

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, 28 September 2021  
10 (The hearing starts in open session at 9.30 a.m.)  
11 THE COURT USHER: [9:30:54] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE MINDUA: [9:31:05](Interpretation) Court is in session.  
15 Good morning to everyone.  
16 Court officer, please call the case.  
17 THE COURT OFFICER: [9:31:36] Good morning, Mr President, your Honours.  
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al  
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.  
20 And for the record, we are in open session.  
21 PRESIDING JUDGE MINDUA: [9:31:58](Interpretation) Thank you very much,  
22 court officer.  
23 As we do every morning, we shall continue with the appearances, starting with the  
24 Office of the Prosecutor.  
25 Madam Prosecutor.

1 MS LUPING: [9:32:10] Good morning, Mr President. Good morning, your Honors.  
2 Appearing on behalf of the Prosecution this morning is the same team, that's  
3 Mr Gilles Dutertre; Marie Jeanne Sardachti; and myself, Dianne Luping.  
4 PRESIDING JUDGE MINDUA: [9:32:26](Interpretation) Thank you very much,  
5 Madam Prosecutor Luping.  
6 I now turn to the Defence.  
7 Counsel.  
8 MS TAYLOR: [9:32:32] Good morning, Mr President. Good morning, your  
9 Honours. Good morning to everyone in the courtroom and around the courtroom.  
10 The Defence for Mr Al Hassan is represented today by Maître Melissa  
11 Beaulieu-Lussier; and myself, Melinda Taylor.  
12 PRESIDING JUDGE MINDUA: [9:32:53](Interpretation) Thank you very much,  
13 Ms Taylor.  
14 I now turn towards the Legal Representatives of Victims. Counsel.  
15 MR KASSONGO: [9:33:01](Interpretation) Thank you, your Honour, your Honours,  
16 and good morning to everyone on the team. The team of Legal Representatives this  
17 morning is composed of Madam Claire Laplace who is assisting me as well as myself,  
18 Maître Kassongo. We would like to thank everybody and your Chamber.  
19 PRESIDING JUDGE MINDUA: [9:33:18](Interpretation) Thank you very much,  
20 Maître Kassongo.  
21 This morning, we are continuing with hearing the Prosecution witness P-641.  
22 I now turn towards the witness.  
23 Good morning, Witness. How are you?  
24 Interpretation, please.  
25 Court officer, it would seem to me that there is a problem.

1 THE COURT OFFICER: [9:34:12] Your Honours, I do believe we will need to reboot  
2 the system. That should take a minute, maybe two. Thank you.

3 PRESIDING JUDGE MINDUA: [9:34:34](Interpretation) Please go ahead.  
4 (Pause in proceedings)

5 THE COURT OFFICER: [9:36:08] Your Honours, I'm informed that the interpreters'  
6 console was muted, and it is currently unmuted. We may want to try asking the  
7 witness to respond. Thank you.

8 PRESIDING JUDGE MINDUA: [9:36:25](Interpretation) Very well. We shall  
9 continue.  
10 Good morning, Witness. How are you?  
11 Interpretation, please.  
12 The problem seems to be continuing, court officer.  
13 (Pause in proceedings)

14 THE COURT OFFICER: [9:39:37] Your Honours, the connection has been  
15 re-established. We cannot see the interpreters, but I would like to know if they can  
16 hear us.  
17 (Pause in proceedings)

18 PRESIDING JUDGE MINDUA: [9:40:59](Interpretation) So the court officer tells me  
19 that the -- that the technicians have to do some work. We don't know how much  
20 time it's going to take. As such, I'm going to suspend the session for a few minutes,  
21 and we will be back when the court officer so tells us.  
22 Is that not the case, court officer?

23 THE COURT OFFICER: [9:41:22] Yes. Thank you very much, your Honours.

24 PRESIDING JUDGE MINDUA: [9:41:30](Interpretation) Very well. Court is  
25 suspended.

- 1 THE COURT USHER: [9:41:32] All rise.
- 2 (Recess taken at 9.41 a.m.)
- 3 (Upon resuming in open session at 10.01 a.m.)
- 4 THE COURT USHER: [10:01:16] All rise.
- 5 Please be seated.
- 6 PRESIDING JUDGE MINDUA: [10:01:30](Interpretation) The hearing shall now
- 7 resume. I hope that everything is in order.
- 8 Good morning, Mr Witness.
- 9 Can you hear me?
- 10 WITNESS: MLI-OTP-P-0641 (On former oath)
- 11 (The witness speaks Songhai)
- 12 (The witness gives evidence via video link)
- 13 THE WITNESS: [10:01:52](Interpretation) Good morning.
- 14 PRESIDING JUDGE MINDUA: [10:02:01] (No interpretation)
- 15 THE WITNESS: [10:02:19](Interpretation) Yes.
- 16 PRESIDING JUDGE MINDUA: [10:02:21](Interpretation) I remind you, you are still
- 17 under oath and you should tell the truth, the whole truth, and nothing but the truth.
- 18 THE WITNESS: [10:02:41](Interpretation) Yes.
- 19 PRESIDING JUDGE MINDUA: [10:02:43](Interpretation) And, finally, allow me to
- 20 remind you of the practical instructions I gave regarding testifying. We must all
- 21 speak slowly, clearly, and we should allow for some breaks, some pauses, in our
- 22 remarks.
- 23 THE WITNESS: [10:03:16](Interpretation) Okay.
- 24 PRESIDING JUDGE MINDUA: [10:03:18](Interpretation) I will now turn over to the
- 25 Defence for continuation of cross-examination.

1 Ms Taylor, please proceed.

2 MS TAYLOR: [10:03:39] Thank you, Mr President.

3 Would it be possible to get confirmation as to when we will sit until?

4 PRESIDING JUDGE MINDUA: [10:03:48](Interpretation) I believe we're going to

5 end at 11 o'clock, as we usually do. We will continue to 11, resume at 11.30, and stop

6 at 13.10 for the lunch break, and we shall resume at 14.10. And we will conclude at

7 1500 hours 30, 15.30. Is that suitable? Thank you very much.

8 MS TAYLOR: [10:04:40] Thank you, Mr President.

9 Would it be possible to go into private session? I have some brief questions which  
10 are identifying for the witness.

11 PRESIDING JUDGE MINDUA: [10:04:53](Interpretation) Of course.

12 Court officer, private session.

13 (Private session at 10.05 a.m.)

14 THE COURT OFFICER: [10:05:04] We are in private session, Mr President.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Open session at 10.07 a.m.)
- 13 THE COURT OFFICER: [10:07:40] We are back in open session, Mr President.
- 14 PRESIDING JUDGE MINDUA: [10:07:48](Interpretation) Thank you very much.
- 15 Ms Taylor.
- 16 MS TAYLOR:
- 17 Q. [10:07:52] Mr Witness, yesterday we spoke of an individual called Seydou Baba.
- 18 Is he a tourist guide?
- 19 A. [10:08:02] Yes.
- 20 Q. [10:08:22] I'm going to play the video that we played at the end of yesterday's
- 21 session again. It was Defence tab 52. It's MLI-D28-0004-0003. I'm going to play
- 22 without sound from 21 seconds until 38 seconds on evidence 2.
- 23 (Viewing of the video excerpt)
- 24 MS TAYLOR: [10:09:07]
- 25 Q. [10:09:08] Mr Witness, do you know the building where Seydou is standing?

1 A. [10:09:16] No, I don't. I didn't see him go into it.

2 Q. [10:09:38] Now, do you recall if anyone was taken from the BMS in the month of  
3 January 2013?

4 A. [10:09:50] Yes. They said that there was someone there, and the soldiers came  
5 and got him and took him back.

6 Q. [10:10:30] Did you see that happen?

7 A. [10:10:34] Yes. I was going by, and I saw a black man who they put in the  
8 vehicle. And I was told that that was the one, and they -- the -- the one who had  
9 been there. And they took him away.

10 Q. [10:11:14] And who was that black man?

11 A. [10:11:17] Yes. People said that he was looking for work, and people were  
12 saying that he had been at the great mosque as well. That was at the beginning.  
13 After that, people said that he went back to --

14 THE INTERPRETER: [10:12:19] Inaudible.

15 THE WITNESS: [10:12:21](Interpretation) -- and then he rejoined the Islamists.

16 And when he wanted to go back, he asked where the boss was. And the boss -- they  
17 said that the boss was -- that the chief was in the hills. He said that it was satanic,  
18 and that in Islam, in religion, there's no such thing as taking up arms. That's all I  
19 know about him.

20 MS TAYLOR: [10:13:13]

21 Q. [10:13:14] Do you know what happened to him?

22 A. [10:13:18] No. I don't know what happened to him. Ever since he left, no one  
23 heard anything about him and no one has gone to ask about him either.

24 Q. [10:13:38] Now, speaking of the period after the Islamists left, did anyone enter  
25 the BMS in the days after they left?

- 1 A. [10:13:49] What kind of person?
- 2 Q. [10:14:13] Anyone. Did anyone go into the building? Any locals?
- 3 A. [10:14:50] Yes. There was -- if a house is abandoned and then open all the time,  
4 people can go in and go out whenever they like. But we really don't pay too much  
5 attention to that.
- 6 Q. [10:15:05] So, Mr Witness, is it correct it wasn't locked or closed?
- 7 A. [10:15:25] No. The building wasn't closed. The people fled, and they -- they  
8 did not lock up as they went away. Perhaps after, people can go and lock the door.
- 9 Q. [10:15:57] Do you know if someone locked the door afterwards?
- 10 A. [10:16:03] I don't know. I -- I really have no idea.
- 11 Q. [10:16:25] Now, at transcript -- I'm just moving on to a different topic.  
12 Transcript 138, page 68, lines 19 to 20, you refer to a man and a woman who were  
13 flogged for adultery in Place Sankore.  
14 Is it correct that you know the family of this man?
- 15 A. [10:17:22] Yes. I just know the man. I didn't go there, actually. I recognised  
16 the man when I saw his photograph.
- 17 Q. [10:17:35] Mr Witness, did you hear that this man went himself to the police  
18 because the family of the girl would not let him marry the girl?
- 19 PRESIDING JUDGE MINDUA: [10:18:08](No interpretation) (Overlapping  
20 speakers)
- 21 MS LUPING: [10:18:10] Objection, Mr President. Could I ask --
- 22 THE INTERPRETER: [10:18:11] Overlapping.
- 23 MS LUPING: [10:18:14] Could I ask that the sound be cut off to the witness, please.
- 24 PRESIDING JUDGE MINDUA: [10:18:20](Interpretation) Court officer, cut the  
25 sound to the witness.



1 THE COURT OFFICER: [10:18:22] Your Honours, the sound has been cut off.

2 PRESIDING JUDGE MINDUA: [10:18:24](Interpretation) Thank you very much.

3 Madam Prosecutor.

4 MS LUPING: [10:18:29] Mr President, my objection is that Defence counsel is

5 putting to the witness a statement of fact as if it's uncontested, and this is not an

6 uncontested fact.

7 PRESIDING JUDGE MINDUA: [10:18:47](Interpretation) Where does this statement

8 come from, Ms Taylor? Is this a -- a certainty?

9 MS TAYLOR: [10:18:54] Thank you, Mr President.

10 If I could read from the Prosecution's own statement. That's paragraph 142, at page

11 0168. It says:

12 (Interpretation) "I heard that it was the boy himself who had gone to the police

13 because the girl's family did not want to give her to him in marriage."

14 PRESIDING JUDGE MINDUA: [10:19:21](Interpretation) That's the witness's

15 statement?

16 MS TAYLOR: [10:19:23] Yes, this witness's statement. I'm putting to him

17 something that's in his witness statement. I'm asking him if this is what he heard. I

18 can't see any basis to object to asking if he heard something, given that this is

19 something he apparently recounted to the investigators.

20 So I have a clear foundation to put this to the witness and I don't believe that this is

21 something that should be a subject of testimonial debate.

22 PRESIDING JUDGE MINDUA: [10:20:01](Interpretation) Madam Prosecutor.

23 MS LUPING: [10:20:02] Mr President, my apologies. I was thinking of

24 witness -- the -- another witness's testimony, and Defence counsel's quite right.

25 I will withdraw my objection. And I apologise.

- 1 PRESIDING JUDGE MINDUA: [10:20:15](Interpretation) Indeed. Accepted.
- 2 Ms Taylor, continue, please.
- 3 MS TAYLOR: [10:20:24] Thank you, Mr President.
- 4 I believe we'll have to turn the sound on.
- 5 PRESIDING JUDGE MINDUA: [10:20:30](Interpretation) Yes. The sound.
- 6 THE COURT OFFICER: [10:20:32] Your Honours, the sound has been re-established.
- 7 PRESIDING JUDGE MINDUA: [10:20:36](Interpretation) Thank you very much.
- 8 Ms Taylor.
- 9 MS TAYLOR: [10:20:40]
- 10 Q. [10:20:41] Mr Witness, do you remember my question? Or should I repeat it?
- 11 A. [10:20:48] It was the young man who went on his own initiative. He went on
- 12 his own initiative.
- 13 Q. [10:21:08] Did he need a dowry to get married?
- 14 A. [10:21:16] No. What we learned was it was the parents who refused that he
- 15 marry the girl. And so he left to see those people thinking that it would be easier
- 16 with them.
- 17 THE INTERPRETER: [10:22:07] Interpreter correction: It was his parents who
- 18 refused.
- 19 THE WITNESS: [10:22:13](Interpretation) And they did the judgment, and the
- 20 marriage went ahead.
- 21 MS TAYLOR: [10:22:17]
- 22 Q. [10:22:18] Now, speaking of the period before you were interviewed by the
- 23 Prosecution, is it correct that you have watched videos of this flogging?
- 24 A. [10:22:26] Yes. The video was here and there. People sent it around. So
- 25 that's how it came to be that I saw it. I never -- but I didn't film it myself. I've -- I've

- 1 looked at it, and ...
- 2 MS TAYLOR: [10:23:13] Mr President, may I ask one question in private session?
- 3 PRESIDING JUDGE MINDUA: [10:23:18](Interpretation) Of course.
- 4 Mr Court Officer.
- 5 (Private session at 10.23 a.m.)
- 6 THE COURT OFFICER: [10:23:25] We're in private session, Mr President.
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Open session at 10.25 a.m.)
- 21 THE COURT OFFICER: [10:25:29] We're back in open session, Mr President.
- 22 PRESIDING JUDGE MINDUA: [10:25:32](Interpretation) Thank you very much,
- 23 court officer.
- 24 Ms Taylor.
- 25 MS TAYLOR: [10:25:39]

1 Q. [10:25:40] Mr President -- Mr Witness, I'm just moving on to another topic.

2 At transcript 138, page 94, lines 4 to 5, you're referring to Aza Abdou being taken to  
3 the BMS. And you said: "She had an epileptic fit actually."

4 Mr Witness, did you hear that she panicked when she saw a salamander in her cell?

5 A. [10:26:47] Who is this person, Abdou? You have to give the name.

6 Q. [10:26:51] The person is Aza Abdou.

7 Do you recall this individual, Mr Witness? A female who was taken to the BMS.

8 And you referred to her having an epileptic fit.

9 A. [10:27:38] That's what we heard. That's what happened when she was  
10 captured and taken there.

11 Q. [10:27:49] So, Mr Witness, I'll just repeat my question to make sure that it's clear.

12 Did you hear that she panicked when she saw a salamander, a lizard, in the cell?

13 A. [10:28:06] Yes. That's what I said. When she saw the salamander, she had a  
14 fit, and she actually -- she -- she was having this fit, and she even broke the windows.  
15 And that's how she was injured.

16 Q. [10:28:48] I apologise, Mr Witness. We just lost the light. I can continue, but  
17 this is ...

18 PRESIDING JUDGE MINDUA: [10:29:10](Interpretation) Please. I'm not quite sure  
19 who's playing games with the light switches. But in any event ...

20 (Pause in proceedings)

21 THE COURT OFFICER: [10:29:33] We may proceed.

22 MS TAYLOR: [10:29:35]

23 Q. [10:29:36] Mr Witness, I'm just moving on to another topic.

24 At transcript 138, you referred to an incident concerning the neighbour of Abdoul

25 Djalil. And you said at page 38, lines 12, that the name of this neighbour was Ali

1 Koubadi.

2 Was Ali -- was this neighbour killed in 2013?

3 A. [10:30:31] Yes. He died. That's what we were told. They killed him. That  
4 is what people have said.

5 Q. [10:30:45] Do you know who killed him?

6 A. [10:30:49] According to what was said, it's the same person who came and took  
7 him away, the army.

8 MS TAYLOR: [10:31:17] I'm going to play a video. It's Defence tab 12. It's  
9 MLI-OTP-0068-4828. I'm going to play it without sound from 4:34 until 5 minutes on  
10 evidence 2. And I believe we can play this publicly.

11 THE INTERPRETER: [10:31:36] Correction from the English booth: According to  
12 what was said, it was the army itself who came to take him away.

13 MS TAYLOR: [10:32:12] I apologise. It was tab 13.

14 Q. [10:32:14] Mr Witness, did you recognise anyone in this video?

15 A. [10:32:21] Yes. This is Ali Koubad, the elderly person.

16 Q. [10:32:47] And is this the person who was a neighbour of Abdoul Djalil?

17 A. [10:33:03] Yes.

18 Q. [10:33:06] Mr Witness, is it correct that you don't know an individual called  
19 Foma who sold sheep at the market?

20 A. [10:33:26] Yes. I don't know that person. There are a lot of people who sell  
21 sheep. I don't know him.

22 Q. [10:33:52] And is it correct that you yourself did not hear of any incidents  
23 concerning the people who sold sheep at the market in 2012?

24 A. [10:34:04] I didn't hear of any.

25 MS TAYLOR: [10:34:33] I'm going to show a document. This should not be shown

- 1 to the public. It's Defence tab 30. It's MLI-OTP-0080-3497.
- 2 Q. [10:34:48] Mr Witness, do you know this individual?
- 3 A. [10:34:54] Yes.
- 4 Q. [10:35:08] Who is it?
- 5 A. [10:35:11] Mahamadou Oye.
- 6 Q. [10:35:25] Did this individual, Mahamadou Oye, work with the *teintes claires*,
- 7 that is, the Arabs, in 2012?
- 8 A. [10:35:37] Yes. He worked with them. He unloaded -- he worked -- he
- 9 worked with them. He unloaded their lorries, and he's the one who was flogged.
- 10 Q. [10:36:17] Do you know the name of any individuals he worked with in
- 11 unloading these lorries?
- 12 A. [10:36:26] No. I don't know them. All that I know is that he would go into the
- 13 lorries, he would unload them, and then he would come back.
- 14 Q. [10:36:53] At transcript 139, page 8, you testified that he told you that he had
- 15 been beaten in Niafunké.
- 16 Is this the only incident that you're aware of concerning him?
- 17 A. [10:37:27] That's all I'm aware of.
- 18 Q. [10:37:34] Did this individual, Mamadou (phon) Oye, have a store in Timbuktu?
- 19 A. [10:38:00] Yes. At that time, it was said that he had a store and it was emptied.
- 20 He was just inside it. That was also after the liberation. He was in his shop, and his
- 21 shop was empty.
- 22 Q. [10:38:33] Where was his shop?
- 23 A. [10:38:37] At Yoboutao. That's where the shop was. And at that time, it was
- 24 empty. And since then, I know nothing more of him. I don't have his news. I
- 25 don't even know where he is. The shop was at Yoboutao.

1 Q. [10:39:23] Mr Witness, you said at page 17, line 17 to 18: "[...] at that time, it  
2 was empty."

3 What do you mean by "at that time"?

4 A. [10:39:41] Yes. What I wanted to say is that the shop was almost empty.  
5 There wasn't enough merchandise inside. That's why I say it was empty.

6 MS TAYLOR: [10:40:21] Mr President, I have a few questions to ask in private  
7 session.

8 PRESIDING JUDGE MINDUA: [10:40:26](Interpretation) Private session, please,  
9 court officer.

10 (Private session at 10.40 a.m.)

11 THE COURT OFFICER: [10:40:34] We are in private session, Mr President.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Open session at 10.42 a.m.)

24 THE COURT OFFICER: [10:42:15] We are back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [10:42:20](Interpretation) Thank you very much,

1 court officer.

2 Ms Taylor.

3 MS TAYLOR: [10:42:24] I'm going to play a video without sound. It's OTP tab 61.

4 It's MLI-OTP-0041-0616. We'll play without sound from the beginning until 20

5 seconds on evidence 2.

6 (Viewing of the video excerpt)

7 MS TAYLOR: [10:42:53] So -- we're now at 19:17.

8 Q. [10:43:31] Mr Witness, do you recognise anyone on the screen?

9 A. [10:43:39] Yes, of course.

10 Q. [10:43:51] Who do you recognise on the screen right now?

11 A. [10:43:56] Al Hady (phon) is wearing a red turban, and the other, Amaran

12 (phon), is wearing a blue turban.

13 Q. [10:44:30] Is Al Hady (phon) wearing a blue boubou.

14 A. [10:44:56] It's called *àgbàdá*, grey.

15 Q. [10:45:07] Is he the person at the far left of the screen?

16 A. [10:45:12] Yes. He's next to the person who has the baton or pole next to him.

17 Q. [10:45:32] Was this person, Al Hadji, a teacher in a Madrasa?

18 A. [10:46:01] Yes.

19 Q. [10:46:02] Was he a member of the MNLA with Mohamed Moussa?

20 A. [10:46:12] Yes. When they came, they were together. But then they separated.

21 Q. [10:46:33] And when they came, was he with the MNLA?

22 A. [10:47:08] Yes. That's what we were told. And when they came, he returned

23 back to his shop, which was selling books.

24 PRESIDING JUDGE MINDUA: [10:47:21] Madam Prosecutor.

25 MS LUPING: [10:47:24] Thank you, Mr President.



1 It's just to make sure that we have clarity in the record. There's no indication of  
2 timing here in the question or in the responses. We'd just ask for the sake of clarity  
3 that Defence counsel is very specific on the time period that the witness is being asked  
4 to confirm that he was a member of the MNLA.

5 PRESIDING JUDGE MINDUA: [10:47:52](Interpretation) Ms Taylor.

6 MS TAYLOR: [10:47:53] Mr President, we do have evidence from this witness  
7 concerning Mohamed Moussa related to the time period when Mohamed Moussa was  
8 with the MNLA.

9 Now, I can put this question. But I do believe that we already had evidence from the  
10 witness on this point.

11 Q. [10:48:12] Now, Mr Witness, are you speaking about the first couple of months,  
12 that is, before Mohamed Moussa joined the Islamists?

13 PRESIDING JUDGE MINDUA: [10:48:27](Interpretation) Madam Prosecutor.

14 MS LUPING: [10:48:30] Mr President, I do believe that -- in particular, with the  
15 instructions that were given for this witness, that it's important to be clear and simple  
16 in terms of asking for precise dates. And I don't think it's appropriate to give a  
17 specific period as to when Mohamed Moussa specifically joined the Islamists.

18 It should be just simply a -- an open question as to when this individual is said to  
19 have been with the MNLA.

20 PRESIDING JUDGE MINDUA: [10:49:12](Interpretation) Ms Taylor.

21 MS TAYLOR: [10:49:14] Mr President, I respectfully submit that this is  
22 overcomplicating an issue that's of peripheral importance. Now, I can certainly put  
23 more questions to this witness, but I do -- I am reluctant to unnecessarily protract  
24 these proceedings.

25 PRESIDING JUDGE MINDUA: [10:49:51](Interpretation) Please go ahead,

- 1 Ms Taylor, but take into account the indications that we've obtained from the VWU  
2 where it concerns this witness.
- 3 MS TAYLOR: [10:50:07] Certainly, Mr President.
- 4 Q. [10:50:11] Now, you've mentioned that Al Hadji went -- I have to go back.  
5 Sorry.  
6 You said he returned back to his shop, which was selling books.  
7 Do you know when this occurred? When he returned back to selling shops -- books.
- 8 A. [10:51:10] No. I don't remember.
- 9 Q. [10:51:11] Now, it's correct that you studied at a Koranic school?
- 10 A. [10:51:22] Who studied in a Koranic school?
- 11 Q. [10:51:35] Mr Witness, did you study at a Koranic school?
- 12 A. [10:51:40] Yes. I studied at a Koranic school.
- 13 Q. [10:51:57] Were you ever taught by Mohamed Al Faqi?
- 14 A. [10:52:03] No. Mohamed Al Faqi never taught me.
- 15 Q. [10:52:25] Mr Witness, you've referred to an individual called Demba Demba.  
16 Was he arrested in Gao in 2013?
- 17 A. [10:52:45] That's what I heard, that he was arrested there.
- 18 Q. [10:52:58] Did you hear who arrested him?
- 19 A. [10:53:03] We heard it was the army itself that arrested him, but it coincided  
20 with the red *croix* -- Red Cross, who took him to Mopti.
- 21 Q. [10:53:46] And did you hear how he was treated by the Malian army?
- 22 A. [10:54:13] What we heard, when he was arrested, he was tied up, and they took  
23 him. But after that, they released him. They didn't kill him.
- 24 Q. [10:54:35] Did you hear or learn about why he was released?
- 25 A. [10:54:41] I didn't hear that.

1 Q. [10:55:03] Now, Mr Witness, is it correct that you're still in contact with him?

2 A. [10:55:08] Well, he was in town. He goes around. He took up his work again  
3 working with clay, with banco.

4 Q. [10:55:36] Is this contact quite regular?

5 A. [10:56:07] In fact, you would see him pass by. And even before, I would see  
6 him pass by. He would sing, and people would say he's a singer. And he took up  
7 his activities again.

8 Q. [10:56:25] Mr Witness, were you in contact with him after your preparation  
9 session in March this year?

10 A. [10:56:33] We'd see each other. We'd pass by. We just see each other and we  
11 pass by. We greet each other on the way past. We don't do the same work.

12 Q. [10:57:17] Now, Mr Witness, we're in open session. We've referred at various  
13 points in time to an association that I'm not going to name.

14 Did Demba Demba provide any help or assistance to this association?

15 A. [10:57:30] How could he help? At that time, the association didn't even exist.  
16 What they had, they gave it to people.

17 Q. [10:58:32] Did he provide any videos or documents?

18 A. [10:58:47] He just gave an audio file, not a video file. So the -- his telephone  
19 didn't make it possible to receive a video. And that was since the time of liberation,  
20 but he didn't give it to an association. That was before the liberation.

21 MS TAYLOR: [10:59:38] Mr President, I see it's 11 o'clock.

22 PRESIDING JUDGE MINDUA: [10:59:47](Interpretation) That's correct. Ms Taylor,  
23 it's 11 minus 1. But nevertheless, we can suspend. And we will be back at 11.30.  
24 Court is suspended.

25 THE COURT USHER: [11:00:01] All rise.

1 (Recess taken at 11.00 a.m.)

2 (Upon resuming in open session at 11.32 a.m.)

3 THE COURT USHER: [11:32:59] All rise.

4 Please be seated.

5 PRESIDING JUDGE MINDUA: [11:33:16](Interpretation) The hearing shall now  
6 resume.

7 Ms Taylor, normally we should sit until 10 after three --

8 THE INTERPRETER: [11:33:44] Correction: 10 after one.

9 PRESIDING JUDGE MINDUA: [11:33:49](Interpretation) -- and then resume at 12.10  
10 until 3.30. That's what we said this morning. Now, obviously ...

11 Court officer, please cut the sound to the witness.

12 THE COURT OFFICER: [11:34:11] Your Honours, the sound has been cut off.

13 PRESIDING JUDGE MINDUA: [11:34:14](Interpretation) Thank you very much.

14 Ms Taylor, I asked to cut the sound to the witness because yesterday the witness  
15 started to get impatient. And up until recently, he's been quite patient.

16 We're supposed to finish at 3.30. And I truly hope that we can release the witness  
17 today. And so, if you need more time, more minutes, we could consider going past  
18 3.30 this afternoon, I believe.

19 What say you, Ms Taylor?

20 MS TAYLOR: [11:34:55] Thank you, Mr President. I can assure you that I would  
21 like nothing better than to be finished today and will certainly direct my questions to  
22 that end. And I -- of course, if it's necessary to sit over, we'll be willing to do so.

23 PRESIDING JUDGE MINDUA: [11:35:17](Interpretation) Thank you, Ms Taylor.

24 Court officer, please re-establish the sound.

25 THE COURT OFFICER: [11:35:24] Your Honours, the sound has been re-established.

1 PRESIDING JUDGE MINDUA: [11:35:35](Interpretation) Thank you very much,  
2 court officer.

3 Mr Witness, we are resuming your testimony. We just had a few housekeeping  
4 items to take care of.

5 So I'll now turn over to the Defence for continuation of their cross-examination.

6 Ms Taylor.

7 MS TAYLOR: [11:36:11] Thank you, Mr President.

8 Q. [11:36:16] Good morning, Mr Witness.

9 How are you now?

10 A. [11:36:45] (No interpretation)

11 Q. [11:36:48] I didn't receive a response. So I'm hoping it's working.

12 Now, Mr Witness, just before the break, we were -- we were discussing an audio file.

13 Do you recall?

14 A. [11:36:58] Yes.

15 Q. [11:37:15] Now, I'm going to be referring to a video. That's OTP tab

16 MLI-OTP-0072-0240. And I'm going to put it up on the screen. It should not be  
17 shown to the public. And we're just going to show the first frame on evidence 2.

18 And the time stamp is .14.

19 Now, at transcript 138, page 65, lines 17 to 23, you were asked: Do you know who  
20 filmed the footage?

21 Your response was: "Yes, it was Demba Demba that filmed that."

22 You were asked: "[...] how did you get this [...] footage that Demba Demba had  
23 filmed?"

24 And you responded: "Well, we have small telephones. He has a large telephone.

25 But he sent in the small telephone. It comes in sound but [...] doesn't come in video."

1 Mr Witness, was the sound recorded separately from the video?

2 A. [11:39:18] Yes. Yes. It was put in a computer or into a larger telephone, and it  
3 comes up in images. It's converted into an image. But with our little telephones, it  
4 comes as sound, audio.

5 Q. [11:39:40] Now, Mr. Witness, at transcript 138, page 53, line 22, when the  
6 Prosecution showed you this video and they showed you time stamp 1:10, you stated  
7 that you could see Demba Demba in the shot.

8 Can you see Demba Demba in front of you now?

9 A. [11:40:08] Yes. I saw that. It's Demba Demba there holding the telephone.

10 Q. [11:40:33] So, Mr Witness, if we can see Demba Demba holding the telephone,  
11 who was filming this?

12 A. [11:40:42] Demba Demba himself is the one filming.

13 Q. [11:41:09] And perhaps it's an issue of interpretation.

14 But who was filming Demba Demba since we see Demba Demba?

15 A. [11:41:27] I don't know. I don't know who.

16 Q. [11:41:53] Now, Mr Witness, at line 26 -- sorry -- page 26, line 23, you said: It  
17 was put into a computer or into a larger telephone.

18 Who put this into a computer or a larger telephone?

19 A. [11:42:14] (Redacted)

20 (Redacted) if you put it -- if you send it to a small telephone, it comes in audio, in  
21 sound. If you put it into a computer or a larger telephone, it comes in the form of images.

22 Q. [11:43:15] Were these images put together?

23 A. [11:43:24] What images?

24 Q. [11:43:44] Was the sound and the images put together afterwards?

25 A. [11:44:01] What we know is that, if you transfer it to a small telephone, it comes

1 in the form of audio. But once you put it in a big telephone, it comes in the form of  
2 images. We don't know -- we don't know what happens, but that's how it -- that's  
3 how it comes. (Redacted)

4 (Redacted)

5 PRESIDING JUDGE MINDUA: [11:45:12](Interpretation) Madam Prosecutor?

6 MS LUPING: [11:45:14] Mr President, I'm just concerned because we're in public  
7 and this specific information was elicited in private session. If we could please go  
8 into private for the -- these very specific questions.

9 PRESIDING JUDGE MINDUA: [11:45:34](Interpretation) Yes. Ms Taylor, I think  
10 Madam Prosecutor is correct.

11 Courtroom officer, private session.

12 (Private session at 11.45 a.m.)

13 THE COURT OFFICER: [11:45:57] We're in private session, Mr President.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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23 (Open session at 12.01 p.m.)

24 THE COURT OFFICER: [12:01:48] Your Honours, we are back in open session, and

25 the connection to the witness is re-established.

1 PRESIDING JUDGE MINDUA: [12:01:53](Interpretation) Thank you very much,  
2 court officer.  
3 Ms Taylor.  
4 MS TAYLOR:  
5 Q. [12:01:58] (Redacted)  
6 (Redacted)  
7 PRESIDING JUDGE MINDUA: [12:03:12](Interpretation) Yes, Witness,  
8 what -- what -- what would you like to do?  
9 MS TAYLOR: [12:03:31] I believe we'll have to go into private session.  
10 THE INTERPRETER: [12:03:38] Message from the Songhai booth: We haven't  
11 understood well what the witness wants to say.  
12 PRESIDING JUDGE MINDUA: [12:03:45](Interpretation) Court officer, please take  
13 us into private session.  
14 (Private session at 12.03 p.m.)  
15 THE COURT OFFICER: [12:03:50] We're in private session, Mr President.  
16 (Redacted)  
17 (Redacted)  
18 (Redacted)  
19 (Redacted)  
20 (Redacted)  
21 (Redacted)  
22 (Redacted)  
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6 (Open session at 12.06 p.m.)

7 THE COURT OFFICER: [12:06:29] We are back in open session, Mr President.

8 PRESIDING JUDGE MINDUA: [12:06:33](No interpretation)

9 MS TAYLOR:

10 Q. [12:06:44] Mr Witness, in 2012, did you follow the RFI, Radio France

11 Internationale, reporting of events in Timbuktu?

12 A. [12:07:01] That I don't know. When we went home and listened to radio, I

13 don't know anything more about it.

14 Q. [12:07:33] I'm just going to turn to your statement. It's OTP tab 1,

15 MLI-OTP-0072-0143, turning to page 0151, paragraph 36. And I'm going to read it to

16 you, Mr Witness.

17 And if it could be put on the screen for the interpreters on evidence 1, and if they can

18 give me the sign as to when they're ready.

19 It says:

20 (Interpretation) "We knew Omar from Timbuktu. He did his studies there. During

21 the occupation, he spoke all the time on the media. Omar said that on that day, that

22 the town of Timbuktu was a mysterious town. The reason why, they made a

23 mistake three times before entering. For us, the foreigners were able to attack and

24 enter the town because the locals were with them and had shot first. Sanda also is

25 from Timbuktu. I didn't know his full name -- I don't know his full name. During

1 the occupation, he was the spokesperson of Ansar Dine. He said so himself in the  
2 media, such as on RFI."

3 (Speaks English) Mr Witness, do you recall saying this to the Prosecution.

4 THE INTERPRETER: [12:09:36] Message from the Songhai booth: Your Honour, is  
5 it possible to reread the passage?

6 PRESIDING JUDGE MINDUA: [12:09:47](Interpretation) Paragraph 36 of the  
7 statement, do you want it to be read out once again?

8 THE INTERPRETER: [12:09:58] No, your Honour. No need.

9 PRESIDING JUDGE MINDUA: [12:10:00](Interpretation) Okay.

10 THE WITNESS: [12:11:50](Interpretation) Yes. That's how it was.

11 MS TAYLOR: [12:11:55]

12 Q. [12:11:55] Did you learn about the names and positions of people in Timbuktu  
13 from the media?

14 A. [12:12:04] Yes. It was done like that. And at the time, you could listen to it.  
15 That's how it was done. And Omar as well, he was present. He was in the streets.  
16 He spoke.

17 Q. [12:13:14] Now, Mr Witness, is it correct that you've discussed the events of 2012  
18 with various people in Timbuktu?

19 A. [12:13:20] I don't understand what you mean. To -- with what various people?

20 Q. [12:13:48] Well, for example, with other locals.

21 A. [12:14:11] Well, I don't remember now.

22 Q. [12:14:13] If I can turn again to your statement. It's page 0147, page (sic) 21. If  
23 that could be put on the screen for the interpreters. I might -- I think it would be  
24 better to go into private session to read this out.

25 PRESIDING JUDGE MINDUA: [12:14:44](Interpretation) Court officer, private



1 session, please.

2 (Private session at 12.14 p.m.)

3 THE COURT OFFICER: [12:14:51] We are in private session, Mr President.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Open session at 12.15 p.m.)

14 THE COURT OFFICER: [12:15:48] We are back in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [12:16:03](Interpretation) Thank you very much.

16 Ms Taylor.

17 MS TAYLOR: [12:16:06] I'm just going to read out the first two sentences. And

18 obviously, this should not be shown to the public.

19 Q. [12:16:13] Now, Mr Witness, your statement says: (Interpretation) "I never gave

20 witness statements until present day, didn't give interviews to journalists or spoke to

21 the authorities of what I know about the events of 2012. Of course, I did discuss

22 things and exchange -- have exchanges with people from Timbuktu or from

23 elsewhere."

24 (Speaks English) Mr Witness, is this what you said to the Prosecution?

25 A. [12:16:57] It's true. It's a long time ago. You can forget what you say. It's

1 possible.

2 Q. [12:17:54] So did you discuss with people from Timbuktu and people coming  
3 from elsewhere the events of 2012?

4 Did you have exchanges?

5 A. [12:18:06] Well, I don't remember. I really don't remember if I spoke to  
6 somebody about it. But in fact, it was in Timbuktu that things happened.

7 Everybody knows what's happened. Who would I say it to.

8 Q. [12:18:54] Now, Mr Witness, you've just said: "I don't remember. I really  
9 don't remember if I spoke to somebody about it."

10 Do you find it hard nine years later to remember things clearly?

11 A. [12:19:08] Well, nine -- nine years isn't just a few days. You can Google a lot of  
12 things, which you think of -- you can forget a lot of things that you think of.

13 Q. [12:20:06] And nine years later, do you sometimes confuse things?

14 A. [12:20:38] I don't remember. I don't remember.

15 PRESIDING JUDGE MINDUA: [12:20:40](Interpretation) Madam Prosecutor?

16 MS LUPING: [12:20:41] Mr President, it was just the last question, it was very vague  
17 and not sufficiently precise for the witness, "Do you sometimes confuse things?"

18 Well, I can sometimes confuse things. I'm sure we all do. But specifically for the  
19 purposes of the witness's testimony, it would be good if very precise questions are  
20 put to him.

21 This was rather unfair.

22 PRESIDING JUDGE MINDUA: [12:21:05](Interpretation) Ms Taylor.

23 MS TAYLOR: [12:21:07] Mr President, I'll put a precise question.

24 PRESIDING JUDGE MINDUA: [12:21:19](Interpretation) Please go ahead.

25 MS TAYLOR: [12:21:21]

1 Q. [12:21:21] Mr Witness, nine years later, do you sometimes mix up people?

2 A. [12:21:26] Well, what I don't remember I don't remember.

3 Q. [12:21:53] Now, Mr Witness, turning back to your interview with the ICC

4 Prosecution, it's correct that they showed you videos and then asked you to identify  
5 people in those videos?

6 A. [12:22:06] If I see things, I can say what I remember and what I know with  
7 regards those things. But my brain isn't a computer. I can't remember everything.  
8 Please excuse me for that.

9 Q. [12:23:06] Now, Mr Witness, did they ask you to draw or describe individuals  
10 before they showed you these videos?

11 A. [12:23:16] What I would like to say with regards to the events that happened,  
12 these are things that you remember. And when you -- but when you're fed up with  
13 it, you don't want to remember everything. You don't want to think about these  
14 things all the time. It's like a sickness that you want to get out of your mind.

15 Q. [12:24:25] Now, Mr Witness, I'm just going to show you a video that was shown  
16 during the preparation session in March. It's OTP tab 41. It's MLI -- it should not  
17 be shown to the public. It's MLI-OTP-0018-0654.

18 Now I'm just going to have it on the first still.

19 Now, Mr Witness, when the Prosecution showed this to you in March, did you  
20 identify the person with the loudspeaker as Al Hassan?

21 A. [12:25:22] No. Nobody said it was him. Nobody said that it was this or that  
22 person.

23 Q. [12:26:09] I'm going to turn to OTP tab 100. It's MLI-OTP-0080-2009-RO1 at  
24 2018. And if it could be put on the screen for the interpreters. And it's under OTP  
25 tab 100.

- 1 Mr President, if I may just consult with Mr Al Hassan?
- 2 PRESIDING JUDGE MINDUA: [12:27:23](Interpretation) Please go ahead.
- 3 MS TAYLOR: [12:27:40]
- 4 Q. [12:27:45] Mr Witness, were you able to see this on your screen?
- 5 A. [12:27:49] I can see it, but it's very blurred.
- 6 Q. [12:28:15] So if we can go to OTP tab 99. If it could be brought up for the  
7 witnesses -- sorry. For the interpreters. It says:  
8 P-[0]641 is asked if he recognises the event, persons, location.  
9 P-641 says that this is the day of the execution of Moussa, of his judgement. He  
10 identifies the black man as Mohamed who wears a cloth like the white blue "bra" and  
11 a green turban. The one holding the loudspeaker and wearing the scarf is Al Hassan.  
12 He cannot clearly see the face of the person speaking.  
13 Mr Witness, did you say that, "The one holding the loudspeaker and wearing the scarf  
14 is Al Hassan"?
- 15 A. [12:30:08] Well, I know where it happened. What you said about the  
16 loudspeaker, I didn't understand that part.
- 17 Q. [12:30:18] Mr Witness, did you tell the Prosecution that the person that you can  
18 see on the screen holding a loudspeaker was Al Hassan?
- 19 A. [12:30:28] Yes. It's Al Hassan who's wearing the turban.
- 20 Q. [12:30:54] I'm going to play another video. It's OTP tab 44. It's  
21 MLI-OTP-0018-0655. And we're just going to stop at 1:00.  
22 (Viewing of the video excerpt)
- 23 MS TAYLOR: [12:31:50] We stopped at 1:03, but it's close to 1:00.
- 24 Q. [12:31:56] Now, Mr Witness, did you tell the Prosecution that the person  
25 holding the loudspeaker here was Al Hassan?

1 A. [12:32:17] Yes.

2 Q. [12:32:20] And did you say that the person with the green turban was Mohamed  
3 Moussa?

4 A. [12:32:26] He's called Mohamed. I don't know him by the name of Moussa. I  
5 know him by the name of Mohamed.

6 Q. [12:32:53] We're going to go to the 6:0 mark.

7 Mr Witness, did you tell the Prosecution that you recognised Houka Houka on the  
8 right?

9 A. [12:33:15] Yes.

10 Q. [12:33:32] Now, Mr Witness, at transcript 137, page 27, you referred to an Arab  
11 individual called "Lamine."

12 Did Lamine come from Timbuktu?

13 A. [12:33:50] Yes.

14 Q. [12:34:11] Was Lamine present in Timbuktu before the groups arrived?

15 A. [12:34:18] Well, it just so happened that we didn't know him. The fact is when  
16 someone joins the -- those groups, you don't necessarily -- you try to find out who the  
17 person is. Otherwise, you don't know him. Once the person has joined, that's  
18 when people start to wonder who they are or they're such-and-such a person.

19 Q. [12:35:25] Mr Witness, when you told the Prosecution about Lamine in your  
20 interview, did they show you any videos or photos to try to identify him?

21 A. [12:35:36] Yes, because Lamine, we would see him all the time. He would walk  
22 around everywhere. We saw him all the time.

23 Q. [12:36:20] Mr Witness, I'm speaking of your interview with the Prosecution in  
24 2019.

25 Did you identify Lamine in any videos or photos? Or were you asked to do so?

- 1 A. [12:36:36] Well, at that -- this time, I don't remember. I really don't remember.
- 2 Q. [12:37:06] Where is Lamine today?
- 3 A. [12:37:10] I don't know where he is.
- 4 Q. [12:37:27] Do you know what happened to him in 2013 and afterwards?
- 5 A. [12:37:32] No. I don't know.
- 6 Q. [12:37:47] Now, at transcript 137, page 27, lines 10 to 11, you stated in relation to
- 7 Lamine that:
- 8 "[...] the young man was not as young as that, he was kind of older [...]"
- 9 So is it correct that Lamine was not young?
- 10 A. [12:38:06] Yes. I was saying that he wasn't young or old.
- 11 Q. [12:38:45] Now, you spoke of an incident concerning Mamari Diarra.
- 12 Did this occur in the first days when the Islamists installed themselves at the BMS?
- 13 A. [12:39:31] No. That didn't happen the first days. At that time, there was
- 14 the -- the police building already existed.
- 15 Q. [12:39:46] Mr Witness, I'm just going to refer to your statement. It's tab 1,
- 16 MLI-OTP-0072-0143-RO4. And it's -- if we can look at page 161, paragraph 94.
- 17 PRESIDING JUDGE MINDUA: [12:40:12](Interpretation) Madam Prosecutor?
- 18 MS LUPING: [12:40:14] Mr President, could I just ask that the sound be cut off to the
- 19 witness.
- 20 PRESIDING JUDGE MINDUA: [12:40:18](Interpretation) Court officer.
- 21 THE COURT OFFICER: [12:40:24] Your Honours, the sound has been cut off.
- 22 PRESIDING JUDGE MINDUA: [12:40:32](Interpretation) Thank you very much.
- 23 Madam Prosecutor.
- 24 MS LUPING: [12:40:34] Mr President, I was just wanting to find an appropriate time
- 25 to stand before the passage from the witness preparation note was actually removed

1 from the screen, which the Defence has just done.  
2 I would ask that it be returned to the screen so I can explain to your Honours.  
3 I need to make a note for the record, and it is -- it is a concern based on paragraph 52  
4 of the conduct of proceedings decision, which requires that there be no paraphrasing  
5 of the witness's prior statements or information.  
6 Now, the concern here, your Honours, is that the witness was shown two video  
7 excerpts, and he was only drawn to those identifications that related to Al Hassan and  
8 Houka Houka. But in fairness to the witness, first of all, he did not refer to  
9 Mohamed Moussa. He had referred to Mohamed.  
10 So it was misleading to indicate to the witness that he'd identified the person as  
11 Mohamed Moussa.  
12 That is the first point.  
13 Secondly, the entirety of the passage should have been read, both in relation to items  
14 0018-0654 and 0018-0655.  
15 Now, the witness identified Radwan and Al Faqi in 0654. He never mentioned  
16 Mohamed Moussa. He referred to simply a person called Mohamed.  
17 At 0655 --  
18 MS TAYLOR: [12:41:59] Mr President, I am concerned that the Prosecution is  
19 reading evidence into the record and that this goes beyond the scope of an objection.  
20 And I can explain specifically --  
21 MS LUPING: [12:42:11] Mr President, I haven't finished. The point of this,  
22 Mr President, is that I believe this is also misleading to the Chamber because only  
23 very select extracts of the witness preparation note were read out to the witness and  
24 read out to your Honours.  
25 Now, if the point of this is indeed relating to a witness's ability to identify persons, in

1 fairness to the witness, he should have had the entirety of both extracts of the witness  
2 preparation read, including for 0655 that he referred also to Al Faqi as the person  
3 holding the loud- -- sorry, as the person speaking. And he also did not, again, refer  
4 to Mohamed Moussa. In neither video was there any reference to Mohamed  
5 Moussa.

6 So it's just in fairness to the witness, your Honours, and in making sure that you're  
7 not mislead by the very select passages that were read to him. That is all.  
8 Thank you.

9 PRESIDING JUDGE MINDUA: [12:43:08](Interpretation) Understood,  
10 Madam Prosecutor.

11 Ms Taylor, because the Prosecution says that you're not being specific when you're  
12 giving the names of a number of people when you compare the \*preparation log of  
13 the witness to his statement, what's your response?

14 MS TAYLOR: [12:43:27] Mr President, I didn't suggest that Mohamed Moussa was  
15 in the witness preparation log. I read out a paragraph and asked him if he had  
16 identified people. And I asked those questions in an open manner. And when I  
17 played the second video, I did not refer to his preparation log at all. We just showed  
18 the video and asked him if he had identified these individuals.

19 I really do think -- I mean, with respect, Mr President, I don't believe we should be  
20 having this constant to and fro on testimonial argument.

21 Now, basically I'm allowed to put to the witness, Is this Mohamed Moussa that you  
22 identified? He said no. It's Mohamed. There's no issue of unfairness there. I'm  
23 allowed to put questions to a witness. That's what we do, and, at the moment, we're  
24 not being allowed to do this. We're being bogged down in testimonial debate at a  
25 time when we're trying to finish.



1 Now, for the second video, as I said, I did not refer to the preparation log at all. We  
2 played the extract and asked him if he identified certain individuals.  
3 Now, it's not appropriate for the Prosecution to try and insert its preparation log  
4 through the backdoor through this objection. And I really do believe that we are  
5 being prevented from being able to finish our cross-examination in a timely manner.  
6 PRESIDING JUDGE MINDUA: [12:44:53](Interpretation) Very well. Now,  
7 Ms Taylor, don't spend all your time complaining because you're -- well, first of all,  
8 you say that these are constant exchanges that keep us from moving ahead. It means  
9 that you have an opportunity to speak, and then the Prosecutor has a chance.  
10 These exchanges are what I refer to as ping-pong, and I have very little patience for  
11 ping-pong games. You say that you don't have the right to put questions. But you  
12 do. And the Prosecution has a right to raise objections.  
13 Now we are going to turn back to the matter at hand. You presented the witness  
14 preparation log and then you go to the statement. Why? Because you are trying to  
15 establish a link. And this link that -- the Prosecution is basing itself on that link  
16 when it asked you to be fair. In the preparation log, mention is made of Mohamed  
17 and then there was talk of Mohamed Moussa.  
18 So really our issue here is fairness.  
19 So put your question in a fair manner, and then the Prosecution will not be rising  
20 again.  
21 MS TAYLOR: [12:46:26] Mr President, we're now on a completely different subject.  
22 And as you may recall, I read out the entirety of that paragraph from the preparation  
23 log. And for the second video, which the Prosecution wants to read out, I didn't  
24 refer to the preparation log at all.  
25 There's therefore no basis for me to read out an item of evidence that was never put to

1 this witness.

2 Now, can we move on?

3 PRESIDING JUDGE MINDUA: [12:47:01](Interpretation) No, because when you  
4 went to the second video, you create confusion. You jump from one thing to the  
5 other without any heads-up. You present something. Then you move on to  
6 something else, and sometimes the witness himself is asking, What's the question?  
7 Because you are presenting a lot of different items one after another, and you are  
8 creating confusion.

9 Now, if you're saying that the video has nothing to do with the preparation log, that's  
10 one thing. And then we can move on. So there you have it.

11 Now, Madam Prosecutor, sit down. We have had our exchange. We're not on the  
12 preparation log any more. We are moving on to something else.

13 Court officer, re-establish the connection.

14 THE COURT OFFICER: [12:47:53] The connection has been reestablished.

15 PRESIDING JUDGE MINDUA: [12:47:59](Interpretation) Thank you very much.  
16 Ms Taylor.

17 MS TAYLOR: [12:48:02] Thank you, Mr President.

18 Obviously, I'm going to have to scroll back several pages to see where we are before  
19 this happened.

20 Q. [12:48:16] Mr Witness, at page 47, lines 18 to 19, you said, this --

21 "[...] didn't happen the first days. At that time, there was ... the police building  
22 already existed."

23 Did this happen in the first few days after the police building existed?

24 A. [12:48:36] Well, I don't know if, after the existence of the police -- what day it  
25 happened, but I don't know. In any event, the police already existed.

1 Q. [12:49:38] So I'm going to refer to your statement. It should have already been  
2 put on evidence 1 before we got distracted. It was at page 0143 at paragraph I  
3 believe - where were we? - 94. It should not be shown to the public.  
4 And if the interpreters -- if it could be put on evidence 1.  
5 Now, Mr Witness, I'm going to read out -- this has been read out to you several times  
6 by the Prosecution.  
7 At the beginning it says:  
8 (Interpretation) "From my -- "  
9 THE INTERPRETER: [12:50:28] Blank.  
10 MS TAYLOR: [12:50:29] "-- we saw Al Hassan and Lamine bring Vieux to the BMS.  
11 It was during the first days that the Islamic police had been established at the BMS. I  
12 say that because the Islamists were still trying to distinguish between public property  
13 and private property."  
14 If we can go into private session.  
15 PRESIDING JUDGE MINDUA: [12:51:53](Interpretation) Private session, court  
16 officer.  
17 (Private session at 12.51 p.m.)  
18 THE COURT OFFICER: [12:51:59] We are in private session, Mr President.  
19 (Redacted)  
20 (Redacted)  
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5 (Open session at 12.57 p.m.)

6 THE COURT OFFICER: [12:57:35] We are back in open session, Mr President.

7 PRESIDING JUDGE MINDUA: [12:57:41](Interpretation) Thank you very much.

8 Ms Taylor.

9 MS TAYLOR: [12:57:45]

10 Q. [12:57:46] Mr Witness, is it correct that Lamine made a false report?

11 A. [12:57:53] That's what the young man said because -- because Lamine speaks  
12 Songhai. So he was able to hear what they said in Arabic. That's what the young  
13 man told me.

14 Q. [12:58:33] So were there communication problems?

15 A. [12:58:40] Oh, that's what the young man said. That's what the young man said.  
16 And since he didn't understand in any event, Al Hassan prayed and brought him to  
17 the BMS.

18 THE INTERPRETER: [12:59:34] Correction: Al Hassan took him and then brought  
19 him to the BMS.

20 MS TAYLOR: [12:59:40]

21 Q. [12:59:41] Is Mamari related to Seydou Baba?

22 A. [13:00:05] They are neighbours. They're close to one another. They're  
23 neighbours. And from there, they went to intercede on his behalf.

24 Q. [13:00:25] So it's correct that Seydou visited Mamari at the BMS?

25 A. [13:00:36] Yes. That's what the young man said, and that's what happened.

1 Q. [13:01:03] So, Mr Witness, was it Mamari who told you about this incident, or  
2 was it Seydou?

3 A. [13:01:34] \*No, it was Mamari who told me about it.

4 Q. [13:01:36] So is it correct that after Mamari was released, he stayed around  
5 outside the BMS to tell you about this?

6 A. [13:01:44] \*Well, he said it everywhere he went, in all the places he would go to.  
7 So wherever he would sit, he would tell people that, and he's someone from  
8 Timbuktu. He's from the town, so he would speak about it with everyone.

9 Q. [13:02:42] Mr Witness, when the Prosecution questioned you about this incident  
10 last week, did you have any trouble remembering the details?

11 A. [13:03:03] \*Well, the month in which they arrested him, they asked him to tell  
12 the truth, so the young man told him that Adama knew him. So it was in that month  
13 that he had been told that Adama was away, and Al Hassan got out his knife, he told  
14 the young man to put his hand on the table, he said he was not telling the truth and  
15 he would cut off his hand. And the young man said that he was indeed telling the  
16 truth because he was not a thief, Adama knew him and if he was there, he would tell  
17 him the truth because he was the one who was guarding the house. And it was after  
18 that, the man sent his brother-in-law to come to tell the truth.

19 MS TAYLOR: [13:05:26] Mr President, we don't have an English transcript.

20 PRESIDING JUDGE MINDUA: [13:05:36](Interpretation) Yes. Court officer, what's  
21 happening?

22 THE COURT OFFICER: [13:05:41] Your Honours, perhaps the interpreters could  
23 repeat what came in from the field. We do have the transcript available. It may be  
24 a question of repeating what was said or interpreting what was said. Thank you.

25 PRESIDING JUDGE MINDUA: [13:06:07](Interpretation) Very well. That's true.

1 We now have the transcript in English and a portion of the answer of the witness isn't  
2 there.

3 We have it in French.

4 So we can move on, Ms Taylor. It's to save time.

5 MS TAYLOR: [13:06:26] I'm so glad we're saving time.

6 Q. [13:06:29] So, Mr Witness, last week when the Prosecution asked you about this  
7 incident, you did not refer to a knife initially.

8 Is that because you could not remember things?

9 A. [13:06:44] Well, I didn't remember that. He nevertheless said to put it on the  
10 table to cut it off. And you know that with a -- with a knife, you cut off somebody's  
11 hand.

12 Q. [13:07:40] So were you assuming that?

13 A. [13:07:47] Well, that's how it was. The young man told me.

14 Q. [13:08:13] Now, Mr Witness, under oath here today, are you certain that Al  
15 Hassan was brought -- that Mamari was brought to the BMS by Al Hassan and not  
16 someone else?

17 This is an important part of my cross-examination, and I don't think we should be  
18 having these objections.

19 PRESIDING JUDGE MINDUA: [13:08:51](Interpretation) Put your question,  
20 Ms Taylor. I haven't yet given the floor to the Prosecution.

21 MS TAYLOR: [13:08:56] But, Mr President, I don't want to have my flow of  
22 questioning broken up. So I would ask that I be able to put these questions, given  
23 that we're about to break soon.

24 Q. [13:09:07] Now, Mr Witness, under oath before this Chamber, are you certain  
25 that Mamari was brought to the BMS by Al Hassan and not someone else?

- 1 A. [13:09:23] I'm sure that it was he who took him because he was the person who  
2 was the chief there, and he was the one who got him to sleep there until the next day.
- 3 Q. [13:10:11] And are you certain that it was a van and not a *moto*?
- 4 A. [13:10:30] No. It was a -- in a vehicle. He took him in a vehicle. Everybody  
5 saw that.
- 6 Q. [13:10:50] So since we're speaking about "everybody," Mr Witness, in 2012, did  
7 Mamari tell people that it was Faraoun and Abou Dardar who arrested him?
- 8 A. [13:11:31] I hadn't heard that from his mouth -- I hadn't heard that from Abou  
9 Dardar's mouth.
- 10 Q. [13:11:40] I don't know if there was any translation issue there.  
11 Did you hear from either Mamari or anyone else that Mamari had said that it was  
12 Faraoun and Abou Dardar who questioned him at the BMS?
- 13 A. [13:11:56] Well, I don't remember. I really don't remember who said it.
- 14 MS TAYLOR: [13:12:31] I'm looking at the time, Mr President.
- 15 PRESIDING JUDGE MINDUA: [13:12:44](Interpretation) Indeed, Ms Taylor.  
16 It is 13 hours and 12. We're going to have a one-hour break, and we will be back at  
17 2.15. 2.15 we will be back.  
18 Court is suspended.
- 19 THE COURT USHER: [13:13:01] All rise.  
20 (Recess taken at 1.13 p.m.)  
21 (Upon resuming in open session at 2.20 p.m.)
- 22 THE COURT USHER: [14:20:19] All rise.  
23 Please be seated.
- 24 PRESIDING JUDGE MINDUA: [14:20:34](Interpretation) Court is in session.  
25 Ms Taylor, you have the floor to continue with your cross-examination.



- 1 MS TAYLOR: [14:20:55]
- 2 Q. [14:20:56] Mr Witness, good afternoon.
- 3 How are you?
- 4 A. [14:21:00] I'm fine.
- 5 Q. [14:21:31] Now, Mr Witness, during the preparation session with the
- 6 Prosecution in March this year, did you tell the Prosecution that Mohamed
- 7 Oye -- Mamadou Oye had been amputated?
- 8 A. [14:22:17] Could you ask your question again.
- 9 Q. [14:22:44] When you were reviewing your statement with the Prosecution in
- 10 March this year, did you tell them that Mamadou Oye had been amputated? He was
- 11 a victim of amputation.
- 12 A. [14:23:18] Mamadou Oye was flogged in Niafunké. I didn't say part of his
- 13 body was amputated. He was flogged.
- 14 Q. [14:23:46] Mr Witness, I'm going to refer to the paragraph in the preparation log.
- 15 That's Defence tab -- sorry. It's Prosecution tab 99. It's MLI-OTP-0080-2009. It's
- 16 RO1. That's page 2018. And it says, when paragraphs 177 to 178 are read to P-641,
- 17 "No comments."
- 18 "At paragraph 189 of the statement, after it is read to him, P-0641 first says that
- 19 Mohamed Oye was amputated and then [he] said he misspoke. He confirms that as
- 20 is stated in his witness statement that Oye was '*flagellé*'; he confirmed this is correct
- 21 and that Mohamed Oye was flogged/hit and not amputated."
- 22 Mr Witness, is that correct? Did you initially say that Mohamed Oye was
- 23 amputated?
- 24 A. [14:25:28] Mamadou Oye was beaten, as I said. He was flogged in Niafunké.
- 25 I didn't say that he was amputated. I said he was flogged.

1 Q. [14:25:41] So is it -- is this section that I read out in the preparation log, are you  
2 saying it's incorrect? That in March 2021, when the statement was read to you, you  
3 first said that Mohamed Oye was amputated and then said that you misspoke.

4 A. [14:26:49] Mohamadou Oye, well, I don't remember saying one day that he was  
5 amputated. I just said that he was flogged in Niafunké because he was tarnishing  
6 the name of Ansar Dine, and he was caught for that. And he even showed me his  
7 back with the whip marks on it. That's what I said. I don't remember having said  
8 that he was amputated.

9 PRESIDING JUDGE MINDUA: [14:27:20](Interpretation) Madam Prosecutor.

10 MS LUPING: [14:27:22] Mr President, your Honours, just if the sound could be cut.

11 PRESIDING JUDGE MINDUA: [14:27:29](Interpretation) Court officer.

12 THE COURT OFFICER: [14:27:31] Your Honours, the sound has been cut off.

13 PRESIDING JUDGE MINDUA: [14:27:36](Interpretation) Thank you very much,  
14 court officer.

15 Madam Prosecutor.

16 MS LUPING: [14:27:46] Mr -- Mr President, your Honours, just on this point,  
17 it's -- it's very hard to say if there was an interpretation issue as well on this. The  
18 witness has said what he has said, but it was interpreted from Songhai into English.  
19 And it's -- it's hard to say whether there was an interpretation problem on this point.  
20 That's it. I just wanted to simply -- just simply note that.

21 PRESIDING JUDGE MINDUA: [14:28:24](Interpretation) Thank you very much for  
22 pointing that out, but I think that Ms Taylor can continue.

23 MS TAYLOR: [14:28:29] Thank you, Mr President.

24 If the Prosecution wishes to assert interpretation issues, then they would need to  
25 disclose the Songhai originals to us so that we could verify. It's not appropriate to

1 assert that there's translation issues when we don't have the Songhai.

2 If we could have the sound established.

3 PRESIDING JUDGE MINDUA: [14:28:54](Interpretation) Court officer.

4 THE COURT OFFICER: [14:28:57] Your Honours, the sound has been re-established.

5 PRESIDING JUDGE MINDUA: [14:29:02](Interpretation) Thank you very much,  
6 court officer.

7 Ms Taylor.

8 MS TAYLOR:

9 Q. [14:29:08] Mr Witness, at transcript 138, page 95, you mentioned Hallé Ousmane  
10 intervening in relation to an individual that was taken to the BMS.

11 Was Hallé Ousmane someone that you interacted with in 2012?

12 A. [14:30:03] There was nothing between us. That's what I said. That when there  
13 were interventions, when -- when people were taken, they said what had happened.

14 Q. [14:30:51] Was Hallé Ousmane mayor of Timbuktu before the groups arrived?

15 A. [14:30:57] Yes.

16 Q. [14:31:16] Was he opposed to the arrival of the Islamists?

17 A. [14:31:46] I didn't hear that. I can't say anything about that.

18 Q. [14:31:51] Mr Witness, in the first month after Ansar Dine arrived in Timbuktu,  
19 were there false claims that Ansar Dine had carried out amputations?

20 A. [14:32:05] I don't remember that. Those who were flogged were flogged.

21 Those who had an amputation had been subject to amputation. I don't know.

22 These are things I heard.

23 Q. [14:33:08] I'll turn to Defence tab 43. It's MLI-OTP-0047-0931. It's an article  
24 dated 5 April 2012.

25 Now, this is an article concerning the events in Timbuktu. It's titled, "Islamist

1 commander cuts off vandal's hand in Timbuktu".

2 I'm just going to read out the first two paragraphs and then ask you a question.

3 It says: "Ayad Ag Ghaly, leader of the faction of tribal Tuareg fighters that is allied  
4 to al-Qaeda, was reported to have carried out the sentence on an unnamed 'vandal' in  
5 the heart of the ancient city.

6 "Ousmane Halle, the mayor of Timbuktu, said almost all of the city's 300 Christians  
7 had fled after" Iyad "Ag Ghaly" had "announced that Sharia [...] would be enforced."  
8 Now Mr Witness, it's correct, isn't it, that Iyad Ag Ghaly never amputated a vandal's  
9 hand in April 22 -- sorry -- 2012 in Timbuktu?

10 A. [14:35:24] Well, we didn't see him, but the organisation to which he  
11 belonged -- and those who were subject to amputation were subject to amputation.  
12 That happened. But -- and that which happened that happened, but it was under his  
13 orders. He -- the organisation belonged to him. And those who were killed, well,  
14 they were killed. And everything's being put -- being attributed to him.

15 Q. [14:36:03] I'm going to turn to Defence tab 38. This is MLI-D28-0005-7473. It's  
16 a article concerning a film series, "Trouble In Timbuktu," but I want to turn to a  
17 specific part which concerns an individual you've mentioned.

18 I'm going to turn page 7474, and this includes quotes from an individual called  
19 Seydou Baba Kounta, a professional tour guide.

20 Mr Witness, do you know this individual, Seydou Baba Kounta?

21 A. [14:37:13] Yes. I know him by sight.

22 Q. [14:37:44] Now, according to this, Seydou Baba Kounta said in relation to the  
23 events of 2012 in Timbuktu:

24 "'We lived in fear. Armed men roamed the streets. Nobody knew what would  
25 happen from one day to the next,' said Seydou Baba Kounta, a professional tour

1 guide.

2 'They cut off people's hands, people's feet. Schools were abandoned. Every day,  
3 people fled the town on trucks, on boats, on 4WDs,' he said."

4 Now, Mr Witness, I'll just allow that to be translated to you, and then I'll pose a  
5 question.

6 A. [14:39:35] Yes. That's true. People fled. Some people fled by boat. Some  
7 people left in vehicles. People were really afraid. This was something that people  
8 did not know.

9 Q. [14:39:54] And, Mr Witness, according to this quote, Seydou Baba said that they  
10 cut off peoples' feet.

11 Was that true or an exaggeration?

12 A. [14:40:06] He talked of a general case. For the case of Timbuktu, he was  
13 exaggerating a bit. In Timbuktu, there were hands amputated and floggings, and  
14 also people were killed. He confused Timbuktu and Gao, I'm sure.

15 (Redacted)

16 MS TAYLOR: [14:41:37] Can we go into private session.

17 PRESIDING JUDGE MINDUA: [14:41:43](Interpretation) Court officer, private  
18 session, please.

19 (Private session at 2.41 p.m.)

20 THE COURT OFFICER: [14:41:52] We are in private session, Mr President.

21 (Redacted)

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24 (Open session at 4.30 p.m.)

25 THE COURT OFFICER: [16:30:33] We are back in open session, Mr President.

- 1 PRESIDING JUDGE MINDUA: [16:30:38](Interpretation) Thank you very much,  
2 court officer.
- 3 So, Witness, you've seen the Chamber has made every effort to finish with your  
4 testimony today. The Defence has also made a lot of effort, as has the Prosecution.  
5 So on behalf of the Chamber, I would like to thank you most sincerely for all your  
6 efforts, for the clarity of your replies, and of course very much also for your patience.
- 7 THE WITNESS: [16:31:42](Interpretation) And thank you to you, too.
- 8 PRESIDING JUDGE MINDUA: [16:31:45](Interpretation) Very good. You are now  
9 liberated.
- 10 THE WITNESS: [16:31:58](Interpretation) I don't know you; you don't know me.  
11 But the way in which you have run this is an indication that you carry out your task  
12 very well.
- 13 (The witness is excused)
- 14 PRESIDING JUDGE MINDUA: [16:32:10](Interpretation) We're now going to have  
15 to quickly come to the end of our session. I would like to thank the parties, the  
16 participants, the interpreters and the public and everybody very quickly. And I  
17 would like to wish you all a good evening, and we will meet again on Friday  
18 morning.
- 19 THE COURT USHER: [16:32:30] All rise.
- 20 (The hearing ends in open session at 4.32 p.m.)