

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 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge  
7 Kimberly Prost  
8 Trial Hearing - Courtroom 3  
9 Tuesday, 31 August 2021  
10 (The hearing starts in open session at 11.31 a.m.)  
11 THE COURT USHER: [11:32:32] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE MINDUA: [11:32:48](Interpretation) Court is in session.  
15 Good morning to all of you.  
16 Court officer, please, could you call the case.  
17 THE COURT OFFICER: [11:33:16] 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 number ICC-01/12-01/18.  
20 And for the record, we are in open session.  
21 PRESIDING JUDGE MINDUA: [11:33:37](Interpretation) Thank you very much,  
22 court officer.  
23 Today we have started with a big delay, a two-hour delay. We know, and I'm  
24 stating this for the record, that this is due to technical difficulties. All's well that  
25 ends well. We can now sit.

1 As usual, we shall go to the appearances, starting with the Office of the Prosecutor.  
2 Prosecutor, you have the floor.

3 MR ALLAFI: [11:34:18](Interpretation) Good morning, your Honour, your Honours.  
4 The Office of the Prosecutor is composed of Maître Paola Sacchi, Gilles Dutertre and  
5 Lucio Garcia, and myself, Mousa Allafi. Thank you.

6 PRESIDING JUDGE MINDUA: [11:34:41](Interpretation) Thank you very much,  
7 Prosecutor Allafi.  
8 I now turn towards the Defence. Counsel.

9 MS TAYLOR: [11:34:46] Good morning, Mr President. Good morning, your  
10 Honours. Good morning to everyone in the courtroom and outside. The Defence  
11 for Mr Al Hassan is represented today by Ms Molly Thomas, and myself, Melinda  
12 Taylor. Thank you.

13 PRESIDING JUDGE MINDUA: [11:34:56](Interpretation) Thank you very much,  
14 Ms Taylor.  
15 I'm now turning to the Legal Representatives of Victims.

16 MR KASSONGO: [11:35:05](Interpretation) Thank you, your Honour. Good  
17 morning, your Honours. Good morning, everyone. The legal representatives' team  
18 today is made up of Claire Laplace, assisting myself, Maître Kassongo, and we would  
19 like to thank you.

20 PRESIDING JUDGE MINDUA: [11:35:24](Interpretation) Thank you very much,  
21 Maître Kassongo.  
22 Now I will address the witness. This is the Prosecution witness, P-0055.  
23 Good morning, Witness. Can you hear me?

24 WITNESS: MLI-OTP-P-0055  
25 (The witness speaks French)

1 (The witness gives evidence via video link)

2 THE WITNESS: [11:35:45](Interpretation) Yes. Good morning, your Honour.

3 PRESIDING JUDGE MINDUA: [11:35:57](Interpretation) Thank you very much,  
4 Witness.

5 On behalf of the Chamber, I would like to welcome you. You are going to testify  
6 with a view to aiding the Chamber establish the truth in the case concerning Mr Al  
7 Hassan.

8 I will now take your solemn undertaking under Rule 66(1) Rules of Procedure and  
9 evidence.

10 So, first of all, I would like to assure myself that you have a paper on your table upon  
11 which you find the solemn undertaking. Is that the case?

12 THE WITNESS: [11:36:38](Interpretation) Yes, that's correct.

13 PRESIDING JUDGE MINDUA: [11:36:39](Interpretation) Very well. Thank you  
14 very much.

15 This solemn undertaking through which you must swear to tell the whole truth. I  
16 would, therefore, ask you to read it aloud, if you would be so kind.

17 THE WITNESS: [11:36:57](Interpretation) I solemnly declare that I will tell the truth,  
18 the whole truth, and nothing but the truth.

19 PRESIDING JUDGE MINDUA: [11:37:10](Interpretation) Thank you very much,  
20 Witness. You are currently under oath.

21 The representatives of the victims and witnesses, as well as the representatives of the  
22 Prosecution, have already explained to you what that means. So I have some advice  
23 of a practical nature for you.

24 You should bear in mind throughout your testimony that everything that is said in  
25 this courtroom is transcribed by court reporters and it is translated into many

1 languages by the interpreters. It is, therefore, important to speak clearly and slowly.  
2 Don't start to speak until the person who is putting a question to you has finished  
3 asking that question, particularly if this is somebody who speaks French because you  
4 also speak French.  
5 Count up to three in your head before replying. This pause is essential such that  
6 your testimony can be duly transcribed and taken down.  
7 Now, of course, if you have any questions, please raise your hand to indicate that you  
8 wish to take the floor.  
9 Have you understood that well, Witness?  
10 THE WITNESS: [11:39:01] (Interpretation) Yes, your Honour.  
11 PRESIDING JUDGE MINDUA: [11:39:05](Interpretation) Thank you very much,  
12 Witness. So you will be questioned by the parties and possibly by the Chamber.  
13 Without further ado, I shall give the floor to the Office of the Prosecutor for the  
14 examination-in-chief.  
15 Prosecutor Allafi, you have the floor.  
16 MR ALLAFI: [11:39:43](Interpretation) Thank you very much, your Honour.  
17 Before -- I can hear my voice, so I don't know if that's -- I can hear my own voice.  
18 QUESTIONED BY MR ALLAFI: (Interpretation)  
19 Q. [11:39:54] So, good morning, Witness.  
20 A. [11:39:56] Good morning, Counsel.  
21 Q. [11:39:58] Witness, for the record, my name is Mousa Allafi, and I'm going to  
22 ask you certain questions on behalf of the Office of the Prosecutor.  
23 Witness, we only have an hour for the examination-in-chief, so I would thank you for  
24 being as brief as possible in your answers.  
25 First of all, Witness, could you please give your name, your first name – your

1 surname, first name, as well as your date of birth.

2 A. [11:40:30] My name is Baccard, first name Eric. And I was born on 13  
3 September 1952 in France, in Chamberet.

4 Q. [11:40:44] Thank you, Witness.

5 Witness, you are currently retired, are you not?

6 A. [11:40:56] Yes, that's correct.

7 Q. [11:40:58] And is it correct that previously you were chief of the Forensic Section  
8 within the Office of the Prosecutor of the ICC?

9 A. [11:41:12] Yes, that's also correct.

10 Q. [11:41:16] Thank you. Witness, I understand that you left on forensic mission  
11 from the Office of the Prosecutor of the ICC from 14 to 24 June 2013, did you not?

12 A. [11:41:42] Yes. I can check the binder that you provided me with to reconfirm  
13 the exact date, but it would seem correct to me.

14 Q. [11:41:53] Thank you very much, Witness. We shall go to the binder, of course.  
15 Your Honour, your Honours, I would like to go into private session just for a moment  
16 because the following questions could go into the identity of another witness who has  
17 protective measures concerning his identity, just for a minute.

18 PRESIDING JUDGE MINDUA: [11:42:18](Interpretation) Very well.

19 Court officer, please could you take us into private session.

20 (Private session at 11.42 a.m.)

21 THE COURT OFFICER: [11:42:32](Interpretation) We're in private session,

22 Mr President.

23 (Redacted)

24 (Redacted)

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Page redacted – Private session.

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- 25 (Open session at 11.46 a.m.)

- 1 THE COURT OFFICER: [11:46:54](Interpretation) We are back in open session,  
2 Mr President.
- 3 PRESIDING JUDGE MINDUA: [11:46:59](Interpretation) Thank you very much.  
4 Thank you.  
5 Prosecutor.
- 6 MR ALLAFI: [11:47:04](Interpretation) Thank you, your Honour.
- 7 Q. [11:47:06] Witness, so we've gone back into open session.  
8 And I wanted to know, during this mission in Timbuktu, you collected evidence, did  
9 you not?
- 10 A. [11:47:20] Yes.
- 11 Q. [11:47:21] And you were asked to write a mission report on your return, were  
12 you not?
- 13 A. [11:47:28] Yes.
- 14 Q. [11:47:34] Thank you.  
15 I would now like you to take the binder that was sent to you and go to tab 1 and have  
16 a look at the document with the ERN MLI-OTP-0049-0145, dated 3 October 2013.  
17 This is a confidential document, court officer.  
18 Have you found it, Witness?
- 19 A. [11:48:09] Yes. Thank you.
- 20 Q. [11:48:11] So what is it, Witness?
- 21 A. [11:48:15] This is a mission letter which is dated from 3 October 2013 and which  
22 was written by Mr -- I think I can mention the name.
- 23 Q. [11:48:31] Yes.
- 24 A. [11:48:29] Mr Duterte, the senior trial lawyer, concerning the mission which  
25 arose in Timbuktu from 14 June, from 14 to 24 June 2013.



1 Q. [11:48:49] Thank you, Witness.

2 Now we can go to tab 2, if you'd be so kind. This is MLI-OTP-0041-0426. And this  
3 is a confidential document.

4 Have you found it, Witness?

5 A. [11:49:15] Yes.

6 Q. [11:49:17] Do you recognise this additional report?

7 A. [11:49:21] Yes.

8 Q. [11:49:23] Now, if you'd be so kind as to go to page 9 of this report, 0041-0434,  
9 page 9 thereof.

10 A. [11:49:39] Yes.

11 Q. [11:49:40] Now, there is a signature under your name. Is that your signature?

12 A. [11:49:48] That is correct.

13 Q. [11:49:49] Thank you.

14 Witness, is it correct that in this same report, namely, page 7 thereof, 0041-0432, under  
15 the paragraph 8, the third paragraph of paragraph 8, it is written that in total 848  
16 photographs were taken by yourself, namely, photographs with the ERN of  
17 MLI-OTP-0006-1872 to MLI-OTP-0006-2720. Is that correct, Witness?

18 A. [11:50:41] That's correct.

19 Q. [11:50:43] Thank you.

20 Your Honour, your Honours, as you can see, these are 848 photographs. Out of  
21 these 848 photographs, some of them were communicated under Rule 77. The others  
22 were communicated in Incrim, namely, 443, which are listed in the list of material and  
23 in the court binder concerning this witness, tab 57 to 500. These Incrim photos from  
24 tabs 57 to 500 are also mentioned in the application under Rule 68(3), with the  
25 exception of seven photographs which I shall come back to later.

1 So, your Honour, with a view to being as efficient as possible, I shan't show all the 443  
2 photographs, which are clearly identified in paragraph 3 of the report, 0041-0426, but  
3 I'll just go and show a sample therefrom, if you would allow me to do so.

4 PRESIDING JUDGE MINDUA: [11:52:02](Interpretation) Indeed, Prosecutor. I can  
5 see that there are no objections from the Defence.

6 MR ALLAFI: [11:52:07](Interpretation) Thank you very much, your Honour.

7 Q. [11:52:15] Witness, can you please go to your binder and look at the  
8 photographs from tab 57 to tab 61 with the ERN 0006-1883, 0006-2086, 0006-2087,  
9 0006-1872, 0006-1873.

10 And they are public.

11 Is that good, Witness?

12 A. [11:52:59] Yes. These are the photographs from tab 57.

13 Q. [11:52:59] Yes. To 61.

14 THE INTERPRETER: [11:53:07] Says the Prosecutor.

15 THE WITNESS: [11:53:09](Interpretation) 0006-1883 and up to what number?

16 What ERN?

17 MR ALLAFI: [11:53:24](Interpretation) To tab 61, 0006-1873.

18 THE WITNESS: [11:53:29](Interpretation) Okay. Yes.

19 THE INTERPRETER: [11:53:32] Says the witness.

20 MR ALLAFI: [11:53:34](Interpretation)

21 Q. [11:53:34] Is that good now?

22 A. [11:53:35] Yes.

23 Q. [11:53:35] Are you the person who took these photographs during the mission?

24 Witness, you are the person who took them?

25 A. [11:53:44] Yes.

1 Q. [11:54:02] Thank you.

2 Your Honour, as I mentioned a moment ago, there are only seven photographs which  
3 aren't included in application under Rule 68(3). So I'm taking advantage of the  
4 witness's presence to show them to him, knowing that the ERNs of these seven photos  
5 are included in the range between the ERN 0006-1872 to 0006-2720 mentioned in  
6 the -- mentioned in his report.

7 PRESIDING JUDGE MINDUA: [11:54:33](Interpretation) Very well. Please  
8 continue, Prosecutor.

9 MR ALLAFI: [11:54:39](Interpretation) Thank you very much, your Honour.

10 Q. [11:54:41] Witness, can you now please be so kind as to look at the photographs  
11 between tabs 283, so 283 and 283 -- 9. I'll leave it to you to look at them. I shall give  
12 the ERNs. So 0006-2169, 0006-2170, 0006-2171, 0006-2172, and 0006-2173, 0006-2174,  
13 0006-2175.

14 A. [11:55:48] Counsel, would you please be so kind as to tell me the number of the  
15 tabs once again.

16 Q. [11:55:52] Yes, Witness. Of course. It's from tab 283.

17 A. [11:55:54] Yes.

18 Q. [11:55:55] To tab 289.

19 A. [11:56:11] Yes, I'm there.

20 Q. [11:56:18] Thank you, Witness.

21 Now, did you take these pictures during the mission?

22 PRESIDING JUDGE MINDUA: [11:57:04](Interpretation) Court officer, the witness  
23 has disappeared.

24 THE COURT OFFICER: [11:57:06] Your Honours, the technicians have been notified.  
25 I'm awaiting their confirmation as to what the issue is. Thank you.

- 1 PRESIDING JUDGE MINDUA: [11:57:20](Interpretation) Thank you very much.
- 2 THE COURT OFFICER: [11:57:21] Your Honours, the connection does appear to  
3 have, yeah, disappeared. The technicians will get right on it. Thank you.  
4 (Pause in proceedings)
- 5 THE COURT OFFICER: [11:59:54] Your Honours, I would ask for your indulgence.  
6 It's unclear how long this issue will take to resolve. But the issue is being looked into.  
7 Thank you.
- 8 PRESIDING JUDGE MINDUA: [12:00:05](Interpretation) Thank you very much,  
9 court officer. We shall wait a bit longer here in the courtroom.  
10 (Pause in proceedings)
- 11 THE COURT OFFICER: [12:05:09] Your Honours, we kindly ask for two minutes to  
12 have this issue resolved. And hopefully by then it should be good to go. Thank  
13 you.
- 14 PRESIDING JUDGE MINDUA: [12:05:19](Interpretation) Thank you very much.  
15 (Pause in proceedings)
- 16 PRESIDING JUDGE MINDUA: [12:09:08](Interpretation) It would seem -- oh, very  
17 well. There we are. The witness has returned.  
18 Mr Witness, can you hear me? Good morning again, Mr Witness. Can you hear  
19 me?
- 20 THE WITNESS: [12:09:38](Interpretation) Yes, Mr President. I can hear you.
- 21 PRESIDING JUDGE MINDUA: [12:09:42](Interpretation) Very well. We have had  
22 a few technical issues. Everything now seems to be working again, so we shall  
23 continue.  
24 Mr Prosecutor, over to you.
- 25 MR ALLAFI: [12:09:56](Interpretation) Thank you very much, Mr President.

1 Q. [12:10:03] Mr Witness, can you hear me?

2 A. [12:10:05] Yes.

3 Q. [12:10:07] We were talking about the photographs and I was giving you the  
4 ERN numbers between tabs 283 and 289. Have you had the time to look them over?  
5 I just have one question to put to you in this regard.

6 A. [12:10:27] Yes, I have indeed looked at them, and these are indeed the  
7 photographs that I took.

8 Q. [12:10:33] And when you say "these are the ones that I took," are you talking  
9 about the photos taken during the mission of 14 to 24 June 2013?

10 A. [12:10:48] Yes, indeed.

11 Q. [12:10:49] Thank you very much, Mr Witness.

12 Mr Witness, could we please come back to this report, 0041-0426 and tab 2 thereof,  
13 please.

14 THE INTERPRETER: [12:10:58] Message from the English booth: There's an  
15 enormous amount of background noise from the remote location. Very difficult for  
16 us.

17 MR ALLAFI: [12:11:10](Interpretation)

18 Q. [12:11:10] Could you please go to page 8, 0041-0433.

19 A. [12:11:23] I'm there.

20 Q. [12:11:25] In paragraph 11, after the words "objects seized," the first point of this  
21 paragraph, you mentioned the ERNs of the sealed bags, commencing by 0005-0002 to  
22 0005-0040, containing the objects seized during this mission. Is that not correct,  
23 Mr Witness?

24 A. [12:11:52] Yes, indeed, Counsel.

25 Q. [12:11:55] Thank you. Now, Mr Witness, I would like you to first look at the

1 documents from tab 7 to -- no, correction: From tab 3 to tab 7. And these are the  
2 ERNs 0005-0002, 0003, 0009, 0011, and 0013.

3 A. [12:12:40] Yes.

4 Q. [12:12:43] Thank you, Mr Witness. Are these indeed sealed bags containing  
5 evidence that you gathered and mentioned in this report?

6 A. [12:12:55] Yes, that is correct.

7 Q. [12:12:57] Thank you. Could I please now ask you to look at documents within  
8 tabs 10 to 16, please.

9 And for the record, these bear the ERN numbers 0005, 0025, 0029, 0030, 0033, 0037,  
10 0038, and finished with 0005-0039. And they are confidential in nature.

11 A. [12:13:59] Yes, I have perused them.

12 Q. [12:14:02] Thank you. Are these indeed sealed evidence bags containing  
13 evidence that you gathered and mentioned in the report, Mr Witness?

14 A. [12:14:13] Yes, that is correct.

15 Q. [12:14:17] Thank you.

16 MR ALLAFI: [12:14:20](Interpretation) Mr President, your Honours, I would like  
17 to underscore that during the preparation session with the witness, the witness  
18 brought a number of corrections to this report and following reports. A note on  
19 these corrections was drawn up and disclosed to the Defence. I would like to  
20 present this note to the witness to confirm the corrections contained in this report.  
21 And in doing so, we save time for the Chamber.

22 PRESIDING JUDGE MINDUA: [12:14:53](Interpretation) Ms Taylor, please.

23 MS TAYLOR: [12:14:56] Thank you, Mr President. The Prosecutor did indeed  
24 write to us yesterday, and we responded that points 1, 2, 4 and 5 of this note appeared  
25 to be corrections of a typographical nature, but point 3 concerned testimony of

1 substantive nature. So we would object to point 3 being put to the witness through  
2 this note because this concerns issues that should be raised with the witness in an  
3 open manner.

4 And furthermore, given it is of substantive nature, it should have been accompanied  
5 by an application. But we don't have any objection to the points 1, 2, 4 and 5.

6 PRESIDING JUDGE MINDUA: [12:15:53](Interpretation) Prosecutor, you heard  
7 what the Defence had to say. Now, regarding number 3, please, item number 3.

8 MR ALLAFI: [12:16:05](Interpretation) Yes, it is true. There was this note. The  
9 Defence accepted everything except number 3. We then disclosed a new note  
10 without number 3 enclosed and we have a new note under MLI-OTP-0080-0393 (sic).  
11 And this note does not contain the number 3 or item number 3 to which the Defence  
12 objected.

13 PRESIDING JUDGE MINDUA: [12:16:42](Interpretation) So all is clear now,  
14 Ms Taylor.

15 Please continue, Mr Prosecutor.

16 MR ALLAFI: [12:16:48](Interpretation) Thank you very much, Mr President. Of  
17 course I shall be using this very note, the containing or the one that does not contain  
18 number 3. Thank you, Mr President.

19 Mr Courtroom Officer, please, could we please draw or bring up on to the screen  
20 document MLI-OTP-0008- -- 0080-3990 on to the screen. Thank you.

21 PRESIDING JUDGE MINDUA: [12:18:36](Interpretation) Mr Prosecutor, we do have  
22 an item of evidence under evidence 1.

23 MR ALLAFI: [12:18:42](Interpretation) Thank you, Mr President. Indeed.

24 Q. [12:18:46] Mr Witness, can you hear me?

25 A. [12:18:49] Yes.

1 Q. [12:18:51] Could you please consult this document with regard to the correction  
2 brought to paragraph 1 concerning this report 0041-0426 and confirm that it is indeed  
3 correct.

4 A. [12:19:08] Counsel, I do apologise. I am 8 to 10 metres away from the screen  
5 and I can't read a single thing at such a distance. It is illegible. It's far too small for  
6 me to read. If you were to have a hard copy, I could correct things. But I can't  
7 answer you in this state of affairs.

8 Q. [12:19:38] I do understand, Mr Witness. But can I read the paragraph to you,  
9 possibly?

10 A. [12:19:44] If you would like to, but as long as I can refer on each occasion to the  
11 corresponding pages.

12 Q. [12:20:02] Mr Witness, in fact, this is a document containing corrections that you  
13 made during the preparatory session on 23 August last. There are six points. The  
14 first concerns this report, the report in question. If you can't read it, I can read it out  
15 to you. It's just to confirm that this is indeed a correction that was made during the  
16 preparatory session.

17 A. [12:20:37] My interlocutor from the VWS has given me his laptop and I can now  
18 clearly read things. So it is clear to me that all the corrections that I made during the  
19 familiarisation session last week with the OTP are indeed correct, that is to say, with  
20 regard to the document that you are showing to me.

21 So paragraph 1 is correct. There was an error with regard to the date of the mission I  
22 believe. There was a date, an error of date. It should read 3 October 2013 instead of  
23 2 October 2013.

24 As for paragraph 2, yes, I remember this point too. The year 2011 was mentioned  
25 erroneously and paragraph 2 is therefore correct.



1 Paragraph 3, there was also an error of date because we were not in Timbuktu in  
2 October 2013. It was in fact 21 June 2013 that should have been there. So that's  
3 correct.

4 And paragraph 4, I would say the same. Once again, it should have read 3 October  
5 and not 2 October 2013.

6 As to point number 5, here, once again, there was an error of dates. With regard to  
7 the period of 27 August to 6 September 2013, that referred to another mission. It  
8 should have read 14 to 24 June 2013. This means that paragraph 5 is correct as well.

9 And indeed, I do recall the report co-authored with P-57 because we had shared the  
10 drafting of said report. And everything referring to the BMS should have been  
11 referred to in paragraph 2 because, as to the part *Hotel La Maison*, that was in  
12 paragraph 2.

13 Could the document please be scrolled down by the court officer.

14 I do not remember the name of my co-author, but it was indeed P-57. So I can  
15 confirm that fact, yes.

16 Q. [12:23:53] Thank you very much, Mr Witness.

17 MR ALLAFI: [12:23:55](Interpretation) Now, Mr President, for the purposes of the  
18 record, we can say that the witness has confirmed all these confirmations. So these  
19 corrections and all those for the following reports are indeed correct.

20 Q. [12:24:15] Now, Mr Witness, 0041-0426, this report and it -- and its annexes, are  
21 they now correct?

22 A. [12:24:26] Could you please repeat your question.

23 Q. [12:24:36] Of course I can.

24 I was asking you, Mr Witness, whether this report, 0041-0426 and its annexes, with  
25 these corrections brought to them, are now correct.

1 A. [12:24:52] They are, indeed.

2 Q. [12:24:55] Thank you, Mr Witness.

3 Mr Witness, would you agree with me that once these corrections have been brought,  
4 we then submit into evidence this report, 0041-0426, and its annexes, and the  
5 photographs from MLI-OTP-0006-1872 to MLI-OTP-0006-2720 mentioned at page 7,  
6 paragraph 8 of this report, and the sealed evidence bags 0005, 0002, 0003, 0009, 0011,  
7 0013, 0025, 0029, 0030, 0033, 0037, 0038 and 0005-0039 and which have been disclosed  
8 in Incrim and outlined at page 8, paragraph 11 of this report?

9 A. [12:26:07] I'm sorry, Counsel, but you gave these numbers at a ridiculously  
10 speedy manner. So I can confirm to you that I do have the report before me,  
11 0041-0426.

12 Now, as to all the ER numbers that you then sped off subsequently, I need a lot more  
13 time to verify them.

14 Q. [12:26:36] Mr Witness, I was giving the ER numbers for the record because they  
15 are mentioned in the report. But I shall repeat those ERN numbers that are  
16 mentioned in the report. For example, the photos and the sealed evidence bags  
17 which are mentioned at page 7, paragraph 8 and page 8, paragraph 11. I'm just  
18 mentioning them for the record.

19 A. [12:27:05] Yes, of course. I will respond in the affirmative therefore.

20 Q. [12:27:11] Thank you very much, Mr Witness.

21 Mr Witness, I would now like you to consult tab 18 and look at the document  
22 MLI-OTP-0029-1138. It is a confidential document, at tab 18.

23 A. [12:27:41] Yes, I have it before me.

24 Q. [12:27:43] Thank you. Could you please consult page 10 of that report,  
25 Mr Witness, 0029-1147, page 10.

1 A. [12:27:58] Yes.

2 Q. [12:27:59] There is a signature at the bottom of the page under your name. Is  
3 that indeed your signature, Mr Witness?

4 A. [12:28:05] Yes, it is.

5 Q. [12:28:05] Thank you. Now, Mr Witness, in the same report, page 9 - that's  
6 0029-1146, page -- at paragraph 11, "Objects seized". Do you have it before you?  
7 You mentioned sealed bag 0005, 0013, 0022 containing the objects that were seized  
8 during the --

9 THE INTERPRETER: [12:28:45] Message from the English interpreter: There is so  
10 much background noise. We cannot interpret. It is with great difficulty that we are  
11 working.

12 MR ALLAFI: [12:28:57] (Interpretation)

13 Q. [12:28:58] Thank you. As for sealed evidence bag 0005-0016, it was disclosed  
14 under Rule 77. So I would like to ask you to look at tabs 8 to 9 bearing 0005-0022  
15 and 0005-0023, tabs 8 and 9.

16 A. [12:29:31] Yes.

17 Q. [12:29:31] Now, Mr Witness, these are indeed sealed bags containing objects  
18 seized during this mission and mentioned in the report; is that not the case?

19 A. [12:29:53] Yes, the sealed evidence bags were prepared by participant B or  
20 investigator B. I can recognise his handwriting.

21 Q. [12:30:19] Thank you, Mr Witness, for that.

22 These are sealed bags containing objects that were gathered during this mission; is  
23 that not the case?

24 A. [12:30:31] Yes.

25 Q. [12:30:31] Thank you very much.

1 Mr Witness, this report, 0029-1138 and its annexes, with the corrections brought that  
2 we saw in the document earlier, are they correct?

3 A. [12:30:57] Yes, they are indeed.

4 Q. [12:31:02] And would you agree with me that with these corrections brought,  
5 report number 0029-1138 and its annexes and sealed bags 0005-0022 and 0005-0023  
6 should be put into evidence?

7 A. [12:31:24] Can you please repeat your question.

8 Q. [12:31:32] Of course I can.

9 Are you in agreement with me?

10 PRESIDING JUDGE MINDUA: [12:31:37](No interpretation)

11 THE INTERPRETER: [12:31:48] Yes, message from the English interpreter, your  
12 Honour: Could this message be conveyed to the Presiding Judge. There is a huge  
13 amount of background noise at the remote location. It's very difficult indeed to  
14 interpret.

15 And also, there is consistent overlapping of speakers between yourself and Mr Allafi.

16 Thank you very much.

17 PRESIDING JUDGE MINDUA: [12:32:17](Interpretation) So, Witness, you have  
18 followed the intervention of the English interpreter. Can you please try and make  
19 less noise over there.

20 And for all the speakers, we are going to pay attention to observe the necessary  
21 breaks.

22 Prosecutor.

23 MR ALLAFI: [12:32:44](Interpretation) Thank you, your Honour. I shall pay  
24 attention to that.

25 Q. [12:32:50] Witness, I asked you a question if you agreed or if you were in

1 agreement with the corrections made to the report 0029-1138, which we've just seen,  
2 and its annexes, and the sealed items that we've just seen, 0055-0022 and 0055-0023.

3 Would you agree with them being tendered into evidence?

4 A. [12:33:22] Maître, it's the first time that I've been asked this type of question.

5 I'm here to confirm that these are reports that I wrote, that they're correct. And  
6 whether you tender them into evidence or not thereafter, that doesn't depend on me.

7 Q. [12:33:42] I understand you very well. But these are questions, formal  
8 questions, when it comes to tendering items into evidence which have come under  
9 the application and the Rules. And it's just a formal aspect to us, the witness -- if the  
10 witness agrees with the statements or reports being tendered into evidence under  
11 Rule 68(3). But if you're in agreement, that's tendered into evidence.

12 A. [12:34:18] Of course I have no objection. Of course not.

13 Q. [12:34:20] Thank you very much, Witness. (No interpretation)

14 A. (No interpretation)

15 Q. (No interpretation) and could you look at the document --

16 PRESIDING JUDGE MINDUA: [12:35:00] Just a minute, Prosecutor. There was no  
17 interpretation in English.

18 MR ALLAFI: [12:35:16](Interpretation)

19 Q. [12:35:16] Thank you very much, Witness. Could you please now go to tab 19,  
20 if you would be so kind, and look at the document with ERN --

21 PRESIDING JUDGE MINDUA: [12:35:23](Interpretation) It's now good.

22 Prosecutor, you can continue.

23 MR ALLAFI: [12:35:26](Interpretation) Thank you very much, your Honour.

24 Q. [12:35:35] So, Witness, are you on tab 19?

25 A. [12:35:37] Yes.

1 Q. [12:35:39] Thank you.

2 This is a confidential document with the number 0039-0607.

3 Do you recognise this report?

4 A. [12:35:52] Yes, absolutely. I recognise this report.

5 Q. [12:36:22] Thank you. Could you now go to page 16 of this report, please, ERN  
6 0039-0622.

7 A. [12:36:38] Yes.

8 Q. [12:36:43] There's a signature under your name. Is that your signature,  
9 Witness?

10 A. [12:36:53] Yes, it is indeed my signature.

11 Q. [12:36:58] Thank you. In the same report on page 6, which has the ERN  
12 0039-0612, you refer to an authorisation to open BMS; is that correct? Middle of the  
13 page.

14 A. [12:37:28] Yes.

15 Q. [12:37:29] Thank you. Now if you could please go to tab 20, Witness.

16 This is a confidential document which has the number 0004-0745. And please tell me,  
17 Witness, if you have it, what is it about.

18 A. [12:37:55] Yes. This is the attestation that I was referring to in the report, with  
19 the attestation of authorisation to open the BMS premises -- the BMS agency premises.

20 Q. [12:38:13] Thank you very much, Witness.

21 So coming back to the report in question at tab 19 with the ERN 0039-0607, is this  
22 report, this report in question - just a moment, please - 0039-0607, with the corrections  
23 made? Is it correct?

24 A. [12:38:53] Yes. It's correct.

25 Q. [12:38:57] Thank you very much. So we'll come back to the same question: At

1 the end, do you agree to this report, 0039-0607, with the corrections made thereto  
2 being tendered into evidence?

3 A. [12:39:21] Yes. I have no objection thereto.

4 Q. [12:39:23] Thank you very much, Witness.

5 Now we're going to go to our tab 22, if you would allow me, Witness, ERN 0060-1920.

6 This is a confidential document.

7 A. [12:39:48] Yes. I'm there.

8 Q. [12:39:50] Thank you.

9 Do you recognise this report, Witness?

10 A. [12:39:55] Yes, Maître.

11 Q. [12:40:00] Thank you.

12 Now, could you please go to page 11 of this report. There's a signature under your  
13 name.

14 Is that your signature, Witness?

15 A. [12:40:21] Yes. That is indeed my signature.

16 Q. [12:40:26] Thank you.

17 Witness, on the first page, the cover page of this report, 006-1930 (sic), on the first  
18 page, the cover, you refer to two mission letters at 13 October 2017, and the other of  
19 the 14 November 2017, do you not?

20 A. [12:40:56] Yes.

21 Q. [12:41:05] Thank you very much.

22 Could you now go to tab 21 and tab 23. They have the ERN 0049-0254 and  
23 0050-0437.

24 A. [12:41:39] Yes.

25 Q. [12:41:42] Are these the two letters in question? Is that correct?

- 1 A. [12:41:47] Yes.
- 2 Q. [12:41:55] Thank you.
- 3 Now, Witness, this report that we've just seen, 0060, with its annexes, is it correct?
- 4 0060-1920, is it correct with its extracts and annexes?
- 5 A. [12:42:21] Yes.
- 6 Q. [12:42:21] Do you agree that this report, 0060, and its annexes with the
- 7 corrections made, can be tendered into evidence? Would you have any objection
- 8 thereto? This report 0060-1920.
- 9 A. [12:42:38] There is no objection on my part.
- 10 Q. [12:42:41] Witness, we can go to tab 24. Yes? This is a mission letter.
- 11 Do you know this letter, Witness? It's a confidential letter. It's a confidential
- 12 document.
- 13 A. [12:43:18] Yes.
- 14 Q. [12:43:20] Thank you.
- 15 We're now going to go to tab 25, 0056-0026. And it's a confidential document.
- 16 A. [12:43:43] Yes.
- 17 Q. [12:43:46] Do you recognise this report, Witness?
- 18 A. [12:43:50] Yes. I recognise it.
- 19 Q. [12:43:54] Thank you.
- 20 Now, please go to page 10 which has the number 0056-0035.
- 21 A. [12:44:14] Yes.
- 22 Q. [12:44:16] There's a signature under your name.
- 23 Is that your signature?
- 24 A. [12:44:25] It is indeed my signature.
- 25 Q. [12:44:28] Thank you.



- 1 Could you now go to page 6, 0056-0031.
- 2 A. [12:44:51] Yes.
- 3 Q. [12:44:56] Thank you, Witness.
- 4 At the top of the page, you mention that you subdivided the sealed items, 0005-00[0]3
- 5 and 00[0]5-0025 into 27 sealed bags, starting with 0055-00[0]4 to 0055-0055 as
- 6 indicated in the table below. From page 0056-0031 to 0056-0034.
- 7 Is that correct, Witness?
- 8 A. [12:45:50] Yes. That is correct.
- 9 Q. [12:45:51] Thank you, Witness.
- 10 Can -- I would like to now invite you to go to tab 26, to tab 52. They have the sealed
- 11 items between 0055-00[0]4 to 0055-0055, I've just got one question about that.
- 12 If the court officer could indicate the level of confidentiality.
- 13 A. [12:48:29] Yes, are you there?
- 14 Q. [12:48:33] Yes. Thank you, Witness. I'm here.
- 15 A. [12:48:35] This is the sachet containing evidence. And I recognise my signature
- 16 and my handwriting on some of them.
- 17 Q. [12:48:50] Thank you, Witness.
- 18 So if I understand, these are the same sealed bags mentioned in this table in this
- 19 report?
- 20 A. [12:48:56] Absolutely.
- 21 Q. [12:49:04] Thank you very much, Witness.
- 22 Witness, this report, 0056-0026, is correct?
- 23 A. [12:49:12] Yes, Counsel.
- 24 Q. [12:49:16] Thank you very much. I will come back to you with the same
- 25 question.

1 Will you agree or do you have no objection to this report, 0056-0026, and its annexes,  
2 and the sealed bags mentioned on page 0031 and 0034 of this report that we've just  
3 seen, being tendered into evidence?

4 A. [12:49:39] Yes.

5 Q. [12:49:44] Thank you very much, Witness.

6 Coming back to this report, 0056-0026, at tab 25, and going to page 6 thereof, if you  
7 would be so kind.

8 A. [12:50:07] Yes.

9 Q. [12:50:10] In this page 6, 0056-0031, at the top of the page, the second  
10 paragraph - starting with the word, "Exhibit[s]" - mentions that the sealed bag,  
11 00[0]5-00[0]6 and 0016, 0019, 0029 and 0030, have been processed by one of your  
12 colleagues, which you mention -- whose name you mention.

13 Is that correct, Witness?

14 A. [12:50:41] Yes. It's correct.

15 Q. [12:50:52] Thank you.

16 I would now like, Witness, to go to tab 53. And for the purposes of the record, that is,  
17 0056-0944. And it is a confidential document.

18 A. [12:51:19] Yes. I'm there. It's a letter of instruction from me to my  
19 collaborator, my female colleague. And this was a letter that was written on 5  
20 March 2018, which I signed.

21 Q. [12:51:34] Thank you very much, Witness.

22 I now therefore invite you to go to tab 54 and tab 55. And for the purposes of the  
23 record, these ERNs are 0056-0040 and 0056-0041.

24 A. [12:52:08] Yes.

25 Q. [12:52:09] What is this, Witness?

1 A. [12:52:13] This is an exhibit -- or these are the exhibits mentioned on paragraph 2  
2 of the previous report; namely, a DVD, and the report on activities drafted by my  
3 colleague following the instructions that were received, which followed the mission  
4 letter, which was addressed by Mr Gilles Dutertre.

5 Q. [12:52:47] Thank you very much, Witness.

6 MR ALLAFI: [12:52:49](Interpretation) Your Honour, I have finished with my  
7 questions for the witness. I just have two last points. The first is a small correction  
8 that I'd like to make. And this is on the French transcript, page 26, lines 8  
9 (sic) -- lines 26 (sic). It's MLI OTP-0050-0437 and not 0056-0437.

10 PRESIDING JUDGE MINDUA: [12:53:21](Interpretation) Please go ahead. It is  
11 noted.

12 THE INTERPRETER: [12:53:28] It's page 26 to ... 28.

13 MR ALLAFI: [12:53:32](Interpretation) Thank you very much, Witness.

14 Your Honour, your Honours, as I mentioned, I finished my questions concerning this  
15 witness. But I would like to address you, if you would be so kind, with a view to  
16 briefly explaining the materials which will be tendered into evidence and how they  
17 will be tendered into evidence.

18 PRESIDING JUDGE MINDUA: [12:53:53](Interpretation) Please go ahead,  
19 Prosecutor.

20 MR ALLAFI: [12:53:56](Interpretation) Thank you very much, your Honour.

21 In total, the sealed bags collected by Witness P-0055 during his mission with P-0057  
22 were opened, and their content was put into individual bags by -- or, it was dealt with  
23 individually by different witnesses. Firstly, 00[0]5-0037, 38 and 39 were dealt with  
24 by P-0206. And they were submitted by this witness as indicated in the list.  
25 Secondly, seals, 00[0]5-00[0]3 and 0005-0025 were opened by witness P-55 himself and

1 divided up into 27 sealed items between ERN 0055-0004 to 0055-0055 as we have just  
2 seen a moment ago. These 27 sealed items were thereafter individualised by Witness  
3 P-0590. And their content will be submitted by this witness, knowing that some of  
4 them were already submitted by witness P-150.

5 And finally, when it comes to the remainder of these sealed items, as we have seen  
6 today, they were dealt with by witness P-915, and an application was made to submit  
7 the content of these seals by this witness.

8 Thank you, your Honour. I have finished.

9 PRESIDING JUDGE MINDUA: [12:55:54](Interpretation) Thank you, Prosecutor.  
10 The different category of sealed items have been well understood. So I note,  
11 furthermore, that the conditions for the procedures envisaged under 68(3) of the  
12 Rules of Procedure and Evidence have been met. Obviously, there was the episode  
13 where the witness wondered why you wanted to ask this question; whether he  
14 challenged the admission of these evidentiary items, but that has now been resolved.  
15 I note that there was an application from the Legal Representative of Victims to ask  
16 questions should the Prosecutor not cover all the relevant areas, in particular, relating  
17 to the victims. But the Legal Representative of Victims -- I can see that these are  
18 questions of a technical nature, so I don't think that you're going to intervene in that  
19 regard, Mr Legal Representative.

20 MR KASSONGO: [12:57:12](Interpretation) Thank you very much, your Honour,  
21 your Honours.

22 Having heard the testimony - with clarity from the Office of the Prosecutor and the  
23 answers given thereto, which are documented - the legal representative is satisfied  
24 and does not wish to put further questions to the witness. But, nevertheless, asks  
25 leave to thank the witness, taking into account the precisions that were given in the

1 testimony.

2 We would like to thank you.

3 PRESIDING JUDGE MINDUA: [12:57:58](Interpretation) Thank you very much,

4 Maître Kassongo. I think the witness understood that well.

5 Now, in order to save time, I now turn to the Defence.

6 Ms Taylor, as we have started late today, the Chamber envisaged going to 1.30. So

7 in principle, you have 32 minutes.

8 What would you like to do?

9 MS TAYLOR: [12:58:32] Thank you, Mr President. The Defence has already

10 distributed the items. So I believe we can start right away.

11 PRESIDING JUDGE MINDUA: [12:58:46](Interpretation) Very well. Thank you,

12 Ms Taylor. Please go ahead. You have the floor.

13 QUESTIONED BY MS TAYLOR:

14 Q. [12:58:56] Good morning, Mr Witness. My name is Melinda Taylor. I'm the  
15 counsel for Mr Al Hassan, and I'll be putting questions to you today on behalf of the  
16 Defence.

17 Now, Mr Witness, it's correct that your background is in medicine as a pathologist?

18 (Pause in proceedings)

19 THE COURT OFFICER: [12:59:46](Interpreted) Your Honours, I'm terribly sorry  
20 about this. I've informed the technicians, and they're looking into it.

21 PRESIDING JUDGE MINDUA: [12:59:55](Interpretation) Very well.

22 MS TAYLOR: [12:59:59] With your leave, Mr President, may I sit while we wait?

23 PRESIDING JUDGE MINDUA: [13:00:05](Interpretation) Yes. Of course,

24 Ms Taylor.

25 (Pause in proceedings)

1 PRESIDING JUDGE MINDUA: [13:02:00](Interpretation) The -- the witness is back  
2 again, but I believe that every time we are cut off, it's after a period of 60 minutes, if  
3 I'm not mistaken.

4 Ms Taylor, over to you now.

5 MS TAYLOR: [13:02:19]

6 Q. [13:02:20] Mr Witness, I'll repeat my question.

7 Is it correct that your background is in medicine as a pathologist?

8 A. [13:02:28] Yes. That is correct.

9 Q. [13:02:40] And at the ICTY, you were a medical/legal consultant?

10 A. [13:02:54] Well, I held a number of positions at the ICTY. I was a forensic  
11 officer in 1999, and then chief forensic officer in the year 2000, where I was in charge  
12 of autopsies conducted in Kosovo. And from 2001, I became a consultant forensic  
13 officer.

14 Q. [13:03:32] In this role at the ICTY, were you involved in the forensic analysis of  
15 the destruction of property in the Dubrovnik case?

16 A. [13:03:55] No.

17 Q. [13:03:56] Was that because it fell outside your specialty?

18 A. [13:04:01] I'm not in a position to tell you why. Maybe it was also a question of  
19 time and availability. I worked in Croatia for exhumations on a number of sites,  
20 Gracac, Rizvanusa and other places, but not in Dubrovnik.

21 Q. [13:04:47] You testified in the Katanga case. Is that correct?

22 A. [13:05:00] Yes. That is correct.

23 Q. [13:05:03] Did your testimony concern physical injuries caused by bullet  
24 wounds?

25 A. [13:05:13] Yes. That is correct.

1 Q. [13:05:23] And is it correct that in the Gbagbo case, you testified in relation to  
2 autopsies?

3 A. [13:05:32] Yes. But also exhumations.

4 Q. [13:05:50] And do you recall testifying in Gbagbo saying that you were not an  
5 expert in arms and ammunition?

6 A. [13:06:14] Yes. That is correct. To the extent that I was an expert in lesional  
7 ballistics, which is different to being an expert in weapons and ammunition.

8 Q. [13:06:27] You don't have a police background, do you?

9 A. [13:06:32] I do not have any training in the police. However, I do have training  
10 in criminalistics, in lesional ballistics, and in psychiatric forensic and in reparations  
11 for damage caused to the body, amongst other things.

12 Q. [13:07:06] Now I'd like to refer to an extract from the testimony of Xavier  
13 Laroche. This is transcript 23, page 43, lines 15 to 19. And he testified:

14 "From time to time, at the behest of Dr Éric Baccard, I did review reports, technical  
15 reports, reports drafted by colleagues [...] under a peer review system.

16 So, yes, I did see reports authored by colleagues and made observations on those  
17 reports."

18 Now, in terms of this peer review system, when you were head of the forensic science  
19 unit, did you review the reports of the persons you were supervising?

20 A. [13:08:14] Not in a systematic manner. It did occur but not on a systematic  
21 basis; namely, in cyber investigation.

22 Q. [13:08:32] Did you review the reports of Xavier Laroche?

23 A. [13:08:39] Yes. That did happen, but I can't remember that being on a  
24 systematic basis.

25 Q. [13:09:03] The forensic science unit fell under the supervision of the chief of

1 investigations, Michel de Smedt. Is that correct?

2 A. [13:09:15] Yes, indeed. Michel de Smedt was the director of the investigative  
3 unit or division.

4 Q. [13:09:35] Did you attend meetings with the Mali investigations team?

5 A. [13:09:42] It might have occurred, yes. But it wasn't systematic.

6 Q. [13:10:03] Did you have access to evidence in the Mali file?

7 A. [13:10:07] With the exception of the items that we gathered ourselves out in the  
8 field, I do not believe so.

9 Q. [13:10:31] Now, since when you left the ICC until the current day, have you had  
10 access to any of the files you worked on when you were at the ICC?

11 A. [13:10:46] With the exception of the file that was sent to me and the evidence  
12 transmitted to me by the OTP via internet, no. I had no reason to refer to it.

13 Q. [13:11:11] Have you followed the proceedings in this case since you left?

14 A. [13:11:15] No. No, not really.

15 Q. [13:11:32] So what do you mean by "not really"?

16 A. [13:11:41] On occasion I read in the press, decisions handed down by the Court.  
17 But I don't follow the news with regard to the ICC, generally speaking.

18 Q. [13:12:05] Have you had any interaction with Xavier Laroche since you left the  
19 court?

20 A. [13:12:24] Negative.

21 Q. [13:12:26] And Mr A?

22 A. [13:12:29] With mister? None.

23 Q. [13:12:41] And if you're able to say it in open session, what is your current  
24 occupation?

25 A. [13:12:48] I currently have no profession whatsoever. I am a retiree.



1 Q. [13:13:11] So is it correct you're not currently engaged in any criminal  
2 proceedings as an expert or in an investigative capacity?

3 A. [13:13:19] Yes. That is correct, neither at the ICC nor at the ICTY, nor at any of  
4 the French courts. I am entirely retired.

5 Q. [13:13:42] Do you know an individual called Pierre Lamothe?

6 A. [13:14:00] No.

7 Q. [13:14:01] If I could bring up Defence tab 31. This shouldn't be shown publicly.  
8 It's UGA-OTP-0239-0007. And this is a letter dated 18 June 2015. It's a letter from  
9 the senior trial attorney in the Ongwen case addressed to Mr -- Dr Lamothe. And  
10 the first paragraph says:

11 "Your contact information and credentials were provided to me by Mr Eric Baccard,  
12 the Forensic Coordinator with the Office of the Prosecutor of the International  
13 Criminal Court."

14 Mr Witness, does this refresh your memory? Do you recall giving Dr Lamothe's  
15 contact details to a senior trial attorney in the Ongwen case?

16 PRESIDING JUDGE MINDUA: [13:15:40](Interpretation) Mr Dutertre.

17 MR DUTERTRE: [13:15:41](Interpretation) Yes, Mr President. To be completely  
18 precise, the English transcript, when Ms Taylor was talking about this -- talking about  
19 Mr Lamothe, so it was translated as Mr Leman (phon.), in French. Because not only  
20 was there a problem of interpretation, but also one of pronunciation.

21 So I don't think he would know who we were talking about. If we show him the  
22 letter, then we might be able to know who we were talking about.

23 PRESIDING JUDGE MINDUA: [13:16:13](Interpretation) Yes. I also heard  
24 Mr Leman (phon.) in the French version.

25 So, Ms Taylor, could you please put your question again, whilst taking into account

1 the remark made by the Prosecutor.

2 PRESIDING JUDGE MINDUA: [13:16:27](Interpretation) Thank you, Mr President.

3 I had asked for the document to be shown, and the document should be with the  
4 court officer in Grenoble; so it can be shown to the witness, and the witness can read  
5 the document himself. I have read out the first paragraph, but I believe it can be  
6 shown to him.

7 THE WITNESS: [13:17:23](Interpretation) Could we please scroll down.

8 MS TAYLOR: [13:17:48] It should, in fact, be scrolled up.

9 THE WITNESS: [13:17:57](Interpretation) Yes. If you allow me to answer you now.  
10 Indeed, I do know Dr Lamothe. I knew Dr Lamothe. But when you said Dr Leman  
11 (phon.), that didn't ring a bell in the least for me. So it is entirely possible that I gave  
12 his details to Benjamin Gumpert, who was -- or who is a senior trial lawyer in the  
13 Dominic Ongwen case.

14 Q. [13:18:35] And, Mr Witness, how do you know Dr Lamothe?

15 A. [13:18:41] Dr Lamothe is a psychiatrist who is well-known and well-reputed in  
16 France and he's on the Court of Cassation list, as I am. I as -- in my career as a  
17 forensic scientist, I was in contact with Dr Lamothe, and, if my memory serves me  
18 correctly, we called upon his services in the Uganda case and, maybe, even in other  
19 cases too.

20 Q. [13:19:21] And did you provide a course on scientific evidence and court  
21 presentation to Dr Lamothe in December 2016?

22 A. [13:19:48] I do not understand your question. Whatever the case may be, I  
23 have absolutely no recollection whatsoever of this.

24 Q. [13:19:56] I'll bring up the document to refresh your memory.

25 If we can bring up Defence tab 26. It's MLI-OTP-0078-7807, looking specifically at

1 page 7817 -- sorry. 7815. This is the curriculum vitae of Dr Lamothe. And at the  
2 top of the page, he refers to himself participating in annual training and he lists you  
3 as the "Référent".

4 Do you have that in front of you, Dr Baccard?

5 A. [13:21:05] No, Counsel. I was looking through the binder that was provided to  
6 me by the OTP, but I do not have any document whatsoever concerning the Defence.

7 Q. [13:21:16] Mr Witness, you should have a binder with Defence documents.

8 And in that binder at tab 26 is a document I'm referring to.

9 Do you have that Defence binder?

10 A. [13:21:34] No, Counsel.

11 THE COURT OFFICER: [13:21:37](Interpreted) Your Honours, I do apologise. We  
12 do have the items printed, but we do not have them tabbed as we did not have  
13 enough time to do so. What we are currently doing is providing the numbers via  
14 email to our -- our colleague at the VTC location to assist the witness. Thank you.

15 MS TAYLOR: [13:21:57] Thank you.

16 Would it be possible to have the document -- I believe it's on the screen. Can the  
17 witness's attention be directed to the screen where it's showing?

18 THE WITNESS: [13:22:31](Interpretation) Yes. I can see it. And indeed, it is  
19 possible that he took part in this training session.

20 MS TAYLOR: [13:22:40]

21 Q. [13:22:41] And was this after he had been appointed as an expert witness in the  
22 Ongwen case?

23 A. [13:22:59] Counsel, I really do not know.

24 Q. [13:23:03] When was your last contact with Dr Lamothe?

25 PRESIDING JUDGE MINDUA: [13:23:14](Interpretation) Mr Prosecutor, please.

1 MR ALLAFI: [13:23:16](Interpretation) Yes, Mr President. We have left a number  
2 of questions as to the state of this relationship. Now, as to the relevance of this, we  
3 do not see, after these six or seven questions, what the relevance is. We didn't want  
4 to interrupt. But we let time go by, but we do not see the point of this line of  
5 questioning for the case and for the witness.

6 PRESIDING JUDGE MINDUA: [13:23:43](Interpretation) Ms Taylor, I must say that  
7 also for the Chamber, it is an issue for us to understand the relevance of your line of  
8 questioning here.

9 MS TAYLOR: [13:23:58] Mr President, I would hope that the Chamber would  
10 appreciate the right of the Defence to put questions to a witness concerning their  
11 interactions with another individual who's playing a role in this case. It goes to  
12 issues of credibility of that individual. It goes to issues of impartiality of that  
13 individual, given that this witness has confirmed that he provided training to  
14 someone that the Prosecution itself appointed as an expert while that case was  
15 ongoing.

16 So we do believe we should be entitled to put questions to this witness about his  
17 relationship and interactions with Dr Lamothe.

18 PRESIDING JUDGE MINDUA: [13:24:52](Interpretation) Which case or ongoing  
19 case are you talking about, Ms Taylor? I didn't really understand.

20 MS TAYLOR: [13:25:01] As the Chamber is aware, Dr Lamothe is assisting the  
21 Prosecution as an expert witness. I had checked; his name is in the public record.  
22 So we should be able to put questions to this witness as concerns his interactions with  
23 someone who is purportedly acting as an independent expert.

24 PRESIDING JUDGE MINDUA: [13:25:41](Interpretation) Mr Prosecutor, would you  
25 like to react to that?

1 MR ALLAFI: [13:25:45](Interpretation) Yes, Mr President. Well, is this of any use  
2 to the case? This line of questioning?

3 The Defence has already asked five or six questions. We don't see the relevance, and  
4 it is neither the time nor the moment to talk about the relations between these two  
5 individuals. We really don't see the nexus with the case. Nor do we see the  
6 relevance.

7 PRESIDING JUDGE MINDUA: [13:26:10](Interpretation) Ms Taylor, maybe we need  
8 to bring this to an end because we do not see the nexus. So please try to get to the  
9 crux of the matter, please.

10 THE WITNESS: [13:26:22](Interpretation) Mr President?

11 PRESIDING JUDGE MINDUA: [13:26:24](Interpretation) Yes, Mr Witness.

12 THE WITNESS: [13:26:26](Interpretation) Mr President, if I may just bring a point of  
13 clarification. I knew Mr Lamothe a little better when I was an expert working in  
14 France. I knew him better then after -- than after I draw -- joined the ICC. I think  
15 the last contact I had with him was that training session organised by the Office of the  
16 Prosecutor. And my role, at that moment in time, was to advise this renowned  
17 expert on a subject that I'm not aware of now. And I never saw him again  
18 afterwards.

19 I think that really our connections were very episodic and very, very rare. I came  
20 into rare contact with this expert.

21 PRESIDING JUDGE MINDUA: [13:27:23](Interpretation) So you last had contact  
22 with this person in 2016, from what I can see here in the case file?

23 THE WITNESS: [13:27:36](Interpretation) Yes, most probably. But I can't really  
24 remember the last time I saw him. I saw him exceptionally, maybe two or three  
25 times, really, you know ...

1 PRESIDING JUDGE MINDUA: [13:27:56](Interpretation) Very well, Mr Witness.

2 Ms Taylor, I think that we are sufficiently enlightened on this point.

3 MS TAYLOR: [13:28:02]

4 Q. [13:28:03] Mr Witness, turning to your June 2013 mission to Timbuktu, were you  
5 given a letter of instruction before you left for this mission?

6 A. [13:28:15] Most probably there was an exchange of email. But as I didn't  
7 archive the material, I'm not in a position to answer that. There were meetings held  
8 before the mission took place. And indeed, there were letters of instruction from the  
9 OTP, Mr Dutertre or Mr Steynberg.

10 Q. [13:29:05] You've referred to emails being exchanged.

11 Who did you exchange these emails with?

12 A. [13:29:12] My word, I can't answer that. That's eight years ago now, and I do  
13 not have any archives on this. There were so many meetings convened with the  
14 Office of the Prosecutor about that mission. I can't answer that. And, what is more,  
15 the trial -- senior trial lawyer at the time who was in charge of that case file ...

16 Q. [13:30:11] So what was the objective of the mission as you understood it?

17 A. [13:30:14] The aim of the mission essentially was to take technical information  
18 on cultural and religious monuments not from the point of view of experts with  
19 regard to the previous period; so that was the number one priority -- mausoleums,  
20 destructions of mosques. And, we were also told about alleged acts of violence on  
21 the part of jihadists present in Timbuktu with regard to other crimes, such as, stoning,  
22 putting people in prison, whipping people, flogging people. And we were locating  
23 things specifically in Timbuktu; namely, the *Banque malienne de solidarité*, which was  
24 the location of the Islamic police; and, the Hotel La Maison, where the Islamic court  
25 would sit.

1 So that was information that we had before we left.

2 PRESIDING JUDGE MINDUA: [13:30:14](Interpretation) Ms Taylor, it's 1.31. We  
3 are going to have to stop there for the lunch break. The time -- to try to get the time  
4 back that we lost this morning, the Chamber's decided to shorten the lunch break.  
5 And so it will be a one-hour lunch break. So we shall restart at 2.30.

6 Court is suspended.

7 THE COURT USHER: [13:32:18] All rise.

8 (Recess taken at 1.32 p.m.)

9 (Upon resuming in open session at 2.33 p.m.)

10 THE COURT USHER: [14:33:57] All rise.

11 Please be seated.

12 PRESIDING JUDGE MINDUA: [14:34:21](Interpretation) The hearing shall now  
13 resume.

14 Good afternoon, Mr Witness.

15 Mr Witness, if I've understood correctly, you would like the hearing to end at 4.00  
16 rather than 4.30 this afternoon. Is that correct?

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE MINDUA: [14:35:46](Interpretation) I certainly understand.

1 It's just to assess the situation. We will sit until 4.00. But you can always raise your  
2 hand to signal that there is a problem.

3 Ms Taylor, please go ahead.

4 MS TAYLOR: [14:36:07] Thank you, Mr President. I do believe there's a little bit of  
5 an issue here, because the witness has indicated that he doesn't want to continue until  
6 tomorrow, as I understand it. And the Defence has commenced its  
7 cross-examination on the understanding it would be allocated 4 and a half hours. So  
8 I do believe it's important for the witness to be aware that our cross-examination will  
9 continue until tomorrow.

10 PRESIDING JUDGE MINDUA: [14:36:44](Interpretation) Mr Witness, would you  
11 like us to go into private session to discuss this matter?

12 THE WITNESS: [14:36:51](Interpretation) Yes, if you wish.

13 PRESIDING JUDGE MINDUA: [14:36:56](Interpretation) Courtroom officer, private  
14 session, please, for a few moments.

15 (Private session at 2.37 p.m.)

16 THE COURT OFFICER: [14:37:10] We're in private session, Mr President.

17 (Redacted)

18 (Redacted)

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9 (Open session at 2.45 p.m.)

10 THE COURT OFFICER: [14:45:23] We're back in open session, Mr President.

11 PRESIDING JUDGE MINDUA: [14:45:27](Interpretation) Thank you very much,  
12 courtroom officer.

13 Ms Taylor.

14 MS TAYLOR: [14:45:31]

15 Q. [14:45:33] Mr Witness, it's correct, isn't it, that when you arrived in Bamako  
16 before travelling to Timbuktu, you had a security briefing and meetings with Serval,  
17 MINUSMA and UNESCO?

18 THE INTERPRETER: [14:46:13] Message from the interpreter: No sound from the  
19 witness.

20 MS TAYLOR: [14:46:15] I believe it wasn't interpreted because of the sound; is that  
21 correct? I can repeat the question.

22 Q. [14:46:19] Mr Witness, is it correct that when you arrived in Bamako before  
23 travelling to Timbuktu, you had security briefings with Serval, MINUSMA and  
24 UNESCO?

25 A. [14:46:44] I think it should be mentioned in the reports that are available to you.

1 I believe that the date of the first mission that we carried out in Timbuktu, I think that  
2 MINUSMA was not yet established. But we did have a meeting with Serval, that is  
3 correct.

4 Q. [14:47:03] And what was discussed during this meeting in Bamako?

5 A. [14:47:09] If you're referring to the meeting that occurred on 14 June, it had to do  
6 with the security measures to be implemented and logistics, the logistical aspects of  
7 the mission.

8 Q. [14:47:38] And why was UNESCO present during this meeting?

9 A. [14:47:58] UNESCO had organised early in 2013 an international conference in  
10 Paris, which we attended with other members of the OTP as well.

11 Q. [14:48:09] Which other members of the OTP attended this conference?

12 A. [14:48:16] Am I authorised to give a name in open session?

13 PRESIDING JUDGE MINDUA: [14:48:39](Interpretation) Prosecution.

14 MR ALLAFI: [14:48:41](Interpretation) Well, we really can't say in advance. We  
15 don't know who the person is. Perhaps if --

16 PRESIDING JUDGE MINDUA: [14:48:53](Interpretation) Go ahead, Witness. You  
17 can give the name.

18 THE WITNESS: [14:48:56](Interpretation) I believe that at that meeting that was held  
19 in Paris, there was -- there were two colleagues from the JCCJ (sic) division,  
20 Mr Amida (phon) and --

21 THE INTERPRETER: [14:49:19] Inaudible. Mr Amidi Ba. And the second name  
22 was inaudible.

23 MS TAYLOR: [14:49:31]

24 Q. [14:49:32] Mr Witness, apparently the second name was inaudible. Could you  
25 please repeat it.

- 1 A. [14:49:49] Emeric Rogier, who was also a person working at the JCCD.
- 2 Q. [14:49:57] Did you make any notes or records of this meeting in Bamako with  
3 UNESCO and Serval?
- 4 A. [14:50:17] You're referring to the meeting at the Court, not at the UNESCO  
5 conference in Paris?
- 6 Q. [14:50:24] Mr Witness, I'm talking about the meeting you had in Bamako before  
7 travelling to Timbuktu. Did you make any notes or take any records of this  
8 meeting?
- 9 A. [14:50:43] Myself, I did not take any notes I believe. I don't know about my  
10 colleagues. It was a discussion.
- 11 Q. [14:50:54] I'd like to bring up Defence tab 25. And if it could be shown to the  
12 witness. It's MLI-OTP-0014-6070. And it's a UNESCO report concerning a mission  
13 conducted in Timbuktu from 28 May to 8 June 2013.  
14 And if we could turn in particular to page 6072, the report lists experts who were  
15 involved in this mission and they say that there was a first mission from 31 May to 3  
16 June of 2013, and a second mission from 4 to 7 June 2013 composed of 12 international  
17 experts and four national experts.  
18 Now, Mr Witness, in listing the international mission, the report refers to an "Eric  
19 Baccard (Expert associé)".  
20 Mr Witness, to your knowledge, is this referring to you?
- 21 A. [14:52:40] Yes. The answer is yes.
- 22 Q. [14:52:43] Were you part of this international mission conducted by UNESCO?
- 23 A. [14:52:51] Also, yes. The decision was taken subsequent to the conference that  
24 was held in Paris.
- 25 Q. [14:53:12] Did you travel to Timbuktu with UNESCO on that mission?

1 A. [14:53:19] The answer is, once again, yes. As far as I was concerned -- well, I  
2 was the only member of the OTP who was on a reconnaissance mission in  
3 the -- before June. And I was in Timbuktu for less than a day.

4 Q. [14:53:45] What was the date when you were in Timbuktu?

5 A. [14:54:04] I can't remember. It was during that mission there were several  
6 missions from UNESCO with Malian national experts, and there was an international  
7 mission. This was a short mission that I went on. I can't -- I don't know the exact  
8 date. It must be in the UNESCO report.

9 Q. [14:54:27] Now, did you prepare a report of this mission that you went on for  
10 the OTP?

11 A. [14:54:35] No, there was no report. I reported back to my superiors. And  
12 once again, this was a mission to prepare for deployment to the site.

13 Q. [14:54:58] When you say you reported back to your superiors, is it correct then  
14 that you communicated with them via email or in writing in some format?

15 PRESIDING JUDGE MINDUA: [14:55:19](Interpretation) Prosecution.

16 MR ALLAFI: [14:55:20](Interpretation) I think we need to look at what the witness  
17 said. I didn't hear him about reporting. He -- he -- he worded it differently. I  
18 would ask the Defence to use the exact wording of the witness.

19 PRESIDING JUDGE MINDUA: [14:55:36](Interpretation) You heard the  
20 Prosecution's remark.

21 MS TAYLOR: [14:55:43] Thank you, Mr President. I was using the exact wording  
22 from the English transcript, and, I believe, the word "report" can have two senses. So  
23 I'm not referring here to a formal report.

24 Q. [14:55:56] Did you give an account of what happened in writing via email to  
25 your supervisors, or did you prepare an internal memorandum of any type?

1 A. [14:56:14] To the best of my recollection, first, there was an oral account  
2 provided once I was back to the Netherlands, and possibly I sent an email as well.  
3 But I can't say for sure because I don't have my files.

4 Q. [14:56:34] And speaking specifically of this mission of 6 June, where did you go  
5 to in Timbuktu?

6 A. [14:56:43] I went with UNESCO on the 6th and 7th -- on 6 June. Is that the  
7 mission or the trip you're talking about?

8 Q. [14:57:06] Yes, Mr Witness.

9 A. [14:57:11] We -- we visited several sites. I couldn't list them all for you. It was  
10 a very quick trip. We were at the Three Saints cemetery very quickly. We  
11 had -- we were received by the governor, I believe. We visited several mausoleums  
12 that had been destroyed. And we also stopped in front of the BMS and in front of  
13 the Hotel La Maison so as to determine the precise locations of those two buildings,  
14 the coordinates. We also visited the centre, the Ahmed Baba Centre for Higher  
15 Islamic Studies -- Ahmed Baba Higher Islamic Studies.

16 Q. [14:58:15] And when you visited the BMS on this instance, was it locked?

17 A. [14:58:29] Yes, of course it was locked, and we must have been there for two or  
18 three minutes.

19 Q. [14:58:47] So in terms of this UNESCO mission, apart from people from  
20 UNESCO and yourself, was there anyone from the United Nations or the African  
21 Union on this mission?

22 A. [14:59:04] I can't respond, Counsel. I would imagine that information can be  
23 found in the UNESCO report. To my knowledge, there were no representatives  
24 from the African Union, but I may be mistaken.

25 Q. [14:59:19] So just so we have a complete picture, how many times have you been



1 to Timbuktu?

2 A. [14:59:34] I went to Timbuktu the first time and I stayed a few hours, the same  
3 time as the experts from UNESCO. And I went the second time with the OTP, from  
4 14 to 24 of June 2013, 14th to the 24th. After that, there was a further mission late  
5 August/early September. But that was to the north in Aguelhok.

6 Q. [15:00:07] Now, speaking of your mission with the Prosecution, when you  
7 arrived in Timbuktu, did you meet with any of the administrative authorities of  
8 Timbuktu?

9 A. [15:00:19] (No interpretation)

10 Q. [15:00:42] Mr Witness, when you went to Timbuktu the second time as part of  
11 the Prosecution mission, you met with administrative authorities. Do you recall who  
12 you met with?

13 A. [15:01:09] I remember that we stopped at the *gouvernorat*. I think those were  
14 the only administrative authorities that we met. That was 16 June.

15 Q. [15:01:33] Mr Witness, you just looked over. Do you have your report open in  
16 front of you?

17 A. [15:01:43] I've got it next to me, yes.

18 Q. [15:01:50] Now, in this meeting at the *gouvernorat*, did you or anyone in your  
19 delegation take notes or record the meeting?

20 A. [15:02:00] I don't remember. I don't think so. It was a courtesy meeting.

21 Q. [15:02:18] So did you or anyone in your delegation ask them about whether the  
22 sites you were visiting had been examined by anyone else before your mission?

23 A. [15:02:37] (Overlapping speakers) ask -- if we'd already asked the authorities,  
24 the administrative authorities, if the sites had already been examined? Is that your  
25 question?

1 Q. [15:03:02] Yes, if any examinations or investigations had been conducted on  
2 these sites.

3 A. [15:03:07] No, we didn't ask that. But we knew, following UNESCO meetings,  
4 that there had already been a visit organised by Malian experts from UNESCO, from  
5 the Ministry of Culture. And they had gone to several different sites that we had on  
6 our list. So we knew that there had already been examinations that had been carried  
7 out, but there was no work or restoration that had been undertaken.

8 Q. [15:03:51] Now, during this second mission, is it correct that two members of  
9 your delegation fell sick?

10 A. [15:04:08] Yes, that's correct. At different times, furthermore.

11 Q. [15:04:14] Mr Witness, not using their names but just using letters, can you tell  
12 me which members fell sick.

13 PRESIDING JUDGE MINDUA: [15:04:30] *Monsieur le Procureur*.

14 MR ALLAFI: [15:04:36](Interpretation) Yes, your Honour. Once again, we don't  
15 see the link or the relevance of this question. And if there is, we have to go to it  
16 directly. We shouldn't have the question put like that, and we really don't find that  
17 it is relevant. That's it.

18 PRESIDING JUDGE MINDUA: [15:04:55](Interpretation) Ms Taylor, what's the  
19 relevance of this question? You want to know the name of these colleagues who fell  
20 ill? Why not ask the question directly? What do you want to achieve by it?

21 MS TAYLOR: [15:05:11] Thank you, Mr President. There was a delegation of four  
22 people. One of them was a senior trial attorney, one of them was a senior  
23 investigator, one of them was an external expert, and one of them was P-55. What I  
24 am trying to ascertain was, who was present at which site visit on each day and what  
25 was their role. And to do that, I'm putting -- or I'm ascertaining which members of

1 the delegation were actually operative during the mission, because it seems that two  
2 members were, at certain points in time, not well. And that's a matter that's put  
3 out -- set out in the report itself.

4 Now, to ask further questions, I would need to know who were those two members  
5 and when were they not well.

6 PRESIDING JUDGE MINDUA: [15:06:04](Interpretation) Go ahead, please.

7 MS TAYLOR: [15:06:08]

8 Q. [15:06:08] Now, Mr Witness, I believe you've just followed what I've said to the  
9 Presiding Judge. So what I'm trying to ascertain is: Of your four-member  
10 delegation, who was active?

11 A. [15:06:35] I didn't say that throughout the entire duration of the mission the two  
12 members were continually ill. They were sick during several hours or a half day.  
13 Where it concerns P-55, that didn't prevent P-55 from going to the site while suffering  
14 and to carry out his activities as an expert.

15 The other person was the senior trial lawyer who is present, and he too was absent for  
16 several hours.

17 Q. [15:07:12] So, Mr Witness, if the senior trial attorney was only absent for a few  
18 hours, did he and the investigator accompany you on the site visits?

19 A. [15:07:30] I haven't understood. Could you repeat the question.

20 Q. [15:07:45] I'll reformulate it. Did all four of you go on the site visits?

21 A. [15:07:54] With the exception of a half day, that I can't tell you about exactly, but  
22 they went, all four. All four were present, yes.

23 Q. [15:08:17] Were all four of you present at the BMS when you went inside the  
24 BMS?

25 A. [15:08:25] The response is affirmative.

1 Q. [15:08:36] And were all four of you present when you went inside the Hotel  
2 Maison?

3 A. [15:08:52] The answer is again affirmative.

4 Q. [15:08:56] So, Mr Witness, we have photographs from you and Mr B. Did Mr C  
5 or Mr D take any photographs while they were there?

6 A. [15:09:09] Photographs of Mr C and Mr D? You're speaking about two other  
7 members of the mission.

8 Q. [15:09:27] Mr Witness, I believe my question might not have been clear. You  
9 took photographs of the sites. Mr B took photographs of the sites. Did Mr C or  
10 Mr D take any photographs of the sites?

11 A. [15:09:47] Not to the best of my knowledge, but you'd have to ask them because  
12 they weren't always present with us on site. Particularly at the BMS and at Hotel  
13 Maison, there were two of us inside the premises. Our two other colleagues  
14 appeared, but they weren't there permanently. What they did outside, I don't know.  
15 This question -- that question would have to be put to them. I know nothing of it.

16 Q. [15:10:35] Why did they not go inside the Hotel Maison with you?

17 A. [15:10:44] I think, once again, that there hasn't been an exact translation of what  
18 I said. I said they weren't permanently with us. But they did go to see what the Le  
19 Maison Hotel looked like and the BMS. But the technical operations which required  
20 the presence of my colleague A were solely done with himself and myself.

21 Q. [15:11:21] So you've referred to "technical operations" done by yourself and Mr

22 A. So what was the role of Mr B and Mr C?

23 A. [15:11:35] Mr C is the investigator. Is that it?

24 Q. [15:11:54] No, Mr -- the investigator is Mr B. Mr C is the trial attorney.

25 A. [15:12:04] And who's Mr D then?

1 Q. [15:12:06] I believe I might have added an extra letter there. We have, I  
2 believe -- there's you, P-57 is Mr A, the investigator is Mr B, and the senior trial  
3 attorney is Mr C.

4 A. [15:12:31] Yes. And what was the question?

5 Q. [15:12:34] What was the role of Mr B during these site visits? What was he  
6 doing specifically?

7 A. [15:12:47] Mr B, the investigator, is that it? I'm sorry, could you use their  
8 functions, their exact functions, because it's quite confusing for me, these letters. I  
9 can tell you what the functions were of the expert P-57. I can say what my functions  
10 were. I can tell you what the role was of the investigator. But I can say very little  
11 about the role of the senior trial lawyer.

12 Q. [15:13:25] Focusing specifically on the investigator, what was his role during  
13 these site visits?

14 A. [15:13:38] The investigator often played the role of a scribe. He took notes.  
15 He could fill in -- or fill in the bags to collect the evidence.  
16 And with regards to the rest, P-57 and myself, we did the technical aspects. With  
17 regards to the senior trial lawyer, he was there to represent the Prosecution division  
18 and to take decisions within his framework of competence.

19 Q. [15:14:23] Now, while you were in Timbuktu, did you keep a daily diary or  
20 record of what you saw and what you found?

21 A. [15:14:36] I think we took notes, and everything was collected in an activity  
22 journal or an activity notes, handwritten notes.

23 Q. [15:14:59] And what happened to these notes when you got back?

24 A. [15:15:05] These notes were left in my office.

25 Q. [15:15:26] And when you left the ICC, were they stored somewhere? Were

1 they typed up?

2 A. [15:15:34] I don't know. All these documents were left in the cupboard in my  
3 office.

4 Q. [15:15:54] Now, it's correct, isn't it, that Serval provided you with a list of sites to  
5 visit while you were there?

6 A. [15:16:06] Is it correct that who gave a list to -- of sites to be visited?

7 Q. [15:16:21] Serval, the French forces.

8 A. [15:16:25] Serval. Ah, no. We were the ones who gave a list to the Serval  
9 armed forces to notify them of the locations which had to be made secure and to make  
10 it possible for them to prepare the deployment.

11 Q. [15:16:50] Now, when they made these sites secure and prepared the  
12 deployment, was anyone from your delegation present?

13 A. [15:16:59] When they made these sites secure was there somebody present from  
14 our delegation? Well, this security was carried out -- there was a visit by security, by  
15 Serval, the day before, and every day they went to the sites which were going to be  
16 visited the next day. And there was a deployment of soldiers sometime before our  
17 arrival. There were 60 soldiers who were on site to ensure the protection of the  
18 mission.

19 Q. [15:17:53] So just to clarify, when Serval prepared these sites, there was no one  
20 from the ICC present during this preparation process?

21 A. [15:18:07] What do you mean by "preparation"? What do you call  
22 "preparation?"

23 Q. [15:18:19] Making the sites secure.

24 A. [15:18:23] Making the site secure. As I said previously, that started the night  
25 before. And each time, having gone to the previous site, we had a meeting with the

1 captain who commanded the attachment in order to speak about the sites to be visited  
2 the next day. And we looked with him at the order in which we would go to the  
3 sites, and the order was decided on, and we were present when he took the decision  
4 with regards to making these sites secure.

5 Where it concern the day itself, when we had to visit the sites, I think that there was  
6 undoubtedly a light group of soldiers that would go before us, before the convoy  
7 arrived. And during the period, I didn't follow all the activity of the Serval soldiers  
8 some minutes before our arrival, but they were with us. We were surrounded by  
9 soldiers when we examined the sites.

10 Q. [15:19:41] Do you recall the name of the captain?

11 A. [15:19:45] I would like to stress the fact that the audio communication is very  
12 bad and that some of the words, some of the translation, is being lost. So if you  
13 could repeat all your question, because I understood "do you remember their name,"  
14 but the name of the person I didn't get.

15 Q. [15:20:33] My question was whether you remembered the name of the captain  
16 that you met with.

17 A. [15:20:49] Well, the French soldiers were known by their first name. I  
18 remember the first name of the captain who commanded the section. And I also  
19 remember the name of the liaison officer who was a colonel in the French army who  
20 accompanied us from Bamako to Timbuktu, and the return journey as well.

21 Q. [15:21:23] And what were those names?

22 A. [15:21:25] The first names, I think I can mention them, but this is a question that  
23 I'm asking the Court.

24 PRESIDING JUDGE MINDUA: [14:39:00](Interpretation) Prosecutor.

25 MR ALLAFI: [15:21:33](Interpretation) Yes. Exactly the same thing, your Honour.

1 There are security aspects that need to be taken into account. That's it. So I don't  
2 think that it would be useful to give the names out.

3 PRESIDING JUDGE MINDUA: [15:21:43](Interpretation) Ms Taylor, the Chamber  
4 doesn't see the utility of giving out the names of these French soldiers.

5 MS TAYLOR: [15:21:54] Mr President, if it's a security issue I can ask the question in  
6 private session. It goes to issues of chain of custody. Without these names, we  
7 can't do cross-references to other evidence.

8 So the witness has indicated he remembers the first name, he remembers the name of  
9 the liaison. So we should be able to elicit that in private session.

10 MR ALLAFI: [15:22:26](Interpretation) Your Honour, just a comment on what's just  
11 been said.

12 So what chain of custody are we speaking about? This is clear in the report. I don't  
13 see what relationship this has with this Serval captain who was responsible for  
14 security.

15 What's that got to do with anything?

16 PRESIDING JUDGE MINDUA: [15:22:43](Interpretation) I think the Prosecutor is  
17 completely right. This witness is here to speak about the evidence, about the chain  
18 of custody.

19 Now you wish the name of French soldiers. What has that got to do with our trial?

20 MS TAYLOR: [15:23:00] Thank you, Mr President. We have already played  
21 evidence with various members of Serval who have discussed specific documentation  
22 and investigations. Now, we have a right to investigate any linkage between those  
23 individuals in those videos, one of which has been admitted into evidence, and this  
24 witness's testimony. There's an overlap in time period and it goes directly towards a  
25 specific contentious issue in this case. And I don't believe I should be required to go



1 any further in the presence of the witness, but the Prosecution is very well aware of  
2 this issue, having followed P-150's testimony.

3 So we should be able to put this question to this witness.

4 PRESIDING JUDGE MINDUA: [15:23:59](Interpretation) One last time,  
5 Mr Prosecutor.

6 MR ALLAFI: [15:24:02](Interpretation) Yes, your Honour.

7 First of all, it's very vague. I haven't understood.

8 And secondly, we're talking about the chain of custody with this witness. We're  
9 talking about this current ...

10 What's the -- what's the relationship with the names? I don't see it. I don't think it's  
11 relevant. There's no link with the witness here.

12 So I still object, your Honour.

13 PRESIDING JUDGE MINDUA: [15:24:24](Interpretation) Ms Taylor, the Chamber  
14 thinks that the names of these two French soldiers are not relevant. Please move on.

15 MS TAYLOR: [15:24:37]

16 Q. [15:24:37] Mr Witness, did anyone in your delegation speak or read Arabic?

17 A. [15:24:44] Nobody, unfortunately, read, spoke or understood Arabic.

18 Q. [15:25:06] What about Songhai or Tamasheq?

19 A. [15:25:17] The answer is similar. Nobody read, spoke or understood Songhai  
20 or Tamasheq.

21 Q. [15:25:25] Were you accompanied by anyone who spoke these languages?

22 A. [15:25:31] The answer is negative.

23 Q. [15:25:45] So you first visited the BMS on 19 June. That's correct?

24 A. [15:25:55] Your Honour, can I refer to the binder containing my report which  
25 was sent by the Office of the Prosecutor? Because I have to check the date. I don't

1 know them by heart. It's over eight years ago and I don't know exactly on what date

2 I went to the BMS.

3 PRESIDING JUDGE MINDUA: [15:26:22](Interpretation) Indeed, Witness. You  
4 can go ahead.

5 THE INTERPRETER: [15:26:32] The interpreter points out there's a lot of extraneous  
6 noise on the channel.

7 THE WITNESS: [15:26:38](Interpretation) In order to answer the Defence counsel,  
8 we went twice to the BMS on 19 June. On that date, our presence was very quick.  
9 We went around the building, we limited ourselves to that, to see that the doors were  
10 closed with chains which were held with locks. And it was next to the ATM and  
11 also the doors that were at the public entry. And therefore, we turned around and  
12 came back on 20 June 2013.

13 And there, we were able to go inside once the doors were opened with an employee;  
14 he was able to cut through the chain. And, at that time, we were able to examine the  
15 interior of the ATM room and the inside of both floors of the BMS.

16 MS TAYLOR: [15:27:57]

17 Q. [15:27:58] Now, Witness, earlier you said that you went to the BMS on 6 June  
18 and saw it was locked. So why didn't you organise for the lock to be open before  
19 you went on the 19th?

20 A. [15:28:22] I can answer in a very simple way. The convoy of UNESCO experts  
21 stopped a few minutes from the BMS. The objective for me was to see where in  
22 Timbuktu this building was located, but I didn't do a tour of the BMS. And it was a  
23 very short visit.

24 Q. [15:29:00] I'd like to bring up OTP tab 20. That's MLI-OTP-0004-0745. If that  
25 could be shown to you, Mr Witness.

1 Now, according to this document, Colonel Major Mamadou Mangara gave you  
2 authorisation to open the BMS, which was formerly occupied by armed terrorists, and  
3 he did this on 19 June.

4 Is this how he referred to Ansar Dine to you, as "armed terrorists"?

5 A. [15:30:15] I'm sorry, which document are you referring to?

6 Q. [15:30:18] OTP tab 20. It's in the Prosecution binder. It's MLI-OTP-0004-0745.

7 And it was shown to you earlier today during examination-in-chief.

8 A. [15:30:55] Yes. And what was the question about the attestation from the  
9 governor?

10 Q. [15:31:00] This attestation refers to the BMS being formerly occupied by "armed  
11 terrorists". Is this how he referred to them to you?

12 A. [15:31:12] That is what he wrote in his attestation. I don't remember him using  
13 that expression when we met when -- upon our arrival.

14 Q. [15:31:35] Did he give you a similar authorisation to enter the Hotel Maison?

15 A. [15:31:54] The governor afterwards -- I was not the person in charge of liaising  
16 with the senior officials. The government -- correction, the governor did not have  
17 the authority to give authorisation to a private establishment. That is what was told  
18 to us by the senior trial lawyer. The authorisation was obtained from the owner of  
19 the hotel.

20 Q. [15:32:34] Who was the owner of the hotel?

21 A. [15:32:39] I have no idea, Counsel.

22 Q. [15:32:46] Did you obtain a copy of this authorisation?

23 A. [15:32:52] Once again, I was not the person who took care of obtaining  
24 authorisations. It was my colleagues from the JCCD who took care of that, and we  
25 received an answer to the effect that the owner did authorise inspection of that hotel.

1 I even believe, and I'm not -- although I'm not quite -- entirely certain, but I believe he  
2 even gave the keys to someone who was still in Timbuktu. And thus, the  
3 establishment was opened up. There was no infraction.

4 THE INTERPRETER: [15:33:43] Correction: There was no breaking in.

5 MS TAYLOR: [15:33:47]

6 Q. [15:33:47] Do you remember who he gave the keys to?

7 A. [15:33:50] No, I have no memory of that. I don't know who he might have  
8 given the keys to. Once again, I stress I was not the person in charge of those  
9 aspects.

10 Q. [15:34:21] If I could bring up Defence tab 7. It's MLI-D28-0005-6979. It could  
11 be shown to the witness.

12 It's an article dated 4 April 2013. And I'll read out the relevant paragraphs. But  
13 if -- it might be easier if you have it in front of you.

14 I'm reading -- this refers to attack on Timbuktu in April. And the second paragraph  
15 says:

16 (Interpretation) "This suicide attack was a manoeuvre to allow other jihadists to  
17 make their way into the city while everyone's attention was focused on the attack.  
18 The next day, the Malian army was tracking down the jihadists with the support of  
19 France, and that hunt continued all day long. Gunfire was heard all day long, and  
20 the terrorists -- while the terrorists were trying to make their way into the city. That  
21 was -- it was against that backdrop of tension that one of them triggered his belt of  
22 explosives by the *lycée*, Mahamane Alassane Haïdara. Another was killed in the  
23 premises of the BMS which was occupied by the former Islamic police. The third  
24 managed to get into a house where he took the occupant, a Nigerian national, as a  
25 human shield. He was killed."

1 (Speaks English) Then if we turn to page 6980, it refers to:

2 (Interpretation) "For the governor of the Timbuktu region, Major-Colonel Mamadou  
3 Mangara, these acts of banditry could not dissuade or distract the administration as  
4 they prepared to return."

5 (Speaks English) So, Mr Witness, it would appear from this article that Colonel  
6 Major Mamadou Mangara was aware of an incident where a kamikaze was killed in  
7 the location of the BMS.

8 Did he tell you about this incident?

9 A. [15:37:40] I don't remember. I do know that we were aware that it was very  
10 unstable in Timbuktu; that there had been attacks before we got there. I know that  
11 there were attacks afterwards as well. But I don't know, I don't remember whether  
12 he had made any specific reference to that incident.

13 I see it's dated 4 April 2013. I don't have the exact date -- the exact date of this attack  
14 or bursting into BMS. It's not clear. That specific incident, I have no specific  
15 recollection of that incident.

16 Q. [15:38:41] Now, the next thing I'm going to quote from shouldn't be shown to  
17 the witness.

18 According -- it's -- I'm referring to Defence tab 27. It's MLI-OTP-0025-0194. And it's  
19 paragraph 16 on page 0197.

20 And it states:

21 (Interpretation) "I never gave an official statement to the Malian authorities, but I  
22 did answer questions from the administrative and military authorities over the  
23 telephone. More specifically, I answered questions from the military hierarchy and  
24 the governor of Timbuktu, Colonel Major Mahamadou MANGARA, who had left the  
25 city."

1 (Speaks English) Mr Witness, did Colonel Mangara tell your delegation that he'd  
2 conducted investigations or inquiries with persons in Timbuktu about the events of  
3 2012?

4 A. [15:40:17] I don't know.

5 PRESIDING JUDGE MINDUA: [15:40:21](Interpretation) Prosecution.

6 MR ALLAFI: [15:40:24](Interpretation) The witness has responded. But, once again,  
7 I object. Relevance. And we maintain this objection. There have been several  
8 questions about this colonel. We do not see the link. It is not relevant. And once  
9 again, we object.

10 PRESIDING JUDGE MINDUA: [15:40:43](Interpretation) Ms Taylor.

11 MS TAYLOR: [15:40:46] Sorry, Mr President, I thought you were about to say  
12 something.

13 Mr President, again, the Defence should be entitled to put questions to this witness  
14 about the information that he heard or gathered while he was there on mission. He  
15 interacted with the Malian authorities. They played a role in his mission, both in  
16 terms of briefing him at certain points in time in terms of preparing sites, and in terms  
17 of assisting with access to particular scenes.

18 So we should be able to put questions to this witness. And I do believe I just have  
19 one more question on this. So if I could be allowed to put this one question before  
20 moving on to my next subject.

21 PRESIDING JUDGE MINDUA: [15:41:51](Interpretation) The problem, Ms Taylor, is  
22 that we need to be focused. We must remain focused on the file. This witness is  
23 before us, and we know why. He is here to explain about the collection of evidence,  
24 when, and the -- and the custody of these items of evidence. But we seem to be  
25 straying further and further afield.

1 Once again, what is the relevance? And now we are having a conversation about the  
2 governor.

3 MS TAYLOR: [15:42:33] Yes, Mr President. The governor, who, according to an  
4 individual interviewed by the Prosecution, was involved in questioning people.

5 Now, this witness was in Timbuktu in June 2013. And it is the position of the  
6 Defence, which we have established through videos and other evidence, that the  
7 crime scenes were not intact, that various persons had ingress to these locations.

8 We've also introduced evidence concerning the fact that local authorities and that  
9 Serval, for example, were involved in collecting documents from various sites. So  
10 we should be entitled to put to this witness whether this was an issue that was  
11 discussed.

12 Quite frankly, Mr President, it would be quite bizarre for them not to discuss it, given  
13 the Prosecution's obligations under Article 54 of the Statute, that if they're meeting  
14 with authorities, for them not to actually attempt to elicit information that would be  
15 of direct relevance to the discharge of their functions. So, since we were not present  
16 in 2013, we should be entitled to be able to obtain information that is relevant to our  
17 investigations in the case.

18 And, as I mentioned, I have one question to finalise this line of questioning. So I do  
19 believe we would save much more time if we can simply put this one question and  
20 move on to my next topic.

21 PRESIDING JUDGE MINDUA: [15:44:12](Interpretation) You can see that the  
22 Prosecution is disturbed; some members of the Bench.

23 We shall suspend for a few moments to reflect upon the approach to take.

24 The hearing is suspended.

25 (Recess taken at 3.44 p.m.)

1 (Upon resuming in open session at 3.49 p.m.)

2 THE COURT USHER: [15:49:21] All rise.

3 Please be seated.

4 PRESIDING JUDGE MINDUA: [15:49:38](Interpretation) The hearing shall now  
5 resume.

6 Ms Taylor, the Chamber is of the view that the testimony of this witness is quite  
7 restricted, limited. I've reminded you of that several times. Of course, the  
8 questions you put about, for example, the governor's actions, the possibility that other  
9 people may have been in contact with items of evidence, this concern is important of  
10 course. But it has nothing to do with this witness, because this witness took a  
11 number of photographs, he collected evidence, and that is what he is supposed to be  
12 questioned about.

13 So please move on to something else because this line of questioning so far is creating  
14 problems with the Prosecution and with the Chamber. So move to something else,  
15 please.

16 MS TAYLOR: [15:50:57] I'd like to turn to Defence tab 32. This is  
17 MLI-OTP-0038-0891. If that could be given to the witness. It's a report prepared by  
18 P-57 concerning your joint inspection of the BMS and it's dated October 2016.  
19 And if we could turn in particular to page 0889.

20 PRESIDING JUDGE MINDUA: [15:52:26](Interpretation) Is the reference correct,  
21 Ms Taylor?

22 MS TAYLOR: [15:52:32] No, Mr President. I'm just trying to find the correct one.  
23 I'll come back to that question.

24 Q. [15:53:25] Now, Mr Witness, is it correct that you mention the smell of urine in  
25 your report?



- 1 A. [15:53:56] (Microphone not activated)
- 2 Q. [15:53:59] Mr Witness, I believe you have to use the microphone.
- 3 A. [15:54:04] I'm afraid I don't know exactly how it works very well. Counsel, I
- 4 think you're referring to the room where the ATM was located.
- 5 Q. [15:54:20] Yes, that's correct. Did you refer to a smell of urine?
- 6 A. [15:54:25] Yes, that's correct.
- 7 Q. [15:54:33] And did you also refer to a mat?
- 8 A. [15:54:37] Yes, that's correct as well.
- 9 Q. [15:54:48] Now, according to the testimony of P-57 - and I'm referring to
- 10 transcript 22, page 10, lines 7 to 13 - he was asked:
- 11 "And did you collect a sample of this mat to conduct [...] testing of your impressions?"
- 12 Answer: "I do not believe [that] we took a sample of the mat or from the mat, but I
- 13 think, if my memory serves me correctly, we took the mat in its entirety, [I may be
- 14 mistaken] because we took quite a few things with us. But I do not believe we took a
- 15 sample on or from the mat itself. I don't recall precisely what [then] -- what became
- 16 of that mat."
- 17 Mr Witness, did you collect the mat while you were there?
- 18 A. [15:55:43] No, absolutely not.
- 19 Q. [15:55:47] Why not?
- 20 A. [15:55:50] Because it was of no particular forensic interest. We took the
- 21 documents that were inside that room but not the mat.
- 22 Q. [15:56:04] You swept the room for dust. That's correct?
- 23 A. [15:56:13] No. That's not at all what I said. I said that we took a number of
- 24 documents that were inside.
- 25 Q. [15:56:30] If I can refer to Prosecution tab 19. It's MLI-OTP-0039-0607 at

1 page 0618.

2 Mr Witness, do you have that in front of you?

3 A. [15:57:01] Yes.

4 Q. [15:57:11] Did you clear the dust from the floor?

5 A. [15:57:31] Yes, but we did not gather it. We did not take a sample.

6 Q. [15:57:38] Now, this refers to traces of liquid. Did you test the room for traces  
7 of blood stains?

8 A. [15:57:53] Yes, a macroscopic examination, yes, but there was no reactive test to  
9 find traces of latent blood. We did not use luminol or any equivalent chemical.

10 Q. [15:58:20] Did you do any tests for other fluids, such as semen?

11 A. [15:58:25] No, nor did we do that.

12 Q. [15:58:48] Did you record your actions while you were doing this? To be clear,  
13 when you were doing the microscopic examination.

14 A. [15:59:04] Yes. It's described in the report. And I'd like to mention to you that  
15 at page 3 - and I quote - it was specifically mentioned by Mr Anton Steynberg, senior  
16 trial authority, that was -- it was just a reconnaissance mission. It was not a detailed  
17 crime scene examination. Thus, there were limits restricted on our examination.  
18 And that is why samples were not taken and there was no attempt to locate traces of  
19 blood or other bodily fluids.

20 PRESIDING JUDGE MINDUA: [15:59:53](Interpretation) Mr Prosecutor.

21 MR ALLAFI: [15:59:56](Interpretation) I'm sorry, just a clarification and a correction.

22 The witness made mention of macro, macroscopic examination, not micro.

23 PRESIDING JUDGE MINDUA: [16:00:06](Interpretation) No, he did mention macro  
24 examination, not micro. Duly noted.

25 MS TAYLOR: [16:00:13] If I can just ask one question. Then I believe we can finish.

1 I just -- it's for clarification because I don't think my question was clear to the witness.

2 Q. [16:00:19] Mr Witness, when I said "record", did you video record your actions  
3 in examining this room?

4 A. [16:00:27] Counsel, the answer is no. When it was necessary to gather a  
5 document, it was a photograph. We did not shoot video footage. I would also  
6 mention that there were only two of us. I had requested three experts for the  
7 mission, and, possibly, an investigator, or even four experts. In actual fact, we were  
8 restricted to two experts, one investigator, and a trial lawyer. So we were not in a  
9 position to shoot videos of all our actions.

10 Finally, as I said earlier, this was not an examination of a crime scene. It was merely  
11 a reconnaissance mission.

12 PRESIDING JUDGE MINDUA: [16:01:37](Interpretation) Very well, Ms Taylor. It's  
13 now 4 o'clock. As we said, we're going to put an end to today's session.

14 Witness, the Chamber would like to thank you most sincerely for having answered  
15 the questions put to you with a lot of care and patience, despite the personal concerns  
16 that we've spoken about. The Chamber is very grateful to you. Unfortunately,  
17 your testimony is not finished yet, so tomorrow morning we will be back here at 9.30.  
18 Thank you very much.

19 I would just like to express my gratitude to all those in this courtroom and around  
20 this courtroom. I'm thinking of the parties and the participants, I'm thinking of the  
21 court reporters and the interpreters, and I'm also thinking of our security guards.

22 And, of course, I would like to thank our audience in the gallery and those who are  
23 listening from afar. I wish you all a very good evening.

24 And until tomorrow morning, we are going to adjourn the session. So Court is  
25 adjourned.

Trial Hearing  
MLI-OTP-P-0055

(Open Session)

ICC-01/12-01/18

- 1 THE COURT USHER: All rise.
- 2 (The hearing ends in open session at 4.03 p.m.)