

Trial Hearing  
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 International Criminal Court  
2 Trial Chamber X  
3 Situation: Republic of Mali  
4 In the case of The Prosecutor vs Al Hassan Ag Abdoul Aziz Ag Mohamed Ag  
5 Mahmoud - ICC-01/12-01/18  
6 Presiding Judge Antoine Kesia Mbe Mindua, Judge Tomoko Akane and  
7 Judge Kimberly Prost  
8 Trial Hearing - Courtroom 3  
9 Friday, 10 September 2021  
10 (The hearing starts in open session at 9.32 a.m.)  
11 THE COURT USHER: [9:32:07] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE MINDUA: [9:32:35](Interpretation) Court is in session.  
15 Good morning, everyone.  
16 Courtroom Officer, kindly call the case.  
17 THE COURT OFFICER: [9:32:51] Good morning, Mr President, your Honours.  
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus  
19 Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case number  
20 ICC-01/12-01/18.  
21 And for the record, we are in open session.  
22 PRESIDING JUDGE MINDUA: [9:33:15](Interpretation) Thank you very much,  
23 Courtroom Officer.  
24 As usually is the case every morning, we shall begin with introductions.  
25 OTP.

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- 1 MS LUPING: [9:33:24] Good morning, Mr President. Good morning, your  
2 Honours. Appearing on behalf of the Prosecution are the same team, Mr Duterte,  
3 Mr Raymond Sandoval and myself, Dianne Luping.
- 4 PRESIDING JUDGE MINDUA: [9:33:38](Interpretation) Thank you very much,  
5 Madam Prosecutor.  
6 And now the Defence.  
7 Counsel.
- 8 MS TAYLOR: [9:33:45] Good morning, Mr President. Good morning, your  
9 Honours. Good morning to everyone in the courtroom. The Defence for  
10 Mr Al Hassan is represented today by Maître Julia Basile and myself, Melinda Taylor.  
11 Thank you.
- 12 PRESIDING JUDGE MINDUA: [9:34:04](Interpretation) Thank you very much,  
13 Counsel.  
14 And now Legal Representatives of Victims. Counsel.
- 15 MR KASSONGO: [9:34:11](Interpretation) Good morning, your Honours. The  
16 team of Representatives of Victims is made up of Madam Prisque Biyéké Dipanga,  
17 who is assisting me, and myself, Maître Kassongo. We thank you.
- 18 PRESIDING JUDGE MINDUA: [9:34:31](Interpretation) Thank you very much,  
19 Mr Kassongo.  
20 This morning we continue with the testimony of Witness P-0654, who is a Prosecution  
21 witness with, naturally, examination-in-chief by the OTP.  
22 And now I address the witness. Good morning.
- 23 WITNESS: MLI-OTP-P-0654 (On former oath)  
24 (The witness speaks French)  
25 (The witness gives evidence via video link)

- 1 THE WITNESS: [9:34:59](Interpretation) Good morning.
- 2 PRESIDING JUDGE MINDUA: [9:35:00](Interpretation) How are you?
- 3 THE WITNESS: [9:35:01](Interpretation) Very well.
- 4 PRESIDING JUDGE MINDUA: [9:35:05](Interpretation) Thank you very much.
- 5 Once again, thank you and welcome, Mr Witness. I remind you that you are still
- 6 under oath and you must tell the truth, the whole truth and nothing but the truth.
- 7 I would like to remind you as well of my instructions regarding your testimony.
- 8 Please allow for some breaks in your testimony, speak slowly and carefully and
- 9 clearly.
- 10 Without any further ado, I will now turn over to the Prosecution.
- 11 Madam Prosecutor.
- 12 MS LUPING: [9:35:44] Thank you, Mr President.
- 13 QUESTIONED BY MS LUPING: (Continuing)
- 14 Q. [9:35:49] And good morning, Mr Witness.
- 15 A. [9:35:52] Good morning, Counsel.
- 16 Q. [9:35:54] Mr Witness, before I start, I wanted to just address your Honours and
- 17 Mr President.
- 18 MS LUPING: [9:35:58] Mr President, your Honours, also for the information of the
- 19 witness, the Prosecution did take very good note of your guidance yesterday. We
- 20 will be making every effort to try to ensure that the testimony or the
- 21 examination-in-chief is as brief as possible. Every effort is being made to do so. I
- 22 certainly spent some time yesterday also going over my outline and ensuring that we
- 23 can be as concise as possible.
- 24 There are a number of items, obviously, that need to be gone through, so it will be
- 25 time consuming. I am hoping that it may be possible to shorten the time period that

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1 is needed. I should have a better sense by the end of the day, but I am aiming to  
2 hopefully complete by Monday morning is my goal.

3 I just wanted to inform your Honours, but also the other parties for the purposes of  
4 their preparations, that I'll be aiming to be as short as I can be.

5 PRESIDING JUDGE MINDUA: [9:37:08](Interpretation) Thank you very much,  
6 Madam Prosecution, for being so understanding.

7 I see Defence counsel who has risen. Counsel.

8 MS TAYLOR: [9:37:17] Thank you, Mr President.

9 Obviously, Prosecution timing has a direct impact on the Defence. And with that in  
10 mind, the Defence wrote to the Prosecution yesterday to obtain some elucidation as to  
11 when we might start. So, obviously, we're not asking for more time, but we  
12 obviously have binders to print, lists to finalise, et cetera, and we had expected to  
13 start on Tuesday.

14 So we're therefore asking, given that we do need to print binders and finalise our list,  
15 we had expected to send around our list at the end of today and to spend Monday  
16 printing all the binders.

17 So we're asking, given that there will be questioning from the LRV, if we could either  
18 start in the last session of the Monday or on Tuesday, to allow us to have a timely  
19 preparation of all the materials that will be necessary to distribute. And I think that  
20 would aid our preparation, certainly, to have that clarity. Thank you.

21 PRESIDING JUDGE MINDUA: [9:38:24](Interpretation) Thank you very much,  
22 Ms Taylor, for your comment.

23 I now turn to Mr Kassongo.

24 At this stage, do you know whether you will be putting questions to the witness and  
25 how much time you will need?

1 MR KASSONGO: [9:38:39](Interpretation) Thank you very much.

2 The Legal Representatives of Victims think that they will be visiting a number of  
3 points that have not been dealt with so as to obtain some clarifications in the interest  
4 of our victims. I think it will be relatively brief, but everything will depend on the  
5 number of questions at the end of examination-in-chief. So today I am not in a  
6 position to say how much time the questions will require, given that  
7 examination-in-chief has not concluded.

8 PRESIDING JUDGE MINDUA: [9:39:25](Interpretation) Thank you very much,  
9 Mr Kassongo.

10 Well, at this stage I think the various observations appear quite normal. The  
11 Chamber will deliberate and will revert to you at the beginning of the second session.  
12 Madam Prosecutor, please proceed.

13 MS LUPING: [9:39:51] Thank you, Mr President.

14 Q. [9:39:59] Now, Mr Witness, yesterday, before the end of the day, you had  
15 explained when Abou Dardar, a combatant, had taken control of Radio Bouctou and  
16 Radio Al Farouk.

17 To the best of your knowledge, do you know what happened to the journalists and  
18 staff who were working at these two radio stations during the occupation?

19 A. [9:40:39] Initially, many of the journalists and the radio hosts out and out left.  
20 The radio stations had been closed in 2012.

21 THE INTERPRETER: [9:40:59] Inaudible.

22 THE WITNESS: [9:41:01](Interpretation) Only two radio stations were still  
23 operational, as I said, Radio Bouctou and Radio Al Farouk. And then once again, at  
24 Radio Al Farouk the director had left and there was one radio host who had remained.  
25 And at Radio Bouctou, one person had remained.

1 In actual fact, an amount of 50,000 francs were offered by Abou Dardar per person.

2 Q. [9:41:38] (Overlapping speakers) And, again, to the best of your knowledge, do  
3 you know why the staff of these two radio stations had left?

4 A. [9:41:51] In my humble opinion, the code of ethics and the professional ethics  
5 were such that a professional could not work directly in such circumstances. Many  
6 people said to themselves they're going to tell us what we should do, whereas  
7 professional journalists base themselves on freedom, freedom of expression, freedom  
8 to move about. So that was the main reason for many people preferring not to  
9 cooperate or to leave.

10 Q. [9:42:42] And, Mr Witness, you explained -- pardon me. I need to pause.  
11 Mr Witness, you explained that the media committee were based at the ORTM. Do  
12 you know if there were any other TV stations in Timbuktu operating at the time, and  
13 if not, why not?

14 A. [9:43:20] There were no private radio --

15 THE INTERPRETER: [9:40:59] Correction: Television.

16 THE WITNESS: [9:41:01](Interpretation) -- stations.

17 But at the headquarters of the media commission, the person who was on duty  
18 was -- was Radwan, and he -- he understood at least nine languages. So he was able  
19 to listen to four or five international television channels at the same time to monitor  
20 what people were saying, what the reaction of the international community was, what  
21 people were saying about them. So he was able to monitor everything that was  
22 going on in the world.

23 MS LUPING: [9:44:22] Mr President, if I could briefly ask to go into private session.

24 PRESIDING JUDGE MINDUA: [9:44:34](Interpretation) Courtroom Officer, private  
25 session, please.

- 1 (Private session at 9.44 a.m.)
- 2 THE COURT OFFICER: [9:44:44] We're in private session, Mr President.
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8 (Open session at 9.48 a.m.)

9 THE COURT OFFICER: [9:48:14] We are back in open session, Mr President.

10 PRESIDING JUDGE MINDUA: [9:48:17](Interpretation) Thank you very much,  
11 courtroom officer.

12 Madam Prosecutor.

13 MS LUPING: [9:48:22]

14 Q. [9:48:23] Now, Mr Witness, you described how the radios had difficulties during  
15 the occupation. And I quote: (Interpretation) "Have difficulty resuming their  
16 activities." (Overlapping speakers) (Speaks English) Could explain what you meant  
17 by that.

18 A. [9:48:49] Yes. In the first hours of the occupation, the radio stations fell silent  
19 out of the fear of being assaulted. They were afraid that they would not be able to  
20 honour the code of ethics of the profession. Some people preferred to just close  
21 down the radio station and leave. There were some cultural radio stations, some  
22 radio stations with a religious purpose. And there was Radio Bouctou which  
23 was -- and then was Radio Al Farouk that also belonged to a particular chain or  
24 channel. All the other radio stations, the people there left for these reasons. I think  
25 they would be in a better position to explain why, but I think for the most part it was



1 out of fear.

2 Now, it was not easy to resume activities. The equipment needed to be brought back  
3 into use. That required some resources. The staff, it wasn't easy to find staff  
4 immediately. So those were obstacles for these radio stations. That's why it took  
5 them some time, and that's why they had difficulty resuming activities.

6 MS LUPING: [9:50:35] Mr President, could I request to go into private session.

7 I believe it will be approximately five minutes.

8 PRESIDING JUDGE MINDUA: [9:50:46](Interpretation) Private session, courtroom  
9 officer.

10 (Private session at 9.50 a.m.)

11 THE COURT OFFICER: [9:50:54] We're in private session, Mr President.

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- 20 (Open session at 9.58 a.m.)
- 21 THE COURT OFFICER: [9:58:39] We're back in open session, Mr President.
- 22 PRESIDING JUDGE MINDUA: [9:58:44](Interpretation) Thank you very much.
- 23 Madam Prosecutor.
- 24 MS LUPING: [9:58:52]
- 25 Q. [9:59:08] Now, Mr Witness, you explained that the media committee was

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1 working from the offices of the ORTM.

2 When the occupation ended and these individuals had left, did you hear or learn of  
3 what state the offices of the ORTM were in after they had left?

4 Do you know what happened to that building?

5 A. [9:59:51] After they left, they sabotaged all the equipment. They started the  
6 drain of the central cooling system - it had been shot at - and then the technical booth  
7 and the studio were set on fire, and the power group was entirely destroyed, the  
8 power supplies. They brought in a big machine that was used to demolish the Al  
9 Farouk monument. They brought it into the yard. They put some gas in and ...

10 THE INTERPRETER: [10:01:01] Inaudible.

11 THE WITNESS: [10:01:03](Interpretation) That is what -- that is what I saw once  
12 they had left.

13 MS LUPING: [10:01:10]

14 Q. [10:01:12] Just so -- just so we're clear for the record, when you say "they" who  
15 are you referring to?

16 A. [10:01:26] The Islamists who occupied the buildings of the ORTM.

17 MS LUPING: [10:01:33] Mr President, if I could seek authorisation to go into private  
18 session. I believe it should take approximately five minutes.

19 PRESIDING JUDGE MINDUA: [10:01:49](Interpretation) Court officer.

20 (Private session at 10.01 a.m.)

21 THE COURT OFFICER: [10:01:57] We're in private session, Mr President.

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17 (Open session at 10.12 a.m.)

18 THE COURT OFFICER: [10:12:17] We are back in open session, Mr President.

19 PRESIDING JUDGE MINDUA: [10:12:24](Interpretation) Thank you very much,  
20 court officer.

21 Prosecutor.

22 MS LUPING: [10:12:27] Thank you, Mr President.

23 Mr President, I would also make a request that -- of Defence counsel that when

24 he -- when any such interventions are being made, they should not be made in -- in

25 the presence of the witness. This may have an impact and influence the answers of



1 the witness. And I would ask the counsel to be cautious of that in the future.

2 The -- you know, the sound should have been cut off in my submission.

3 PRESIDING JUDGE MINDUA: [10:12:55](Interpretation) Ms Taylor.

4 MS TAYLOR: [10:12:55] Thank you, Mr President.

5 That is an entirely unnecessarily and inappropriate intervention. I did not go into  
6 content. I referred to lines without quoting from the lines and referred to the  
7 decision on the conduct of the proceedings.

8 Now it's the Prosecutor who here has put a question that doesn't come from the  
9 extract. And we're entitled to ask the Chamber to direct the Prosecutor to read the  
10 relevant extracts. Now, merely referring to line references is not a matter that  
11 requires cutting off the sound. I'm perfectly happy to do so in the future, but I'm  
12 also attentive to the need to not delay these proceedings.

13 PRESIDING JUDGE MINDUA: [10:13:35](Interpretation) Okay. I think we're  
14 going to calm down. I think I've already resolved this case.

15 Madam Prosecutor, please continue.

16 MS LUPING: [10:13:46] (Overlapping speakers) Thank you, Mr President.

17 Q. [10:13:47] Now, Mr Witness, you described how the ORTM building had been  
18 taken over by the media committee.

19 Do you recall if the Islamists took over property of NGOs?

20 Do you remember any NGO's property or buildings being taken over?

21 A. [10:14:14] During the occupation, the places that were occupied were public  
22 buildings. The buildings occupied by the NGOs. The ones that weren't occupied  
23 were ones that -- they were private buildings. But any public building or considered  
24 as a public building would be occupied.

25 Q. [10:14:53] Can you recall the names of any of these NGOs whose buildings had

1 been occupied?

2 A. [10:15:10] Yes. The PAM office, *Programme alimentaire mondial*, World Food  
3 Programme. UNICEF, which was also occupied. All the administrative buildings  
4 with social services were occupied.

5 Q. [10:15:40] And have you heard of an NGO called APROMORS,  
6 A-P-R-O-M-O-R-S?

7 A. [10:15:57] Yes. The NGO APROMORS, their premises were occupied. Their  
8 vehicle was also made available to the Islamic police, or I don't know if it was the  
9 morality brigade. Whatever the case, there was a patrol implementing Sharia. But  
10 afterwards, they provided the vehicle back. And that was a grandiose moment,  
11 because they didn't know that it was a vehicle -- they said that they didn't know that  
12 it was a vehicle that was being used by the NGO coordinator who was a native of  
13 Timbuktu. That's not the same thing as a building belonging to the NGO.

14 Q. [10:16:56] And do you remember when the building and the vehicle were  
15 returned to this NGO?

16 A. [10:17:16] Before the liberation, during 2012, the vehicle had been repainted  
17 black. Originally it was white. It was repainted black. And ultimately it was  
18 painted -- and ultimately it was repainted again to make it in the colours of the  
19 ONG -- the NGO.

20 MS LUPING: [10:17:41](Overlapping speakers) Mr President, if I could request to go  
21 into private session for a few minutes.

22 PRESIDING JUDGE MINDUA: [10:17:49](Interpretation) Court officer, private  
23 session, please.

24 (Private session at 10.17 a.m.)

25 THE COURT OFFICER: [10:17:58] We're in private session, Mr President.

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10 (Open session at 10.21 a.m.)

11 THE COURT OFFICER: [10:21:44] We're back in open session, Mr President.

12 PRESIDING JUDGE MINDUA: [10:21:46](Interpretation) Thank you very much,  
13 Court Officer.

14 MS LUPING: [10:21:49]

15 Q. [10:21:50] Mr Witness, could you explain what you meant when you described  
16 that the Islamists were showing a new attitude and your thinking as to why that was.

17 A. [10:22:10] Yes. On the last day, particularly after Ramadan, we saw the tension  
18 had gone down a lot. And through the acts they were making towards -- in favour  
19 of the population by giving back the vehicle of -- the APROMORS vehicle and freeing  
20 its HQ. These were actions which were major in scope.

21 Now, when it comes to this attitude that they adopted, is it a sign of regret?

22 Due to the actions committed by certain combatants, by giving back the vehicle and  
23 freeing the headquarters, the wise people within the movement had officially asked  
24 for pardon from the NGO.

25 So I'm thinking are they trying to prepare an honourable exit so that later they can

1 look at each other in the eyes, the population and its occupiers? That's what I meant  
2 by the new attitude. That's what I understand -- what I understood by the new  
3 attitude. It might not be that, but that's what I understood.

4 Q. [10:24:09] (Overlapping speakers) And, Mr Witness, I'm now turning to a  
5 wholly different topic.

6 In your testimony - and that's at transcript T-127, page 58, lines 12 to 19 of the French  
7 transcript - you explained why you understood MUJAO was created and you stated  
8 your understanding, and I quote:

9 (Interpretation) "... to not put aside the black brothers because all the other groups  
10 were composed of white-skinned Tuareg and Arabs, so the idea was now to create a  
11 symbiosis, a dynamic in which all the ethnic groups were included. The MUJAO  
12 was set up to be another Islamist group."

13 (Speaks English) End of quote.

14 Mr Witness, my question is this: When you referred to all the other groups being  
15 composed of people of white skin, the Tuareg and the Arabs, which other groups  
16 were you referring to?

17 PRESIDING JUDGE MINDUA: [10:25:41](Interpretation) Ms Taylor.

18 MS TAYLOR: [10:25:41] Mr President, as the Chamber may recall, we've already  
19 gone over this. The witness has actually provided answers on the composition. So  
20 I do believe that the Prosecutor is being highly repetitive.

21 Not today, but in that particular transcript, the witness actually went into this issue  
22 already, and I think he's actually given answers a couple of times. So we are  
23 concerned by the highly repetitive nature of the Prosecution's questioning.

24 I'm not going to give the answer. I can do so if we cut off the sound to the witness.

25 But he has actually provided a very specific answer on this.

1 PRESIDING JUDGE MINDUA: [10:26:31](Interpretation) Madam Prosecutor,  
2 Ms Taylor says this has been asked and answered.

3 MS LUPING: [10:26:37] Mr President, if counsel is willing to give me the transcript  
4 references where the witness was asked what over groups were Tuaregs. That  
5 question has not been posed to the witness. I'm simply asking a question.

6 And, again, I would repeat that when these types of substantive interventions are  
7 made that a request please be made to first cut off sound to the witness. This is the  
8 second time that this is happening, and I would ask that this not happen again.

9 We do consider that these are substantive interventions. This is not just a transcript  
10 reference, with all due respect, nor was the other. It's the second time it's occurring.  
11 There has been no specific question on this topic put, your Honours, and I am entitled  
12 to ask a follow-up question. It's a simple question.

13 PRESIDING JUDGE MINDUA: [10:27:25](Interpretation) Very well.

14 So let's consider that it's a follow-up question and the witness will answer.

15 MS LUPING: [10:27:34]

16 Q. [10:27:36] Mr Witness, I'm going to repeat my question before we were  
17 interrupted. You stated that:

18 (Interpretation) "All the other groups were composed of white-skinned people,  
19 Tuaregs, Arabs" (Overlapping speakers) (Speaks English) And you refer to MUJAO as  
20 being another Islamist group. What other groups were you referring to that were  
21 composed of Tuaregs?

22 A. [10:28:16] I was referring to Ansar Dine, which was initiated by a Tuareg, and  
23 most of them were also Tuaregs. Al-Qaeda Maghreb is an Arab group, Algeria,  
24 Mauritania. Ansar Sharia, which was created in Timbuktu, that was only made of an  
25 Arab militia. I'm not the one who said it, but it was one of the leaders who said to

1 not close the door to our black brothers, we have decided to create the MUJAO  
2 movement for unity and jihad in West Africa.

3 That's not my invention. It was Oumar Ould Hamaha who said that. But I know  
4 that the other movements that I saw had major ethnic groups, Ansar Dine, Tuareg.  
5 So Ansar Dine was Tuareg, for example.

6 Q. [10:29:56] And when you say that Ansar Dine was Tuareg, to the best of your  
7 knowledge, why is that?

8 A. [10:30:20] I said for the most part. I didn't say that there were a few drops of  
9 Songhai in there, or Peuhl, Bambara, or other. But if you look at the majority -- and  
10 if I refer to the major figures that I knew, they are all Tuaregs. That's it. Starting  
11 with the initiative -- initiator Iyad Ag Ghaly.

12 Q. [10:30:51] And I just -- I'm not sure if there's a misunderstanding. I'm going to  
13 clarify my question.

14 From what you saw or what you heard, why is it that Ansar Dine was for the most  
15 part comprised of Tuareg?

16 A. [10:31:20] Well, initially it was truly necessary to have one's own brothers, and  
17 the people who could not be militants could contribute in a different way. I'll give  
18 you an example. Al Hassan, who is the main defendant, said openly, aloud, right to  
19 me that elder brother --

20 THE INTERPRETER: [10:32:01] Inaudible.

21 THE WITNESS: [10:32:03](Interpretation) But we are --

22 THE INTERPRETER: [10:32:07] Inaudible.

23 THE WITNESS: [10:32:12](Interpretation) So, you see, there was pressure on people  
24 to be active. And the well-educated people, people at his level, were put in positions  
25 of responsibility. Al Hassan, the main accused person, said this aloud.

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1 So that was a strategy adopted. That is why most of the people who were in  
2 positions of responsibility were Tuareg.

3 MS LUPING: [10:32:51] Mr President, if we could briefly go into private session.

4 PRESIDING JUDGE MINDUA: [10:33:24](Interpretation) Private session,  
5 Courtroom Officer.

6 (Private session at 10.33 a.m.)

7 THE COURT OFFICER: [10:33:31] We're in private session, Mr President.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

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2 (Redacted)

3 (Open session at 10.51 a.m.)

4 THE COURT OFFICER: [10:51:44] We're back in open session, Mr President.

5 PRESIDING JUDGE MINDUA: [10:51:52](Interpretation) Thank you very much,  
6 Courtroom Officer.

7 Madam Prosecutor.

8 MS LUPING: [10:51:56] Mr President, I will be showing a few more -- a few images,  
9 I think, before the break.

10 Q. [10:52:23] And, Mr Witness, I'll be changing topics for now.

11 The documents themselves can be seen in -- in public. And the first document is at  
12 tab 124 -- sorry, at tab 118. And it is MLI-OTP-0012-1844.

13 Mr Witness, you also have the image in front of you on your screen right now. Do  
14 you recognise this person?

15 A. [10:53:29] Yes.

16 Q. [10:53:30] And who is it?

17 A. [10:53:37] This is a young fellow from Timbuktu called Demba Demba.

18 Q. [10:53:46] And do you know to which institution he belonged?

19 A. [10:53:57] He worked for the Islamic police because he had --

20 THE INTERPRETER: [10:54:05] Inaudible. Correction: Because he had the vest  
21 on.

22 MS LUPING: [10:54:11] (Overlapping speakers) private session for a few seconds?

23 PRESIDING JUDGE MINDUA: [10:54:17](Interpretation) Private session.

24 (Private session at 10.54 a.m.)

25 THE COURT OFFICER: [10:54:26] We're in private session, Mr President.



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12 (Redacted)

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16 (Open session at 10.56 a.m.)

17 THE COURT OFFICER: [10:56:31] We are back in open session, Mr President.

18 PRESIDING JUDGE MINDUA: [10:56:39](Interpretation) Thank you very much,

19 Courtroom Officer.

20 Madam Prosecutor.

21 MS LUPING: [10:56:43]

22 Q. [10:56:43] Mr Witness, you have another photograph in front of you. It can  
23 also be found at tab 124 of your binder and the ERN is 0012-1909.

24 Do you recognise this person?

25 A. [10:57:07] Yes.

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1 Q. [10:57:08] And who is it?

2 A. [10:57:12] It's Al Hassan.

3 Q. [10:57:13] And do you recognise the location?

4 A. [10:57:18] Yes. This is at the Islamic police BMS, when the Islamic police were  
5 at their first headquarters.

6 Q. [10:57:34] And do you recall what -- oh, no, sorry. I'm going to have to ask this  
7 in private session.

8 Mr President, if we could briefly go into private session for the next two questions.

9 PRESIDING JUDGE MINDUA: [10:57:53](Interpretation) Private session, please,  
10 courtroom officer.

11 (Private session at 10.57 a.m.)

12 THE COURT OFFICER: [10:58:00] We are in private session, Mr President.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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4 (Open session at 11.02 a.m.)

5 THE COURT OFFICER: [11:02:15] We are back in open session, Mr President.

6 PRESIDING JUDGE MINDUA: [11:02:17](Interpretation) Thank you very much.

7 Madam Prosecutor -- or, rather, Ms Taylor, it is 11.02. We will suspend for half an  
8 hour now and resume at 11.30.

9 Ms Taylor, what did you want to add?

10 MS TAYLOR: [11:02:35] I apologise, Mr President. But, again, before perhaps  
11 going into the more extreme step that my colleague had suggested, a prior step would  
12 be to simply refresh the witness's memory with the date of the item. So before going  
13 to the statement, we believe that it would be more appropriate to put the date.

14 PRESIDING JUDGE MINDUA: [11:02:59](Interpretation) Very well. We will  
15 return to this point upon our return.

16 We resume at 11.30, as usual.

17 The hearing is suspended.

18 THE COURT USHER: [11:03:13] All rise.

19 (Recess taken at 11.03 a.m.)

20 (Upon resuming in open session at 11.40 a.m.)

21 THE COURT USHER: [11:40:20] All rise.

22 Please be seated.

23 PRESIDING JUDGE MINDUA: [11:40:43](Interpretation) Court is in session.

24 Court Officer, you've cut the contact with the witness; is that correct?

25 THE COURT OFFICER: [11:40:54] (Overlapping speakers)

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1 PRESIDING JUDGE MINDUA: [11:40:56](Interpretation) Thank you very much,  
2 Court Officer.

3 In fact, I wanted to issue two oral decisions concerning us and they don't concern the  
4 witness.

5 The first decision, this is on the subject of the time of the start of the cross-examination  
6 by the Defence where it concerns this witness, P-0654.

7 Ms Taylor, the Chamber, for the moment, hasn't made a decision, because with  
8 regards to the end of the examination-in-chief it's still hypothetical when that would  
9 be and there's also the pending question of the Legal Representatives of Victims.

10 There will be those questions, so we'll see on Monday what the situation is and then  
11 the Chamber will decide then.

12 This isn't a very precise answer, but that's the answer we have at the moment.

13 Now, for the second decision, this is on the subject of the last objection by the Defence  
14 on the method for refreshing the memory of the witness where it concerns  
15 Mr Al Hassan.

16 MS TAYLOR: [11:42:29] Mr President, I do apologise for rising, but I had a  
17 discussion with the Prosecution during the break and we had suggested that they

18 bring a matter to the attention of the Chamber, and it was the position of the

19 Prosecutor that they did not believe that the Chamber would render a decision just  
20 yet because it would appear that there may have been a mistake on the part of the  
21 Prosecutor, which we do believe may be relevant to the Chamber's determination.

22 So we do believe -- we don't wish to interrupt the Chamber, but we do believe there is  
23 new information that is directly relevant to this determination on which the parties  
24 should be heard.

25 PRESIDING JUDGE MINDUA: [11:43:07](Interpretation) New information on the

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1 subject of what, Ms Taylor?

2 MS TAYLOR: [11:43:09] Mr President, during the break I asked the Prosecutor to  
3 provide the specific reference in the statement which provided a link between this  
4 photograph and the event of the amputation. The Prosecutor indicated that the  
5 reference was paragraph 126 of the second statement. That's MLI-OTP-0019-0296,  
6 page 0317, paragraph 126. We went through this paragraph and indeed we've gone  
7 through all paragraphs referring to this photograph. And there are two photographs  
8 referred to in this paragraph; one concerning Al Hassan and the other paragraph  
9 concerning Adama.

10 MS LUPING: [11:43:55] Mr (Overlapping speakers) --

11 MS TAYLOR: [11:43:56] I'm sorry, I'm still --

12 MS LUPING: [11:44:00] Sorry, it's in public session.

13 MS TAYLOR: [11:44:02] I'm not giving identifying details.

14 PRESIDING JUDGE MINDUA: [11:44:08](Interpretation) Madam Prosecutor, you  
15 know very well that I don't like to have these exchanges in this way during the  
16 hearing. When the Defence has the floor you cannot intervene. If you want to  
17 speak, you let us know and you ask for the floor and we'll give it to you.

18 Ms Taylor.

19 MS TAYLOR: [11:44:28] Thank you, Mr President. Now, in this paragraph it's very  
20 clear that when the witness is referring to that event in question it's linked to the  
21 photograph of Adama, not the photograph of Al Hassan. And we can see that as  
22 well when the Prosecutor goes through the photographs at another part of the  
23 statement, that's paragraph 147, where again the witness provides a description and  
24 makes no reference to the event of the amputation. The Prosecution is also in  
25 possession of the date of the photograph. There's simply no foundation to link this

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1 photograph to that event.

2 Now, as concerns the procedure for witness refreshing, it is necessary to first establish  
3 the witness is -- doesn't remember the event in question.

4 Now, as concerns the date of the amputation, we've had no indication from the  
5 witness that his memory is lacking on that point. And in fact, the Prosecution has  
6 already put to him at transcript 128, and I refer to line 24, page 79: "And you've  
7 referred to the *commissaire*, Adama, being present. Do you recall any others from the  
8 Islamic police who were present?"

9 The witness answered. He did not indicate that he could not remember. So  
10 this -- this photograph which has no linkage to the event does not create or the  
11 provide a foundation for going back over that question.

12 Thank you, Mr President.

13 PRESIDING JUDGE MINDUA: [11:45:51](Interpretation) Very well.

14 Madam Prosecutor.

15 MS LUPING: [11:45:54] (Overlapping speakers) Mr President, I apologise for  
16 intervening because, in -- in our view, that could be potentially identifying, when we  
17 start talking about the circumstances related to the amputation. First of all, I have to  
18 agree and apologise to the Chamber. I do not agree it's clear because it's in the  
19 paragraph -- the description of the photograph in question is -- it's in a paragraph that  
20 includes a reference to information relating to Adama, and there's reference to a  
21 photograph. And I can't refer to the information that is set out in the last sentence of  
22 that paragraph because we're in public session. But in my submission, it wasn't clear.  
23 But having looked in more detail at the description of the two photographs, we now  
24 agree with the Defence that the photograph in question is not the same one.

25 However, on the other issue, which is the question of refreshing the memory of the

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1 witness as to the presence of the accused, we would note that whilst the witness  
2 stated what he stated about the individuals that he considered were present, we have  
3 not -- I have not yet asked the question: Do you recall providing information to the  
4 Prosecution about other individuals that you stated were present at the time of the  
5 events?

6 Now, in our submission, Mr President, your Honours, we have a statement from the  
7 witness that was taken contemporaneously -- not contemporaneously but much  
8 earlier or closer to the events than today.

9 He stated, and he gave additional names, including the name of the accused. And  
10 we do believe it's important in the interest of justice that he be given an opportunity  
11 to have his memory refreshed.

12 He did state -- and counsel's correct. He was asked: Do you recall who else was  
13 present?

14 He gave names. He didn't give the name of the accused or other names actually of  
15 other individuals that were mentioned here.

16 PRESIDING JUDGE MINDUA: [11:47:58](Interpretation) That's enough. Madam  
17 Prosecutor, thank you very much. The Chamber is sufficiently edified.

18 So I note that both parties have come to an agreement that the use of the photograph  
19 that we looked at before the break is no longer there. Is that right? Okay.

20 Yes, Prosecutor?

21 MS LUPING: [11:48:24] Yes, that's correct. We no longer are asking further  
22 questions.

23 PRESIDING JUDGE MINDUA: [11:48:31](Interpretation) Yes. Let's not talk too  
24 much about it.

25 So the Chamber, nevertheless, is going to issue its decision to clarify matters for the



1 parties and participants on the proceedings.

2 The Chamber recalls that P-0654 has already testified before it over the last days on  
3 the subject of his presence during the amputation of Dedeou Maiga. The Chamber  
4 understands that the Prosecutor now wishes for the witness to confirm, if he can, the  
5 presence of Mr Al Hassan at the site where this amputation took place.

6 In accordance with paragraph 50 of the instructions of the Chamber on the conduct of  
7 proceedings and having taken into consideration that proceeding in such a way  
8 would contribute to the speediness of proceedings and to the manifestation of the  
9 truth, the Chamber authorises the Prosecutor to put questions, leading and closed  
10 questions, to address this question with the witness.

11 As demanded, the Prosecutor can of course refresh the memory of the witness on this  
12 question by reading excerpts from this previous statement.

13 However, as I've just explained, the Prosecutor can also go straightforward and ask  
14 P-0654 if he remembers having provided information concerning the presence of  
15 Mr Al Hassan during this amputation, whether he remembers that or not.

16 Of course, the present decision of the Chamber will be taken into consideration when  
17 the Chamber evaluates the probative value of the answers of the witness on this point.  
18 That's it.

19 Ms Taylor, that's the decision of the Chamber. We're not going to discuss the  
20 decision of the Chamber. We agree with that. Now you have the floor.

21 MS TAYLOR: [11:51:57] Yes, Mr President. But I do believe we should be able to  
22 submit an oral application for leave to appeal any decision rendered by the Chamber  
23 on the grounds that it's two errors of law here; that firstly, when there's a issue of  
24 refreshing a witness's memory, that does not lead to the use of leading questions.

25 That's a procedure that's used for hostile witnesses, not when you have an issue of

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1 memory. And in fact, using leading questions where there's an issue of memory is  
2 actually more prejudicial.

3 A second issue arising from this decision is that the (Overlapping speakers)

4 PRESIDING JUDGE MINDUA: [11:52:31](Interpretation) Yes, secondly?

5 MS TAYLOR: [11:52:32] Is that the threshold for refreshing this witness's memory  
6 has not been met in that the Chamber's decision was predicated on the witness not  
7 remembering the event of the photograph. There's been no indication that he does  
8 not remember the -- (Overlapping speakers)

9 PRESIDING JUDGE MINDUA: [11:52:47](Interpretation) Very well, very well.

10 Ms Taylor, now you're starting to argue against the decision of the Chamber. The  
11 Chamber's taken its decision. It's finished. You've expressed your possible will to  
12 appeal. That is your right. For the moment, we are going to continue as the  
13 Chamber decided.

14 Court officer, I'd like you to re-establish the connection with the witness, please.

15 THE COURT OFFICER: [11:53:19] Your Honours, the sound at the VTC location has  
16 been re-established.

17 PRESIDING JUDGE MINDUA: [11:53:26](Interpretation) Thank you very much,  
18 court officer.

19 Madam Prosecutor.

20 MS LUPING: [11:53:29]

21 Q. [11:53:32] Mr Witness, do you recall --

22 A. [11:53:38] Yes.

23 Q. [11:53:40] Do you remember that when you met with investigators of the Office  
24 of the Prosecutor, you gave information that during the amputation of Dedeou Maiga,  
25 individuals present at that event included Mr Al Hassan?

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1 Do you remember that?

2 A. [11:54:10] I don't remember.

3 Q. [11:54:23] Mr Witness --

4 A. [11:54:27] I mentioned people who I had seen there, and some names were given  
5 to me of people, and they weren't those people.

6 Q. [11:54:39] Mr Witness, you've already been shown your statement. I'd ask that  
7 it not be transmitted publicly. It is at tab 2 of your binder. And I'm going to be  
8 reading from paragraph 33. And that is at page 8 or page 0351.

9 But first at page 350, we have the heading: (Interpretation) "Case of  
10 Dedeou Maiga" (Speaks English) and paragraphs relating to that incident.

11 And I would like you to silently read also the start of paragraph 32, just the first two  
12 sentences. If you could read that to yourself and not read it out and tell me when  
13 you're finished.

14 A. [11:56:37] Yes.

15 Q. [11:56:38] (Overlapping speakers) All right. Now, turning to the next page at  
16 page 0351, I'm now going to read -- oh, no, I can't read this in the public. Sorry.  
17 I'd ask you to silently read the first sentence of paragraph 33. Tell me when you're  
18 done with reading the first sentence, and then I'll read the rest.

19 A. [11:57:26] Yes, I've read it.

20 Q. [11:57:28] Now, it's the first two sentences because I cannot read it in public.

21 The relevant sentence I'm going to read now: (Interpretation) "Abou Zeid and Sanda  
22 were not there on that day. But Talha, Adama and Al Hassan were present."  
23 (Speaks English) End of quote.

24 Mr Witness, does that refresh your memory that Al Hassan was present on the day of  
25 the amputation of Dedeou Maiga?

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1 A. [11:58:08] (Redacted)

2 I don't remember the presence of Al Hassan.

3 Q. [11:58:26] Mr Witness, do you recall that you attended two witness preparation  
4 sessions and that you did not make any correction to this part of your statement?

5 Do you recall that?

6 A. [11:58:48] Yes.

7 PRESIDING JUDGE MINDUA: [11:58:50](Interpretation) Ms Taylor.

8 MS TAYLOR: [11:58:50] Mr President, could the sound be cut off to the witness?

9 PRESIDING JUDGE MINDUA: [11:58:59](Interpretation) Court officer, please could  
10 you cut the sound to the witness.

11 THE COURT OFFICER: [11:59:05] Your Honours, the sound at the VTC location has  
12 been cut off.

13 PRESIDING JUDGE MINDUA: [11:59:13](Interpretation) Thank you very much,  
14 Witness.

15 Ms Taylor.

16 MS TAYLOR: [11:59:15] Thank you, Mr President.

17 That's an unfair question. We've gone through the preparation logs, and in fact the  
18 witness did provide various indications as concerns the day of the amputation. And  
19 he said that at that time, he only again mentioned I think Sanda, Dr Ibrahim, and  
20 Abou Talha -- sorry. Dr Maiga, Sanda and Abou Talha. He also made various  
21 clarifications indicating that he'd mistaken the identity of several persons. So it's  
22 entirely unfair for the Prosecutor to put to him that he made no corrections.

23 He did in fact make corrections, make clarification, and provide names again. And  
24 again, he did not mention Al Hassan. So that's an unfair question to put to the  
25 witness. And the witness has already provided an answer. Now this is the second

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1 time that the Prosecutor has put this question to the witness. He's been asked who  
2 were the members of the Islamic police who were present. He gave an answer.  
3 He's now being asked specifically if he remembers if Al Hassan was present. He's  
4 given an answer. It's entirely unfair to keep badgering this witness until we get an  
5 answer.

6 PRESIDING JUDGE MINDUA: [12:00:25](Interpretation) Ms Prosecutor, Ms Taylor  
7 has said that the witness has already made the necessary corrections to his statement  
8 and he has already answered the question you put to him. So what is your  
9 response?

10 MS LUPING: [12:00:39] Mr President, your Honours, my question was very specific.  
11 If he recalls that when he was given an opportunity to correct and clarify his  
12 statement, this specific paragraph was not corrected by the witness. He indeed did  
13 make -- he had an opportunity. In fact, it is correct, he did make corrections in  
14 relation to other aspects of information that did not relate to Mr Al Hassan. And, in  
15 fact, also at paragraph 35 he repeated again that present on the day were Adama,  
16 Talha, Lahssane, and another individual Pharaon.  
17 Now, he had an opportunity twice, and in fairness he should be given an opportunity  
18 to respond to the Prosecution's question. He did make corrections, but this was not  
19 one of them. And it's just he have an opportunity for the witness to explain himself.

20 PRESIDING JUDGE MINDUA: [12:01:43](Interpretation) Ms Taylor, we are not  
21 going to continue playing ping-pong. I believe that as -- what the Prosecution has  
22 said is valid. The Prosecution -- correction: The witness had an opportunity to  
23 review his statement but he didn't make any corrections to the paragraphs having to  
24 do with Mr Al Hassan. So perhaps he shall have one last chance to -- no, no,  
25 Ms Taylor. No ping-pong.

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1 Madam Prosecutor.

2 MS LUPING: [12:02:14] Thank you, Mr President. The sound could be reconnected  
3 to the witness.

4 PRESIDING JUDGE MINDUA: [12:02:22](Interpretation) Courtroom Officer, the  
5 link please.

6 THE COURT OFFICER: [12:02:26] Your Honours, the sound has been re-established.

7 PRESIDING JUDGE MINDUA: [12:02:33](Interpretation) Thank you very much,  
8 Courtroom Officer.

9 Madam Prosecutor.

10 MS LUPING: [12:02:36] (Overlapping speakers) Thank you, Mr President.

11 Q. [12:02:37] Mr Witness, I refer you to both paragraph 33 and paragraph 35. I'm  
12 going to read out the relevant part from -- also from paragraph 35:

13 (Interpretation) "The leaders of the justice were not present. There was only Adama,  
14 Talha, Lahssane and 'Harouna'." End of quote.

15 (Speaks English) (Overlapping speakers) Mr Witness, isn't it correct that during two  
16 witness preparations with the Prosecution you did not correct this information at  
17 paragraphs 33 and 35 of the statement?

18 A. [12:03:16] Yes, I don't remember making any correction.

19 Q. [12:03:26] And is it correct that you were given the opportunity to make any  
20 corrections or clarifications that you wished to make?

21 A. [12:03:43] You mean today?

22 Q. [12:03:44] I'm talking about during the witness preparation sessions.

23 A. [12:03:55] Yes, by -- inadvertently. As I was -- well, all my statements are based  
24 on what I saw and what I was able to notice. Something may have escaped me, that  
25 is possible.

Trial Hearing  
WITNESS: MLI-OTP-P-0654

(Open Session)

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1 MS LUPING: [12:04:17] Mr President, your Honours, I will leave your Honours to  
2 assess the witness's responses on that yourselves. I will be removing the statement.

3 And I'll be going to a wholly new and different topic.

4 Q. [12:04:38] Mr Witness --

5 PRESIDING JUDGE MINDUA: [12:04:40](Interpretation) Indeed.

6 Please continue.

7 MS LUPING: [12:04:43] (Overlapping speakers) Thank you. This image can be  
8 transmitted publicly and it can be found at tab 461, and that's 0038-0173.

9 Q. [12:04:58] Can you see the image in front of you, Mr Witness? It's a bit blurry,  
10 but can you see it?

11 A. [12:05:14] Yes, I see it.

12 Q. [12:05:15] And do you recognise this person?

13 A. [12:05:21] Yes, I do.

14 Q. [12:05:22] And who is it?

15 A. [12:05:27] Mohamed Moussa. Often or commonly referred to as (Overlapping  
16 speakers)

17 Q. [12:05:35] (Overlapping speakers) Mr President, your Honours, I'd ask to briefly  
18 go into private session for one or two minutes.

19 PRESIDING JUDGE MINDUA: [12:05:45](Interpretation) Private session,  
20 Mr Courtroom Officer.

21 (Private session at 12.05 p.m.)

22 THE COURT OFFICER: [12:05:55] We're in private session, Mr President.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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19 (Redacted)

20 (Open session at 12.08 p.m.)

21 THE COURT OFFICER: [12:09:01] We're back in open session, Mr President.

22 PRESIDING JUDGE MINDUA: [12:09:05](Interpretation) Thank you very much,  
23 Courtroom Officer.

24 Madam Prosecutor.

25 MS LUPING: [12:09:09] Yes. I'm now going to be showing an exhibit at tab 131,



- 1 that's 0012-1508. I'm going to be playing it without sound and there is no  
2 interpretation necessary.  
3 I'm going to be asking, Mr Witness, if you recognise this person.  
4 (Viewing of the video excerpt)  
5 MS LUPING: [12:09:28] And I'm stopping at 00:00:03:10.  
6 Q. [12:09:38] Who is this person?  
7 A. [12:09:44] He? That's Gilles Le Guen.  
8 MS LUPING: [12:09:49] Could I ask that we now return briefly into private session.  
9 PRESIDING JUDGE MINDUA: [12:09:55](Interpretation) Courtroom officer.  
10 (Private session at 12.10 p.m.)  
11 THE COURT OFFICER: [12:10:02] We're in private session, Mr President.  
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Trial Hearing  
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12 (Open session at 12.13 p.m.)  
13 THE COURT OFFICER: [12:13:08] We're back in open session, Mr President.  
14 PRESIDING JUDGE MINDUA: [12:13:13](Interpretation) Thank you very much.  
15 Madam Prosecutor.  
16 MS LUPING: [12:13:18] Thank you, Mr President.  
17 Q. [12:13:22] Mr Witness, at French transcript, that's 128, page 48, line 26 to page 49,  
18 line 3, you stated that -- you stated that: (Interpretation) "They began to demolish the  
19 mausoleums" (Speaks English) (Overlapping speakers) You went on to refer to the  
20 Alpha Moya mausoleum.  
21 Again in the same transcript at page 55, lines 11 to 13, you stated, and I quote:  
22 (Interpretation) "The monument of independence, the Al Farouk monument, was also  
23 ransacked."  
24 (Speaks English) End of quote. Could you explain what happened to the  
25 mausoleums in Timbuktu? Can you describe what happened, to the best of your

1 knowledge.

2 A. [12:14:21] Well, the destruction of the mausoleums began with Sidi Mahmoud,

3 (Redacted)

4 (Redacted)

5 I ran to go and see and, indeed, I found that the graves had been completely  
6 ransacked. The tomb of the first speaker of the national assembly, as well, and the  
7 tomb of an officer who had fought -- who had fought the Islamists a great deal in his  
8 time, Colonel Lamana. And since I found that already everything had been brought  
9 down to the ground, I continued and I got the information to the effect that the  
10 mausoleum demolition team was at Alpha Moya.

11 I went. There was a great many combatants there. It was one of the mausoleums  
12 that looks like a bunker. The walls are 200 centimetres thick, so just imagine how  
13 difficult it would be for a shell to pierce the wall. I found several combatants  
14 working, trying to demolish the mausoleum, and that took three or four days.

15 I would come regularly and see to what extent the destruction of the mausoleum -- to  
16 what extent the destruction was completed. After they destroyed mausoleums at the  
17 Three Saints cemetery and Djinguereber, so I regularly would go by to see how the  
18 destruction was coming along. Several mausoleums were destroyed. There were  
19 three famous mausoleums there and I had to check, because each time I expected  
20 them to have destroyed something it was not the case. But after, I was able to  
21 see -- well, I saw equipment being taken out of the area and then I would see the  
22 debris left behind.

23 Correction: I would see the beginning of the destruction.

24 Then ultimately the destruction of the Djinguereber mausolea -- mosque, rather. So  
25 that continued. And then it was Kabara. After Kabara there was the saint over by

1 where the military camp was. I didn't have an opportunity to go there is and see  
2 what was happening. Nor in Kabara, I didn't go there. But the people living in that  
3 area said that the mausoleums had been pulled to the ground.

4 So since it was the same people involved in the destruction that I myself had been  
5 monitoring.

6 MS LUPING: [12:19:37] Mr President, I have a few follow-up questions that may be  
7 identifying and I should be less than five minutes, probably two minutes, if I may  
8 briefly ask to go into private session.

9 PRESIDING JUDGE MINDUA: [12:19:56](Interpretation) Courtroom officer.

10 (Private session at 12.19 p.m.)

11 THE COURT OFFICER: [12:20:01] We're in private session, Mr President.

12 (Redacted)

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- 12 (Open session at 12.30 p.m.)
- 13 THE COURT OFFICER: [12:30:14] We're back in open session, Mr President.
- 14 PRESIDING JUDGE MINDUA: [12:30:18](Interpretation) Thank you very much,
- 15 courtroom officer.
- 16 Madam Prosecutor.
- 17 MS LUPING: [12:30:21] Thank you.
- 18 Q. [12:30:25] Mr Witness, we were talking about the issue of the destruction of the
- 19 mausoleums, and you stated in the French transcript, that's at page 60, lines 3 to 4,
- 20 first of all: (Interpretation) "The thing that was curious was that it was difficult for
- 21 them to have access." (Overlapping speakers)
- 22 (Speaks English) End of quote.
- 23 Could you explain what you meant by that. (Overlapping speakers)
- 24 (Interpretation) "It was difficult for curious people to have access."
- 25 (Speaks English) (Overlapping speakers) Why would it be difficult for there to be

1 access?

2 A. [12:30:59] Well, firstly, not only in order to have media control over the action,  
3 that was one of the main reasons, and also to avoid a situation where there would  
4 be -- there would be people who would contest it. And that's the reason why.  
5 If I take the example of the mausolea Alpha Moya, where there was a significant  
6 security dispositive which was put in place. Now, on the first day, Mahmoud -- it  
7 was very early, but people weren't aware of that, at Sidi Mahmoud.  
8 Now, when it was Alpha Moya, everybody was informed of that. So in order to  
9 avoid there being reticence with regard to this destruction, you had to take those  
10 measures. And I think the security dispositive that was put in place was there to  
11 take measures for a possible intervention where forces -- forces intervene from the air.  
12 So Alpha Moya, it had a light security measure. The Three Saints, there were three  
13 monks inside. But for the rest, I don't know.

14 THE INTERPRETER: [12:32:51] Correction: There were two or three curious  
15 people who were inside, but for the rest, I didn't follow it.

16 THE WITNESS: [12:32:59](Interpretation) I don't know what happened and what  
17 the atmosphere was like.

18 MS LUPING: [12:33:05]

19 Q. [12:33:05] (Overlapping speakers) And, from what you can remember, do you  
20 recall of which institutions the -- the security came from, from amongst the groups?

21 A. [12:33:18] I can only -- I can't tell you what institution it was. Not only was  
22 there a mix of different combatants who were destroying things, there were vehicles  
23 with light weapons, sometimes with collective weapons. And the troops were  
24 positioned in an isolated manner. So it was a major security measure. And I  
25 couldn't confirm which one it was. The army, the police, the morality brigade, all of



1 them were mixed up -- all of them were mixed up in the action.

2 Q. [12:34:03] (Overlapping speakers) Now, starting with the -- starting  
3 with -- starting with the Sidi Mahmoud cemetery, can you explain where it's located.

4 A. [12:34:25] Sidi Mahmoud cemetery is north of Timbuktu. And in Timbuktu it's  
5 called the patron of the saints because -- the people of Timbuktu know the reason  
6 why. He was a saint because every time they wanted to implore God, the people of  
7 Timbuktu, they would go to the tomb of Saint Mahmoud to implore God. So he's  
8 known by everybody in Timbuktu. Situated in north of the town. And it's also  
9 high up.

10 You've got part of it in the neighbourhood of Abaradjou and another large part of it is  
11 also in the neighbourhood of Sankore, a large cemetery spread between two  
12 neighbourhoods in the north of Timbuktu.

13 Q. [12:35:41] I'm now going to show some exhibits. They can be shown in public.  
14 The first exhibit I'll be showing does not require sound. It is found at tab 255. It  
15 has the ERN 0012-1783.

16 I'm starting -- I'll be starting from 00:00:00:00.

17 (Viewing of the video excerpt)

18 MS LUPING: [12:36:31]

19 Q. [12:36:32] Mr Witness, I have stopped at 00:00:18:20.

20 Do you recognise this location?

21 A. [12:36:43] Yes. That's the Sidi Mahmoud cemetery.

22 Q. [12:36:49] I'm now going to be showing a different extract.

23 Again, it can be played without sound and no interpretation is necessary. It's at  
24 tab 261. The extract is 0012-1786.

25 (Viewing of the video excerpt)

1 MS LUPING: [12:37:44] I'm stopping at 00:00:10:13.

2 Q. [12:37:50] Do you recognise this location?

3 A. [12:37:53] Yes. It's the same cemetery, Sidi Mahmoud, but it's the tomb of the  
4 first president of the assembly. This mound of earth.

5 Q. [12:38:06] And could you give us the name of that first president of the national  
6 assembly?

7 A. [12:38:14] Mahamane, M-A-H-A-M-A-N-E, and then A-L-A-S-S-A-N-E. Next  
8 Haidara, H-A-I-D-A-R-A.

9 Q. [12:39:09] And the next short excerpt again can be played without sound,  
10 without interpretation. It's 0012-1781. Can be found at tab 251.

11 (Viewing of the video excerpt)

12 MS LUPING: [12:39:29] And I'm pausing at 00:00:06:04.

13 Q. [12:39:48] Do you recognise this location?

14 A. [12:39:51] Yes. It's still the same cemetery. I think it must be the tomb of the  
15 official there, the colonel. Colonel Lamana.

16 MS LUPING: [12:40:24] Mr President, I do have a few questions to briefly ask in  
17 private session.

18 PRESIDING JUDGE MINDUA: [12:40:35](Interpretation) Court Officer, private  
19 session, please.

20 (Private session at 12.40 p.m.)

21 THE COURT OFFICER: [12:40:44] We're in private session, Mr President.

22 (Redacted)

23 (Redacted)

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8 (Open session at 12.44 p.m.)

9 THE COURT OFFICER: [12:44:21] We're back in open session, Mr President.

10 PRESIDING JUDGE MINDUA: [12:44:32](Interpretation) Thank you very much,  
11 courtroom officer.

12 Madam Prosecutor.

13 MS LUPING: [12:44:36] Thank you.

14 Q. [12:44:37] Mr Witness, you described how the next location where there was  
15 destruction was the Alpha Moya mausoleum.

16 Can you explain where it is located.

17 A. [12:44:58] Alpha Moya mausoleum is in the *est* -- it's in the east of the town of  
18 Timbuktu?

19 Q. [12:45:11] And can you describe it?

20 A. [12:45:26] It's in the east, in the sector or one part in Bellafarandi. And when I  
21 say the east, it's in the east (Overlapping speakers).

22 Q. [12:45:41] (Overlapping speakers) And can you describe the actual mausoleum  
23 itself, briefly?

24 A. [12:45:50] Yes, I said that the mausoleum, it's in the centre of the cemetery  
25 and it's got over about 180 centimetres thickness, 182 to a hundred -- 180 to

1 200 centimetres, and he's the only saint who is inside of this cemetery.

2 Q. [12:46:28] I'm now going to be showing a very short video excerpt. It can be  
3 shown publicly and I will be asking for sound and interpretation with this excerpt.  
4 It is found at tab 269. It is 0012-1789. The transcript can be found at 270, 0033-5266,  
5 and the translation at 0033-5386.

6 (Viewing of the video excerpt)

7 MS LUPING: [12:47:19] I just played it from the start and I stopped at 00:00:02:12.

8 Q. [12:47:28] Mr Witness, do you recognise this location?

9 A. [12:47:37] Yes, this is indeed the Alpha Moya mausoleum.

10 Q. [12:47:44] And do you recognise with which groups the people that we can see  
11 here belong to?

12 A. [12:47:57] No. These are Islamist, generally, Mujahideen. I can't see -- I would  
13 say that they are the morality brigade applying Sharia because I can't see any jacket  
14 that they're wearing.

15 Q. [12:48:19] (Overlapping speakers) -- and I would ask that there be interpretation  
16 for this very short segment.

17 (Viewing of the video excerpt)

18 MS LUPING: [12:49:07]

19 Q. [12:49:07] I'm going to now play the next segment, next excerpt, rather. It's  
20 0012-1780.

21 (Viewing of the video excerpt)

22 MS LUPING: [12:49:24] Apologies. There's something that went wrong there.

23 I will be playing it first without sound and I'll be requesting interpretation. The ERN  
24 is 0012-1780. The transcript is found at tab 249, 0033-5260, the translation at tab 250.

25 And that is 0033-5377. I'll be playing it from the start.

1 (Viewing of the video excerpt)

2 MS LUPING: [12:50:12] And now I've -- I've stopped at -- sorry, I didn't stop at the  
3 right place. One moment. I've stopped at 00:00:04:19.

4 Q. [12:50:24] Do you recognise anybody in this image?

5 A. [12:50:38] Yes, in the green turban. It's Khalil in the middle. On his right  
6 there's a small boy called Gilles Le Guen, and the one who's in a turban, a tobacco  
7 colour, behind him is Radwan.

8 Q. [12:51:06] And this person you mentioned, Khalil, is this someone that  
9 you -- was this -- is this the Khalil you described previously?

10 A. [12:51:18] Exactly. It's indeed him. There was even confusion about whether  
11 he had been killed in Konna and the press provided information that it was the red  
12 beard, Oumar.

13 Q. [12:51:44] I'll now be playing the entirety of this and I would request  
14 interpretation. I'm playing it with sound.

15 (Viewing of the video excerpt)

16 THE INTERPRETER: [12:51:57] (Interpretation of the video excerpt)

17 "Allah Akbar, Allah Akbar."

18 MS LUPING: [12:52:04] I'm now pausing at 00:00:12:16.

19 Q. [12:52:11] Do you recognise anybody in this image?

20 A. [12:52:25] Yes, I see Gilles Le Guen and just behind he's got a black turban on,  
21 but I don't recognise the others apart from the one who's got his head lower on the  
22 left-hand side, which is Radwan again.

23 Q. [12:52:53] I'm now going to be showing a different extract. And the ERN is  
24 0012-1792. This can be shown in public. I'll be playing it without sound and no  
25 interpretation is necessary.

1 (Viewing of the video excerpt)

2 MS LUPING: [12:53:34]

3 Q. [12:53:34] Do you recognise where this is?

4 A. [12:53:45] Yes, it's still Alpha Moya mausoleum.

5 Q. [12:53:59] I'm going to now remove this excerpt.

6 Again, this can be played without sound and without interpretation, and I'm going to  
7 be asking you if you recognise any individuals.

8 (Viewing of the video excerpt)

9 MS LUPING: [12:54:42]

10 Q. [12:54:49] First of all, where is -- where is this? Do you recognise the location?

11 A. [12:54:56] Yes. It's still Alpha Moya mausoleum.

12 Q. [12:55:00] And do you recognise any individuals here?

13 A. [12:55:06] No. Like that, no.

14 Q. [12:55:09] I'm just going to rewind back to a different timestamp.

15 Apologies.

16 Here, can you recognise anybody?

17 A. [12:55:38] Well, the person who's in the turban -- well, I don't know the others,  
18 but there's one (Overlapping speakers) wearing a red turban who looks a bit like  
19 Radwan.

20 Q. [12:55:58] (Overlapping speakers) -- 1793 and that I stopped at 00:01:07. I'm  
21 just going to remove that.

22 The next video excerpt at 0012-1787, this will require interpretation and the transcript  
23 is found at tab 264, 0033-5262, and the translation at 0033-5380. I'll first be playing it  
24 from the start with no sound.

25 (Viewing of the video excerpt)

1 MS LUPING: [12:57:04]

2 Q. [12:57:05] Mr Witness, do you recognise where this is?

3 A. [12:57:10] Yes, this is still Alpha Moya.

4 Q. [12:57:21] And do you recognise to which group any of these individuals here  
5 belong to?

6 A. [12:57:34] They're all from the Islamist movement apart from there's one  
7 wearing the vest of the Islamic police.

8 Q. [12:57:41] (Overlapping speakers) -- whether he is the person that we see the  
9 closest to us on the right of the screen?

10 A. [12:57:56] The person who's close to us wearing the vest with the writing on it,  
11 that must be a member of the Islamic police.

12 Q. [12:58:09] (Overlapping speakers) -- with sound requesting interpretation. It is  
13 very short.

14 (Viewing of the video excerpt)

15 THE INTERPRETER: [12:58:21] (Interpretation of the video excerpt)

16 "Allah Akbar, Allah Akbar."

17 MS LUPING: [12:58:25]

18 Q. [12:58:26] I'm pausing now at 00:00:05:17 and we can see the individual with the  
19 vest more clearly.

20 Is this the person you identified as being with the Islamic police?

21 A. [12:58:49] Yes, yes.

22 Q. [12:58:54] And the -- the final short video excerpt from this series, I just want to  
23 make sure I did state it. This is 0012-1787 I was showing and I stopped at  
24 00:00:05:17.

25 This next video excerpt can be shown publicly as well. It's 0012-1790. I am not



1 going to play it with sound.

2 Do you -- I've stopped at 00:00:01:02. Do you recognise what we see here?

3 A. [12:59:58] Yes.

4 Q. [13:00:00] And what is it?

5 A. [13:00:09] This is the entry gate to the Alpha Moya cemetery where the  
6 mausoleum -- Alpha Moya mausoleum is.

7 MS LUPING: [13:00:19] Could we briefly go into private session, Mr President, for  
8 my last questions? I'm sorry about the time, but it might make a bit more sense just  
9 to finish it. I -- it's just simply two questions.

10 PRESIDING JUDGE MINDUA: [13:00:36](Interpretation) Court Officer.

11 (Private session at 1.00 p.m.)

12 THE COURT OFFICER: [13:00:40] We're in private session, Mr President.

13 (Redacted)

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- 13 (Open session at 1.02 p.m.)
- 14 THE COURT OFFICER: [13:02:58] We're back in open session, Mr President.
- 15 PRESIDING JUDGE MINDUA: [13:03:06](Interpretation) Thank you very much,
- 16 Court Officer.
- 17 It's now three minutes past one and we're going to have our lunch break now. We'll
- 18 be back at 2.30.
- 19 Court is suspended.
- 20 THE COURT USHER: [13:03:22] All rise.
- 21 (Recess taken at 1.03 p.m.)
- 22 (Upon resuming in open session at 2.32 p.m.)
- 23 THE COURT USHER: [14:32:34] All rise.
- 24 Please be seated.
- 25 PRESIDING JUDGE MINDUA: [14:33:03](Interpretation) Court is in session once

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1 again.

2 We shall hand over now to the Office of the Prosecutor for the continuation of the  
3 examination-in-chief of the witness.

4 Madam Prosecutor, I would like to say that the Chamber shall be handing down an  
5 oral decision at the end of this session, so it would be best if you were to wrap up  
6 your examination 10 minutes before the end, that is to say 10 to 4. Thank you very  
7 much.

8 Over to you.

9 MS LUPING: [14:33:39] (Overlapping speakers) Thank you, Mr President. That is  
10 totally understood.

11 Mr President, just simply to complete the series of video excerpts, and one that I did  
12 not have an opportunity to show, I would ask that I briefly be able to go into private  
13 session.

14 PRESIDING JUDGE MINDUA: [14:34:00](Interpretation) Mr Courtroom Officer,  
15 private session, please.

16 (Private session at 2.34 p.m.)

17 THE COURT OFFICER: [14:34:09] Your Honours, we're in private session.

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22 (Open session at 2.39 p.m.)

23 THE COURT OFFICER: [14:39:07] We're back in open session, Mr President.

24 PRESIDING JUDGE MINDUA: [14:39:13](Interpretation) Thank you very much,

25 Mr Courtroom Officer.

1 Madam Prosecutor.

2 MS LUPING: [14:39:19]

3 Q. [14:39:20] Mr Witness, you described events also taking place at the Three Saints  
4 mausoleum. Could you confirm where is the Three Saints mausoleum located?

5 A. [14:39:40] The Three Saints cemetery is situated to the west of the city of  
6 Timbuktu and just behind the major Djinguereber mosque.

7 Q. [14:39:52] (Overlapping speakers) And can you describe what it looked like.

8 A. [14:39:57] Like all other cemeteries, the Three Saints had the same kind of fences  
9 around it that you have seen. These are -- were put up by the UNESCO, so virtually  
10 all the cemeteries of Timbuktu have this same fencing. And if you are not from the  
11 city, it's difficult for you to recognise the different cemeteries. But to identify when  
12 entering the cemetery, you will see that there is a plaque that says, "This is the  
13 cemetery of the Three Saints." And its position is that on the right-hand side you  
14 have the guards' camp, and then on the left-hand side you have a private school, and  
15 the western side is no-man's-land, and then it goes on to desert.

16 Q. [14:41:24] Mr Witness, I'm now going to show you a series of film excerpts.  
17 The first can be shown in public. It has the ERN 0012-1797. I'm going to be playing  
18 it without sound from the start.

19 (Viewing of the video excerpt)

20 MS LUPING: [14:41:51] Apologies. I played it from the start. I'm stopping  
21 at 00:00:06:15.

22 Q. [14:42:23] Do you recognise this location?

23 A. [14:42:28] Yes. This is the cemetery of the Three Saints before the destruction.

24 Q. [14:42:56] I'm going to be playing a next excerpt, 0012-1803. I'll be starting  
25 from the beginning. There is no need for any interpretation.

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1 (Viewing of the video excerpt)

2 MS LUPING: [14:43:19] I'm stopping at 00:00:05:08.

3 Q. [14:43:27] Do you recognise the location?

4 A. [14:43:34] Yes. This is one of the mausoleums of the Three Saints.

5 Q. [14:43:41] And do you know which of the Three Saints mausoleums this was?

6 A. [14:44:03] Well, at this stage it's difficult for me because there's the --

7 THE INTERPRETER: [14:44:09] Inaudible.

8 THE WITNESS: [14:44:13](Interpretation) I can't remember the name now. But this  
9 is one of the mausoleums. They have virtually all the same configuration but they  
10 are in different locations.

11 THE INTERPRETER: [14:44:31] Overlapping speakers.

12 MS LUPING: [14:44:33]

13 Q. [14:44:35] (Overlapping speakers) And do you recognise anybody in this image  
14 that we have in front of you?

15 A. [14:44:38] Yes, to the right. Combatant Bakar, I recognise him.

16 Q. [14:44:44] And what is another name for Bakar, so we're clear as to who this is?

17 A. [14:44:55] Well, as I said, the population would call him Faroun (phon).

18 Q. [14:45:06] I'm now going to remove this extract where I stopped at 05:08 on  
19 0012-1803. I want to show the next extract. Again, it can be played without sound  
20 and no interpretation. I'll be playing it from the beginning.

21 (Viewing of the video excerpt)

22 MS LUPING: [14:45:41] Apologies.

23 And I stopped at 00:00:02:22.

24 Q. [14:45:53] Do you recognise the location?

25 A. [14:45:59] Yes, this is the Three Saints cemetery, one of the mausoleums. And

1 as I said before, these are the -- this is equipment to the right of the image, the door.

2 Q. [14:46:29] And do you recognise any individuals in this image?

3 A. [14:46:39] At this juncture, no.

4 Q. [14:46:45] Noting, for the record, I stopped at 02:22. I'm now going to remove  
5 this excerpt, 0012-1806.

6 Again, this can be shown in public. It is 0012-1805. I would request interpretation.

7 The transcript is at 0033-5274 at tab 306. The translation is at tab 307, that's 0033-5398.

8 I started at the beginning and I stopped at 00:00:00:24.

9 Mr Witness, do you recognise anybody in this image?

10 A. [14:48:06] Yes, the individual to the left in fatigues, he is Bakar and the  
11 pseudonym of Faroun.

12 THE INTERPRETER: [14:48:19] Overlapping speakers. Could the interpreter  
13 please be allowed to finish her sentence?

14 THE WITNESS: [14:48:24](Interpretation) This is the cemetery of the Three Saints.

15 MS LUPING: [14:48:29] (Overlapping speakers) I'll play from the beginning this  
16 very short extract and ask for the interpreters to also look at tabs 306 for the transcript  
17 and tab 307 for the translation.

18 (Viewing of the video excerpt)

19 THE INTERPRETER: [14:48:57] (Interpretation of the video excerpt) "It's the door".

20 MS LUPING: [14:49:01] The next short excerpt, which can also be shown publicly, is  
21 0012-1801. I'll be playing it first without sound and then with sound, and  
22 interpretation is requested. That is the transcript at 295, that's 0033-5270. The  
23 translation is at tab 296, 0033-5392.

24 (Viewing of the video excerpt)

25 MS LUPING: [14:49:56]



1 Q. [14:50:01] Mr Witness, I've played it without sound. I'm stopping at  
2 02:20 -- sorry 00:00:02:20. Do you recognise this location?

3 A. [14:50:18] Yes, this is one of the mausoleums of the cemetery of --

4 THE INTERPRETER: [14:50:24] Overlapping speakers, again.  
5 (Viewing of the video excerpt)

6 THE INTERPRETER: [14:50:39] (Interpretation of the video excerpt)  
7 "Unidentified Speaker: May peace be with you."

8 MS LUPING: [14:50:43] (Overlapping speakers) -- stopping at 00:00:06:18. Is that  
9 still Bakar, also known as Faroun, to the right of the image?

10 A. [14:50:56] It is indeed him.

11 THE INTERPRETER: [14:50:58] Message from the English booth: Could the  
12 message be conveyed to the Presiding Judge that there are consistent overlapping  
13 speakers and the transcript will be greatly affected. Thank you very much.

14 MS LUPING: [14:51:22] The next excerpt I'm showing is 0012-1799. It can also be  
15 played publicly without sound. No interpretation is necessary.  
16 (Viewing of the video excerpt)

17 MS LUPING: [14:51:42] I've stopped at 00 --

18 PRESIDING JUDGE MINDUA: [14:51:45](Interpretation) Madam Prosecutor, the  
19 court reporters and interpreters are reminding you to slow down and especially to  
20 wait for the interpretation into English. Otherwise, the transcript will not be able to  
21 follow you and be correct. Thank you. Please go ahead.

22 MS LUPING: [14:52:06] My apologies, Mr President. And my apologies to the  
23 interpreters as well. I will try to go more slowly.  
24 I'll repeat, the excerpts now being shown is at tab 290 and it's 0012-1799. And I  
25 stopped -- I started playing and I stopped at 00:00:05:23.

1 Q. [14:52:41] Mr Witness, do you recognise where this is?

2 A. [14:52:58] Well, it's difficult for me to know which mausoleum it is here.

3 Q. [14:53:02] But do you know which location?

4 A. [14:53:14] Well, as I said, it's very difficult for me, but it is, after all, a  
5 mausoleum.

6 Q. [14:53:40] I'm now showing the next excerpt, which can also be shown publicly,  
7 and that's 0012-1809. I'll be playing all of it without sound and no interpretation is  
8 necessary.

9 (Viewing of the video excerpt)

10 MS LUPING: [14:53:59]

11 Q. [14:54:04] Mr Witness, do you recognise this location?

12 A. [14:54:12] Yes, this is one of the mausoleums of the Three Saints.

13 Q. [14:54:16] And do you recognise to which groups any of these individuals  
14 belong, do you recognise any of them?

15 A. [14:54:30] They are from Ansar Dine, but I do not know from which institution.

16 Q. [14:54:36] Mr President, can I please ask that we briefly go into private session.  
17 I expect to be no more than approximately one or two minutes.

18 PRESIDING JUDGE MINDUA: [14:54:49](Interpretation) Mr Courtroom Officer,  
19 private session, please.

20 (Private session at 2.54 p.m.)

21 THE COURT OFFICER: [14:54:56] We are in private session, Mr President.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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14 (Redacted)

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16 (Redacted)

17 (Redacted)

18 (Open session at 2.58 p.m.)

19 THE COURT OFFICER: [14:58:06] We're back in open session, Mr President.

20 PRESIDING JUDGE MINDUA: [14:58:16](Interpretation) Thank you very much,

21 Mr Courtroom Officer.

22 Madam Prosecutor.

23 MS LUPING: [14:58:23]

24 Q. [14:58:25] Mr Witness, are you familiar with a mosque called the Sidi Yahia

25 mosque?

1 A. [14:58:41] Yes, of course. That is the mosque in the centre of the city Badijinde.

2 Q. [14:58:47] And to the best of your knowledge during the occupation, are you  
3 aware if anything happened at that mosque?

4 A. [14:58:57] Yes, one of the sacred doors was destroyed. This was the door to the  
5 western side of the mosque facing the tarmacked road leading towards the big  
6 market.

7 Q. [14:59:36] And do you recall when it was destroyed?

8 A. [14:59:47] At the same time that the destruction of the mausoleums was started.  
9 This sacred door knew the same fate during that same period.

10 Q. [15:00:05] And did you learn who destroyed the door of Sidi Yahia?

11 A. [15:00:26] On the day where they started to destroy the door, I wasn't there.

12 Because it's not far from my home, I could see a gathering of people from a distance,  
13 so I approached. I saw people who were curious. They had come to see. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted). So there was the Malian office for tourism and I went to the director

18 thereof to ask for his impression on the destruction with regards to the sacred door of

19 Sidi Yahia, to get his impressions.

20 Q. [15:01:55] Mr Witness, I just want to remind you you're in public session right

21 now. I just have one question before -- and I will ask you further questions about  
22 what you just mentioned in private session.

23 But you said that the door was sacred. What did you mean by that? Sacred in what  
24 way?

25 A. [15:02:27] The door is sacred. You don't go in with it or out with it. If you

1 want, decoration for the mosque. It's an architectural door. Andalusian,  
2 Galangambou (phon) is what it's called.  
3 And in order to avoid young people playing with a ball there, and in order not to  
4 damage the door, the major figures, they watch over it. You can't play there. If  
5 your football hits this door, it can provoke a disaster for the country. That's the  
6 sentence. It went down from generation to generation, making people believe that  
7 this door, if it was destroyed it would be the end of the world.

8 And that's why -- even the Islamists at the time, they wanted to destroy the door to  
9 see if it would be the end of the world.

10 That's what I mean by a sacred door. You don't enter through it or leave through it.

11 Q. [15:04:18] I'm now going to be showing you three very short extracts.

12 They can be shown in public. The first has the ERN 0012-1918. I'll be playing it  
13 without sound and no interpretation is required. I'll be playing it from the start.

14 (Viewing of the video excerpt)

15 MS LUPING: [15:04:45] And I've stopped at 00:00:02:15.

16 Q. [15:04:52] Mr Witness, do you recognise this location?

17 A. [15:05:01] Yes, that's the door in question. And that's what I said. It's a door  
18 by which you can't go through to enter or through to leave. There's no way.

19 Q. [15:05:20] And can you describe what, if anything, has happened to that door?

20 A. [15:05:34] Well, first of all, there's the wood which was used in the mosque. It  
21 was a pearl of the mosque, it gave it the architectural beauty, and it was destroyed  
22 and taken away, not by Ansar Dine elements -- it was done by Ansar Dine elements  
23 who wanted to take away any doubt about the end of the world in people's mind.  
24 It's made of banco and limestone, covered with cement.

25 Q. [15:06:34] (Overlapping speakers) Now, Mr Witness, I'm showing you a new

1 extract that I put in front of you, and it has the ERN 0012-1919. Again, it can be  
2 played without sound and it can be shown to the public. I'm playing it from the  
3 start.

4 (Viewing of the video excerpt)

5 MS LUPING: [15:06:51] And I'm stopping at 00:02:03.

6 Q. [15:06:57] Mr Witness, what can we see here?

7 A. [15:07:08] If you pay attention, you can see wood residue from the door and the  
8 limestone that's on the ground. There are lumps of banco. And the door has been  
9 completely destroyed.

10 Q. [15:07:33] Mr Witness, I'm showing you a different video excerpt, that is at  
11 0012-1924. I'm going to play it from the start without sound and no interpretation is  
12 necessary.

13 (Viewing of the video excerpt)

14 MS LUPING: [15:08:03] And I've stopped at 00:00:01:08.

15 Q. [15:08:10] Mr Witness, can you tell us what we see here.

16 A. [15:08:31] Yes. Those are the ordinary doors to enter on the northern side of  
17 the mosque. That's the entry. And that's -- I spoke about the wood. It was in the  
18 image of those doors. And it was also put on the other side, on the west side of the  
19 mosque.

20 The only difference between these doors is that you have the faithful who enter  
21 through there and they leave by there. But as I said, that's not the case with the other  
22 door. Nobody leaves by it and nobody enters by it either.

23 Q. [15:09:20] And to your knowledge, just roughly how old are these doors, the  
24 door that was destroyed?

25 A. [15:09:39] Well, whatever the case, I know it's older than me, older than my

1 father. These are doors that have been found for time immemorial. And that's also  
2 why the people of Timbuktu called them the sacred doors.

3 I wouldn't be able to give you the duration of these doors. What is sure is that's how  
4 they were.

5 MS LUPING: [15:10:17] Mr President, can I ask if I could please go briefly into  
6 private session.

7 PRESIDING JUDGE MINDUA: [15:10:30](Interpretation) Court Officer, private  
8 session, please.

9 (Private session at 3.10 p.m.)

10 THE COURT OFFICER: [15:10:37] We're in private session, Mr President.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

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3 (Open session at 3.24 p.m.)

4 THE COURT OFFICER: [15:24:12] We're back in open session, Mr President.

5 PRESIDING JUDGE MINDUA: [15:24:23](Interpretation) Thank you very much,  
6 court officer.

7 Prosecutor.

8 MS LUPING: [15:24:26] (Overlapping speakers) Yes.

9 Mr President, I was just going to explain. I do have more footage to show in relation  
10 to two other locations, but I'm going to be showing and pausing on that topic for a  
11 moment to show another document all together that I'd like to discuss with the  
12 witness.

13 Q. [15:24:52] So, Mr Witness, I'm changing topics slightly for the moment. I will  
14 return to the subject of the mausoleums, but I'm going to be showing you a document  
15 that I would ask not be displayed publicly. I'm going to give the ERN number.

16 And that is MLI-OTP-0031-1033. And I'm at the tab number 359045041726520.

17 Now, Mr Witness, even though this is in your binder, it is not able to be -- you know,  
18 it was not able to printed because it's far too large. I'm just going to show you one  
19 part of this, and that's at line 2108. In column E, we see a number of there. I'm not  
20 going to read it out because we're in public session. Could you confirm whose  
21 phone number is that?

22 A. [15:26:34] The telephone number is mine.

23 Q. [15:26:43] And I'm just going to remove this document now.

24 MS LUPING: [15:26:58] Mr President, my next questions are all of a highly  
25 identifying nature. I do anticipate this to be a slightly lengthier period of time. It

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1 could be 10, 15 minutes. I will be -- when I request please to move into private  
2 session.

3 PRESIDING JUDGE MINDUA: [15:27:25](Interpretation) Very well.

4 Do you want to go now into private session?

5 MS LUPING: [15:27:30] Yes, please.

6 PRESIDING JUDGE MINDUA: [15:27:32](Interpretation) Court officer.

7 (Private session at 3.27 p.m.)

8 THE COURT OFFICER: [15:27:38] We're in private session, Mr President.

9 (Redacted)

10 (Redacted)

11 (Redacted)

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Trial Hearing  
WITNESS: MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Open session at 3.55 p.m.)

6 THE COURT OFFICER: [15:55:30] We're back in open session, Mr President.

7 PRESIDING JUDGE MINDUA: [15:55:37](Interpretation) Thank you very much,

8 Mr Courtroom Officer.

9 Mr Witness.

10 THE WITNESS: [15:55:46](Interpretation) Yes, Mr President.

11 PRESIDING JUDGE MINDUA: [15:55:49](Interpretation) This is now the end of

12 your testimony for today, but as you will have understood, your testimony is not yet

13 over and you shall be back on Monday morning.

14 Once again, on behalf of the Chamber I would like to thank you very sincerely for

15 having answered the questions in a clear and patient manner.

16 Now please do not forget, as usual, that you are not allowed to talk to anybody before

17 Monday morning about your testimony, anybody whomsoever.

18 Now, on behalf of the Chamber, I would like to bid you farewell because we have to

19 sort out a number of domestic issues. So I would like to wish you a very nice

20 weekend.

21 THE WITNESS: [15:56:52](Interpretation) Thank you.

22 PRESIDING JUDGE MINDUA: [15:56:53](Interpretation) And please rest.

23 So now I would like to request that we cut off the sound link with you and you are

24 released.

25 Mr Courtroom Officer, could we please cut off the feed to the witness.

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1 (The witness exits the video-link location)

2 THE COURT OFFICER: [15:57:26] Your Honours, the witness has been escorted out  
3 of the room and the link will be cut off shortly. Thank you.

4 PRESIDING JUDGE MINDUA: [15:57:56](Interpretation) Very well.

5 We are in open session, and before adjourning for today I shall be handing down an  
6 oral ruling on the part of the Chamber.

7 Courtroom officer, what's going on? Is everything in order?

8 Very well.

9 The Chamber will render an oral decision concerning the orderly conducted of the  
10 hearings and more specifically the conduct of the cross-examinations on the part of  
11 the Defence.

12 The Chamber is deeply concerned by some of the practices on the part of Defence  
13 counsel in these proceedings, practices which are ongoing despite multiple  
14 instructions to the contrary. This cannot continue. Cross-examination is certainly  
15 an essential tool to ensure that the accused may exercise his full rights. However, it  
16 is not without its limits.

17 The evidence of witnesses is adduced at trial in order to enable the Chamber to fulfil  
18 its essential function of determining the truth with respect to the allegations levelled  
19 against the accused as charged.

20 The questioning of witnesses must be led with a view to assisting the Chamber in this  
21 function. This is why the questions must be relevant to the issues raised in the case  
22 or to the credibility of the witness, and especially this relevance must be clear to the  
23 Chamber.

24 In this regard, in its discretion, the Chamber has, to date, given considerable latitude  
25 to the Defence in its questioning of witnesses. However, now a stricter approach is



1 required. This is all the more necessary, given the number of crime-base witnesses  
2 who will be testifying in the coming weeks.

3 On more than one occasion, the Defence has granted itself the right to investigate  
4 from the stand, a right which it seems to interpret as allowing it to put questions to  
5 the witness without the constraints of relevance. This interpretation is unacceptable  
6 to the Chamber and will no longer be permitted in the future.

7 The Chamber has already clearly indicated its disagreement with the Defence  
8 approach, the approach of insisting on continuing its investigations in the courtroom.  
9 I have, on many an occasion, asked to understand the relevance of certain issues  
10 addressed in recent cross-examinations but to no avail.

11 I also asked Defence counsel to put a stop to some lines of questioning and move on  
12 to matters of interest in the case. Here again, my directives have been repetitively,  
13 and the situation will of course no longer be tolerated.

14 The Chamber has a responsibility to protect the witnesses and will not allow this  
15 extended form of questioning that is speculative and devoid of any relevance.

16 In the future, the Defence will limit its questions to issues of relevance or to issues of  
17 the credibility of the witnesses. If the Chamber questions the relevance of a specific  
18 question, it will of course expect from the Defence a specific response identifying the  
19 nexus to the issues in the case or the credibility. If this nexus is not established,  
20 counsel will move on in response to the relevant directions provided by the Chamber.

21 The Defence must of course be allowed to test the credibility of witnesses called by  
22 the Prosecution to testify. And they must be allowed to put to the witness a different  
23 version of events. However, there are rules to be respected, and the Chamber will  
24 remain especially vigilant with regard to needlessly embarrassing questions which  
25 a priori have little or no impact on the Chamber's upcoming assessment of a witness'

1 credibility.

2 I am thinking inter alia of the questions asked to several crime-base witnesses as to  
3 the financial assistance that they may have requested or obtained in the context of  
4 their collaboration with the Court.

5 While such a payment may be relevant, it of course depends on the context and the  
6 nature of the testimony being assessed.

7 The Chamber will assess the relevance on a case-by-case basis and will not allow  
8 unnecessary and speculative questions, having regard to the other interests at stake,  
9 namely, the well-being and dignity of witnesses.

10 For similar reasons, and unless the relevance is clearly apparent to the Chamber,  
11 counsel shall on both sides, OTP and Defence, shall abstain from putting questions of  
12 a strictly private nature. Therefore, counsel should therefore avoid unnecessarily  
13 seeking to obtain the names of family members, the names of friends or even  
14 members of an association to which the witness belongs.

15 The Chamber deems such questions to be intimidating, even potentially threatening.

16 And in the absence of any relevance, the Chamber shall rigorously monitor questions  
17 with a view to protecting the integrity and private life of the witnesses

18 Similarly, the Chamber will not permit the Defence to continue its practice of putting,  
19 without any foundation whatsoever, leading questions to the witness that are also  
20 purely speculative in nature. The Chamber notes, for example, a clear example  
21 recently of a question put to a witness as to whether she had a rock in her hand while  
22 participating in the women's march. In the absence of some evidentiary basis, these  
23 questions are purely speculative and improper.

24 The Defence is of course entitled to put its case to the witness, including evidence it  
25 might intend to adduce. But it must do so in a clear and fair manner, such that the

1 witness and the Chamber are aware that this is the Defence theory or position.  
2 These instructions are based inter alia on the principles underlying the Code of  
3 Professional Conduct for counsel as well as the provisions of the Rome Statute itself.  
4 I also stress that the courtroom must remain a safe space for everyone and especially  
5 for witnesses. It is indispensable that in this sacred place vulnerable witnesses are  
6 able to make their voices heard without putting their well-being and dignity at risk.  
7 With respect to all these points, I hereby issue a warning to the Defence team of  
8 Mr Al Hassan.  
9 Finally, the Chamber would like to remind all counsel, be it the OTP or the Defence,  
10 and the Legal Representatives of Victims, that they have an obligation to demonstrate  
11 respect for the Chamber and for fellow counsel. Both parties are entitled to object  
12 and to respond, but they must direct their comments solely to the Chamber, as I've  
13 always said. They must use respectful language and focus solely on the legal, factual  
14 or procedural point they wish to raise. The present directives will be strictly  
15 implemented.  
16 This concludes the oral decision on the part of the Chamber this afternoon.  
17 So, before rising for today, I would like to thank the parties and the participants, the  
18 court reporters, the interpreters, the security guards and all the personnel organising  
19 our hearings, and our public.  
20 We shall reconvene on Monday morning at 9.30. I wish you all a very pleasant  
21 weekend and take good care of yourselves.  
22 We shall rise.  
23 Court is adjourned.  
24 THE COURT USHER: [16:16:07] All rise.  
25 (The hearing ends in open session at 4.16 p.m.)