the rebels who
14 came from Libya, I know nothing.

15 Q. [11:32:37] Now, Mr Witness, is it correct that when you gave this first
16 report, you had not received a promotion for your involvement at Aguelhok?

17 A. [11:32:50] That is correct.

18 Q. [11:33:01] And is it correct that you thought that making the report would
19 help to change that situation?

20 A. [11:33:10] Yes.

21 MR SANDOVAL: [11:33:22] Mr President?

22 PRESIDING JUDGE MINDUA: [11:33:25](Interpretation) Mr Prosecutor.

23 MR SANDOVAL: [11:33:27] (Overlapping speakers) Mr President, I'd just like
24 to point out that there seems to be some issue with the transcript, with the
25 English transcript, it doesn't seem to be proceeding.

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1 PRESIDING JUDGE MINDUA: [11:33:40](Interpretation) You are correct,
2 Mr Prosecutor.
3 So court officer.
4 THE COURT OFFICER: [11:33:49] It seems that the problem has already been
5 fixed, Mr President. I will invite the parties and participants to click on the
6 "connect" button on the top of Transcend, and then right click, and "follow
7 realtime".
8 Please let me know if you need any assistance.
9 PRESIDING JUDGE MINDUA: [11:38:00](Interpretation) I believe now all is
10 resolved.
11 Ms Taylor.
12 MS TAYLOR: [11:38:06] I apologise, Mr President, we are trying to get the
13 French realtime transcript up and it doesn't seem to be working. We're trying
14 to get on the automatic feed.
15 MR GARCIA: [11:38:31] It is working on my side actually.
16 MS TAYLOR: [11:38:33] I'm afraid that doesn't help me.
17 THE COURT OFFICER: [11:38:37] No, indeed, Ms Taylor is right. My
18 colleague is now switching the transcript.
19 Ms Taylor, can you please switch on the English transcript, you will then have
20 the French one. I'm sorry about that.
21 MS TAYLOR: [11:39:58] We have a very cosmopolitan transcript today.
22 PRESIDING JUDGE MINDUA: [11:40:25](Interpretation) Ms Taylor, yes.
23 MS TAYLOR: [11:40:29]
24 Q. [11:40:30] Mr Witness, I apologise once more for these technical delays.
25 Now just a couple of minutes ago, you testified that you believed that making

1 the report would help you to get a promotion. Why was that?

2 A. [11:40:45] After we were freed -- there were four of us, after our liberation,
3 there was a promotion and there were others who escaped before that. I
4 stayed and I was captured, and I was not nominated for promotion and that is
5 why I made my report.

6 Q. [11:41:41] Why do you think you were not nominated for promotion?

7 MR SANDOVAL: [11:41:49] Objection, Mr President.

8 PRESIDING JUDGE MINDUA: [11:41:52](Interpretation) Prosecution.

9 MR SANDOVAL: [11:41:56] (Overlapping speakers) The question calls for
10 speculation, Mr President.

11 PRESIDING JUDGE MINDUA: [11:42:03](Interpretation) Ms Taylor?

12 MS TAYLOR: [11:42:05] The witness is online, so can we cut off the feed to
13 the witness?

14 PRESIDING JUDGE MINDUA: [11:42:13](Interpretation) Court officer, could
15 you please cut the connection to the witness.

16 MS TAYLOR: [11:42:19] (Overlapping speakers) if we can just cut the
17 translation.

18 PRESIDING JUDGE MINDUA: [11:42:32](Interpretation) Court officer, is that
19 sorted?

20 MS TAYLOR: [11:42:38] Mr President, the witness has testified that he made
21 the report because he believed that it would help him to get a promotion. It's
22 therefore possible - I won't know until he answers - that he believed that there
23 was a reason why he hadn't been given a promotion until that point. The
24 witness is in a position to either say or not say whether he knows why he was
25 not promoted. It's not speculation if he's speaking from what he himself

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1 knows or what he heard.

2 PRESIDING JUDGE MINDUA: [11:43:08](Interpretation) I agree with you,
3 Ms Taylor, because it was indeed the witness himself who said that, but please
4 continue.

5 Of course, first, we need to re-establish the connection.

6 Court officer?

7 Thank you very much, court officer.

8 Ms Taylor.

9 MS TAYLOR: [11:43:34]

10 Q. [11:43:34] Mr Witness, do you know why you were not promoted?

11 A. [11:43:41] I don't know. When we came, there were nine of us from
12 Aguelhok and four of those received a promotion and the others, the rest of us,
13 didn't get one.

14 MS TAYLOR: [11:44:19] Mr President, may I ask a follow-up question in
15 private session?

16 PRESIDING JUDGE MINDUA: [11:44:26](Interpretation) Court officer,
17 private session, please.

18 (Private session at 11.44 a.m.)

19 THE COURT OFFICER: [11:44:37] We are in private session, Mr President.

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Page redacted - Private session

Trial Hearing
WITNESS: MLI-OTP-P-0081

(Private Session)

ICC-01/12-01/18

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13 (Open session at 11.48 a.m.)

14 THE COURT OFFICER: [11:49:00] We are back in open session.

15 And I take this opportunity to inform you that the transcripts are now on the
16 right channels.

17 PRESIDING JUDGE MINDUA: [11:49:24](Interpretation) Thank you very
18 much, court officer.

19 Ms Taylor, please continue.

20 MS TAYLOR: [11:49:30]

21 Q. [11:49:30] Mr Witness, was there a decree of 30th May 2012 which set out
22 the right to a promotion?

23 A. [11:49:42] I haven't understood your question.

24 Q. [11:49:52] Perhaps if we can refer to the Prosecution binder in front of you,
25 it's tab 5, MLI-0012-1184 at page 1190. Does this refer to a specific decree

1 of 30th of May 2012 concerning promotions?

2 Mr Witness, do you have this document in front of you? It's in the

3 Prosecution binder, tab 5.

4 A. [11:52:10] Yes, I've got it.

5 Q. [11:52:13] And can you see a reference to a decree of 30th of May 2012 at
6 the bottom of this document?

7 A. [11:52:22] Yes, that decree, that made it possible for the others to get their
8 promotion. That's the number of the note.

9 Q. [11:52:48] And can you explain to the Court more about this decree, were
10 there any conditions to getting a promotion?

11 A. [11:53:02] Well, I know the conditions which made it possible. After the
12 fall of Aguelhok, they were appointed with regards to that note. So I received
13 the note. That's the number, that's the number of the note and I put it into the
14 report.

15 Q. [11:53:35] And do you know what the decree said in terms of who would
16 be eligible to get a promotion?

17 A. [11:53:49] I haven't understood the question.

18 Q. [11:54:02] Mr Witness, the decree was put in the report in connection with
19 the right to get a promotion?

20 A. [11:54:11] Yes.

21 Q. [11:54:13] Do you know what the decree said in terms of who would be
22 eligible to get a promotion?

23 MR SANDOVAL: [11:54:24] Objection, Mr President.

24 PRESIDING JUDGE MINDUA: [11:54:29](No interpretation) *Monsieur le*
25 *Procureur ?*

1 MR SANDOVAL: [11:54:31] Mr President, I object on two grounds; first,
2 that's already been asked and answered. But second, your Honours, I believe
3 the question is misleading because -- well, your Honours, actually before I
4 proceed, can we request that the witness disconnect so that he does not hear
5 my argument.

6 PRESIDING JUDGE MINDUA: [11:54:59](Interpretation) Please wait
7 a second, I can see that Ms Taylor would like to take the floor. Ms Taylor, did
8 you follow what the Prosecutor said?

9 MS TAYLOR: [11:55:11] I believe that the Prosecution was asking for the
10 connection to be cut. I was just trying to stop the transcript.

11 PRESIDING JUDGE MINDUA: [11:55:19](Interpretation) That's correct, we're
12 going to stop the connection.
13 Court officer?

14 THE COURT OFFICER: [11:55:29] It's done.

15 PRESIDING JUDGE MINDUA: [11:55:33](Interpretation) It has been done.
16 Prosecutor.

17 MR SANDOVAL: [11:55:35] (Overlapping speakers) Thank you, Mr President.
18 So in relation to my second ground for my objection that the question is
19 misleading, the Defence counsel is proceeding on the basis that this decree
20 provides for a right to be promoted and provides for the conditions in order to
21 receive such a promotion, but that is not in fact the case.

22 PRESIDING JUDGE MINDUA: [11:56:09](Interpretation) Ms Taylor.

23 MS TAYLOR: [11:56:10] Mr President, if the Prosecution follows the line of
24 questions and answers, my questions flow specifically from what the witness
25 has himself said, which is, he refers to the decree, the decree that made it

1 possible for the others to get the promotion. That's the number of the note.
2 So it's the witness who made the connection between the decree and the
3 possibility of getting the promotion. He then says:
4 I know the conditions which made it possible, after the fall of Aguelhok, so I
5 received the note. That's the number -- that's the number of the note and I put
6 it into the report.
7 So again, he's referencing the conditions to the number of this decree.
8 And then in terms of the contention that I -- the question was asked and
9 answered, the witness then said, "I haven't understood the question", which is
10 why I then reformulated it so he could understand it.
11 So the question hasn't actually been answered because the witness specifically
12 asked for it to be reformulated. But it's the witness himself who has made the
13 connection between the decree and the possibility of a promotion; so I'm now
14 asking the witness for what that connection is. If he is in a position to
15 elucidate this issue.
16 PRESIDING JUDGE MINDUA: [11:57:27](Interpretation) Prosecutor,
17 Ms Taylor is clear and logical in this regard. I agree with her. I don't
18 understand your objection.
19 MR SANDOVAL: [11:57:39] (Overlapping speakers) If I could just point out,
20 Mr President, the Defence counsel is correct that this report of the witness
21 refers to this decree, but all that the report says is that this decree provided
22 a promotion to a certain number of individuals, and this report of the witness
23 merely invokes the promotion of these individuals in the hope that he himself
24 will be granted one.
25 So I would just like to correct the misleading nature of the question that this

1 decree provides a right or confers a right upon the witness in order to be
2 promoted and the decree, furthermore, does not provide the conditions under
3 which a promotion will be granted.

4 PRESIDING JUDGE MINDUA: [11:58:28](Interpretation) That's clear.

5 Ms Taylor, please continue or reformulate your question.

6 We first to have to re-establish the connection.

7 Thank you very much.

8 Ms Taylor.

9 MS TAYLOR: [11:58:48]

10 Q. [11:58:50] Mr Witness, this report cites a decree in connection with the
11 possibility of being promoted. Is there any connection between the two?

12 A. [11:59:04] Yes. This was with regard to the comrade from the guard.
13 After our liberation, they were -- they were appointed. So you have the
14 number of their note -- of the note, which shows to the chiefs that they
15 were -- that they were promoted but we weren't.

16 Q. [11:59:37] Now Mr Witness, earlier you stated that you didn't tell anyone
17 about what happened to you until November -- or until you gave your report,
18 sorry. So wouldn't it be correct that you couldn't be promoted until you gave
19 a report?

20 A. [11:59:58] Yes, that's possible because you have to write your report, but
21 it wasn't the case.

22 Q. [12:00:22] Mr Witness, can you explain what you mean by, "it wasn't the
23 case"?

24 A. [12:00:35] So, there was no promotion. That's what I'm talking about.

25 Q. [12:00:49] Now, Mr Witness, did anyone encourage you to provide this

1 report?

2 A. [12:00:59] No.

3 MS TAYLOR: [12:01:02] Mr President, may I go into private session to ask
4 a follow-up question?

5 PRESIDING JUDGE MINDUA: [12:01:13](Interpretation) Court officer, please
6 take us into private session.

7 (Private session at 12.01 p.m.)

8 THE COURT OFFICER: [12:01:22] We are in private session, Mr President.

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Trial Hearing
WITNESS: MLI-OTP-P-0081

(Private Session)

ICC-01/12-01/18

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23 (Open session at 12.05 p.m.)

24 THE COURT OFFICER: [12:05:37] We are in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [12:05:55](Interpretation) Thank you very

1 much.

2 MS TAYLOR: [12:05:59]

3 Q. [12:06:01] Is it correct that after you gave this report to your commander
4 in 2012, you still didn't receive a promotion?

5 A. [12:06:10] We didn't receive a promotion.

6 Q. [12:06:18] Do you know why you didn't receive a promotion?

7 A. [12:06:23] I don't know.

8 Q. [12:06:33] Now you met the Prosecution in March 2014, why did you
9 agree to meet them?

10 A. [12:06:43] I'm sorry, I didn't understand what you were -- what you
11 wanted to ask me.

12 Q. [12:06:53] Why did you agree to meet the ICC Prosecution in 2014?

13 A. [12:07:01] I accepted to render matters to justice.

14 Q. [12:07:23] Now you first met them on the 17th of March, but before being
15 interviewed on the 18th of March, you read the contents of your report, that's
16 correct?

17 A. [12:07:40] I haven't understood.

18 Q. [12:07:53] Mr Witness, you met the Prosecution on the 17th of March.
19 Before having an interview on the 18th of March, did you read the contents of
20 your 2012 report?

21 A. [12:08:09] I know -- well, I don't need to read it, I know about my report
22 myself. I know it by heart.

23 Q. [12:08:34] Now, Mr Witness, you've just said you didn't need to read it,
24 but did you tell the Prosecution that you read it to recall what happened?

25 A. [12:08:43] I just said that sometimes I might not remember the dates, so I

- 1 might not be able to see the dates but I can reread it to have the dates --
- 2 THE INTERPRETER: [12:09:12] -- corrects the interpreter.
- 3 MS TAYLOR: [12:09:14]
- 4 Q. [12:09:14] And apart from dates, were there other things that you had
- 5 difficulties remembering?
- 6 A. [12:09:24] I -- I haven't understood.
- 7 Q. [12:09:32] You've said you had difficulties remembering dates. Did you
- 8 have difficulties remembering other details of what happened?
- 9 A. [12:09:44] No.
- 10 Q. [12:09:48] Now going back to your 2012 report, is it correct that as
- 11 a soldier, when giving a report, you should be -- you're obliged to give all
- 12 details that are militarily relevant?
- 13 A. [12:10:08] Yes.
- 14 Q. [12:10:16] And when you gave your 2012 report, did you, in fact, provide
- 15 all details that were militarily relevant?
- 16 A. [12:10:28] I'm sorry?
- 17 Q. [12:10:42] When you gave your 2012 report, did you include all the details
- 18 that you considered to be militarily relevant?
- 19 A. [12:10:56] Yes.
- 20 Q. [12:11:06] And in your 2012 report, did you include information that you
- 21 had received reports that Colonel Bamoussa had deserted on 12 November
- 22 2011?
- 23 A. [12:11:24] Yes.
- 24 Q. [12:11:34] So would it be correct that someone deserting is militarily
- 25 relevant?

1 A. [12:11:43] Yes.

2 Q. [12:11:52] Now, Mr Witness, is it correct that your 2012 report does not
3 mention the disappearance or desertion of Madou Keïta?

4 A. [12:12:06] There wasn't a commander Keïta.

5 Q. [12:12:20] I believe it must have been misinterpreted. My question was,
6 is it correct that your 2012 report did not mention the disappearance or
7 desertion of Madou Keïta?

8 A. [12:12:56] Madou Keïta, that was just at the time of the events, before the
9 events. He deserted, he deserted the camp, but that wasn't mentioned in the
10 report. I did that separately.

11 Q. [12:13:07] Now, Mr Witness going to 2014, is it correct that Oumar Ould
12 Hamaha was reportedly killed just a couple days before your interview with
13 the Prosecution?

14 A. [12:13:22] I haven't understood.

15 Q. [12:13:35] Do you recall if Oumar Ould Hamaha was killed just before
16 your interview with the Prosecution?

17 A. [12:13:50] I don't know. From my memory, I don't know.

18 Q. [12:14:02] Do you recall if his name was in the media at the time?

19 A. [12:14:07] I haven't had time to watch the news on television.

20 Q. [12:14:24] Now Mr Witness, is it correct that your 2012 report does not
21 have the full name "Oumar Ould Hamama" in it?

22 A. [12:14:38] At that time, I didn't know his whole name. When I came,
23 that's where I got his full name from.

24 Q. [12:14:56] Mr Witness, can you explain what you mean by "When I came"?
25 Where did you go?

1 A. [12:15:12] When we arrived in Bamako, that's when -- when I found out
2 what the full name of Oumar Ould Hamama was.

3 Q. [12:15:31] Was this before or after you gave your 2012 report?

4 A. [12:15:38] I -- I don't remember all that, to tell the truth.

5 MS TAYLOR: [12:15:56] Mr President, may I go into private session to ask
6 some identifying questions?

7 PRESIDING JUDGE MINDUA: [12:16:12](Interpretation) Court officer,
8 private session, please.

9 (Private session at 12.16 p.m.)

10 THE COURT OFFICER: [12:16:18] We are in private session, Mr President.

11 (Redacted)

12 (Redacted)

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Trial Hearing
WITNESS: MLI-OTP-P-0081

(Open Session)

ICC-01/12-01/18

1 (Redacted)

2 (Open session at 12.17 p.m.)

3 THE COURT OFFICER: [12:17:48] We are back in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [12:18:03](Interpretation) Thank you very
5 much.

6 Ms Taylor.

7 MS TAYLOR: [12:18:07]

8 Q. [12:18:09] (Microphone not activated) Mr Witness, is it correct that you
9 had notes from your personal notebook with you during your interview with
10 the Prosecution?

11 A. [12:18:21] Yes.

12 Q. [12:18:28] And some of these notes concerned Madou Keïta, that's
13 correct?

14 A. [12:18:37] Yes.

15 Q. [12:18:40] And does the language -- is the language in your notes the
16 same as the language used in your statement?

17 MR SANDOVAL: [12:18:55] Objection, Mr President.

18 PRESIDING JUDGE MINDUA: [12:18:59](Interpretation) Mr Prosecutor.

19 MR SANDOVAL: [12:19:01] (Overlapping speakers) The question is vague.
20 Could the -- could the Defence counsel be more precise in her question.

21 PRESIDING JUDGE MINDUA: [12:19:11](Interpretation) Ms Taylor.

22 MS TAYLOR: [12:19:13]

23 Q. [12:19:15] Mr Witness, when you gave answers to the Prosecution
24 concerning Madou Keïta, did you use the same language that was in your
25 notes?

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WITNESS: MLI-OTP-P-0081

(Open Session)

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1 A. [12:19:28] (Overlapping speakers)

2 PRESIDING JUDGE MINDUA: [12:19:35](Interpretation) Prosecution.

3 MR SANDOVAL: [12:19:36] (Overlapping speakers) Could the Defence

4 counsel provide the appropriate reference to the witness so he's fully aware of

5 the documents being referred to. He's being made to compare various

6 documents and statements, which -- which are not being presented to him.

7 And also for the record, your Honours, the ERNs should be specified.

8 PRESIDING JUDGE MINDUA: [12:20:01](Interpretation) Ms Taylor, the

9 Prosecutor is quite correct.

10 MS TAYLOR: [12:20:07] Mr President, I will -- I can give the ERNs, but I was

11 wanting the witness to testify from his memory, which he has, in fact, just

12 done.

13 For -- the references for the record are, the statement would be tab 1,

14 MLI-OTP-0012-1152 and the notes are OTP, tab 9, MLI-OTP- 0012-1195.

15 And I do believe we still have a link with the witness; so if the Prosecution

16 wishes to go into detail, we should cut the interpretation.

17 MR SANDOVAL: [12:20:57] Mr President?

18 PRESIDING JUDGE MINDUA: [12:21:01](Interpretation) Mr Prosecutor.

19 MR SANDOVAL: [12:21:03] (Overlapping speakers) Yes, Mr President, before

20 I proceed, as the Defence counsel has pointed out, can we disconnect the

21 witness first?

22 PRESIDING JUDGE MINDUA: [12:21:15](Interpretation) Court officer, can

23 we please cut the transmission.

24 Thank you.

25 Mr Prosecutor, that's been done, please go ahead.

1 MR SANDOVAL: [12:21:29] (Overlapping speakers) Thank you, Mr President.

2 Mr President, your Honours, the Defence counsel seeks to point out various
3 differences in language between the notes of the witness and -- and what he
4 provided in his statement or in his report and she is expecting the witness to do
5 so from memory.

6 I believe, your Honours, that is being unfair to the witness. This -- these
7 events took place almost 10 years ago. If the Defence counsel does wish to
8 point out such linguistic differences, then the witness should be provided an
9 opportunity to refresh his memory, to read the various documents and
10 statements concerned and then to provide his answer.

11 PRESIDING JUDGE MINDUA: [12:22:13](Interpretation) Ms Taylor.

12 MS TAYLOR: [12:22:17] Mr President, I believe the decision on the conduct of
13 proceedings specified that we should first ask the witness if they can recall in
14 an open manner. If they can't recall from memory, then we can show the
15 statement to them. This witness has, in fact, answered my question; so it's not
16 for the Prosecution to interpolate their position on to the witness.

17 PRESIDING JUDGE MINDUA: [12:22:49](Interpretation) Mr Prosecutor,
18 please sit down now. I think that the witness is capable of answering the
19 question and Ms Taylor is quite correct to refer to the decision of the Chamber
20 on the conduct of proceedings.

21 Ms Taylor, please go ahead.

22 MS TAYLOR: [12:23:12] Do we have the link to the witness now?

23 PRESIDING JUDGE MINDUA: [12:23:20](Interpretation) Court officer?

24 Yes, it's been re-established.

25 Please proceed, Ms Taylor.

Trial Hearing
WITNESS: MLI-OTP-P-0081

(Open Session)

ICC-01/12-01/18

- 1 MS TAYLOR: [12:23:39]
- 2 Q. [12:23:41] Now, Mr Witness, is it correct that you wrote notes about
3 Madou Keïta's desertion after your release because it shocked you?
- 4 MR SANDOVAL: [12:24:00] Mr President?
- 5 PRESIDING JUDGE MINDUA: [12:24:06](Interpretation) Mr Prosecutor.
- 6 MR SANDOVAL: [12:24:10] (Overlapping speakers) Could the Defence
7 counsel be -- be more precise. Could she specify what shocked the witness.
- 8 MS TAYLOR: [12:24:19] Mr President, if I'm not precise then (Overlapping
9 speakers)
- 10 PRESIDING JUDGE MINDUA: [12:24:28](Interpretation) I'm trying to find
11 the part in the transcript, but please continue Ms Taylor, if you wish to reply.
- 12 MS TAYLOR: [12:24:38] I would have to cut off the interpretation again to the
13 witness and I apologise to the witness for that.
- 14 PRESIDING JUDGE MINDUA: [12:24:51](Interpretation) Court officer, could
15 you please interrupt the transmission.
- 16 That's been arranged.
- 17 Ms Taylor, please.
- 18 MS TAYLOR: [12:25:07] Mr Witness -- sorry, I apologise. Mr President, the
19 wording I was using comes almost verbatim from the witness's own statement.
20 So if it lacks precision, it lacks precision because the witness's answer in the
21 statement lacks precision.
- 22 I can of course read out the paragraph to the witness, but again I believe that it
23 was -- I was required to first elicit in an open way if he recalls this and then to
24 go to the statement only if necessary. But I can't give more details if they
25 don't exist in his statement.

- 1 PRESIDING JUDGE MINDUA: [12:26:00](Interpretation) You're quite correct,
2 Ms Taylor. This witness is quite capable of answering questions and when
3 he's unable to do so, then he is quite capable of making that clear.
4 Please reconnect, court officer.
5 Thank you very much, the connection is re-established. Ms Taylor.
- 6 MS TAYLOR: [12:26:37]
- 7 Q. [12:26:39] Mr Witness, I apologise for that. Did you write these notes
8 about Madou Keïta because his desertion shocked you?
- 9 A. [12:26:51] Yes.
- 10 Q. [12:26:58] When did you write these notes?
- 11 A. [12:27:03] Once we had been freed.
- 12 Q. [12:27:12] Was it before or after you gave your 2012 report?
- 13 A. [12:27:20] I didn't understand.
- 14 Q. [12:27:33] Did you make these notes before or after you wrote your report
15 in 2012?
- 16 A. [12:27:43] It was afterwards.
- 17 Q. [12:27:51] Is it correct that you gave the Prosecution notes from two
18 different notebooks?
- 19 A. [12:28:02] Yes.
- 20 Q. [12:28:11] And did you personally write both sets of notes?
- 21 A. [12:28:17] Yes.
- 22 Q. [12:28:29] Did you write them at the same time?
- 23 A. [12:28:34] I'm sorry?
- 24 Q. [12:28:42] Did you write them around about the same date?
- 25 A. [12:28:48] Yes.

Trial Hearing
WITNESS: MLI-OTP-P-0081

(Open Session)

ICC-01/12-01/18

1 Q. [12:28:55] So your handwriting should be the same in both, is that
2 correct?

3 A. [12:29:05] What do you mean by that?

4 Q. [12:29:26] Your handwriting, you use the same handwriting in both sets
5 of notes?

6 A. [12:29:39] Yes.

7 Q. [12:29:45] And where did you obtain the information that you put in
8 these notes?

9 A. [12:29:53] Madou Keïta was close to me at the time of our liberation as
10 well.

11 Q. [12:30:18] So both sets of notes, where did you obtain the information
12 from? Not just the note about Madou Keïta?

13 A. [12:30:29] The notes, there were no differences. One has names
14 and -- and the other doesn't, and it includes Madou Keïta.

15 PRESIDING JUDGE MINDUA: [12:30:54](No interpretation) *Monsieur le*
16 *Procureur* ?

17 MR SANDOVAL: [12:31:03] (Overlapping speakers) Mr President, could the
18 Defence counsel just state the ERNs of the notes for the record.

19 PRESIDING JUDGE MINDUA: [12:31:09](No interpretation) *Maître Taylor*.

20 MS TAYLOR: [12:31:12] I believe I've already given the reference for the note
21 concerning Madou Keïta, which was OTP tab 9, MLI-OTP-0012-1195. And the
22 other note, which I was about to go to, is OTP tab 8, MLI-OTP-0012-1194.

23 Q. [12:31:34] Now Mr Witness, the note with the names, where did the
24 information in that note come from?

25 Mr Witness?

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(Open Session)

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- 1 MS TAYLOR: [12:31:46] I don't believe the note should be put to him just yet.
- 2 THE WITNESS: [12:32:15] You talked about the names and that was during
3 our captivity.
- 4 MS TAYLOR: [12:32:28]
- 5 Q. [12:32:28] So the note with the names, is it correct that you learned those
6 names when you were in captivity?
- 7 A. [12:32:40] Yes.
- 8 Q. [12:32:47] Mr Witness, were you in Timbuktu in 2012?
- 9 A. [12:32:53] No.
- 10 Q. [12:33:00] Can you explain why you put the name of Mohamed Mossa on
11 this note?
- 12 A. [12:33:10] Mohamed Mossa --
- 13 THE INTERPRETER: [12:33:23] May, sorry -- overlapping speakers.
- 14 THE WITNESS: [12:33:29](Interpretation) (Redacted)
15 (Redacted).
- 16 MS TAYLOR: [12:33:35]
- 17 Q. [12:33:36] If you could turn to Prosecution tab 8, MLI-OTP- 0012-1194.
18 It's in the Prosecution binder.
19 Mr Witness, did you write the sentence at the bottom of this note?
- 20 A. [12:34:21] Yes.
- 21 Q. [12:34:28] (Redacted)
- 22 A. [12:34:32] (Redacted)
- 23 Q. [12:34:41] And why did they provide you this information?
- 24 MR SANDOVAL: [12:34:47] Mr President?
- 25 PRESIDING JUDGE MINDUA: [12:34:51](Interpretation) Mr Prosecutor.

- 1 MR SANDOVAL: [12:34:53] (Overlapping speakers) I believe we're in open
2 session. Perhaps these questions should be asked in closed session.
3 PRESIDING JUDGE MINDUA: [12:35:00](Interpretation) You are quite
4 correct, Mr Prosecutor.
5 Court officer, please.
6 (Private session at 12.35 p.m.)
7 THE COURT OFFICER: [12:35:13] We're in private session (Redacted)
8 (Redacted)
9 (Redacted)
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1 (Open session at 12.37 p.m.)

2 THE COURT OFFICER: [12:37:25] We are back in open session, Mr President.

3 PRESIDING JUDGE MINDUA: [12:37:45](Interpretation) Thank you very
4 much, court officer.

5 Ms Taylor.

6 MS TAYLOR: [12:37:50]

7 Q. [12:37:50] Mr Witness, you were interviewed by the Prosecution in
8 December 2018, that's correct?

9 THE INTERPRETER: [12:38:12] The answer was inaudible.

10 MS TAYLOR: [12:38:15]

11 Q. [12:38:15] I apologise, Mr Witness, your answer wasn't heard. I can
12 repeat my question: Did you have a second interview with the Prosecution in
13 December 2018?

14 A. [12:38:32] Yes.

15 Q. [12:38:34] Now this was after Mr Al Hassan was arrested. Were you
16 aware at the time of the interview that he was alleged to be a member of
17 Ansar Dine?

18 A. [12:38:56] I don't understand what you're saying.

19 Q. [12:39:04] When you were interviewed in December 2018, were you
20 aware that you were being interviewed in connection with the Al Hassan case?

21 A. [12:39:14] No.

22 Q. [12:39:27] What case did you think you were being interviewed for?

23 A. [12:39:32] The case of Aguelhok.

24 Q. [12:39:44] Now at the time of this interview, had you been promoted?

25 A. [12:39:50] I didn't understand.

1 Q. [12:39:58] At the time of this interview in 2018, had you received
2 a promotion yet for the events in Aguelhok?

3 A. [12:40:09] No.

4 Q. [12:40:15] Now, after this interview - and without going into anything
5 that's confidential - is it correct that the Prosecution intervened with your
6 superiors to improve your situation?

7 MR SANDOVAL: [12:40:34] Objection, Mr President.

8 PRESIDING JUDGE MINDUA: [12:40:39](Interpretation) Mr Prosecutor.

9 MR SANDOVAL: [12:40:40] (Overlapping speakers) Perhaps if the witness
10 could disconnect first before I proceed.

11 PRESIDING JUDGE MINDUA: [12:40:49](Interpretation) Court officer, please
12 could you cut the connection.

13 That's done.

14 Please go ahead, Mr Prosecutor.

15 MR SANDOVAL: [12:41:03] Mr President, I object to the question as it is
16 misleading. The Defence counsel refers to improving the witness's situation,
17 and that's -- that -- implying a particular incentive being granted to the witness.
18 So if the -- if the Defence counsel could rephrase her question.

19 And, Mr President, this also relates to -- to the security of the witness, so if -- I
20 believe we're -- we're in open session; so if -- if at all, that we should proceed in
21 closed session.

22 PRESIDING JUDGE MINDUA: [12:41:49](Interpretation) We will first move
23 to private session and then we will re-establish the connection and then
24 Ms Taylor will be able to reformulate her question.

25 (Private session at 12.42 p.m.)

1 THE COURT OFFICER: [12:42:12] We are in private session, Mr President.
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3 (Recess taken at 12.50 p.m.)

4 (Upon resuming in open session at 3.01 p.m.)

5 THE COURT USHER: [15:01:12] All rise. Please be seated.

6 PRESIDING JUDGE MINDUA: [15:01:30](Interpretation) The Court is once
7 again in session.

8 The Defence has the floor in order to continue the cross-examination.

9 Ms Taylor, you have the floor.

10 MS TAYLOR: [15:01:50]

11 Q. [15:01:51] Good afternoon, Mr Witness.

12 A. [15:01:57] Good afternoon.

13 Q. [15:01:59] Were you aware of any tensions within the army at Aguelhok
14 between Tamasheq-speaking soldiers and other soldiers?

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

16 Q. [15:02:23] Can you describe that for the Court?

17 A. [15:02:30] Yes. The Tamasheqs, well, they wanted to really be -- I'm not
18 quite sure how to put it. They wanted to be freed so that they would be free.
19 They were trying to trick the others in saying that they -- they didn't know that
20 it was the Muslims who were not going to come and fight these people and it
21 was then that Oumar came to tell us the situation, to say that there was no
22 question of Tamasheq or --

23 THE INTERPRETER: [15:03:41] Inaudible.

24 THE WITNESS: [15:03:41] -- here. We are all Muslims. All of us here. We
25 are all equal.

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1 MS TAYLOR: [15:03:54]

2 Q. [15:03:54] Now, Mr Witness, speaking specifically about the Malian
3 army - and, the Malian forces stationed at Aguelhok in 2011 and the beginning
4 of 2012 - were there tensions between the Tamasheq-speaking Malian soldiers
5 and other non-Tamasheq speaking soldiers?

6 A. [15:04:26] No.

7 Q. [15:04:32] Mr Witness, I'm going to read to you a paragraph from another
8 person who's been interviewed in this case and I'm going to ask you for
9 a comment on that paragraph.

10 MS TAYLOR: [15:04:40] But before doing so, I would ask if we could go into
11 private session to read out the paragraph.

12 PRESIDING JUDGE MINDUA: [15:04:55](Interpretation) Court officer,
13 private session, please.

14 (Private session at 3.05 p.m.)

15 THE COURT OFFICER: [15:05:03] We are in private session, Mr President.

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- 15 (Open session at 3.09 p.m.)
- 16 THE COURT OFFICER: [15:10:00] We are back in open session, Mr President.
- 17 PRESIDING JUDGE MINDUA: [15:10:06](Interpretation) Thank you very
- 18 much, court officer.
- 19 Ms Taylor.
- 20 MS TAYLOR: [15:10:12]
- 21 Q. [15:10:13] Mr Witness, do you know where Madou Keïta comes from?
- 22 A. [15:10:26] Yes.
- 23 Q. [15:10:29] Where is that?
- 24 A. [15:10:32] He's from Kayes.
- 25 Q. [15:10:43] What ethnicity is he?

1 A. [15:10:47] I -- I -- I don't know what his ethnicity is, all I know he is
2 a Keïta and he speaks Bambara.

3 Q. [15:11:12] Is it correct that Colonel Bamoussa Diarra deserted in
4 November 2011?

5 A. [15:11:22] Yes.

6 Q. [15:11:30] And did he join the MNLA?

7 A. [15:11:36] I don't know.

8 Q. [15:11:44] Did he desert at the time that the Malian Tuaregs arrived from
9 Libya?

10 A. [15:11:53] Yes.

11 Q. [15:12:00] Did Madou Keïta desert at the same time?

12 A. [15:12:10] I don't remember that. I don't remember very well, but I think
13 it was after, yes, I think it was after.

14 Q. [15:12:32] (Redacted)

15 A. [15:12:44] (Redacted).

16 Q. [15:12:47] (Redacted)

17 (Redacted)

18 A. [15:13:01] (Redacted)

19 (Redacted)

20 Q. [15:13:27] Just to be clear for the record then, it was after that three weeks
21 that you discovered a flag?

22 A. [15:13:36] I don't recall exactly, but it was I know after the
23 desertion of -- by the Colonel Bamoussa that that's when that happened.

24 Q. [15:14:04] (Redacted)

25 A. [15:14:15] Yes.

1 Q. [15:14:23] Do you recall if in your 2012 report you described it as a MNLA
2 flag?

3 A. [15:14:35] Yes, that's what was written on the flag. The flag was -- there
4 was Arabic writing on the flag and I can't read Arabic, and that's what I was
5 told that it said on the flag.

6 Q. [15:15:21] Do you know if the MNLA are in favour of an independent
7 Azawad?

8 A. [15:15:29] I don't know that.

9 Q. [15:15:42] (Redacted)

10 A. [15:15:56] (Redacted).

11 Q. [15:15:57] (Redacted)

12 (Redacted)

13 MR SANDOVAL: [15:16:03] Mr President?

14 Sorry to interrupt.

15 PRESIDING JUDGE MINDUA: [15:16:08](Interpretation) Mr Prosecutor.

16 MR SANDOVAL: [15:16:10] (Overlapping speakers) Mr President, perhaps
17 we should move into closed session for this series of questions.

18 PRESIDING JUDGE MINDUA: [15:16:19](Interpretation) Court officer,
19 private session, please.

20 (Private session at 3.16 p.m.)

21 THE COURT OFFICER: [15:16:28] We are in private session, Mr President.

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9 (Open session at 3.44 p.m.)

10 THE COURT OFFICER: [15:44:02] We are in open session, Mr President.

11 PRESIDING JUDGE MINDUA: [15:44:12](Interpretation) Thank you very
12 much, courtroom officer.

13 Mr Prosecutor, please continue.

14 MR SANDOVAL: [15:44:17](Overlapping speakers) Thank you, Mr President.

15 Q. [15:44:18] So Mr Witness, one last question: Referring to the notebook
16 that we had just discussed, when did you write these notes in relation to the
17 report you made in November 2012?

18 A. [15:44:38] I didn't understand your question.

19 Q. [15:44:44] So these notes in your notebook that we had just discussed,
20 approximately how many weeks or months after you wrote your report in
21 November 2012, did you write these notes in your notebook?

22 A. [15:45:04] I do not recall.

23 Q. [15:45:13] Okay.

24 MR SANDOVAL: [15:45:15] No further questions, your Honour.

25 PRESIDING JUDGE MINDUA: [15:45:21](Interpretation) Thank you very

1 much.

2 So I can see that Ms Taylor is on her feet.

3 Over to you, Ms Taylor, please.

4 QUESTIONED BY MS TAYLOR:

5 MS TAYLOR: [15:45:31]

6 Q. [15:45:32] Now Mr Witness, earlier today you said that the only thing you
7 forgot or couldn't remember that well was dates. That's correct?

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

9 Q. [15:45:54] And you said that you were shocked by Madou Keïta's
10 desertion?

11 A. [15:46:04] Yes.

12 Q. [15:46:10] And yet you forgot, you forgot to mention it in a report that
13 you drafted with your fellow soldier?

14 A. [15:46:23] Yes, that is true.

15 Q. [15:46:33] And these notes that you wrote, you didn't amend your report,
16 your 2012 report afterwards, did you?

17 A. [15:46:42] No.

18 MS TAYLOR: [15:46:50] Thank you. I have no further questions.

19 PRESIDING JUDGE MINDUA: [15:46:57](Interpretation) Thank you very
20 much, Ms Taylor.

21 I'm turning to my fellow judges.

22 We do not have any questions to put to the witness.

23 So we shall now end the testimony of this witness.

24 Mr Witness, the Chamber would like to once again thank you for having
25 assisted us by answering the questions put to you very clearly.

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1 Your testimony has now come to an end, and, once again, I would like to
2 thank you.
3 (The witness is excused)
4 PRESIDING JUDGE MINDUA: [15:47:43](Interpretation)
5 I would like to remind the parties of the procedure with regard to tendering
6 items into evidence with regard to this witness.
7 We shall now adjourn with a view to returning here on Monday, 22 February
8 for the testimony of the 22nd Prosecution witness, that is correct, is it not?
9 Very well.
10 So I would like now to thank the parties and the participants, the court
11 reporters and interpreters and our security staff, and, of course, those present
12 in the public gallery and those watching and listening to us further afield.
13 I would like to wish you all a pleasant evening and see you next Monday.
14 Court is adjourned.
15 (The hearing ends in open session at 3.48 p.m.)