

Trial Hearing
WITNESS: MLI-D28-P-0006

(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 Tuesday, 11 October 2022
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:21] All rise. The International Criminal Court is now
12 in session. Please be seated.
13 PRESIDING JUDGE MINDUA: [9:32:28](Interpretation) The sitting is now in
14 session.
15 Good morning all.
16 Court officer, could you please call the case.
17 THE COURT OFFICER: [9:32:52] Good morning, Mr President, your Honours.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:33:12](Interpretation) Thank you very much,
22 court officer.
23 We can begin with presentations as every morning of the different teams.
24 The Prosecutor, please.
25 MR DUTERTRE: [9:33:29](Interpretation) Good morning, Mr President, good

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1 morning, your Honours. Today the OTP is represented by Lucio Garcia and myself,
2 Gilles Dutertre.

3 And greetings to all within this room and outside, including the Defence and the
4 accused, although he is absent. Thank you.

5 PRESIDING JUDGE MINDUA: [9:33:51](Interpretation) Thank you very much,
6 Prosecutor Dutertre.

7 Now over to the Defence.

8 MS TAYLOR: [9:33:59] Good morning, Mr President, good morning your Honours,
9 good morning to everyone inside and around the courtroom. The Defence for Mr Al
10 Hassan is represented today by Mr Maauloud Al Ansary, Maître Mohamed Youssef
11 and myself, Melinda Taylor. And I would like to thank the Chamber for granting
12 Mr Al Hassan's request to be excused during the first session. Thank you.

13 PRESIDING JUDGE MINDUA: [9:34:31](Interpretation) Thank you very much,
14 Ms Taylor. Indeed the Chamber received Mr Al Hassan's request and he is excused.
15 And now for the Legal Representatives of Victims.

16 MR LUVENGIKA: [9:34:49](Interpretation) Mr President, your Honours, dear
17 counsels, the victims today are represented by Ms Prisque Biyéké Dipanga and myself,
18 Fidel Nsita Luvengika. Thank you very much.

19 PRESIDING JUDGE MINDUA: [9:35:03](Interpretation) Thank you very much,
20 Mr Nsita.

21 And Rule 74 counsel for the witness, you have the floor.

22 MS CARIOLOU: [9:35:16] Good morning, Mr President, good morning,
23 your Honours. Leto Cariolou, I appear before you today as the legal adviser to
24 D-0006. Thank you.

25 PRESIDING JUDGE MINDUA: [9:35:33](Interpretation) Thank you very much, Ms

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1 Cariolou.

2 And as was said this morning, we continue the questioning of witness for the Defence,
3 D-0006.

4 So, Mr Witness, good morning. Can you hear me?

5 WITNESS: MLI-D28-P-0006 (Continuing)

6 (The witness speaks Tamasheq)

7 (The witness gives evidence via video link)

8 THE WITNESS: [9:36:00](Interpretation) Good morning to you, yes, I can hear you.

9 PRESIDING JUDGE MINDUA: [9:36:07](Interpretation) Thank you very much,
10 Mr Witness.

11 So on behalf of the Chamber, greetings to you this morning.

12 THE WITNESS: [9:36:22](Interpretation) Thank you very much.

13 PRESIDING JUDGE MINDUA: [9:36:25](Interpretation) I would like to remind you
14 that you're still under oath and that you are to tell the truth, the whole truth and
15 nothing but the truth.

16 THE WITNESS: [9:36:46](Interpretation) With God's help.

17 PRESIDING JUDGE MINDUA: [9:36:50](Interpretation) I would also like to remind
18 you of a few practical pieces of advice which I shared with you yesterday. You are
19 to speak clearly and at a moderate pace in order to facilitate the work of our
20 interpreters.

21 THE WITNESS: [9:37:33](Interpretation) Duly noted.

22 PRESIDING JUDGE MINDUA: [9:37:35](Interpretation) With no further ado, I will
23 hand over to the Defence to continue and probably complete the examination-in-chief.
24 Maître Taylor.

25 MS TAYLOR: [9:37:58] Thank you very much, Mr President.

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1 QUESTIONED BY MS TAYLOR (Continuing)

2 Q. [9:38:01] Good morning, Mr Witness. How are you this morning?

3 A. [9:38:09] I'm very well, thank God.

4 MS TAYLOR: [9:38:16] Mr President, with your permission may we go into private
5 session.

6 PRESIDING JUDGE MINDUA: [9:38:24](Interpretation) Yes, we may. Court
7 officer, private session, please.

8 (Private session at 9.38 a.m.)

9 THE COURT OFFICER: [9:38:33] We are in private session, Mr President.

10 PRESIDING JUDGE MINDUA: [9:38:45](Interpretation) Ms Taylor, for how long do
11 you think we will stay in closed session?

12 MS TAYLOR: [9:38:56] Mr President --

13 THE INTERPRETER: [9:39:00] Correction: "Private" session.

14 MS TAYLOR: [9:39:01] -- given the subject matter of the remaining issues, I do
15 believe that it would almost all have to be in private session. I did go through and
16 try and think if I could do it a different way and I don't think it's possible. It's too
17 identifying.

18 PRESIDING JUDGE MINDUA: [9:39:25](Interpretation) So for the audience, we will
19 be in private session for probably over half an hour.

20 We are in private session, court officer?

21 Thank you, that's confirmed.

22 So you have the floor, Ms Taylor.

23 MS TAYLOR: [9:39:45]

24 Q. [9:39:45] Mr Witness, I want to start by apologising. Because I'm not Malian,
25 sometimes you might mention names or words that I don't understand.

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1 Yesterday, at page 79 at line 16, you referred to the "Taoudéni prison." Please tell me
2 what is or was the Taoudéni prison?

3 A. [9:41:27] Well, this is a story that I heard. It is said that Taoudéni prison was
4 there during the time of the -- Modibo, and then when Moussa came in, he placed the
5 people in Taoudéni prison. He -- he placed the former Moussa in Taoudéni prison.

6 Q. [9:41:56] I interrupted you, please (Overlapping microphones)

7 THE INTERPRETER: [9:41:56] Correction: Placed (Overlapping microphones)

8 MS TAYLOR: [9:41:56]

9 Q. [9:41:56] -- continue.

10 THE INTERPRETER: [9:41:56] -- Modibo in Taoudéni prison.

11 MS TAYLOR: [9:42:08]

12 Q. [9:42:09] Sorry, I interrupted you, please continue.

13 Q. [9:42:34] So when Moussa came in, he then decided to shut down the prison and
14 brought the prison back to Bamako. He put the prison in Bamako. Concerning the
15 prison, this is a prison with -- atrocious prison -- with atrocious conditions. No one
16 is put there unless you want them to die.

17 (Counsel confers)

18 MS TAYLOR: [9:43:16]

19 Q. [9:43:17] Mr Witness, did you use the word "Al Azaab"? "Al Azaab"?

20 A. [9:43:44] Yes, I did use the word "Al Azaab" to describe the atrocities because in
21 Tamasheq that is the word we use to designate atrocities.

22 Q. [9:44:02] So Mr Witness, when (Redacted) told you that this was the
23 Taoudéni prison, what did you understand by that?

24 MR DUTERTRE: [9:44:22] *Monsieur le Président.*

25 PRESIDING JUDGE MINDUA: [9:44:23](Interpretation) Yes, Mr Prosecutor.

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1 MR DUTERTRE: [9:44:24](Interpretation) We would like Ms Taylor to give us the
2 reference for that -- the statements made by (Redacted).

3 PRESIDING JUDGE MINDUA: [9:44:34](Interpretation) Yes, indeed. Ms Taylor.

4 MS TAYLOR: [9:44:36] Thank you, Mr President. I actually gave it earlier. It was
5 page 79, line 16. I gave it when I first mentioned Taoudéni prison.

6 Q. [9:44:48] Mr Witness (Overlapping microphones)

7 MR DUTERTRE: [9:44:52] *Monsieur le Président.*

8 PRESIDING JUDGE MINDUA: [9:44:55](Interpretation) Go ahead, Mr Prosecutor.

9 MR DUTERTRE: [9:44:57](Interpretation) I think we may have a problem here. I'll
10 quote in English, T-205, page 79, lines 11 to 12: (Overlapping microphones)
11 (Speaks English) "I have no idea, but the (Redacted)" - in plural - "I talked to said that
12 it was called [...] the Taoudéni prison."

13 (Interpretation) And so I don't think we are talking about (Redacted) here. This
14 isn't (Redacted), so we would need a more specific reference concerning (Redacted)
15 (Redacted) statements.

16 PRESIDING JUDGE MINDUA: [9:45:33](Interpretation) Yes, indeed Ms Taylor,
17 what the Prosecutor has just read is a little different; it doesn't concern the (Redacted).

18 MS TAYLOR: [9:45:42] Thank you, Mr President. I will rephrase my question so it
19 is (Redacted).

20 Q. [9:45:47] Mr Witness, when the soldiers told you that this was the Taoudéni
21 prison, what did you understand by that?

22 A. [9:46:31] Well, to be perfectly clear, it's not the soldiers who told me that. It
23 was a person -- a soldier with whom I was detained who told me that, and when he
24 told me that, what I understood was that that prison was the prison where atrocities
25 were committed.

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1 Q. [9:46:52] And Mr Witness, to be clear, when you say "that prison" are you
2 referring to the *sécurité d'État* or not?

3 MR DUTERTRE: [9:47:11] *Monsieur le Président*.

4 PRESIDING JUDGE MINDUA: [9:47:14](Interpretation) Go ahead, Mr Prosecutor.

5 MR DUTERTRE: [9:47:17](Interpretation) Well, this is a leading question. It should
6 be an open question. What is the witness referring to in this context, that is a
7 suggestive question. It is leading the witness to an answer.

8 PRESIDING JUDGE MINDUA: [9:47:30](Interpretation) Ms Taylor, I agree with the
9 Prosecutor. I would say that you are suggesting. So could you please reformulate.

10 MS TAYLOR: [9:47:38] Thank you, Mr President. But I do believe - given that the
11 witness had referred to this exchange following a question I asked yesterday, about
12 whether cell 4 had any name or other description - that I do have a basis for this. I'm
13 simply clarifying terms. But this particular exchange was at page -- started at line
14 14:

15 "Mr Witness, did cell 4 have any other name or description [...] given to it by
16 detainees?"

17 Line 16: "I have no idea, but the soldiers" --

18 And he has now said "soldier" --

19 "I talked to said that it was called the [...] Taoudéni prison."

20 And he was referring specifically to my question about cell 4
21 at the *sécurité d'État*. I can move on.

22 PRESIDING JUDGE MINDUA: [9:48:41](Interpretation) Yes, but please reformulate
23 so that we can follow.

24 MS TAYLOR: [9:48:47]

25 Q. [9:48:50] Mr Witness, do you recall yesterday telling me about this exchange

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1 with a (Redacted) in response to my question about cell 4?

2 A. [9:49:34] Yes, I recall very well. I recall very well what I know about that and
3 also what I said about that.

4 Q. [9:49:48] I'm just going up to an earlier answer you gave today, and you said:
5 "[...] I understood was that that prison was the prison where atrocities were
6 committed."

7 Mr Witness, can you tell us why the Taoudéni prison was being referred to in
8 connection with the *sécurité d'État*?

9 A. [9:51:37] I don't know exactly concerning those terms. That -- that term was
10 given to me by someone and that's how I understood it. (Redacted)
11 (Redacted)

12 (Redacted) well, I already knew about Taoudéni prison, what
13 went on there, what the conditions were like there, and so I immediately remembered
14 that story.

15 (Counsel confers)

16 MS TAYLOR: [9:52:26]

17 Q. [9:52:27] Mr Witness, just for the record, did you use the word "Al Azaab"
18 again?

19 A. [9:52:55] Yes, I did use it. It's a term -- an Arabic term which I used in
20 Tamasheq to talk about the atrocities.

21 Q. [9:53:14] Now, Mr Witness, at page 68, you described your interrogation when
22 you arrived at the *sécurité d'État*. And at lines 22 to 24, the persons questioning told
23 you that:

24 This is a [big] place, a house, where big men went [...] before you. And they did not
25 survive."

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1 A. [9:54:20] Yes, that is something that was said to me, indeed.

2 Q. [9:54:25] Now, Mr Witness, did you hear about specific persons who entered the
3 *sécurité d'État* before you and did not survive?

4 A. [9:55:07] Before I got to the *sécurité d'État*, I did not even know its existence.

5 Q. [9:55:16] I apologise if my question wasn't clear. After you arrived at the
6 *sécurité d'État*, did you learn or hear about anyone who had not survived while being
7 detained there?

8 A. [9:56:07] Yes, I did hear about some.

9 Q. [9:56:14] Please tell me what you heard.

10 A. [9:56:45] I heard a story of a man called (Redacted). He had arrived in good
11 health and after a few days, he was beaten. He was hit on the jaw, and a few days
12 later he was -- he died. His jaw was broken.

13 Q. [9:57:11] Mr Witness, do you know what cell he was when this occurred?

14 A. [9:57:38] Yes, yes, I do. He was in cell 2 -- *cellule 2 de l'audition* (Redacted)
15 (Redacted), but he was in (Redacted).

16 Q. [9:57:55] And did you hear when this occurred? You said it was before your
17 arrival, how much earlier was it?

18 MR DUTERTRE: [9:58:04] *Monsieur le Président, Mesdames les juges.*

19 PRESIDING JUDGE MINDUA: [9:58:09](Interpretation) Over to you, Prosecutor.

20 MR DUTERTRE: [9:58:13](Interpretation) I have difficulty in understanding how
21 this is identifying, but also how this is relevant to the facts that we are meant to hear,
22 especially since this occurred before the party arrived I believe in (Redacted).

23 PRESIDING JUDGE MINDUA: [9:58:37](Interpretation) Ms Taylor.

24 MS TAYLOR: [9:58:38] Mr President, can we cut the feed to the witness or cut the
25 translation; that might be quicker.

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1 PRESIDING JUDGE MINDUA: [9:58:52](Interpretation) Tamasheq interpreters,
2 please do not translate what we are about to discuss between ourselves here because
3 it is not relevant to the witness.

4 Ms Taylor, you have the floor.

5 MS TAYLOR: [9:59:07] Thank you, Mr President.

6 Now as the Prosecutor is aware, (Redacted). Now this
7 witness is confirming that detainees who arrived would hear about the deaths of
8 people -- deaths of other detainees. That's obviously going to have an impact on the
9 psychological condition of anyone detained in that environment. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted).

13 PRESIDING JUDGE MINDUA: [9:59:54](Interpretation) Well, Mr Prosecutor, the
14 Defence is establishing a link. There is relevance.

15 MR DUTERTRE: [10:00:12](Interpretation) Well, Mr President, three points.

16 Number one, we're talking about a period before the arrest of this witness in
17 (Redacted); so we're talking about (Redacted), maybe (Redacted), we don't really
18 know. So after the arrest of (Redacted) which took place in (Redacted).

19 THE INTERPRETER: [10:00:29] Says the speaker.

20 MR DUTERTRE: [10:00:31](Interpretation) Also, we're talking about the death of
21 a detainee, not many other detainees as is being put forward by Ms Taylor. And
22 thirdly, that's what the witness here heard of this. It doesn't necessarily mean that
23 all other detainees heard the same story in contrast with what my learned friend is
24 saying.

25 So in sum, I think the link in time is far removed in relation to the facts pertaining to

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1 Mr Al Hassan and it is only connected to a story heard by this witness; so it's hearsay.

2 PRESIDING JUDGE MINDUA: [10:01:13](Interpretation) Ms Taylor, we don't want

3 to -- this to turn into a protracted discussion. I think the Chamber has understood

4 the questions put to the witness. You want to explain what was going on in this

5 prison, but the Prosecutor underscored the fact that this story is in relation with

6 a period (Redacted). So perhaps

7 we can move on to something else.

8 MS TAYLOR: [10:01:47] Thank you, Ms President. If I may briefly, as the

9 Prosecution might be aware from this witness's statement, this incident occurred just

10 (Redacted)

11 (Redacted). This evidence shows the detainees were aware of the death of other

12 detainees. That's all I'm trying to establish. (Redacted)

13 (Redacted). I don't intend to spend too much longer on it. Contrary to what the

14 Prosecution has said, I was -- my question was geared towards establishing the

15 temporal link. I was merely asking him when this occurred, I was then moving on.

16 But I do believe it's in the interests to have him tell you when he heard this occurred

17 and then I can move on to other incidents. But this objection is preventing us from

18 bringing relevant information to the attention of the Chamber. It's one question

19 concerning the specific incident.

20 PRESIDING JUDGE MINDUA: [10:02:54](Interpretation) Yes, Ms Taylor, but it was

21 a very useful objection in that it has enabled you to explain your line of questioning.

22 I think that is now sufficient and I think we can now move on.

23 Court officer -- sorry.

24 Now, gentlemen of the Tamasheq booth, you can continue to interpret for the witness.

25 Ms Taylor, I would like to know whether we need to continue in private session?

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1 MS TAYLOR: [10:03:36] Yes, Mr President, I'm referring to specific (Redacted).

2 My next line of questioning will follow-up on (Redacted), then (Redacted). It will

3 then go directly to (Redacted). I will then have the (Redacted). It's

4 impossible not to have evidence that's identifying. This is very sensitive evidence.

5 There is no other -- there is no other way (Overlapping speakers)

6 PRESIDING JUDGE MINDUA: [10:04:13] *D'accord. Mais --*

7 MS TAYLOR: [10:04:13] (Overlapping speakers) to have this evidence.

8 PRESIDING JUDGE MINDUA: [10:04:14](No interpretation)

9 MS TAYLOR: [10:04:16]

10 Q. [10:04:17] Mr Witness, I'm going to repeat my question. You referred to

11 the death of an individual called (Redacted). Approximately how much earlier

12 before your arrival was this?

13 A. [10:05:07] I was already there, in fact, when that happened. It was after my

14 arrival, but that happened in (Redacted), but I can't remember exactly the date

15 of -- the date when it happened.

16 Q. [10:05:26] Now apart from the death of this individual called (Redacted), did

17 you hear about anyone else who didn't survive while being detained there while you

18 were detained there?

19 A. [10:06:02] Yes. I heard about other people, including the latter person and

20 possibly ... and one other as well.

21 Q. [10:06:17] Please tell me about this other individual.

22 A. [10:06:56] Well, there was a person in cell 5. His case -- he -- he fell ill. And

23 then he had a nosebleed, and he then died after that.

24 Q. [10:07:31] Mr Witness, can you tell us the name of this individual who died in

25 cell 5?

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1 A. [10:07:59] His name was (Redacted).

2 Q. [10:08:02] I believe you also gave a last name (Redacted), is that correct?

3 A. [10:08:19] Yes, (Redacted).

4 Q. [10:08:30] You told us he died when he was in cell 5. Had he always been in
5 cell 5 or had he been in other cells beforehand?

6 A. [10:09:09] He was (Redacted) in cell 4, and then he was unwell. He was
7 transferred to cell 5 and then he left cell 5 and went to cell 6. (Redacted)
8 (Redacted)

9 Q. [10:09:35] You said he was unwell. Can you describe how he was?

10 A. [10:10:20] He had nothing in particular, but he had left somewhere where there
11 had been airconditioning, where it was cold. And then he was moved to a very hot
12 room, and that's why he had these bleeds. So problems with his nose. He fainted
13 and he had attacks.

14 Q. [10:10:48] Can you describe these attacks?

15 MR DUTERTRE: [10:10:58](Interpretation) Mr President.

16 PRESIDING JUDGE MINDUA: [10:11:00](Interpretation) Yes, Mr Prosecutor.

17 MR DUTERTRE: [10:11:04](Interpretation) I am missing the relevance of these
18 questions for a witness who is not a medic.

19 PRESIDING JUDGE MINDUA: [10:11:17](Interpretation) Yes, Ms Taylor, I think we
20 are now sufficiently informed. I think we don't need to go into all these details, what
21 happened to his attacks amongst the detainees particularly, because the witness can't
22 give us a medical diagnosis. It's clear that the conditions were very difficult and
23 people died there.

24 Please, can we now move on to something else.

25 MS TAYLOR: [10:11:50] Certainly, Mr President.

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1 Q. [10:11:53] Now, Mr Witness, speaking of cell 4 - transcript 205, page 76 - you
2 said you lost skin and were bleeding.

3 Can you tell us where you lost the skin?

4 A. [10:13:32] Yes, I can -- I can reply. You want to know - if I've understood
5 correctly - where I was losing skin. I was -- it was my (Redacted). And I was also
6 bleeding from the (Redacted) but I had spots everywhere. (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [10:14:11] Now Mr Witness, you told us you were handcuffed. Can you
10 describe these handcuffs?

11 A. [10:14:50] They were simple handcuffs. I don't know how to describe them in
12 any other way. I was -- my hands were cuffed together in front of me, and -- so I
13 could eat in that way and also take care of my personal needs.

14 MS TAYLOR: [10:15:14] I'm noting for the record that the witness put his two hands
15 together with the two wrists facing each other.

16 Q. [10:15:28] And what were the handcuffs made of? What was the material?

17 A. [10:15:50] They were made of white iron or just of iron.

18 Q. [10:16:02] And how long did you wear them?

19 A. [10:16:21] For (Redacted).

20 Q. [10:16:25] And during these (Redacted) months, were they ever taken off?

21 A. [10:17:04] They never took them off, apart from on one occasion. (Redacted)

22 (Redacted). Once I went to see the

23 (Redacted), so -- and the handcuffs were (Redacted) and therefore they had to take

24 them off in order to put new ones on.

25 Q. [10:17:36] Now Mr Witness, you told us yesterday that after (Redacted), you

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1 went to (Redacted). Can you describe cell 6 for us?

2 A. [10:18:24] Yes, I can describe it. It was a cell with airconditioning, and two
3 ventilators but they broke down. And it measured 6 metres by 4.

4 Q. [10:18:44] Mr Witness, you've said it measured 6 metres by 4. How were you
5 able to estimate this?

6 A. [10:19:28] (Redacted)

7 (Redacted)

8 (Redacted).

9 Q. [10:19:56] What was the floor made out of?

10 A. [10:20:16] It was tiled. It was tiled. So three tiles makes one metre,, (Redacted)
11 (Redacted)

12 Q. [10:20:40] And how many tiles were each person given?

13 A. [10:21:02] One and a half tiles per person.

14 Q. [10:21:09] Was there any sunlight in this cell or not?

15 A. [10:21:25] No, there was no light.

16 Q. [10:21:30] Was there a toilet or not?

17 A. [10:21:47] No, there were no toilets. There were pots.

18 Q. [10:21:52] And how many pots did you have?

19 A. [10:22:23] Sometimes there were three, sometimes there were four. That
20 depended on how many were in the cell.

21 Q. [10:22:34] And how often were the pots changed?

22 A. [10:23:05] During the first years, they changed them morning and evening. But
23 as time passed, they no longer emptied them in the evenings.

24 PRESIDING JUDGE MINDUA: [10:23:20](Interpretation) Ms Taylor, the Chamber is
25 following the questions you are putting to the witness. For example, questions

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1 relating to the conditions during detention in cell 6. The number of pots, for
2 example. But we think these questions are also of public interest. The public
3 should be able to follow the hearings and know what we are discussing. Do we
4 really need to be in private session for this type of question?

5 Perhaps we could have a type of period switching between public session and private
6 session because the question of being public here is not being respected. You
7 could've asked questions about the number of pots in public session; that's not an
8 identifying question.

9 MS TAYLOR: [10:24:25] Mr President, the DGSE is a facility where the only way you
10 would know about what's happening in the cells is if you are a guard or a detainee.

11 If you are a detainee testifying in this case, it's going to be very easy to guess who you
12 are. I am willing to go through the transcripts afterwards to see if it's possible to lift,
13 but the problem is that dealing with any of this in open session is identifying.

14 Now we've had witnesses testify entirely in closed session. We've made an effort to
15 have at least the first half of the evidence in open session, but this was part of the
16 approved private sessions and we do believe that this would create an undue risk to
17 the client and -- sorry, to the witness and the Court has a positive duty to ensure his
18 protection.

19 My next line of questioning is also highly identifying, I will move to that, I can see
20 that the judges want me to do so. It still relates to the *sécurité d'État*.

21 PRESIDING JUDGE MINDUA: [10:25:41](Interpretation) Yes, you are quite right,
22 the judges want this to be in public, the *sécurité d'État*. There are a lot of people that
23 go through there. Everyday there are people going there I imagine because there are
24 guards, there are witnesses, there are detainees and so on.

25 So I -- we know that there are open sources, the press, we know what happened in the

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1 sort of *sécurité d'État* detention centres in many countries. so please check your notes
2 so that we can, if necessary, move between public session and private session for this
3 information.

4 MS CARIOLOU: [10:26:38] Mr President, perhaps I could address you as well?

5 PRESIDING JUDGE MINDUA: [10:26:45](Interpretation) Yes, you need to ask for
6 the floor because of the question of interpretation. But you now have the floor, Ms
7 Cariolou.

8 MS CARIOLOU: [10:27:00] (Overlapping microphones) Thank you, Mr President. I
9 would just like to note that the witness is very concerned about his security and that
10 he's -- the fact that he is testifying is on the basis of 74(3) assurances that have been
11 granted. He's extremely concerned, and I just wanted to emphasise the need that no
12 identifying information be disclosed to the public. Thank you, Mr President.

13 PRESIDING JUDGE MINDUA: [10:27:32](Interpretation) Thank you very much, Ms
14 Cariolou. You are quite right. We must avoid identifying information being leaked
15 to the public, which is why I'm asking Ms Taylor to look at her questions and decide
16 which can be and which cannot. That's a simple request.
17 Ms Taylor.

18 MS TAYLOR: [10:27:53] Mr President, I can ask a few questions in open session, but
19 I will have to go back into private session when dealing with specific incidents.

20 Q. [10:28:04] Now, Mr Witness (Overlapping speakers)

21 PRESIDING JUDGE MINDUA: [10:28:05](No interpretation)... *Tout à fait*, Maître
22 Taylor, *tout à fait*.

23 MS TAYLOR: [10:28:09] Before doing so, if I could explain to the witness --

24 Q. [10:28:15] (Redacted)

25 (Redacted)

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1 (Redacted). I'm going to ask general questions.

2 Now, if you feel that you can't answer these questions without giving identifying
3 information, please put up your hand and it will be for the judges to decide.

4 PRESIDING JUDGE MINDUA: [10:28:54](Interpretation) Very well. Thank you,
5 Ms Taylor.

6 Court officer, public session, please.

7 (Open session at 10.29 a.m.)

8 THE WITNESS: [10:29:31](Interpretation) Duly noted.

9 THE COURT OFFICER: [10:29:40] We are back in open session, Mr President.

10 PRESIDING JUDGE MINDUA: [10:29:45](Interpretation) Thank you very much,
11 court officer.

12 Ms Taylor.

13 MS TAYLOR: [10:29:49]

14 Q. [10:29:51] Now Mr Witness, we were discussing a particular location. Can you
15 please tell me, in this location, were there facilities for a shower? Was there
16 a douche?

17 (Counsel confers)

18 MS TAYLOR: [10:30:19]

19 Q. [10:30:19] Sorry, just a shower, not a douche.

20 A. [10:30:46] There was no shower to wash oneself. There was only a toilet.

21 Q. [10:30:57] Now at this location, was it possible to make phone calls or not?

22 A. [10:31:26] It was not possible. At any rate, I saw no one ever make a phone call.
23 It was not possible.

24 Q. [10:31:36] Was it possible to receive visits from family or not?

25 A. [10:32:03] No. It was not possible.

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1 Q. [10:32:08] Was it possible to receive visits from a lawyer or not?

2 A. [10:32:28] Well, I never saw a lawyer visiting and we were also told that was not
3 possible.

4 MS TAYLOR: [10:32:41] Mr President, my next section is specifically identifying.

5 PRESIDING JUDGE MINDUA: [10:32:50](Interpretation) Court officer, could we
6 move into private session, please.

7 (Private session at 10.33 a.m.)

8 THE COURT OFFICER: [10:33:12] We are in private session, Mr President.

9 PRESIDING JUDGE MINDUA: [10:33:18](Interpretation) Thank you very much.

10 Ms Taylor.

11 MS TAYLOR: [10:33:22] Thank you.

12 Q. [10:33:24] Mr Witness, the public can't hear us now.

13 (Redacted) in cell 6, did the detainees complain about the conditions or not?

14 A. [10:34:38] Well, they complained quite a lot. Everyone complained
15 individually. They said that what was happening there was not legal in other
16 countries and that this kind of thing occurred only in this country.

17 Q. [10:35:05] And did they ever complain to the guards or not?

18 A. [10:35:43] Yes, they complained to the guards, to the *chef de poste* as well as to the
19 doctor.

20 Q. [10:35:55] And how did the guards react to these complaints?

21 A. [10:36:38] The guards would always receive complaints, but not all guards are
22 the same. Some will listen and then some will just say words to calm you down, and
23 some will discourage you.

24 Q. [10:37:01] And did any guards take specific steps to discourage the detainees?

25 A. [10:37:42] I haven't understood your question.

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1 MR DUTERTRE: [10:37:45] *Monsieur le Président.*

2 PRESIDING JUDGE MINDUA: [10:37:49](Interpretation) Prosecutor.

3 MR DUTERTRE: [10:37:50](Interpretation) That was a very leading question; so I
4 would prefer more general questions on these specific points. I can imagine where
5 Ms Taylor is going with this - I don't know if it's entirely relevant - but in any case,
6 open questions should be asked and not leading questions.

7 PRESIDING JUDGE MINDUA: [10:38:19](Interpretation) Ms Taylor, so the
8 Prosecutor has made an objection, but I would like to know why it's important to find
9 out from the witness what a guard discouraging a detainee was saying. We
10 understood that some guards were understanding, some were harsher, some
11 discouraged. You want to drill down into details; that is helpful in your line of
12 defence?

13 MS TAYLOR: [10:38:57] Mr President, may we cut the interpretation to the witness?

14 PRESIDING JUDGE MINDUA: [10:39:04](Interpretation) To the Tamasheq booth:
15 Please no translation for the witness so that we may confer amongst ourselves.
16 Ms Taylor.

17 MS TAYLOR: [10:39:16] Thank you, Mr President. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 PRESIDING JUDGE MINDUA: [10:40:21](Interpretation) No, Ms Taylor, I don't

3 think it was a leading question at all. I wasn't asking the question about the leading

4 question. I was asking why those details but you've just answered. It's probably in

5 relation to Mr Al Hassan; so let's not take this any further.

6 So interpreters for Tamasheq, we can continue.

7 MR DUTERTRE: [10:40:48](Interpretation) Before we go on, could Ms Taylor give us

8 the reference for the statement by the witness (Redacted). Maybe

9 my memory doesn't serve me right, but I can't recall that.

10 PRESIDING JUDGE MINDUA: [10:41:10](Interpretation) Well, Mr Prosecutor, I

11 don't have the reference, but I do remember that there was something (Redacted).

12 Ms Taylor, do you have the reference.

13 MS TAYLOR: [10:41:19] Certainly, it's the (Redacted), which is referred to

14 in paragraph 1 of the summary. Now I don't understand why the Prosecutor is

15 standing up before I finish my sentence. There's no objection to be made to me

16 providing the reference.

17 Now, the statement is not in evidence. I'm not putting the statement in evidence, but

18 it has been disclosed to the Prosecution, so the Prosecution is directly on notice of the

19 evidence that we intended to elicit. I don't --

20 I think it's very rude to keep standing up when I'm still speaking.

21 Now, this is a citation, this is the reference. The Prosecution has it --

22 PRESIDING JUDGE MINDUA: [10:41:57](Interpretation) Ms Taylor, I'd like to

23 remind you that when I'm presiding over the debates, I detest excesses of language.

24 So please don't say extremely rude; I can't accept that. When the Prosecutor rises or

25 when you stand up, it is because you want the floor. As long as I do not give him

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1 the floor, he will not be talking, and you don't talk until I give you the floor, just like I
2 said to Ms Cariolou. So I can't accept this, and next time, please be very careful or I
3 will have to take measures, Ms Taylor; so let's carry on.

4 MS TAYLOR: [10:42:45] May I finish the citation? I was actually to provide the
5 citation that was requested when Mr Duterte stood up, so if I could provide the
6 citation as requested.

7 MR DUTERTRE: [10:43:00] *Monsieur le Président.*

8 PRESIDING JUDGE MINDUA: [10:43:02](Interpretation) Ms Taylor, yes, but there's
9 also the principle of a motion. When someone is speaking and someone else is
10 asking for the floor, there may be a motion to interrupt. I don't know what this is
11 about, so I hand over to the Prosecutor to find out what this is about.

12 MR DUTERTRE: [10:43:20](Interpretation) Yes, Mr President, precisely. We will
13 not be putting into evidence now the previous statement made by the witness during
14 the examination-in-chief, which may, in fact, go back to (Redacted) in connection with
15 an objection. I think that's what Ms Taylor is asking to do.

16 Now, I was standing up for another reason to say that this question of (Redacted)
17 (Redacted)- I can't remember the term used - now, it's not during the examination of
18 the witness before your Chamber. This was included in a prior statement. We can't
19 use the prior statement to justify a leading question saying, "Well, he talked about it."
20 He did not talk about this during this witness hearing; so let's not mix things up, and,
21 in this case, the witness has not yet addressed this issue. So this is a question of
22 relevance, and of course it leads the witness to a certain point.

23 Thank you for giving me the floor, Mr President.

24 PRESIDING JUDGE MINDUA: [10:44:37](Interpretation) All right.

25 Ms Taylor.

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1 MS TAYLOR: [10:44:39] Mr President, you have already ruled it was not a leading
2 question, so I don't believe we should be reopening that argument. Secondly, I was
3 not putting the statement to justify my question. I was putting the statement
4 because the Prosecutor requested the citation.

5 Now I was not putting the statement to the witness. (Redacted)

6 (Redacted)

7 (Redacted). There

8 is no prejudice here. There is no basis for objections. We are proceeding with our

9 line of questioning as we are required to do and as we should be allowed to do.

10 PRESIDING JUDGE MINDUA: [10:45:33](Interpretation) Very well.

11 So let's summarise it, what is the question you would like to put to the witness,

12 Ms Taylor?

13 MS TAYLOR: [10:45:43] Mr President, the witness had said that some guards would
14 discourage you. He said that in response to a general question. My question was
15 a follow-up about what he means by this.

16 PRESIDING JUDGE MINDUA: [10:46:02](Interpretation) All right. So

17 Mr Prosecutor, I said that this would be a follow-up question. It is indeed, so let's
18 listen to the witness.

19 So Tamasheq interpreters, we are ready for you to continue.

20 So Ms Taylor, you can ask the question to the witness and he will be ready to answer
21 because he has already heard the question.

22 MS TAYLOR: [10:46:33] Is the interpretation established?

23 Q. [10:46:41] Now, Mr Witness, before we were interrupted, you had told us that
24 some guards would discourage such complaints. Can you tell us -- please tell us
25 about these forms of discouragement that occurred (Redacted) cell 6.

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1 A. [10:48:36] (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [10:49:05] (Redacted)

5 A. [10:49:39] (Redacted)

6 (Redacted)

7 (Redacted).

8 Q. [10:50:03] And then what happened?

9 A. [10:50:25] The detainees got together in order to break down the door of the
10 prison to protest so to get the chief to come.

11 Q. [10:50:41] Then what happened?

12 A. [10:51:21] There are three cells where the detainees broke down the door. They
13 were broken down -- cells 7, 6 and 8. After that, one of the *chefs de poste* came and
14 asked what the detainees wanted. And they came with weapons.

15 Q. [10:51:51] Then what happened?

16 A. [10:52:34] So the *chef de poste* came and asked who is asking after him? (Redacted)
17 (Redacted). And he asked precisely, "Who?"

18 So in cell 8, (Redacted) cell 7, (Redacted), and in the cell, which (Redacted)

19 (Redacted).

20 Q. [10:53:06] Then what happened?

21 A. [10:53:41] That's when they were taken. They tortured them. They tied their
22 hands behind their backs. They asked them to crawl on the ground. And then they
23 put them into cell 4.

24 Q. [10:54:04] And who was tortured?

25 A. [10:54:26] One was a Bambara from Mali. The other was an Arab from the

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1 north -- from Gao.

2 Q. [10:54:39] And what happened to the other detainees?

3 A. [10:55:18] Nothing else happened to other detainees before the evening and it's

4 only at noon -- at lunchtime (Redacted) they had smaller rations reduced to

5 one-third. And when the chief came, they were asked not to remove the buckets --

6 THE INTERPRETER: [10:56:04] If the interpreter heard correctly --

7 THE WITNESS: [10:56:05](Interpretation) -- that were there.

8 MS TAYLOR: [10:56:09]

9 Q. [10:56:09] Please continue.

10 (Counsel confers)

11 Sorry, before I do so, I understand you said they took them out one by one. Did you

12 say that?

13 A. [10:56:52] Yes, indeed, during the night, they took them out, sometimes to beat

14 them and they were brought back to their cells. At that moment they came (Redacted);

15 (Redacted) so cell number 6.

16 Q. [10:57:13] Please continue.

17 A. [10:57:57] That's when they arrived in cell 6. So they would beat (Redacted) whips

18 or sticks, so -- for three minutes, (Redacted)

19 (Redacted)

20 (Redacted).

21 Q. [10:58:59] How long did this last?

22 THE INTERPRETER: [10:59:23] Tamasheq booth: Mr President, could we ask the

23 witness to restate what he said and make it a little bit shorter.

24 PRESIDING JUDGE MINDUA: [10:59:32](Interpretation) Yes, indeed. Mr Witness,

25 could you please restate what you just said and be a little more concise, please.

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1 THE WITNESS: [11:00:17](Interpretation) So for cell 6 and 7, that was one night.

2 For 8, that was several. So they took people out and with ... Mimi and Sékou was
3 taken out, and they were -- they took them out and they beat them. They beat them
4 for six hours. There were in cell 4 at that point.

5 MS TAYLOR: [11:00:55] I'm noting that it's 11 o'clock.

6 PRESIDING JUDGE MINDUA: [11:01:03](Interpretation) Yes, indeed. Court
7 officer, can we go back into public session, please.

8 (Open session at 11.01 a.m.)

9 THE COURT OFFICER: [11:01:28] We are back in open session, Mr President.

10 PRESIDING JUDGE MINDUA: [11:01:32](Interpretation) Thank you very much,
11 court officer.

12 It is now 11 o'clock. We will now take a half-hour break and we will start again at
13 11.30.

14 The hearing is suspended.

15 THE COURT USHER: [11:01:43] All rise.

16 (Recess taken at 11.01 a.m.)

17 (Upon resuming in open session at 11.39 a.m.)

18 THE COURT USHER: [11:39:48] All rise. Please be seated.

19 PRESIDING JUDGE MINDUA: [11:40:14](Interpretation) We are now back in
20 session.

21 I am pleased to see Mr Al Hassan has returned to the courtroom.

22 The Defence still has the floor to continue the examination-in-chief.

23 Ms Taylor.

24 MS TAYLOR: [11:40:35] Thank you very much, Mr President. Before doing so, I
25 understood that Mr Al Hassan could ask to be excused for the next part of my

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1 questioning.

2 PRESIDING JUDGE MINDUA: [11:40:57](Interpretation) There is normally
3 speaking no trial in absentia -- in the absence of the accused. I had understood that
4 Mr Al Hassan demanded to be excused for three hours; so three hours are now past.
5 How much time are you now asking for?

6 MS TAYLOR: [11:41:25] Thank you very much, Mr President. Mr Al Hassan's
7 request to be excused was for the prolongation of my examination-in-chief. It has
8 taken longer than expected due to various discussions. I do have a fair bit more to
9 cover regrettably, and the sections I am covering, I would have concerns, and, I think
10 Mr Al Hassan himself has concerns about being present. So the very gravamen of
11 his request to be excused relates to the next topics.

12 PRESIDING JUDGE MINDUA: [11:42:13](Interpretation) Ms Taylor, the Chamber
13 finds this very difficult because the first session today was focused on subjects which
14 went into too much detail. I reminded you on numerous occasions that there was
15 too much detail. I believe that there are questions that could be summarised or, in
16 fact, not even asked to condense your examination. That takes our time. It is our
17 responsibility to offer a fair and rapid trial to the accused. When I say -- when I said
18 there was a lot of detail, you continued and the questions took you an hour and a half.
19 You could have gone on 10 days, so - what was the exact problem for this man, what
20 was the diagnosis of him - we could go on for a very long time.

21 I think you now have 15 minutes in the absence of the accused to deal with the
22 subjects that you don't want him to be present for and then we will continue.

23 And my -- I am responsible for ensuring that there is a fair and equitable trial for the
24 accused. We will now allow Mr Al Hassan to leave for 15 minutes.

25 MS TAYLOR: [11:43:49] Mr President, may I be heard?

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1 PRESIDING JUDGE MINDUA: [11:43:52](Interpretation) No, Ms Taylor.

2 Unfortunately that is the decision of the Chamber. Because it's a matter of time, we
3 are discussing time now.

4 MS TAYLOR: [11:44:04] I understand, Mr President, we've just lost 15 minutes, but
5 I respectfully submit that this would occasion severe mental distress for my client. Is
6 that the intention of this Chamber? I would think not.

7 PRESIDING JUDGE MINDUA: [11:44:20](Interpretation) We have understood that,
8 Ms Taylor. This is why we gave him three hours and you spent those three hours on
9 the details that I was suggesting you do not go into. So we are carrying on wasting
10 time.

11 Court officer, the accused may be excused for 15 minutes and Ms Taylor will
12 summarise. One can condense an hour down or one can take a longer time for what
13 one needs to say.

14 MS TAYLOR: [11:44:56] Mr President, if I may briefly consult with my client?

15 PRESIDING JUDGE MINDUA: [11:45:05](Interpretation) Yes, you have that right,
16 Ms Taylor.

17 (Counsel confers with Mr Al Hassan)

18 (In the absence of Mr Al Hassan)

19 PRESIDING JUDGE MINDUA: [11:45:57](Interpretation) Court officer, can we
20 continue?

21 Ms Taylor, you have the floor. Please try to keep to this timeslot of 15 minutes in
22 this case.

23 MS TAYLOR: [11:46:10] Thank you, Mr President. I understand that as 15 minutes
24 until Mr Al Hassan returns and not 15 minutes for the remainder of my
25 examination-in-chief, which was scheduled for 11 hours?

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1 PRESIDING JUDGE MINDUA: [11:46:26](Interpretation) No, no. Just till the
2 return of Mr Al Hassan.

3 MS TAYLOR: [11:46:39] May we go into private session, Mr President.

4 PRESIDING JUDGE MINDUA: [11:46:46](Interpretation) Court officer, private
5 session, please.

6 (Private session at 11.47 a.m.)

7 THE COURT OFFICER: [11:47:00] We are in private session, Mr President.

8 PRESIDING JUDGE MINDUA: [11:47:03](Interpretation) Thank you very much.
9 Ms Taylor.

10 MS TAYLOR: [11:47:07]

11 Q. [11:47:08] Mr Witness, how are you?

12 A. [11:47:25] I am well, thank God.

13 Q. [11:47:31] Before the break, you told us that the guards came into cell 6 and took
14 the detainees out and beat them. Can you tell me the names of the detainees who
15 were beaten?

16 A. [11:48:19] All the people that were in the cell -- all the people that were in the
17 cell were beaten. They only spared maybe two or three older people. (Redacted)
18 (Redacted).

19 Q. [11:48:44] Are there any particular names you recall that were beaten?

20 A. [11:49:32] (Redacted)

21 (Redacted), Al Hassan Ag Abdoul Aziz.

22 Q. [11:49:53] Can you remember the names of the guards who were involved in
23 this beating?

24 A. [11:50:20] I think I can recall some of them, if my memory is correct.

25 Q. [11:50:32] Please tell us.

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1 A. [11:51:09] One of them who was their *chef*, was Sheikh, he was a *sergent-chef*.

2 There was another one, (Redacted), and another, Youssef.

3 Q. [11:51:25] I interrupted you, please continue if you had something else to say.

4 A. [11:51:54] Another one was (Redacted). Those are the ones I can remember. I
5 think there were four, five, or maybe three of them.

6 Q. [11:52:10] Now you told us that afterwards the rations were reduced to a third.

7 For how long were the rations reduced to a third?

8 A. [11:53:01] That lasted three days and during that time, the buckets were not
9 emptied. And -- and then after that, they started removing the buckets again, the
10 buckets -- the pots that we were using.

11 Q. [11:53:29] Do you recall approximately which month this was?

12 A. [11:54:00] No, I don't remember that. I don't remember the date, but it was
13 towards the end of the year. I don't know if it was the 10th month or the 9th month
14 or the 11th month; that I don't know.

15 Q. [11:54:21] Now you've mentioned someone called Al Hassan Ag Abdoul Aziz.

16 Is that the same person as the defendant in this case?

17 A. [11:54:52] Yes.

18 Q. [11:54:57] (Redacted)

19 (Redacted)

20 A. [11:55:48] (Redacted)

21 (Redacted)

22 Q. [11:56:08] Please continue.

23 A. [11:56:40] (Redacted). It was at night at 2200, 2300. He came and he was
24 surrounded by military -- special forces. There were three -- there were -- of them
25 and Al Hassan.

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1 Q. [11:57:10] Please continue.

2 A. [11:57:47] There was Al Hassan and they had made sure that he was there.

3 There was (Redacted), who was standing. (Redacted), and then

4 they took him into the *salle d'audition*.

5 Q. [11:58:23] I apologise for interrupting, please continue.

6 A. [11:58:58] So they took them into the house of *l'audition*, (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [11:59:20] Please continue.

10 A. [11:59:50] Then very early in the morning, we, from time to time, the people

11 interrogating them would go in and interrogate them -- them from eight till nine, and

12 then they took them to another place, another house where vehicles were normally

13 parked.

14 Q. [12:00:26] Please continue.

15 A. [12:00:55] Well, they took them out, they brought them to this other house made

16 of corrugated iron and started to torture them over there to make them suffer over

17 there.

18 Q. [12:01:12] Please continue.

19 A. [12:01:49] After that, they put Hassan lying down on the ground. And then

20 a lieutenant put his foot on his head and then another one by the name of Omar

21 pointed a pistol at him.

22 Q. [12:02:09] Please continue.

23 A. [12:02:34] (Redacted)- and he's the one who told

24 me - that the lieutenant said, "Ah, you've come to us."

25 Q. [12:02:56] (Redacted)

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1 A. [12:03:24] (Redacted).

2 Q. [12:03:29] Please continue.

3 A. [12:04:04] And after that, during that time when they were being tortured, two
4 light-skinned people were nearby and there were also other soldiers (Redacted)
5 and that's when someone by the name of (Redacted) told him in Tamasheq language ...

6 THE INTERPRETER: [12:04:41] End of interpretation.

7 MS TAYLOR: [12:04:45]

8 Q. [12:04:46] Please continue.

9 A. [12:05:00] So he told them in Tamasheq, "Tell them what they want to hear.
10 They have the right to torture you. They also have the right to kill you. They've
11 received that order."

12 PRESIDING JUDGE MINDUA: [12:05:24](Interpretation) Ms Taylor, you've just
13 done 20 minutes. I think that you can ask your last question to conclude before we
14 bring Mr Al Hassan back into the room.

15 MS TAYLOR: [12:05:41] Mr President, you may bring Mr Al Hassan back in the
16 room, but I can't conclude that line of questioning with one question.

17 PRESIDING JUDGE MINDUA: [12:05:59](Interpretation) Well, you can organise
18 your time as you see fit. We have given an authorisation to Mr Al Hassan, we've
19 come to the end of the allotted time, he is going to have to come back and you can
20 adjust your questioning as a consequence of that.

21 You have an opportunity to conclude now and then I will ask the court officer to ask
22 Mr Al Hassan to come back.

23 MS TAYLOR: [12:06:37] Mr President, I cannot conclude.

24 PRESIDING JUDGE MINDUA: [12:06:46](Interpretation) Well, then, I'm informing
25 you that Mr Al Hassan will be coming back into the room, so you can adjust your

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1 question.

2 Court officer, Mr Al Hassan may enter the room.

3 PRESIDING JUDGE MINDUA: [12:07:35](Interpretation) So, Ms Taylor, as we await
4 the return of Mr Al Hassan, you may continue.

5 MS TAYLOR: [12:07:43]

6 Q. [12:07:44] Mr Witness, I believe you were still speaking, I interrupted you.

7 Could you please continue with what you were saying.

8 A. [12:08:33] So my last words was when I was explaining that they can do

9 anything they want because they have a right to kill you. Later on, I don't know

10 what he said or whether he said what they wanted to hear, at any rate, they stopped
11 the torture they were subjecting him to.

12 MS TAYLOR: [12:09:07] Mr President, may I briefly consult with my client?

13 PRESIDING JUDGE MINDUA: [12:09:16](Interpretation) Yes, you may. And for
14 the minute, Mr Al Hassan is back in the room and Ms Taylor will be conferring with
15 the accused.

16 Go ahead, Ms Taylor.

17 (Ms Taylor confers with Mr Al Hassan)

18 MS TAYLOR: [12:10:13]

19 Q. [12:10:14] Mr Witness, you told us --

20 THE INTERPRETER: [12:10:17] Ms Taylor (Overlapping microphones)

21 MS TAYLOR: [12:10:26]

22 Q. [12:10:26] (Overlapping microphones) -- what this individual called (Redacted)
23 was saying to Al Hassan. (Redacted)

24 A. [12:10:50] (Redacted)

25 PRESIDING JUDGE MINDUA: [12:11:00](Interpretation) Now, Judge Prost told me

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1 there's a problem with the transcript in English.

2 JUDGE PROST: [12:11:08] The court reporter is reporting that the interpreters had
3 blocked the speaker and so that question wasn't captured in full. There were
4 overlapping speakers; that's what is recorded in the English transcript.

5 So if you wish to clarify the question, it's not captured in the transcript because the
6 speaker was blocked.

7 MS TAYLOR: [12:11:30]

8 Q. [12:11:30] (Redacted)

9 A. [12:11:58] (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted).

13 Q. [12:12:42] (Redacted)

14 MR DUTERTRE: [12:12:54] *Monsieur le Président.*

15 PRESIDING JUDGE MINDUA: [12:12:58](Interpretation) Go ahead, Mr Prosecutor.

16 MR DUTERTRE: [12:12:59](Interpretation) I would like open questions: When did
17 it happen? Rather than leading questions that suggest an answer.

18 PRESIDING JUDGE MINDUA: [12:13:10](Interpretation) Ms Taylor, could you
19 please reformulate.

20 MS TAYLOR: [12:13:15]

21 Q. [12:13:16] (Redacted)

22 (Redacted)

23 [12:14:00] (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 It was in that sort of circumstances that (Redacted) then related to me what had happened.
- 2 Q. [12:14:31] Mr Witness, going back to the arrival of Al Hassan, (Redacted)
- 3 (Redacted)
- 4 [12:15:26] (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 Q. [12:15:52] (Redacted)
- 8 A. [12:16:29] (Redacted)
- 9 (Redacted)
- 10 Q. [12:16:43] (Redacted)
- 11 A. [12:17:32] (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 Q. [12:18:07] (Redacted)
- 16 A. [12:18:43] (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted).
- 20 Q. [12:19:15] (Redacted)
- 21 A. [12:19:48] (Redacted)
- 22 (Redacted)
- 23 Q. [12:20:07] (Redacted)
- 24 A. [12:20:34] The next day, some people were going into that cell where they were
- 25 one by one. Sometimes a person exited the cell they were in through to 9.30 or 9

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1 o'clock. That's when they got them out.

2 Q. [12:20:59] (Redacted)

3 A. [12:21:29] That's when they started beating them. Torturing them until

4 someone arrived. That person was the lieutenant. The lieutenant spoke to

5 Mr Al Hassan and said to him, "And so you've come to us," putting his foot on his

6 head.

7 Q. [12:22:06] Mr Witness, could you describe the beatings?

8 A. [12:22:35] They were beaten with sticks and they were hung up.

9 Q. [12:22:44] Could you give us the name of this lieutenant?

10 A. [12:23:06] His name is (Redacted).

11 Q. [12:23:13] Do you know the names of any of the other guards or lieutenants who
12 were present the night before or during the day?

13 A. [12:24:02] (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. [12:24:28] (Redacted)

18 (Redacted)

19 A. [12:24:58] (Redacted)

20 (Redacted)

21 Q. [12:25:08] (Redacted)

22 (Redacted).

23 A. [12:26:01] I don't really recall. I just remember the name of the *chef de poste* and

24 those that were beating and the other guards, and then the torture and the beating he

25 was subjected to. It wasn't the guards that were beating him. It was more the *chef*

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1 *de poste*.

2 Q. [12:26:30] Can you give us the names of the people who were beating Mr Al

3 Hassan.

4 PRESIDING JUDGE MINDUA: [12:26:53](Interpretation) Ms Taylor, I think you've

5 already asked this question. The witness answered that it was the *chef de poste* that

6 was committing the beating and not the guards.

7 MS TAYLOR: [12:27:07]

8 Q. [12:27:07] Can you give us the name of the *chef de poste*?

9 A. [12:27:21] Yes, I can.

10 Q. [12:27:23] Please do so.

11 A. [12:27:56] There was (Redacted). There was also

12 (Redacted)as chief sergeant, all -- who was also the

13 *chef de poste* that day. Now, the *chefs de poste* are those that conducted the

14 interrogations.

15 Q. [12:28:30] Mr Witness, I apologise I interrupted you, please continue.

16 A. [12:28:59] There was another one, named (Redacted) was his

17 first name, something like that. He was also a *chef de poste*. Furthermore, the

18 guards that were there at the same time, well, I do not remember their names today.

19 Q. [12:29:21] Mr Witness, you've mentioned that Mr Al Hassan was with two

20 individuals, (Redacted)

21 (Redacted)

22 A.[12:29:34] (Redacted)

23 (Redacted).

24 PRESIDING JUDGE MINDUA: [12:30:17](Interpretation) Ms Taylor, the interpreters

25 in English are in the chain of interpretation; they have difficulty keeping up. Could

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1 you slow down.

2 THE INTERPRETER: [12:30:28] Correction by the President.

3 PRESIDING JUDGE MINDUA: [12:30:29] It's the court reporters.

4 MS TAYLOR: [12:30:36] I sincerely apologise.

5 Q. [12:30:47] (Redacted)

6 (Redacted).

7 A. [12:31:34] (Redacted)

8 (Redacted)

9 (Redacted).

10 Q. [12:32:05] Now approximately how many months was this before Al Hassan

11 entered cell 6?

12 MR DUTERTRE: [12:32:32](Interpretation) Mr President?

13 PRESIDING JUDGE MINDUA: [12:32:33](Interpretation) Mr Prosecutor.

14 MR DUTERTRE: [12:32:34](Interpretation) For reference, could Ms Taylor please

15 give us the reference where the witness said that Al Hassan went into cell 6, I would

16 be very grateful.

17 PRESIDING JUDGE MINDUA: [12:32:48](Interpretation) Yes, please do so,

18 Ms Taylor.

19 MS TAYLOR: [12:32:52] Thank you, Mr President. The witness told us that all of

20 the detainees in cell 6 were taken out and beaten. I asked him to give the names of

21 the detainees. He gave the name of Al Hassan Ag Abdoul Aziz. I asked him if it

22 was the defendant, he said yes.

23 PRESIDING JUDGE MINDUA: [12:33:15](Interpretation) Yes, Mr Prosecutor. I can

24 recall that being said. You agree with that?

25 MR DUTERTRE: [12:33:22](Interpretation) That's what was said, but the question is

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1 when. I'd like to establish a time.

2 PRESIDING JUDGE MINDUA: [12:33:30](Interpretation) Ms Taylor, it's a question
3 of timing here, please.

4 MS TAYLOR: [12:33:36] Thank you, Mr President. That's exactly what my question
5 was when the Prosecutor objected.

6 Q. [12:33:47] Mr Witness, approximately how many months elapsed between when
7 (Redacted) as compared to when

8 (Redacted)

9 A. [12:34:57] At the moment I'm a bit lost in times, but I think it was two months,
10 and during those two months, I don't know whether he came from the first place to
11 (Redacted) or whether he'd been in a different cell before (Redacted). But I am
12 quite sure that it was two months.

13 Q. [12:35:30] (Redacted)

14 (Redacted)

15 A. [12:36:18] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. [12:37:01] And when (Redacted), were there any
22 physical signs of the beating or not?

23 MR DUTERTRE: [12:37:20](Interpretation) Mr President, I would like this question
24 to be reworded. It is leading and it's a bit confusing because what are we actually
25 talking about here? (Redacted), for example.

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1 PRESIDING JUDGE MINDUA: [12:37:42](Interpretation) You heard the Prosecutor's
2 objection. Perhaps you could reformulate your question.

3 MS TAYLOR: [12:37:48] Certainly, Mr President, I will do so.

4 Q. [12:37:52] When (Redacted), was it possible to see his skin?

5 A. [12:38:27] Yes, I could indeed see his skin. Nothing hid his skin (Redacted)

6 (Redacted)

7 THE INTERPRETER: [12:38:53] (Redacted)

8 (Redacted)

9 MS TAYLOR: [12:38:59]

10 Q. [12:39:00] Can you remember what his skin looked like?

11 A. [12:39:18] Yes, I can recall that.

12 Q. [12:39:21] Please tell us.

13 A. [12:39:49] Yes. When I saw him, his skin was as usual. The wounds had
14 already scarred, but I noticed that these wounds, some of them had blue bits. There
15 were blue bits on his body and near his buttocks in particular.

16 Q. [12:40:26] Mr Witness, do you know an individual called (Redacted)?

17 A. [12:40:56] (Redacted)

18 (Redacted).

19 Q. [12:41:29] Mr Witness, I'm just going back because there might be an issue of
20 interpretation. I've been told that you said that you saw Mr Al Hassan with the blue
21 skin after the strike, the *grève*. Is that correct or not?

22 MR DUTERTRE: [12:41:56](Interpretation) Could Ms Taylor please explain where
23 this request for clarity originates.

24 THE INTERPRETER: [12:42:07] Overlapping speakers.

25 MS TAYLOR: [12:42:15] Mr President, he mentioned the word "*grève*" and it wasn't

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1 interpreted. So I can either wait a week and try and listen to the audios or I

2 can - now, that the witness is on the stand - attempt to clarify this with him.

3 PRESIDING JUDGE MINDUA: [12:42:36](Interpretation) Ms Taylor, did he say that

4 in Tamasheq because we don't have it in French?

5 MS TAYLOR: [12:42:40] He apparently used the French expression "*grève*".

6 PRESIDING JUDGE MINDUA: [12:42:50](Interpretation) How are we going to

7 resolve this? Mr Prosecutor, we don't have it in the French transcript. So I don't

8 think -- do we have it in English?

9 MS TAYLOR: [12:43:03] Mr President, as per normal practice I can ask

10 him (Overlapping speakers)

11 PRESIDING JUDGE MINDUA: [12:43:09](Interpretation) Thank you for your help,

12 Ms Taylor. That's what I was trying to get to. I've checked the French and the

13 English, perhaps Mr Youssef could tell us what he heard or perhaps we could ask the

14 witness exactly what he said.

15 You are on your feet, Mr Prosecutor.

16 MR DUTERTRE: [12:43:31](Interpretation) Perhaps we could ask the witness

17 whether he used the word "*grève*", whether that is actually the word that he used and

18 then we can take it from there.

19 PRESIDING JUDGE MINDUA: [12:43:45](Interpretation) Please, Ms Taylor, could

20 you ask the witness.

21 MS TAYLOR: [12:43:47]

22 Q. [12:43:49] Mr Witness, when you were talking about seeing Mr Al Hassan's skin,

23 did you use the word "*grève*"?

24 A. [12:44:39] First of all, I'd like to clarify one thing. There was an error in the

25 reply or the translation. When I talked about the wounds on the skin of Al Hassan,

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1 the blue wounds, he puts -- (Redacted). But that was

2 when the guard started to beat the detainees because he was complaining. He had

3 lodged a complaint. They had -- they had complained.

4 PRESIDING JUDGE MINDUA: [12:45:31](Interpretation) Ms Taylor, the thing is that

5 when Mr Al Hassan was taken to cell 6, and that the witness saw that there were

6 marks on his skin, is that what we are talking about?

7 MR DUTERTRE: [12:45:48](Interpretation) We were talking about the incident of the

8 strike, the "*grève*", with regard to the marks. In French, it's talking about the

9 individual, but whereas the English transcript says inaudible.

10 PRESIDING JUDGE MINDUA: [12:46:09](Interpretation) There we have two

11 subjects, the problem of Mr Al Hassan in cell 6 and the question of the strike. Which

12 are we talking about now?

13 MR DUTERTRE: [12:46:21](Interpretation) According to what the witness is saying,

14 we're referring to the strike.

15 PRESIDING JUDGE MINDUA: [12:46:28](Interpretation) So you would like

16 Ms Taylor to check on that issue of the strike?

17 MR DUTERTRE: [12:46:35](Interpretation) Yes, that was the point, but that's now

18 been clarified.

19 PRESIDING JUDGE MINDUA: [12:46:41](Interpretation) It's now clear, Ms Taylor,

20 you can continue.

21 MS TAYLOR: [12:46:46] Thank you, Mr President, I think it's crystal clear.

22 Q. [12:46:52] (Redacted)

23 (Redacted)

24 A. [12:47:29] (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 Q. [12:47:52] (Redacted)
- 3 A. [12:48:28] (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 THE INTERPRETER: [12:49:28] Apologies from the English booth: I missed the
- 8 last couple of words and it hasn't come up on the French transcript for me either.
- 9 MS TAYLOR: [12:49:44] Could the Tamasheq interpreters repeat the last bit so that
- 10 the French can capture it and then transmit to the English?
- 11 THE INTERPRETER: [12:49:57] He said:
- 12 THE WITNESS: [12:49:58] (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 MS TAYLOR: [12:50:23]
- 16 Q. [12:50:24] (Redacted)
- 17 A. [12:50:54] (Redacted)
- 18 (Redacted)
- 19 Q. [12:51:06] (Redacted)
- 20 (Redacted)
- 21 A. [12:51:32] (Redacted)
- 22 Q. [12:51:34] (Redacted)
- 23 A. [12:51:55] (Redacted)
- 24 (Redacted).
- 25 Q. [12:52:07] (Redacted)

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- 1 (Redacted)
- 2 A. [12:52:42] (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 Q. [12:53:09] (Redacted)
- 6 MR DUTERTRE: [12:53:27] *Monsieur le Président.*
- 7 PRESIDING JUDGE MINDUA: [12:53:29](Interpretation) Mr Prosecutor.
- 8 MR DUTERTRE: [12:53:32](Interpretation) (Redacted)
- 9 (Redacted)
- 10 (Redacted). There needs to be open questions. We mustn't skip steps. So there
- 11 was a reply given. Ms Taylor must respond to that reply without suggesting
- 12 anything at all.
- 13 PRESIDING JUDGE MINDUA: [12:54:03](Interpretation) Yes, Ms Taylor.
- 14 MS TAYLOR: [12:54:06]
- 15 Q. [12:54:06] Mr Witness, (Redacted)
- 16 A. [12:54:43] (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 Q. [12:55:15] (Redacted)
- 21 (Redacted)
- 22 THE INTERPRETER: [12:55:50] Mr President, the Tamasheq booth did not hear
- 23 beginning of the witness's reply.
- 24 PRESIDING JUDGE MINDUA: [12:55:55](Interpretation) Mr Witness, please repeat
- 25 your reply, please.

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- 1 THE WITNESS: [12:56:21] (Redacted)
- 2 (Redacted)
- 3 (Redacted).
- 4 Q. [12:56:51] Please continue.
- 5 A. [12:57:19] (Redacted)
- 6 (Redacted)
- 7 (Redacted).
- 8 THE INTERPRETER: [12:57:53] The same problem as yesterday, sorry.
- 9 MS TAYLOR: [12:57:58]
- 10 Q. [12:57:58] Please continue.
- 11 A. [12:58:24] (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted).
- 15 Q. [12:58:57] (Redacted)
- 16 (Redacted)
- 17 A. [12:59:36] (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted).
- 21 MS TAYLOR: [13:00:10] Mr President, I'm noting the time.
- 22 PRESIDING JUDGE MINDUA: [13:00:16](Interpretation) Absolutely, Ms Taylor.
- 23 Court officer, let's go back to public session.
- 24 (Open session at 1.00 p.m.)
- 25 THE COURT OFFICER: [13:00:33] We are back in open session, Mr President.

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1 PRESIDING JUDGE MINDUA: [13:00:41](Interpretation) Thank you very much,
2 court officer.

3 It is now 1 p.m., we will break for lunch and we shall resume at 2.30, but I would
4 point out that when we resume at 2.30, it will be for one hour because we need to
5 adjourn at 3.30 to free up the room and the -- some of the judges are also sitting on
6 a jury selection for the position of Registrar.

7 MR DUTERTRE: [13:01:24](Interpretation) Now for organisational purposes and
8 also for the proceedings, could Ms Taylor tell us how much more time she needs.
9 We will have 10 or 20 minutes for cross-examination? That can help us with our
10 organisation.

11 PRESIDING JUDGE MINDUA: [13:01:44](Interpretation) Ms Taylor, what the
12 Prosecutor has said is very important. Can you give us any pointers?

13 MS TAYLOR: [13:01:49] Certainly, Mr President. I estimate it will be about
14 10 minutes, 10 to 15 minutes.

15 PRESIDING JUDGE MINDUA: [13:01:59](Interpretation) That's fantastic. Thank
16 you very much, Ms Taylor.

17 This session is adjourned.

18 THE COURT USHER: [13:02:09] All rise.

19 (Recess taken at 1.02 p.m.)

20 (Upon resuming in open session at 2.31 p.m.)

21 THE COURT USHER: [14:31:42] All rise. Please be seated.

22 PRESIDING JUDGE MINDUA: [14:32:02](Interpretation) The Court is now back in
23 session.

24 Good afternoon to all.

25 We give the floor to the Defence for the remainder of the examination-in-chief.

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1 Ms Taylor.

2 MS TAYLOR: [14:32:21] Thank you, Mr President.

3 Q. [14:32:25] Good afternoon, Mr Witness. How are you?

4 A. [14:32:42] I'm well.

5 MS TAYLOR: [14:32:48] Mr President, may we go into private session to continue
6 my line of questioning?

7 PRESIDING JUDGE MINDUA: [14:32:56](Interpretation) Of course.

8 Court officer, private session, please.

9 (Private session at 2.33 p.m.)

10 THE COURT OFFICER: [14:33:07] We are in private session, Mr President.

11 PRESIDING JUDGE MINDUA: [14:33:19](Interpretation) Thank you very much.

12 Ms Taylor.

13 MS TAYLOR: [14:33:24]

14 Q. [14:33:25] (Redacted)

15 (Redacted)

16 (Redacted).

17 A. [14:34:11] (Redacted)

18 Q. [14:34:15] (Redacted)

19 (Redacted)

20 (Redacted).

21 A. [14:35:38] Well, if I've understood your question correctly, on the first day that

22 Al Hassan arrived, those were the two people present while he was being tortured.

23 Q. [14:35:59] And Mr Witness, according to the transcript you told us that on the

24 second day, (Redacted) Mr Al Hassan and the others being tortured and there were

25 two other light-skinned people nearby.

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1 And with your leave, Mr President, may my colleague say the Tamasheq word that
2 was said for "light skinned"?

3 PRESIDING JUDGE MINDUA: [14:36:38](Interpretation) Yes. Please go ahead.

4 MR DUTERTRE: [14:36:48] *Mais, Monsieur le Président ?*

5 PRESIDING JUDGE MINDUA: [14:36:50](Interpretation) Mr Prosecutor, go ahead.

6 MR DUTERTRE: [14:36:52](Interpretation) Well, we should ask the witness what he
7 said. We're not -- we can't have the Defence testifying on the word for "light
8 skinned" in Tamasheq.

9 PRESIDING JUDGE MINDUA: [14:37:04](Interpretation) Well, it -- yes, indeed the
10 problem is with how the question is worded. Indeed the question is, what word was
11 used.

12 So Ms Taylor, could you please ask the witness what word he used to describe the
13 skin colour.

14 MS TAYLOR: [14:37:23] Then I would need it not to be interpreted because then I
15 won't hear the word, because my understanding is we heard him use a Tamasheq
16 word and the Tamasheq word can mean "white skinned". So the only way for me to
17 clarify this is to actually -- or for him to confirm that he used this Tamasheq word.
18 So if it's repeated I might get a different interpretation.

19 PRESIDING JUDGE MINDUA: [14:37:58](Interpretation) No. Perhaps we could
20 simply ask him what he said about the skin colour and then he will say what word he
21 used and then everyone will hear the word in Tamasheq.

22 Ms Taylor, could you please ask him rather, what skin colour was that person.

23 MS TAYLOR: [14:38:17]

24 Q. [14:38:18] Mr Witness, I'm speaking about the second day when you (Redacted)
25 (Redacted) and you were

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1 describing these individuals being tortured and you said that two other people were
2 nearby. Can you tell us the skin colour of the different people you saw who were
3 either interrogating or beating the detainees?

4 A. [14:40:35] Thank you for trying to clarify things. So out of the two people, the
5 first, that's for sure was a Frenchman, thin and bald. The second person, I don't
6 know if it was a woman or a friend.

7 Q. [14:41:12] I apologise for interrupting, please continue.

8 A. [14:41:43] So that's all. Those were the two people who were present and were
9 in attendance while the others were being tortured. They were present (Redacted)
10 (Redacted).

11 Q. [14:42:06] Now this Frenchman who was thin and bald, (Redacted)
12 (Redacted)

13 A. [14:42:54] That gentleman came often ...

14 THE INTERPRETER: [14:43:06] And the witness used a word in Tamasheq that the
15 English-language interpreter cannot -- is not able to repeat. (Redacted)
16 (Redacted).

17 (Counsel confers)

18 MS TAYLOR: [14:43:51]

19 Q. [14:43:52] Mr Witness, you used a word "*tahqiq*". Does that mean "switching"?

20 A. [14:44:33] "*Tahqiq*" means "*audition*", interview or questioning.

21 Q. [14:44:43] (Redacted)

22 (Redacted)

23 (Redacted).

24 MR DUTERTRE: [14:45:22] *Monsieur le Président* ?

25 PRESIDING JUDGE MINDUA: [14:45:24](Interpretation) Prosecutor.

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1 MR DUTERTRE: [14:45:26](Interpretation) What is the relevance of this question
2 concerning the facts that this Court has heard? I object.

3 PRESIDING JUDGE MINDUA: [14:45:35](Interpretation) Ms Taylor, please.

4 MS TAYLOR: [14:45:37] Mr President, can the interpretation not be transmitted to
5 the witness.

6 PRESIDING JUDGE MINDUA: [14:45:48](Interpretation) To the Tamasheq booth:
7 Interpreters, please do not translate into Tamasheq the following comments.

8 Ms Taylor, would you reply to the Prosecutor's objection.

9 MS TAYLOR: [14:46:03] (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE MINDUA: [14:46:53](Interpretation) Prosecutor.

18 MR DUTERTRE: [14:46:56](Interpretation) (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted).

22 PRESIDING JUDGE MINDUA: [14:47:31](Interpretation) So that was your first
23 remark.

24 MR DUTERTRE: [14:47:35](Interpretation) And secondly, the Defence can always
25 ask questions once our cross-examination has been done if they feel that's useful.

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(Private Session)

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- 1 PRESIDING JUDGE MINDUA: [14:47:46](Interpretation) So, Ms Taylor, the
2 Chamber is wondering about the answer the witness is about to give and whether
3 there's a linkage with the charges that we are examining. If there is not, then the
4 Prosecutor's proposal is reasonable. You can wait for his cross-examination and you
5 can add further questions after that.
- 6 MS TAYLOR: [14:48:24] Certainly, Mr President. We will do so as long as we don't
7 reach an objection that we could have done so earlier; so I'm perfectly happy to accept
8 your proposal.
- 9 PRESIDING JUDGE MINDUA: [14:48:41](Interpretation) Fine. So we can move
10 forward.
- 11 MS TAYLOR: [14:48:53] We need the interpretation.
- 12 PRESIDING JUDGE MINDUA: [14:48:54] *Pardon.*
- 13 THE INTERPRETER: [14:48:57] The President said: Fine, so we can move forward.
- 14 MS TAYLOR: [14:49:04] Do we have interpretation?
- 15 THE INTERPRETER: [14:49:06] Can you hear the interpreter, Ms Taylor?
- 16 MS TAYLOR: [14:49:15] (Overlapping microphones)... Tamasheq.
- 17 THE INTERPRETER: [14:49:16] Oh, thank you.
- 18 PRESIDING JUDGE MINDUA: [14:49:17](Interpretation) Tamasheq booth, we can
19 proceed?
20 Ms Taylor.
- 21 MS TAYLOR: [14:49:31] (Overlapping microphones) I believe we can go to open
22 session.
- 23 PRESIDING JUDGE MINDUA: [14:49:38](Interpretation) Court officer, could we go
24 into public session, please.
- 25 THE WITNESS: [14:49:52](No interpretation)

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(Private Session)

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WITNESS: MLI-D28-P-0006

- 1 PRESIDING JUDGE MINDUA: [14:49:57](Interpretation) Court officer, one second,
2 please.
3 A question to the Tamasheq interpreters: the witness just said something, could you
4 please translate.
5 THE WITNESS: [14:50:11] (Redacted)
6 (Redacted).
7 PRESIDING JUDGE MINDUA: [14:50:28](Interpretation) Fine, very well.
8 Thank you, Mr Witness.
9 Court officer, could we go into public session.
10 (Open session at 2.50 p.m.)
11 THE COURT OFFICER: [14:50:50] We are back in open session, Mr President.
12 PRESIDING JUDGE MINDUA: [14:50:52](Interpretation) Thank you very much.
13 Ms Taylor.
14 MS TAYLOR: [14:50:57]
15 Q. [14:50:58] Mr Witness, that concludes our examination-in-chief. I want to
16 thank you for the time that you've taken to answer our questions. It is possible we
17 might have further questions after the conclusion of cross-examination. But I would
18 like to sincerely thank you.
19 PRESIDING JUDGE MINDUA: [14:51:25](Interpretation) Thank you very much,
20 Ms Taylor, for this examination-in-chief.
21 And now I will give the floor to the Office of the Prosecutor for cross-examination.
22 Mr Prosecutor.
23 MR DUTERTRE: [14:51:38](Interpretation) Thank you, Mr President.
24 QUESTIONED BY MR DUTERTRE: (Interpretation)
25 Q. [14:51:48] *Bonjour, Monsieur le témoin.*

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(Private Session)

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- 1 A. [14:51:49] Thank you.
- 2 Q. [14:51:55] Can you see me well?
- 3 A. [14:51:56] Yes, I can see you.
- 4 MR DUTERTRE: [14:52:03](Interpretation) Mr President, I would like us to move
5 into private session -- into closed session and I would like that to last a certain time.
- 6 PRESIDING JUDGE MINDUA: [14:52:13](Interpretation) Court officer, could we
7 have private session, please.
- 8 THE INTERPRETER: [14:52:18] Interpreter confirmation: "A private session."
- 9 MR DUTERTRE: [14:52:29]
- 10 Q. [14:52:30] *Alors, Monsieur le témoin --*
- 11 PRESIDING JUDGE MINDUA: [14:52:31](Interpretation) Wait a minute,
12 Mr Prosecutor.
- 13 (Private session at 2.52 p.m.)
- 14 THE COURT OFFICER: [14:52:38] We are in private session, Mr President.
- 15 PRESIDING JUDGE MINDUA: [14:52:43](Interpretation) Thank you very much,
16 court officer.
- 17 Mr Prosecutor, you are now free to speak.
- 18 MR DUTERTRE: [14:52:52](Interpretation) Excuse me, I was hasty.
- 19 Q. [14:52:56] Mr Witness, I would like to clarify with you to start off -- to start off,
20 I'd like to ask you to clarify and confirm your name.
- 21 A. [14:53:32] That's good.
- 22 Q. [14:53:38] Yesterday, transcript 205, French language, page 6, line 17, you said:
23 (Redacted) Translation, please.
- 24 In English page 6, line 17: (Redacted)
- 25 Am I given to understand that you can say (Redacted)

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1 (Redacted)? You get called by (Redacted), is that correct?

2 A. [14:55:01] Is that a question?

3 Q. [14:55:12] Yes. I want to know whether that's correct or not. If you could help
4 us, Mr Witness.

5 A. [14:55:55] Okay. Thank you. Actually, it depends on what language you're
6 speaking; that explains the (Redacted) names. Otherwise, my name is (Redacted)
7 (Redacted). Other

8 (Redacted).

9 Q. [14:56:26] So depending on the language, "(Redacted)" can also be said
10 (Redacted)? Is that correct or am I wrong? (Redacted)
11 (Redacted)

12 A. [14:56:46] That's it. However, on the other hand, when you write the name, it's
13 an invariable name. It doesn't change. But some will call me (Redacted),
14 (Redacted).

15 Q. [14:57:40] All right, I understand and that's a very useful clarification.
16 Thank you very much, Mr Witness.

17 Now, I would like to move on to another point, Mr Witness.

18 Yesterday, in the French transcript, T-205, page 23, line 11, until line 21, you were
19 questioned about (Redacted), and you answered:

20 (Redacted)

21 THE INTERPRETER: [14:58:25] The English interpreter does not have the transcript
22 under -- in front of her.

23 MR DUTERTRE: [14:58:44](Interpretation)

24 Q. [14:58:53] That is what you said, is it not?

25 A. [14:59:20] Yes, (Redacted) for them. If that's an interaction, then yes, there

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1 was interaction. (Redacted)

2 (Redacted)

3 (Redacted).

4 Q. [14:59:51] But, Mr Witness, that's not entirely correct, is it, that you were not part
5 of the (Redacted)

6 A. [15:00:25] Well, the way I see things, (Redacted)

7 (Redacted), what I say is more certain than anything (Redacted)

8 (Redacted).

9 Q. [15:00:42] We are going to come to what you said yourself, as you say, and what
10 you said to the Defence, in fact. We will find a way to clarify things together.

11 To start, can you confirm that you made statements to the team of the Defence in
12 (Redacted), is that correct?

13 A. [15:01:55] Yes. Yes, I spoke to them. I don't remember the month, but it was
14 indeed (Redacted).

15 Q. [15:02:11] At that time, you spoke Tamasheq, is that correct? You spoke
16 Tamasheq during your -- when you made your statement to the Defence, is that
17 correct?

18 A. [15:02:34] Yes, indeed.

19 Q. [15:02:37] And you had an interpreter who was interpreting between Tamasheq
20 and the language used by the Defence, is that correct?

21 A. [15:03:05] That is correct.

22 Q. [15:03:09] And the Defence reread to you the statements that you had made, is
23 that correct, Mr Witness?

24 A. [15:03:32] Yes, they read it to me.

25 Q. [15:03:36] So Mr Witness, I'm going to turn to a document communicated to us

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1 by the Defence, which is ERN MLI-D28-0006-9020, and this is called the witness
2 summary; so it's a summary of the content of your statement as prepared by the
3 Defence.

4 THE COURT OFFICER: [15:04:24] Could counsel please specify the tab number.

5 PRESIDING JUDGE MINDUA: [15:04:35](Interpretation) Ms Taylor.

6 MS TAYLOR: [15:04:37] Thank you, Mr President, that's not an accurate reflection.

7 The summary is not a summary of the witness's statement. It's an amalgam. It
8 refers to his prior statements and then it refers to (Overlapping speakers)

9 MR DUTERTRE: [15:04:55](No interpretation) ... *Monsieur le Président* (Overlapping
10 speakers)

11 PRESIDING JUDGE MINDUA: [15:04:57](No interpretation) *Non, non, Monsieur le*
12 *Procureur* (Overlapping speakers)

13 MR DUTERTRE: [15:04:59](No interpretation) (Overlapping speakers).

14 PRESIDING JUDGE MINDUA: [15:05:03](Interpretation) We haven't understood --

15 MR DUTERTRE: [15:05:08](Interpretation) I don't want the witness to hear what is
16 being said.

17 PRESIDING JUDGE MINDUA: [15:05:12](Interpretation) Tamasheq booth: Please
18 do not translate this into Tamasheq.

19 Ms Taylor.

20 MS TAYLOR: [15:05:20] Thank you, Mr President. The Prosecution has advanced a
21 factual statement which is erroneous. They have claimed that the Defence summary
22 is a summary of statements signed and read to the witness. That's not the case.

23 They know that. They could easily verify that by comparing it to the statements.

24 That's a confusing and unfair question to put to the witness; so I think they should
25 retract that question. They would have to start by asking the witness if he's ever

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1 seen the summary, but I would fear that that would be problematic because it refers
2 to witness numbers, which can't be shown to the witness and he can't read.

3 PRESIDING JUDGE MINDUA: [15:06:11](Interpretation) Which document -- what
4 document is it? Because we had just asked for the tab number.

5 MR DUTERTRE: [15:06:17](Interpretation) Tab number 6, witness summary
6 prepared by the Defence, which is supposed to contain the nature of the statements
7 made for the hearing and the documents that we have used for other witnesses and in
8 the cross-examination, quite simply.

9 PRESIDING JUDGE MINDUA: [15:06:41](Interpretation) The Defence is saying that
10 there are mentions of the witness that our witness is unable to confirm.

11 MR DUTERTRE: [15:06:54](Interpretation) He's going to respond to my questions,
12 Mr President. But the Defence can't say that they've communicated a summary
13 which is not exact, because it's been communicated to the Chamber, the Court, and to
14 the Prosecution things that are not correct -- that would not be correct. We have
15 used this document before. We should be able to cross-examine the witness, even
16 this is something that comes from the Defence.

17 PRESIDING JUDGE MINDUA: [15:07:29](Interpretation) I agree with you, but I
18 think that the problem being raised by the Defence is the title -- for fairness -- with the
19 witness. How could we call this document?

20 Ms Taylor, do you have something to add?

21 MS TAYLOR: [15:07:47] Thank you, Mr President. You're exactly right. And the
22 problem we had is not the accuracy of the summary, but the way that the Prosecution
23 referred to it. They previously elicited questions about whether the witness had had
24 a certain statement read back to him, whether there was interpretation. Their
25 follow-up question was referring to this summary as if it was a summary of the

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1 previous statement that they'd referred to, and it's not. So that was an erroneous and
2 misleading question, Mr Dutertre.

3 Therefore, they would need to retract that question, which was erroneous and they
4 know to be erroneous, and put a fair question, which is, they could put to him the
5 various statements that he's given to the Defence. They can ask him about the
6 interviews he's given to the Defence. But I would say it does not assist the Chamber
7 to refer to him to a document that he has not visually seen. They can ask him what
8 was read to him during the preparation session, but I do believe we're advancing
9 beyond steps where no foundation has been established.

10 PRESIDING JUDGE MINDUA: [15:09:03](Interpretation) We are going to gain time.
11 Mr Prosecutor, you have followed the objection. If you could please reformulate,
12 that would be the simplest way to deal with it.

13 MR DUTERTRE: [15:09:15](Interpretation)

14 Q. [15:09:15] Mr Witness, I have in front of me a summary given to me by the
15 Defence which summarises the statements that you are said to have made during
16 your testimony.

17 PRESIDING JUDGE MINDUA: [15:09:38](Interpretation) Ms Taylor, I think the
18 question is put very well. There is no time -- there's no purpose wasting time on
19 that.

20 MS TAYLOR: [15:09:46] That's the identical question.

21 PRESIDING JUDGE MINDUA: [15:09:47] *Non* (Overlapping speakers)

22 MS TAYLOR: [15:09:47] It's the same question as before. It's the identical
23 question. He's now still referring to his previous statement.

24 PRESIDING JUDGE MINDUA: [15:09:49] (Overlapping microphones) *Non, non,*
25 *Maître Taylor --*

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1 MS TAYLOR: [15:09:52] The objection was upheld and now he's said exactly the
2 same question.

3 PRESIDING JUDGE MINDUA: [15:10:04](Interpretation) So I think this has now
4 been interpreted.

5 Ms Taylor, I believe this is not the same question, and I see that my colleagues on the
6 Bench are in agreement with me. So that's the decision of the Chamber that that is
7 not the same question and therefore this question has been authorised.

8 MR DUTERTRE: [15:10:29](Interpretation)

9 Q. [15:10:29] So Mr Witness, this is where we need your help in the summary as
10 communicated by the Defence in paragraph 6, and I quote that you -- and it's in
11 English:

12 (Speaks English) "[...] (Redacted)

13 (Redacted)"

14 (Interpretation) Does that refresh your memory, Mr Witness?

15 A. [15:12:22] I would like to understand what you mean by "the counsel of
16 Defence", this -- those -- do you mean the lawyers whose judgment is being made?

17 Q. [15:12:50] This is the summary communicated to me by the Defence acting for
18 Mr Al Hassan, a summary of what you would be saying in the courtroom. Does that
19 refresh your memory?

20 A. [15:13:54] No. I don't recall having said to the lawyers that (Redacted)

21 (Redacted) And that's why this

22 is what I say, and if you asked me the question, I would reply.

23 Q. [15:14:22] Mr Witness, do you not recall having said that? Or did you not say
24 that to the Defence? Could you please clarify that.

25 A. [15:14:55] No, not at all. I did not say these things to the lawyers for

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1 Mr Al Hassan.

2 Q. [15:15:06] I see. In the same paragraph 6 of the same document, it continues to
3 say:

4 (Speaks English) Your "[...] (Redacted)

5 (Interpretation) Did you say that to the Defence or did you not, Mr Witness?

6 A. [15:16:08] I don't know that.

7 Q. [15:16:16] So if I've understood, for the record, you did not tell the Defence that
8 you started (Redacted)

9 (Redacted). Is that correct? Is that your testimony to the Court today
10 under oath?

11 A. [15:17:38] This house ... Well, I came to this Court to tell the truth and this is
12 a Court that I respect a great deal. And I would also like to thank the Court for
13 everything that's happened so far and all the interactions I have with this Court will
14 be only the truth and (Overlapping microphones)

15 MR DUTERTRE: [15:18:21](Interpretation) We can move back into public session;
16 although we may need to return to private session, Mr President.

17 PRESIDING JUDGE MINDUA: [15:18:30](Interpretation) Public session, please.
18 And then please send the message as you did before. Thank you.

19 (Open session at 3.18 p.m.)

20 THE COURT OFFICER: [15:18:42] We are back in open session, Mr President.

21 PRESIDING JUDGE MINDUA: [15:18:55](Interpretation) Thank you very much,
22 court officer.

23 Prosecution, you have the floor.

24 MR DUTERTRE: [15:19:03](Interpretation)

25 Q. [15:19:05] So Mr Witness, let us indeed speak the truth. You had a preparation

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1 session with the Defence last Friday and Saturday. Is that correct, Mr Witness?

2 A. [15:19:46] Yes, I met them.

3 MR DUTERTRE: [15:19:49](Interpretation) So Mr President, I would like to use the
4 document at tab 125, which is the witness preparation note, which is
5 MLI-D28-0006-9024.

6 Q. [15:20:16] Mr Witness, during this preparation session, the summary -- the
7 witness summary was read to you, was it not, Mr Witness? The document I referred
8 to before, which is on page 2 ...(Overlapping microphones)
9 (Speaks English) "Reading of the witness summary, MLI-D28-0006- ...(Overlapping
10 microphones)...9020".

11 A. [15:21:47] Documents were read to me, but there's no point in asking me about
12 them because I wouldn't recognise them.

13 Q. [15:21:58] I'm not going to show them to you, but it was read to you in
14 Tamasheq, as it states here on page 2 of the witness summary, it was read to the
15 witness in Tamasheq.

16 You made absolutely no corrections to the witness summary relating to the MNLA,
17 Mr Witness, is that correct?

18 A. [15:23:21] I -- I spoke. All I do is I talk, and I answer those who asked me
19 questions, and those who write, write down. But my words are those that I'm giving
20 to you today. They are the same as I'm speaking here to you today.

21 Q. [15:23:49] So I take note of the fact that you made no corrections to the witness
22 summary, Mr Witness, and, furthermore, that -- that this, the witness summary, also
23 fits in with what you said to the (Redacted) (Overlapping microphones)

24 PRESIDING JUDGE MINDUA: [15:24:11](No interpretation)(Overlapping
25 microphones) Maître Taylor?

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- 1 MS TAYLOR: [15:24:12](Overlapping microphones) We are in open session.
- 2 PRESIDING JUDGE MINDUA: [15:24:22](Interpretation) Noted.
- 3 MR DUTERTRE: [15:24:32](Interpretation) This is not identifying.
- 4 (Overlapping microphones)
- 5 MS TAYLOR: [15:24:33] We respectfully submit it is identifying, and as our witness,
- 6 we should be given a right to be heard. And I do believe the Prosecution should
- 7 respect the highlighted summary that was approved by the Chamber. It's not for the
- 8 Prosecution to decide a witness's protective measures.
- 9 Given in light of everything else that has been said by this witness, this is identifying.
- 10 I am concerned about this line of questioning. It will put our witness at risk. He
- 11 will not be able to answer this fully and freely and he should not have to do so in
- 12 a manner that puts him at risk.
- 13 MR DUTERTRE: [15:25:27](Interpretation) I am in the hands of the Chamber, Mr
- 14 President, and I will follow your wishes.
- 15 PRESIDING JUDGE MINDUA: [15:25:38](Interpretation) The Chamber believes that
- 16 this question from the Prosecution, (Redacted) et cetera, et cetera, we believe that this
- 17 is not identifying.
- 18 So Prosecution, try to formulate your question in such a way that the identity of the
- 19 witness is not revealed.
- 20 MR DUTERTRE: [15:26:17](Interpretation) Formulate in general terms, I will do my
- 21 best, but under your control.
- 22 Q. [15:26:20] You also told the (Redacted),
- 23 did you not, Mr Witness?
- 24 A. [15:26:52] Yes, I told them that. However, ask me the question of why I said
- 25 that.

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1 Q. [15:27:06] You said that to the Defence, you said that to the (Redacted) because it
2 is the truth, did you not, Mr Witness?

3 PRESIDING JUDGE MINDUA: [15:27:40](Interpretation) Ms Taylor.

4 MS TAYLOR: [15:27:43] Could the witness's answer not be interpreted in open
5 session, please. I heard certain words that are identifying.

6 PRESIDING JUDGE MINDUA: [15:27:54](Interpretation) Yes, I agree with you,
7 Ms Taylor. For the last reply, that should not be translated in public session.

8 Mr Prosecutor, what we are going to do, we are going to go into private session and
9 tell the public.

10 So for the public, I would like to tell you that we are about to move into private
11 session, and in three minutes, we will be finishing our hearing for today.

12 So please court officer, private session.

13 (Private session at 3.28 p.m.)

14 THE COURT OFFICER: [15:28:32] We are in private session, Mr President.

15 PRESIDING JUDGE MINDUA: [15:28:50](Interpretation) Thank you very much.

16 The witness had answered; so please now translate the reply.

17 THE WITNESS: [15:29:00] (Redacted)

18 (Redacted).

19 PRESIDING JUDGE MINDUA: [15:29:16](Interpretation) That is the witness's reply.

20 I think we will stop now. You will continue tomorrow morning because we need to
21 free up the room immediately.

22 Court officer, public session, please.

23 (Open session at 3.29 p.m.)

24 THE COURT OFFICER: [15:29:45] We are back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [15:29:49](Interpretation) Thank you very much,

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1 court officer.

2 So Mr Witness, this is the end of our day today -- a little earlier because there are

3 other things that the judges and our staff have to do. We will be continuing

4 tomorrow morning at 9.30 as usual, and between now and then, you must not discuss

5 this with anybody, not with your family, not with your friends. And on behalf

6 of the Chamber, I would like to thank you very much for your patience.

7 THE WITNESS: [15:31:07] Thank you very much.

8 PRESIDING JUDGE MINDUA: [15:31:12](Interpretation) We are now going to close

9 very quickly. I would like to thank the parties and participants, thank the court

10 reporters, the interpreters and the security officers. Thank you very much.

11 We have finished for today.

12 THE COURT USHER: [15:31:27] All rise.

13 (The hearing ends in open session at 3.31 p.m.)