

Trial Hearing
WITNESS: MLI-D28-P-0514

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Wednesday, 26 October 2022
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:01] All rise. The International Criminal Court is now
12 in session. Please be seated.
13 PRESIDING JUDGE MINDUA: [9:32:33](Interpretation) Court is in session.
14 Good morning to all.
15 Madam Courtroom Officer, could you please call the case.
16 THE COURT OFFICER: [9:32:45] Good morning, Mr President, your Honours.
17 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
18 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
19 For the record, we are in open session.
20 PRESIDING JUDGE MINDUA: [9:33:06](Interpretation) Thank you very much,
21 Madam Courtroom Officer.
22 Now, as every morning, we shall take the appearances for the various teams, starting
23 with the Office of the Prosecutor.
24 Madam Prosecutor Yamaguchi, please.
25 MS YAMAGUCHI: [9:33:25] Good morning, Mr President, your Honours. Today,

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1 as yesterday, the Prosecution is represented by Mr Lucio Garcia to my back, Mr Gilles
2 Dutertre on my left, and myself, Yayoi Yamaguchi, and I take the opportunity to greet
3 everyone in and around the courtroom.

4 PRESIDING JUDGE MINDUA: [9:33:47](Interpretation) Thank you very much,
5 Madam Prosecutor.

6 I'm now turning to the Defence, Ms Gerry.

7 MS GERRY: [9:34:00] Good morning, Mr President, your Honours. Good morning
8 to everyone in and around the courtroom. Today, Mr Al Hassan is represented by
9 myself, Felicity Gerry, and by Maauloud Al Ansary who sits to my right, and of
10 course Mr Al Hassan is here behind me. Thank you.

11 PRESIDING JUDGE MINDUA: [9:34:23](Interpretation) Thank you very much, Ms
12 Gerry.

13 And I would also like to greet Mr Al Hassan.

14 I'm now turning to the Legal Representatives for the Victims. Maître Nsita.

15 MR LUVENGIKA: [9:34:36](Interpretation) Good morning, your Honours, good
16 morning, Mr President. The victims are represented at this hearing by Madam
17 Prisque Biyéké and by myself, Maître Fidel Nsita Luvengika, and I would like to greet
18 everyone in and around the courtroom.

19 PRESIDING JUDGE MINDUA: [9:34:58](Interpretation) Thank you very much,
20 Maître Nsita.

21 Now finally I am going to turn to the witness.

22 Good morning, Mr Witness. Can you hear me?

23 WITNESS: MLI-D28-P-0514 (Continuing)

24 (The witness speaks Songhai)

25 (The witness gives evidence via video link)

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- 1 THE WITNESS: [9:35:07](Interpretation) Yes, I am well and I can hear you.
- 2 PRESIDING JUDGE MINDUA: [9:35:12](Interpretation) Thank you very much, Mr
3 Witness.
- 4 On behalf of the Chamber, I would like to once again welcome you.
- 5 THE WITNESS: [9:35:30](Interpretation) Yes, I would like to thank you as well.
- 6 PRESIDING JUDGE MINDUA: [9:35:34](Interpretation) I'd like to remind you that
7 you are still under oath and that you should speak the truth, the whole truth and
8 nothing but the truth.
- 9 THE WITNESS: [9:35:55](Interpretation) I solemnly declare that I shall speak the
10 truth, the whole truth and nothing but the truth.
- 11 PRESIDING JUDGE MINDUA: [9:36:03](Interpretation) Thank you very much, Mr
12 Witness.
- 13 So I would like to also remind you of my practical considerations; namely, that you
14 should speak slowly at a moderate speed and wait for the end of the question to be
15 put before answering it.
- 16 THE WITNESS: [9:36:35](Interpretation) Okay, very well.
- 17 PRESIDING JUDGE MINDUA: [9:36:37](Interpretation) Thank you very much.
18 I'm now going to hand over to Madam Prosecutor Yamaguchi for the continuation
19 and certainly the conclusion of the cross-examination.
- 20 Madam Prosecutor, please.
- 21 MS YAMAGUCHI: [9:36:50] Thank you, Mr President.
- 22 QUESTIONED BY MS YAMAGUCHI: (Continuing)
- 23 Q. [9:36:56] Good morning, Mr Witness. Can you see and hear me well?
- 24 THE INTERPRETER: [9:37:05] Message from the English booth: could counsel
25 move closer to her microphone or turn it on.

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1 PRESIDING JUDGE MINDUA: [9:37:11](Interpretation) Madam Prosecutor, you
2 were hiding your microphone.

3 MS YAMAGUCHI: [9:37:15] Sorry about this.

4 Q. [9:37:16] Mr Witness, can you hear me well?

5 A. [9:37:28] Yes.

6 Q. [9:37:30] (Overlapping microphones)... how are you feeling today?

7 A. [9:37:40] I'm well.

8 Q. [9:37:45] Now I would like to come back to a few persons you mentioned
9 yesterday.

10 You talked about a woman the Defence referred to as "Madam Z" and you described
11 her as the lynchpin for building cases related to rape victims. And I refer to
12 yesterday's transcript, page 34, line 24, to page 35, line 4.

13 I pause.

14 A. [9:38:48] Very well.

15 Q. [9:38:51] Now, you never mentioned Madam Z before yesterday during your
16 previous interaction with the Defence, is that correct?

17 A. [9:39:30] I am of course in a habit of mentioning her name.

18 Q. [9:39:40] Well, Mr Witness, we have a summary of the information you
19 provided during your interviews with the Defence - and I am referring to document
20 MLI-D28-0006-3104 - and there is no reference to Madam Z. So you're saying that
21 you did mention Madam Z during your interviews?

22 A. [9:40:57] Well, I did mention her name. It might have been that we didn't
23 speak of her very much and they might have forgotten to mention her, but I do know
24 that the person I spoke to a lot about her was (Redacted). It might have been that the name
25 did not come to the fore, because I had not seen the documents.

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1 Q. [9:41:38] So you mention someone whom you said you talked about a lot, but
2 we don't seem to have her name properly captured in the transcript. Could you
3 repeat her name.

4 A. [9:42:13] It's Mr A.

5 Q. [9:42:21] Thank you for that clarification.

6 Just (Overlapping speakers)... Just to clarify, you did see the Defence three times in
7 October last year, January and March this year for interviews and you didn't recall
8 talking about Madam Z in any detail?

9 A. [9:43:20] It was after that meeting that I mentioned her name.

10 Q. [9:43:30] You had the opportunity -- yesterday, you confirm that you had the
11 opportunity to make clarifications or corrections to this summary I was talking about;
12 so the summary that contained the information you provided during interviews. We
13 have a log of this preparation session, but there's no reference to Madam Z. Can you
14 clarify that?

15 A. [9:44:45] I even said that.

16 THE INTERPRETER: [9:44:55] Very unclear. Could the interpretation please be
17 repeated for the English booth. Thank you.

18 MS YAMAGUCHI: [9:45:14]

19 Q. [9:45:14] I believe the English booth was requesting to repeat.

20 THE INTERPRETER: [9:45:23] Repetition:

21 THE WITNESS: [9:45:24](Interpretation) It's in there, that's what I said to them.

22 THE INTERPRETER: [9:45:27] Repetition:

23 THE WITNESS: [9:45:28](Interpretation) It's in there, that's what I said to them.

24 THE INTERPRETER: [9:45:34] Repeats the Songhai interpreter.

25 MS YAMAGUCHI: [9:45:41]

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1 Q. [9:45:42] So you did mention Madam Z during your preparation session, but the
2 Defence forgot to note it down, is that your testimony?

3 A. [9:46:12] Yes, I did tell them that, but they certainly must have forgotten.

4 Q. [9:46:21] Yesterday you also --

5 (Counsel confers)

6 MS YAMAGUCHI: [9:46:42]

7 Q. [9:46:42] And just for the record, the ERN of the log is MLI-D28-0006-9085.

8 Now, I'll move on to another person you mentioned. Madam X, you said that
9 Madam X, who lived on the same street as you, had lied about being raped. And I
10 refer to yesterday's transcript, page 44, line 10 to page 45, line 14.

11 A. [9:47:46] Yes, that is what I said.

12 Q. [9:47:49] Now, again, there's no mention of this allegation in the summary of the
13 information you provided during your interviews or the preparation log. So you
14 had not mentioned this to the Defence before either, correct?

15 A. [9:48:48] Yes, I did give it to them.

16 Q. [9:48:54] Are you saying you did mention this allegation that Madam X lied
17 about being raped either during your interview or the preparation session?

18 A. [9:49:42] Yes, I did give it to them.

19 Q. [9:49:48] So your testimony is that the Defence again forgot to note down what
20 you had mentioned about Madam X?

21 A. [9:50:30] Well, I do not know. All that I do know is that they put questions to
22 me and I provided answers. In this case, I do know that I did tell them that. As to
23 whether they noted it down or not, I do not know.

24 Q. [9:50:49] Did you tell them about this allegation during your interviews? Or
25 during the preparation session?

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1 A. [9:51:27] During the interviews, I told them and I also told them during the
2 preparatory session.

3 Q. [9:51:40] Mr Witness, during the preparation session you had the opportunity to
4 review your -- the summary of the information you provided during your interviews,
5 correct? And you did not make any additions to that summary.

6 A. [9:52:29] I told them everything.

7 Q. [9:52:35] Well, you did review the summary, so you must have noticed that this
8 information was missing, didn't you?

9 A. [9:53:09] I did not note that anything was missing. Everything that I had in my
10 head, I had told them.

11 Q. [9:53:26] Isn't it correct that you did not make any additions to the summary
12 because you never said it before?

13 A. [9:53:58] No. I did not add anything. It was not an obligation, something that
14 I was not aware of. I'm not going to add. Why would I lie?

15 Q. [9:54:14] Yesterday, when you were asked by the Defence to explain the
16 connection that you were trying to make between Madam X and Madam Z, you said
17 that you are not aware of what they said to each other.

18 I refer to yesterday's transcript, page 49, line 1 to 2.

19 A. [9:55:13] I do not know. I do not know what they talked about. All I know is
20 that they are neighbours. As to what goes on between the two, I am not aware.

21 Q. [9:55:27] So apart from some rumours in town, you don't, in fact, have any
22 confirmation that if Madam X's being taken away by someone had anything to do
23 with Madam Z, is that correct?

24 PRESIDING JUDGE MINDUA: [9:55:54](Interpretation) Ms Gerry.

25 MS GERRY: [9:55:56] I'm rising at this stage because in my submission, the question

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1 wasn't clear. The original question related to communications between Madam X
2 and Madam Z. Dropped into the second question was an issue about being taken
3 away, and, in the circumstances, that might be confusing for the witness and I'd invite
4 my learned friend for the Prosecution to rephrase or break that question down,
5 please.

6 PRESIDING JUDGE MINDUA: [9:56:36](Interpretation) Madam Prosecutor, you
7 heard the suggestion on the part of the Defence. What do you say to that?

8 MS YAMAGUCHI: [9:56:44] I'm also happy to read out exactly what the witness
9 said in relation to this alleged connection between the two persons, if that would
10 clarify things.

11 PRESIDING JUDGE MINDUA: [9:57:03](Interpretation) Very well. Please go
12 ahead.

13 MS YAMAGUCHI: [9:57:07]

14 Q. [9:57:09] So in response to the Defence's question as to this connection between
15 Madam X and Madam Z, you said, and I quote:

16 "As to what [Madam Z] and [Madam X] said to each other, I am not aware of that.
17 But what is known and I thought that [Madam X] -- well, I heard people say that
18 people came to get them and took them away. After that, I [...] saw [Madam Z]
19 asking people to take their dossiers and those who were victims of rape were to bring
20 their files -- their dossiers with a view to receiving or being defended."

21 End of quote.

22 A. [9:59:05] That is what I said. That is indeed what I said.

23 Q. [9:59:09] Now, I repeat my question, apart from rumours in town, you don't in
24 fact have any confirmation that if Madam X's being taken away had anything to do
25 with Madam Z, isn't that correct?

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1 A. [9:59:58] I do not know. What I heard is that she and her husband were taken
2 to the whites -- to the country of the whites, I apologise.

3 Q. [10:00:15] I'll move on to another topic.

4 MS YAMAGUCHI: [10:00:19] And Mr President, I would like to go into private
5 session for approximately five minutes to cover some issues that may identify the
6 witness.

7 PRESIDING JUDGE MINDUA: [10:00:32](Interpretation) Yes, indeed, Madam
8 Prosecutor.

9 Court officer, private session, please.

10 (Private session at 10.00 a.m.)

11 THE COURT OFFICER: [10:00:51] We are in private session, Mr President.

12 PRESIDING JUDGE MINDUA: [10:00:55](Interpretation) Thank you very much.
13 Madam Prosecutor, please.

14 MS YAMAGUCHI: [10:01:01] Thank you, Mr President.

15 Q. [10:01:03] Mr Witness, yesterday, after the Defence asked you about your
16 interaction with (Redacted), you mentioned some people meeting the white
17 people. And I refer to yesterday's transcript, page 53, line 24, to page 54, line 9.
18 Now those white people were interviewing victims in Timbuktu, correct?

19 A. [10:02:01] That is correct.

20 Q. [10:02:11] You acted as an interpreter during one interview, didn't you?

21 A. [10:03:03] No, no. I did not do that. I was passing by and I saw people
22 behind -- in front of the door, and I asked what -- who were those people. And they
23 said they were human rights people with victims. And ever since that day, I -- I
24 dissociated myself. I handed over that packet and I had no longer anything to do
25 with them.

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1 Q. [10:03:38] I'd like to show you a document, it's at tab 2, in the court binder, ERN
2 is MLI-OTP-0071-0440. It's a summary of information provided by a victim called
3 (Redacted), who was interviewed by an NGO called FIDH, on 24th
4 February 2015. And you know him, right? This victim called "(Redacted)
5 (Redacted)"?

6 A. [10:05:00] No, I do not know him. I do not know him.

7 Q. [10:05:08] Yesterday, you confirmed that you also go by the name of "(Redacted)
8 (Redacted)" sometimes, and I refer to yesterday's transcript, page 58, line 9 to 11.
9 Now on the first page toward the bottom, this document refers to "(Redacted)" as
10 a friend of this victim.

11 So you are friends with this victim, aren't you?

12 A. [10:06:09] Yes, my name is (Redacted), but those victims that you are talking about,
13 I don't even know them.

14 Q. [10:06:24] On the next page, page 0441, towards the bottom, there's another
15 reference to your name, "(Redacted)" as an interpreter for this particular
16 interview.

17 Again, that is your name, correct?

18 A. [10:07:12] It is not true. It is not true and I do not even remember such an
19 incident. I don't remember it.

20 Q. [10:07:22] I'd like to go back to the first page, again toward the bottom, next to
21 the name, "(Redacted)", there is a phone number, "(Redacted)".

22 That's your phone number, correct?

23 A. [10:08:17] Yes, that is indeed my number, but what you're talking about, I do not
24 remember. I don't remember.

25 Q. [10:08:29] You were also using this phone number in 2012, correct?

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- 1 A. [10:08:51] Yes, indeed, I had that number in 2012, but I really do not remember.
2 I don't remember at all.
- 3 MS YAMAGUCHI: [10:09:11] Mr President, I'd like to go back to open session,
4 please.
- 5 PRESIDING JUDGE MINDUA: [10:09:17](Interpretation) Yes, indeed.
6 Court officer, open session, please.
7 (Open session at 10.09 a.m.)
- 8 THE COURT OFFICER: [10:09:29] We are back in open session, Mr President.
- 9 PRESIDING JUDGE MINDUA: [10:09:39](Interpretation) Thank you very much.
10 Madam Prosecutor, please proceed.
- 11 MS YAMAGUCHI: [10:09:45] Thank you, Mr President.
- 12 Q. [10:09:47] Mr Witness, yesterday you said you became friends with Adama - the
13 commissariat of the Islamic police - and he came frequently to your workplace. That
14 was yesterday's transcript, page 17, lines 6 to 9, and page 63, lines 3 to 5. There were
15 also occasions when you'd have contacts with Adama by phone, correct?
- 16 A. [10:11:06] Adama was coming to my place all the time. He came to my place
17 all the time. There were no other communications between us. He came just like
18 other customers and he bought items there.
- 19 Q. [10:11:24] I would like to show you some telephone records from 2012 and 2013,
20 which we obtained from the Malian authorities. And I'll start with what's under tab
21 40 of the Court binder, MLI-OTP-0031-1197 and this should not be broadcast to the
22 public.
23 Now this document shows records of phone calls and text messages with a phone
24 number (Redacted) had made or received during the period of June -- on the 1st of
25 June 2012 and 31st of July 2012.

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1 A. [10:13:29] Yes, I can see the document. I can see the document in front of me.

2 Q. [10:13:39] When we look at (Redacted), we see a phone call that was received from
3 this number, (Redacted), from a number listed in (Redacted) on 3rd of June 2012 at (Redacted)
4 (Redacted). Now this number in (Redacted), that's the phone number that you used in 2012,
5 correct?

6 A. [10:15:03] Yes, that is my number.

7 Q. [10:15:06] According to our evidence, number (Redacted) was used by Adama.
8 At in (Redacted), we can see another phone call received by Adama's number from your
9 number on the 4th of June 2012 at (Redacted). So you had Adama's phone number, at
10 least from June 2012 and had phone contacts with him, isn't that correct?

11 A. [10:17:26] Yes, I was receiving calls, I was selling call credit, so someone could
12 call me up to sell an item or to top up their telephone credit. So I received calls from
13 everywhere. People could send other people to me and ask me to send credit for
14 their mobile phones. So -- otherwise, there were no other types of calls between us,
15 except those calls for the purpose of purchasing items of phone credit.

16 Q. [10:18:23] Well, Mr Witness, the two phone calls we looked at in this Excel sheet,
17 they indicate that it was Adama's number who received a call from your number, not
18 the other way around. Isn't it correct that you did call him yourself?

19 A. [10:19:21] Yes, I call him -- if I spend one or two days without seeing him, I can
20 call him to find out what is not going on -- what is going on. I call him. Yes,
21 because this is someone who was very close to us and who reported everything to us
22 and if there were problems in the town, he would inform us so that we should not
23 open the shop, and even when there were issues, he kept us up to date.

24 Q. [10:20:35] You also testified yesterday that AQIM people would come to your
25 workplace - and I refer to yesterday's transcript, page 19, line 20 to 23. What are the

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1 names of those AQIM people who would come to your workplace?

2 A. [10:21:37] The fact is that the AQIM people -- all of them came to my place of
3 work from other parts of the town. All of them came to my place of work and that is
4 how come I got to know the names of all of them. I knew all those people, Abou,
5 Abou, and so on at my place of work, Iyad and Nabil also. When he was travelling,
6 he had an accident and he took 50,000 of phone credit from me and it was his agents
7 who came and repaid me that money.

8 Q. [10:23:02] I'm afraid in the transcripts in either language we don't have all the
9 names you mentioned. Could you please repeat all the names you mentioned, very
10 slowly and clearly.

11 A. [10:24:22] There was Fonda (phon), Yahia, Abou Zeid, Adama, and even Hassan
12 who is there with you, as well as many others. Amongst them, a certain Jab (phon).
13 There were many others who came whose names I do not know. They also came to
14 my place.

15 PRESIDING JUDGE MINDUA: [10:24:59] Maître Gerry.

16 MS GERRY: [10:25:02] Mr President, plainly we are going into people who were
17 coming to buy phone credit in the shop. In my submission, that doesn't seem to be
18 at all relevant to the issues that we are seeking to deal with. We are also running out
19 of Prosecution time, so I wonder if my learned friend for the Prosecution could focus
20 on relevant issues, rather than who was coming to buy phone credit, please.

21 PRESIDING JUDGE MINDUA: [10:25:35](Interpretation) Madam Prosecutor, what
22 is your reaction to that?

23 MS YAMAGUCHI: [10:25:39] If we may briefly cut the sound to the witness.

24 PRESIDING JUDGE MINDUA: [10:25:50](Interpretation) Court officer, please cut
25 the sound to the witness.

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1 THE COURT OFFICER: [10:25:58] The sound to the witness has been disconnected.

2 PRESIDING JUDGE MINDUA: [10:26:02](Interpretation) Thank you very much.

3 Madam Prosecutor, please.

4 MS YAMAGUCHI: [10:26:08] Thank you, Mr President. In our submission, we are

5 in the cross-examination, we are allowed to explore exactly which members of AQIM

6 and also Ansar Dine this witness may have been familiar with. I was going to of

7 course ask if he had any additional contacts - apart from his phone credit

8 business - with all these people whom he mentioned. Already from yesterday's

9 testimony, it is clear that he knew various members of both Ansar Dine and AQIM.

10 In our submission, we are entitled to explore further his contacts with all these

11 people.

12 PRESIDING JUDGE MINDUA: [10:27:00](Interpretation) Yes, Madam Prosecutor,

13 but what is the relevance of that line of questioning in relation to the charges that you

14 yourself made against the accused? And I think that was [...] an appropriate area for

15 your investigations.

16 MS YAMAGUCHI: [10:27:24] Of course, his closeness to all these various members

17 of AQIM and Ansar Dine, including very senior leaders, are relevant to the

18 assessment of his credibility.

19 THE INTERPRETER: [10:27:42] Correction: The President said, "It is not an

20 appropriate area for your investigation."

21 PRESIDING JUDGE MINDUA: [10:27:50](Interpretation) Now Maître Gerry, please.

22 MS GERRY: [10:27:53] Mr President, in addition to the submissions that I've already

23 made that who comes to his shop to buy phone credit is not relevant, in my

24 submission, my learned friend for the Prosecution has just admitted that the

25 questions have been asked and answered. This witness has said everyone came to

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1 his shop. So we could spend all morning having lists of people who came to his
2 shop. She already has the answer that he knows members of Ansar Dine and you've
3 heard the evidence around the connection between Ansar Dine and AQIM.

4 In my submission, our objection should be upheld, please.

5 PRESIDING JUDGE MINDUA: [10:28:34](Interpretation) Madam Prosecutor, I think
6 you have asked enough questions to the witness and he has already answered. We
7 could move on to something else.

8 Court officer, please let us reconnect the line with the witness.

9 THE COURT OFFICER: [10:28:59] The sound to the witness has been re-established,
10 Mr President.

11 PRESIDING JUDGE MINDUA: [10:29:07](Interpretation) Thank you very much,
12 court officer.

13 Maître Gerry, you are still on your feet.

14 MS GERRY: [10:29:14] Yes, just briefly, by my calculation, there is no time left, so -- I
15 can see the indication from the Court, I'll leave it to the Court.

16 PRESIDING JUDGE MINDUA: [10:29:28](Interpretation) Based on my calculations,
17 the OTP has already used 47 minutes and yet it should have been 30. We still have
18 just 30 minutes because we cannot continue after that.

19 So Madam Prosecutor, please try to conclude.

20 MS YAMAGUCHI: [10:29:59] Yes, Mr President.

21 Q. [10:30:14] Mr Witness, so, many members of both AQIM and Ansar Dine came
22 to your shop. Isn't it correct that you also had phone contacts with some of these
23 members?

24 A. [10:31:07] Yes, the truth be told, well, what I will tell you, something that had
25 happened since 2012 - whether it be AQMI or the MNLA - they would all come to my

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1 shop, but as to keeping the details of what happened in 2012 in my head, well, that
2 would be lying to you.

3 Q. [10:31:36] Now, other locals in Timbuktu knew that you were very close to
4 Adama and several other Islamists, correct?

5 PRESIDING JUDGE MINDUA: [10:31:50](Interpretation) Ms Gerry.

6 MS GERRY: [10:31:52] Mr President, in my submission that question calls for
7 speculation. This witness can't say what other people knew. It doesn't make any
8 sense. He can say what he heard other people say or what he saw. But he's
9 speculating if he's asked what other people knew; so I plainly object to that question.

10 PRESIDING JUDGE MINDUA: [10:32:19](Interpretation) You are right in so saying,
11 Ms Gerry. The Prosecution's question is cause for speculation.

12 So please rephrase or -- in fact you are actually running out of time, Madam
13 Prosecutor.

14 MS YAMAGUCHI: [10:32:37]

15 Q. [10:32:39] Mr Witness, you said a lot of these Islamists came to your workplace,
16 but there were also a lot of other local people -- local civilians who came to your
17 workplace, isn't that correct?

18 A. [10:33:45] Well, during the crisis, my shop became virtually a *grin* and everyone
19 would come by my shop. There were people who would come with whom I
20 had -- never had any contact and we would talk in our shop. Everyone would come
21 to my shop. Even people from the MNLA. And some would come to get their
22 foodstuffs and I would give them those goods and off they went. It became a *grin*
23 for civilians and others.

24 Q. [10:34:26] So those civilians would have seen also how often Adama would
25 (Overlapping microphones) your place?

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1 PRESIDING JUDGE MINDUA: [10:34:47](Interpretation) Ms Gerry.

2 MS GERRY: [10:34:49] Mr President, it's the same objection. The witness can't say

3 what other people would have seen. He can say what he saw and to have to

4 describe where they were looking, what they were looking at, so the question as to

5 what other people saw, in my submission, calls for speculation. I'm sure my learned

6 friend can ask a more direct question.

7 MS YAMAGUCHI: [10:35:13] I withdraw my question.

8 PRESIDING JUDGE MINDUA: [10:35:18](Interpretation) Yes, Madam Prosecutor,

9 please wrap up.

10 MS YAMAGUCHI: [10:35:23]

11 Q. [10:35:27] Mr Witness, you said some of the Islamists became your friends, they

12 even helped you sell your business and some of them also helped you free other

13 people who had problems. And you mentioned in that context also Hassan. Just to

14 clarify, the Hassan you mentioned, that's the accused in this case sitting in this

15 courtroom, correct?

16 A. [10:36:38] Who did something bad? Is that what you're saying?

17 Q. [10:36:51] No. Some of the Islamists whom you became friends with and who

18 helped you -- for example, selling your business, or helped you -- helped you

19 release -- well, secure the release of other people who had problems with the Islamists,

20 that included Al Hassan, the accused in this case, correct?

21 A. [10:38:22] Yes, Hassan would come to my shop. He would help me, and some

22 clients, and he would help me get my money back, that's how he helped me. The

23 one who helped me to release people was Adama. Adama. And also often when

24 there were incidents, Hassan would ask people to explain themselves so that he

25 would understand and, in most cases, it came to light that the person accused was not

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1 the individual who had committed the act and he would ask for those -- for their
2 release, after individuals had conducted an investigation.

3 PRESIDING JUDGE MINDUA: [10:39:12](Interpretation) Well, Madam Prosecutor,
4 with regard to your concern which you raised, the Chamber is sufficiently informed.
5 Now take leave of -- well, of your witness and wrap up please, and we shall move on
6 to the Legal Representatives for Victims.

7 MS YAMAGUCHI: [10:39:31] That was my last question. Thank you,
8 Mr President.

9 Q. [10:39:36] And thank you, Mr Witness, for answering my questions.

10 A. [10:39:51] Thank you. And to you, too.

11 PRESIDING JUDGE MINDUA: [10:39:54](Interpretation) Thank you very much,
12 Madam Prosecutor, for your cross-examination.

13 Now I'm going to hand over to Maître Nsita for the questions on the part of the Legal
14 Representatives for Victims.

15 Maître?

16 MR LUVENGIKA: [10:40:09](Interpretation) Thank you, Mr President. Thank you,
17 your Honours, to allow me to address the Court.

18 QUESTIONED BY MR LUVENGIKA: (Interpretation)

19 Q. [10:40:18] Good morning Mr Witness.

20 A. [10:40:20] Good morning.

21 Q. [10:40:22] I am the Legal Representative for Victims in the case the Prosecutor
22 versus Mr Al Hassan and I am going to put a number of questions to you. I will be
23 somewhat brief because the questions of interest to me have a bearing upon Madam X
24 and Madam Z. But for the most part, these questions have already been put by the
25 Prosecutor, so I shall not repeat, but I might approach it from a different angle.

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1 Before starting, I would like to come back to the transcripts.

2 MR LUVENGIKA: [10:41:02](Interpretation) But Mr President, I would like, before
3 so doing, to move into private session for a number of questions that might be
4 identifying.

5 PRESIDING JUDGE MINDUA: [10:41:11](Interpretation) Yes, indeed, Maître Nsita.
6 Madam Courtroom Officer, private session, please.

7 (Private session at 10.41 a.m.)

8 THE COURT OFFICER: [10:41:21] We are in private session, Mr President.

9 PRESIDING JUDGE MINDUA: [10:41:36](Interpretation) Thank you very much.

10 Maître Nsita.

11 MR LUVENGIKA: [10:41:40](Interpretation) Thank you, Mr President.

12 Q. [10:41:41] Now, Mr Witness, for the purposes of the transcript of yesterday, I
13 would like to hark back to a question with regard to your profession. Page 9, line 21,
14 it is indicated that you are a (Redacted) by profession. Is that correct?

15 A. [10:42:28] Yes, I am a (Redacted). And if that's how they wrote it down, otherwise
16 there are (Redacted) and there are (Redacted). But I am a (Redacted), but if that's how they
17 wrote it down, that's not up to me.

18 Q. [10:42:46] So you say this morning in this hearing that you are a (Redacted),
19 is that what we should retain from what you've said?

20 A. [10:43:12] I am a (Redacted).

21 Q. [10:43:23] And in which structure did you practise this trade of (Redacted)?

22 A. [10:43:37] (Redacted)

23 Q. [10:43:53] What is your current occupation?

24 A. [10:44:04] That is the trade that I currently practise.

25 Q. [10:44:09] Now, am I mistaken if I say to you that you are working in a (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. [10:44:43] That is exactly what I do.

4 Q. [10:44:49] And it is in distributing (Redacted) that you deem yourself to be

5 a (Redacted), is that correct?

6 A. [10:45:36] Yes, well, currently, my job is to take -- (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [10:46:03] Yes. Well, before wrapping up this matter, I would like to put

10 a question to you. Could you please tell us who is the president of the (Redacted)

11 (Redacted)? Or the director?

12 A. [10:46:39] The president of the (Redacted).

13 Q. [10:46:52] Is this the same (Redacted)

14 (Redacted)?

15 A. [10:47:08] It is exactly him.

16 THE INTERPRETER: [10:47:14] For the "(Redacted)", corrects the interpreter.

17 MR LUVENGIKA: [10:47:17](Interpretation) Mr President, we can go back into open

18 session.

19 Q. [10:47:21] Mr Witness, could you bear in mind that the name that you provided

20 us with yesterday when speaking about certain individuals, we are going to use the

21 letters A, X and Z when speaking about those individuals.

22 A. [10:47:53] Very well.

23 PRESIDING JUDGE MINDUA: [10:47:54](Interpretation) Madam Courtroom Officer,

24 open session, please.

25 (Open session at 10.47 a.m.)

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1 THE COURT OFFICER: [10:48:01] We are back in open session, Mr President.

2 PRESIDING JUDGE MINDUA: [10:48:13](Interpretation) Thank you very much.

3 Maître Nsita, please continue.

4 MR LUVENGIKA: [10:48:19](Interpretation) Thank you, Mr President.

5 Q. [10:48:20] Now, Mr Witness, according to your statement of yesterday, you live
6 in the same neighbourhood as Madam X and Madam Z before the crisis of 2012, that
7 is, is that correct?

8 A. [10:48:53] Yes.

9 Q. [10:48:57] Thank you. Do you know where Madam Z was during the crisis?

10 A. [10:49:19] During the crisis, she was going to and fro, to and fro.

11 Q. [10:49:30] She was going to and fro between where and where? Could you be
12 clearer, please.

13 A. [10:49:43] She would come to and fro between Bamako.

14 Q. [10:50:00] And were I to put it to you that she went to Bamako and never
15 returned, that she only returned to Bamako after the crisis, what would you say to
16 that?

17 A. [10:50:27] She was going to and fro, and she had gone to Bamako and it was
18 after the crisis that she came back to Timbuktu.

19 THE INTERPRETER: [10:50:40] Says the witness.

20 MR LUVENGIKA: [10:50:44](Interpretation)

21 Q. [10:50:45] And in coming back to Timbuktu, did she come back to your
22 neighbourhood or did she set up somewhere else?

23 A. [10:51:06] She moved, she went to live in Sankoré.

24 Q. [10:51:12] Yes, Mr Witness, I wanted you to tell us how would you describe
25 your relations with Madam Z? Were they good? Very good or bad and why is

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1 that?

2 A. [10:52:08] There's nothing untoward between us. I respect her and vice versa.

3 There's nothing between us, and, tomorrow, she will also respect me.

4 Q. [10:52:22] Until tomorrow, you say?

5 A. [10:52:34] To date, in fact, every time we cross paths, there is an atmosphere of
6 respect.

7 Q. [10:52:43] And do you know anybody by the name of (Redacted)?

8 A. [10:53:02] She is my elder sister and their houses are (Redacted).

9 MR LUVENGIKA: [10:53:08](Interpretation) Well, I do apologise, Mr President. I
10 believe we are in open session. We are going to redact that, but could we go for
11 a few moments into private session, please.

12 PRESIDING JUDGE MINDUA: [10:53:20](Interpretation) Yes, indeed. Madam
13 Courtroom Officer, private session, please.

14 *(Private session at 10.53 a.m.) (Reclassified partially in public)

15 THE COURT OFFICER: [10:53:30] We are in private session, Mr President.

16 PRESIDING JUDGE MINDUA: [10:53:39](Interpretation) Thank you very much,
17 indeed.

18 Maître Nsita.

19 (Counsel confers)

20 MR LUVENGIKA: [10:53:56](Interpretation)

21 Q. [10:53:58] Yes, Mr Witness, you said that they lived (Redacted).

22 I see you raising your hand. Do you need something?

23 PRESIDING JUDGE MINDUA: [10:54:08](Interpretation) Yes, Mr Witness, would
24 you like to address the Court?

25 THE WITNESS: [10:54:14](Interpretation) You talked about confidences and my

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1 sister, and I told you that it was my sister, and we were in open session.

2 PRESIDING JUDGE MINDUA: [10:54:34](Interpretation) Yes, Mr Witness, we are
3 already in private session, and we have taken measures for this part of your
4 testimony and that said by the counsel not to be published.

5 THE WITNESS: [10:54:59](Interpretation) Very well.

6 MR LUVENGIKA: [10:55:03](Interpretation)

7 Q. [10:55:06] Yes, Mr Witness, you said at the end of your response that they lived
8 (Redacted)

9 is that correct? (Redacted)

10 A. [10:55:42] If you go to X's house, then (Redacted) house is (Redacted).

11 Q. [10:55:56] So I wouldn't be mistaken if I were to say that your family, that is to
12 say you and your sister -- your elder sister and (Redacted) are very close. You
13 are friends and you get on very well, is that not true?

14 A. [10:56:48] It's as I told you, she's a very good friend, really, and with regard to
15 our work at (Redacted), everything I asked her to do, she always did.

16 Q. [10:57:07] And you were activists in certain associations, were you -- in unison,
17 were you not? Or certain organisations or parties?

18 A. [10:57:24] Yes.

19 Q. [10:57:29] So were I to say to you that Madam Z -- well, we are in private session
20 after all -- (Redacted) is a (Redacted)
21 (Redacted) in Timbuktu, would I be lying?

22 A. [10:58:19] That is true.

23 Q. [10:58:26] And in view of the fact that you know her very well, would you say
24 that she is capable of acting in keeping with the allegations that you have made before
25 this very Chamber?

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1 PRESIDING JUDGE MINDUA: [10:59:05](Interpretation) Maître Gerry, would you
2 like to say something before the witness answers?

3 MS GERRY: [10:59:10] Yes, please. Mr President, it's a very vague question, and it
4 appears to be calling for the witness's opinion. I appreciate that the witness has
5 given his opinion in cross-examination, I understand what the issue is, but when one
6 looks at the actual language used - "capable of acting in keeping with the allegations
7 that you have made" - is not a very clear question.

8 So I wonder if the question could be clearer and focusing on the fact more than the
9 opinion.

10 PRESIDING JUDGE MINDUA: [10:59:43](Interpretation) There we are, Maître Nsita.
11 Please be a lot clearer and think about time, please.

12 MR LUVENGIKA: [10:59:55](Interpretation) Thank you, Mr President.

13 Q. [10:59:58] Mr Witness, I know that you can hear me when I speak in French and
14 you still have the translation. You spoke of the relations between Madam X and
15 Madam Z. You will agree with me that you did not see them together chatting or
16 talking about what you said before this Chamber, nor did you ever see Madam X
17 bringing a file to Madam Z's home, did you?

18 A. [11:01:37] Well, I know a lot about their things. I know that they took people to
19 white people's countries, whether they gave documents to each other, I do not know.
20 I know (Redacted), we worked together and --

21 THE INTERPRETER: [11:02:05] The interpreter would like to ask the presiding
22 judge to repeat the last sentence.

23 PRESIDING JUDGE MINDUA: [11:02:11](Interpretation) Mr Witness, please repeat
24 your last sentence.

25 THE WITNESS: [11:02:33](Interpretation) As I was saying, whether they exchanged

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1 files or dossiers or not, I do not know, but I enquired and I was told that they were
2 taken to a white man's country. That's it.

3 MR LUVENGIKA: [11:02:49](Interpretation) Mr President, on the basis of this last
4 question, I will stop my questioning here. I have no further questions.

5 Q. [11:03:05] Mr Witness, thank you for answering my questions. Thank you.

6 A. [11:03:18] Thank you, also.

7 PRESIDING JUDGE MINDUA: [11:03:22](Interpretation) Thank you, Mr Nsita.

8 It's time for the break, but I can see Counsel Gerry looking at me.

9 MS GERRY: [11:03:32] May I say I don't have any re-examination, so rather than
10 a break, Mr President, you may wish to finish with this witness. Might I -- I can say
11 thank you to him after you've retired. Thank you.

12 PRESIDING JUDGE MINDUA: [11:03:52](Interpretation) Well, court officer, we are
13 going to go back to open session, and then say goodbye to the witness.

14 Open session, court officer, please.

15 (Open session at 11.04 a.m.)

16 THE COURT OFFICER: [11:04:10] We are back in open session, Mr President.

17 PRESIDING JUDGE MINDUA: [11:04:18](Interpretation) Thank you very much,
18 court officer.

19 Once again, I would like to thank the Legal Representative of the Victims for their
20 questions.

21 And now I turn to Counsel Gerry to say goodbye to the witness. Counsel.

22 MS GERRY: [11:04:41] Thank you, Mr President. I have no re-examination.

23 Thank you, Mr Witness, that completes your evidence for today. I will see you for
24 a few moments after the judges have retired. Thank you very much.

25 PRESIDING JUDGE MINDUA: [11:05:17](Interpretation) Thank you very much, Ms

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1 Gerry.

2 Mr Witness, you have now come to the end of your testimony. On behalf of the
3 Chamber, I would like to once again thank you very, very sincerely by having
4 answered our questions very clearly and very patiently.

5 I would like to thank you for taking the time out to testify in this Chamber and I wish
6 you full success in your future activities.

7 I will turn now to the parties, participants and the public.

8 Normally, our next hearing would have been on the Wednesday, the 2nd of
9 November, and we would have -- we would be having witness D-0243, a Defence
10 witness.

11 Before adjourning, as usual, I would like to sincerely thank the parties and
12 participants, the court reporters, interpreters, security officers, and lastly, the
13 members of the public in the public gallery and elsewhere.

14 I wish everyone a very good day. Until next time, the Court is adjourned.

15 THE COURT USHER: [11:07:17] All rise.

16 (The hearing ends in open session at 11.07 a.m.)