

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-02/18**
Date: **2 September 2025**

THE PRESIDENCY

Before: Judge Rosario Salvatore Aitala, Acting President
Judge Reine Alapini-Gansou, Acting First Vice-President
Judge Kimberly Prost, Acting Second Vice-President

SITUATION IN THE BOLIVARIAN REPUBLIC OF VENEZUELA I

Public

Decision on the ‘Prosecutor’s Request to be Excused from the Venezuela I Situation’

Decision to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

☒ **The Office of the Prosecutor**

☐ **Counsel for the Defence**

☐ **Legal Representatives of the Victims**

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

☐ **Unrepresented Applicants
(Participation/Reparation)**

☐ **The Office of Public Counsel for
Victims**

☐ **The Office of Public Counsel for the
Defence**

☐ **States' Representatives**

☐ **Amicus Curiae**

REGISTRY

Registrar

Mr Zavala Giler, Osvaldo

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and Reparations
Section**

☒ **Other**
Appeals Chamber

The *ad hoc* Presidency of the International Criminal Court has before it a request from Prosecutor Karim A.A. Khan dated 18 August 2025 (the ‘Excusal Request’) seeking to be excused from his functions in the Situation in the Bolivarian Republic of Venezuela I (the ‘Venezuela I Situation’).¹

The Excusal Request is hereby granted for the reasons set out below.

I. RELEVANT PROCEDURAL HISTORY

1. On 10 February 2025, the Appeals Chamber decided, acting by majority, to dismiss the ‘Request for Recusal of the Prosecutor of the International Criminal Court in the Case of Venezuela I Due to Conflicts of Interest’² submitted by an external party to the Court as inadmissible because the external party lacked standing and the legal provision pertaining to the disqualification of the Prosecutor was inapplicable at the present stage of proceedings (the ‘First Appeals Chamber Decision’).³ The First Appeals Chamber Decision recalled that: ‘the Prosecutor is bound to exercise his or her functions impartially in accordance with article 45 of the Statute at any stage of the proceedings, and that he or she has a duty to request to be excused, under rule 35 of the Rules, if he or she has reason to believe that a ground for disqualification exists. In the present situation, in light of the Request and the views and concerns of the victims with respect to the matter at hand, the Appeals Chamber invites the Prosecutor to vigilantly and continuously uphold his aforementioned statutory obligations, and take any necessary measures to preserve his impartiality and ultimately the integrity of the proceedings in order to remain in compliance with his duties’.⁴

¹ Office of the Prosecutor, *Situation in the Bolivarian Republic of Venezuela I*, [Prosecutor’s Request to be Excused from the Venezuela I Situation](#), 18 August 2025, ICC-02/18-121, paras 1, 20.

² Registry, *Situation in the Bolivarian Republic of Venezuela I*, [Registry Transmission of a “Request for Recusal of the Prosecutor of the International Criminal Court in the Case of Venezuela I Due to Conflict of Interest”](#), ICC-02/18-92, with four public annexes, including [Annex I](#) (‘Formal Complaint Regarding Conflict of Interest and Ethical Violations Involving Ms. Venkateswari Alagendra and ICC Prosecutor Karim Khan’), ICC-02/18-92-AnxI; [Annex II](#) (‘Request for Recusal of the Prosecutor of the International Criminal Court in the Case of Venezuela I Due to Conflict of Interest’), ICC-02/18-92-AnxII; [Annex III](#) (‘Urgent Call for Preventive Action Against Ongoing Crimes Against Humanity in Venezuela’), ICC-02/18-92-AnxIII.

³ Appeals Chamber, *Situation in the Bolivarian Republic of Venezuela I*, [Decision on the “Request for Recusal of the Prosecutor of the International Criminal Court in the Case of Venezuela I Due to Conflict of Interest”](#), 10 February 2025, ICC-02/18-109, para. 68.

⁴ First Appeals Chamber Decision, ICC-02/18-109, para. 69.

2. On 1 August 2025, following the receipt of the ‘Request for the Appeals Chamber to Conduct an Ex Officio Review of the Prosecutor’s Conflict of Interest in the Venezuela I Situation’,⁵ the Appeals Chamber, although dismissing this request as inadmissible, considered that the Prosecutor’s apparent inaction since the First Appeals Chamber Decision constituted a new circumstance requiring the Appeals Chamber’s renewed consideration of whether there is a ground for disqualification of the Prosecutor in relation to the Venezuela I situation (the ‘Second Appeals Chamber Decision’).⁶ This was based on the power retained by the Appeals Chamber to deal with questions regarding the disqualification of the Prosecutor when the existence of a ground for disqualification that could affect the fairness of the proceedings has been brought to its attention, derived from article 42(8) of the Rome Statute (the ‘Statute’) and referring also to rule 35 of the Rules of Procedure and Evidence (the ‘Rules’).⁷ The Appeals Chamber then continued to assess whether there were reasons to believe that a ground for disqualification of the Prosecutor existed, concluding that ‘in light of the Prosecutor’s close family relationship with Ms Alagendra, combined with their previous professional and hierarchical relationship, a fair-minded and reasonable observer, properly informed and having considered all facts and circumstances, would reasonably apprehend bias’.⁸ The Appeals Chamber instructed the Prosecutor to comply with his duty to request excusal from the Venezuela I situation, pursuant to rule 35 of the Rules.⁹
3. On 18 August 2025, the Prosecutor requested the authorisation of the Presidency to recuse himself from the Venezuela I situation, in view of the instruction in the Second Appeals Chamber Decision.¹⁰

⁵ Registry, *Situation in the Bolivarian Republic of Venezuela I*, [Registry transmission of “Judicial Integrity in Peril - Request for the Appeals Chamber to Conduct an Ex Officio Review of the Prosecutor’s Conflict of Interest in the Venezuela I Situation”](#), dated 8 April 2025 and registered on 9 April 2025, ICC-02/18-110, with public [Annex](#) (‘Judicial Integrity in Peril - Request for the Appeals Chamber to Conduct an Ex Officio Review of the Prosecutor’s Conflict of Interest in the Venezuela I Situation’), ICC-02/18-110-Anx.

⁶ Appeals Chamber, *Situation in the Bolivarian Republic of Venezuela I*, [Decision on the “Request for the Appeals Chamber to Conduct an Ex Officio Review of the Prosecutor’s Conflict of Interest in the Venezuela I Situation”](#), 1 August 2025, ICC-02/18-118, paras 24, 26.

⁷ Second Appeals Chamber Decision, ICC-02/18-118, paras 28, 31-32.

⁸ Second Appeals Chamber Decision, ICC-02/18-118, para. 44.

⁹ Second Appeals Chamber Decision, ICC-02/18-118, para. 45.

¹⁰ Excusal Request, ICC-02/18-121, paras 1, 20.

4. On 20 August 2025, Mr Robert Carmona-Borjas and the Acadia Foundation submitted a document purporting to respond to the Excusal Request, which was addressed to the Appeals Chamber.¹¹
5. On 20 August 2025, Judge Akane sent a request to be excused from the present matter, pursuant to article 41 of the Statute and rule 33 of the Rules, due to her prior consideration of related issues as a member of the Appeals Chamber.¹² Judge Akane had participated in both the First Appeals Chamber Decision and the Second Appeals Chamber Decision. Accordingly, an *ad hoc* Presidency was formed to consider Judge Akane's request by virtue of the operation of regulation 11(2) of the Regulations of the Court on 20 August 2025. Judge Kimberly Prost was considered to be the next available judge having precedence who is not a member of the Appeals Chamber. The *ad hoc* Presidency excused Judge Akane from the matter on 21 August 2025, before continuing to consider the Prosecutor's Excusal Request.¹³
6. On 22 August 2025, Mr Carmona-Borjas submitted a document purporting to respond to the Excusal Request, addressed to the Presidency.¹⁴ On the same day, the Registry received a document from Ms Judith Akebe on behalf of the African Bar Association (the 'AFBA') and the International Association of Democratic Lawyers (the 'IADL'), objecting to the Mr Carmona-Borjas participation in the proceedings.¹⁵

¹¹ Registry, *Situation in the Bolivarian Republic of Venezuela I*, Annex, ICC-02/18-122-Anx, *annexed to* Registry, *Situation in the Bolivarian Republic of Venezuela I*, Registry Transmission of "Applicant's Response to the Prosecutor's Communication Seeking Excusal in the *Venezuela I Situation* and Renewed Request that the Appeals Chamber Exercise Its Supervisory Authority to Safeguard the Court's Integrity", 21 August 2025, ICC-02/18-122-Anx (the 'Registry Transmission of 21 August 2025').

¹² Annex I.

¹³ Annex II.

¹⁴ Registry, *Situation in the Bolivarian Republic of Venezuela I*, Annex, ICC-02/18-123-Anx, *annexed to* Registry, *Situation in the Bolivarian Republic of Venezuela I*, Registry Transmission of "Applicant's Response to the Prosecutor's Communication Seeking Excusal in the *Venezuela I Situation* and Request to the Presidency for Directions to Safeguard the Court's Integrity in Light of Rule 34(1)(a) and Article 42(7)", 26 August 2025, ICC-02/18-123 (the 'First Registry Transmission of 26 August 2025').

¹⁵ Registry, *Situation in the Bolivarian Republic of Venezuela I*, Annex, ICC-02/18-124-Anx, *annexed to* Registry, *Situation in the Bolivarian Republic of Venezuela I*, Registry Transmission of "Observations from the African Bar Association and the International Association of Democratic Lawyers regarding the International Criminal Court Prosecutor Karim A.A. Khan's Request to be Excused from the *Venezuela I Situation*", 26 August 2025, ICC-02/18-124.

II. PRELIMINARY PROCEDURAL MATTER

7. The *ad hoc* Presidency was informed by the Registry on 20 August 2025 that the document referred to in paragraph 4 above had been submitted by Mr Robert Carmona-Borjas on behalf of the Arcadia Foundation, responding to the Prosecutor's Excusal Request.¹⁶ The submitter requested that the document be filed before the Appeals Chamber. Considering its subject matter, the *ad hoc* Presidency instructed the Registry to transmit the document to it by way of a transmission filing.¹⁷ On 26 August 2025, the Registry transmitted: (i) another document from Mr Carmona-Borjas, which appears to have the same contents as the previous document, except for now being addressed to the Presidency rather than the Appeals Chamber; and (a) observations from the AFBA and the IADL, which *inter alia* object to the participation of Mr Carmona-Borjas in the present proceedings.¹⁸
8. The *ad hoc* Presidency considers that, pursuant to article 42(6) of the Statute, the excusal of a Prosecutor or Deputy Prosecutor only concerns the individual making the excusal request. The Court's legal texts do not provide for any other subject to participate in such proceedings. Such participation could only be allowed by way of leave or authorisation of the Presidency. As the participation of Mr Carmona-Borjas, the AFBA and the IADL has neither been requested nor authorised, those subjects lack legal standing. The *ad hoc* Presidency, accordingly, has not considered any of the documents transmitted by them and will not further engage with any of those observations.

III. RELEVANT FACTUAL BACKGROUND

9. The *ad hoc* Presidency notes that the Excusal Request provides scant factual background and does not explain in detail the potential need for the excusal of the Prosecutor from the Venezuela I situation. Nonetheless, the *ad hoc* Presidency considers that the relevant undisputed factual elements can be discerned from the Excusal Request, as well as from submissions made by the Prosecutor himself in the context of the First and Second Appeals Chamber Decisions.

¹⁶ Registry Transmission of 21 August 2025, ICC-02/18-122, para. 3.

¹⁷ Registry Transmission of 21 August 2025, ICC-02/18-122, para. 4.

¹⁸ First Registry Transmission of 26 August 2025, ICC-02/18-123, paras 2, 5; Second Registry Transmission of 26 August 2025, ICC-02/18-124, paras 1, 4.

10. Ms Venkateswari Alagendra (hereinafter ‘Ms Alagendra’) is the sister-in-law of the Prosecutor.¹⁹ On 7-8 November 2023, at a hearing before the Appeals Chamber in connection with an appeal against Pre-Trial Chamber I’s authorisation to resume investigations in the Bolivarian Republic of Venezuela (hereinafter ‘Venezuela’), Venezuela was represented by a lead counsel who publicly introduced eight other representatives, including Ms Alagendra.²⁰ The Prosecutor did not attend or participate in the hearing in question.²¹ On 16 February 2024, the Office of the Prosecutor received formal notification of the composition of the legal team for Venezuela which stated that Ms Alagendra, together with a lead counsel, has been instructed to advise and assist the Government of Venezuela.²² On 1 March 2024, the Appeals Chamber dismissed the appeal of Venezuela, with Ms Alagendra again acting as one of multiple representatives of the Venezuela in the hearing on that day.²³
11. In addition, Ms Alagendra had previously been appointed to the defence team in the *Ruto and Sang* case, in which the Prosecutor acted as lead defence counsel. In this regard, the Prosecutor states that Ms Alagendra’s active role was not required, that she did not receive remuneration, that she did not appear in Court, did not take any witness statement and did not make any submissions.²⁴
12. Finally, the *ad hoc* Presidency notes the finding of the Appeals Chamber that prior to 29 November 2024, in the context of submissions in the First Appeals Chamber Decision, the Prosecutor had not notified the Appeals Chamber of his family or prior professional or hierarchical relationship with Ms Alagendra.²⁵ The Prosecutor does not contest this finding in the context of the Excusal Request.

¹⁹ Second Appeals Chamber Decision, ICC-02/18-118, para. 40; Prosecutor, *Situation in the Bolivarian Republic of Venezuela I*, [Public redacted version of “Prosecutor’s Submissions on the Request for the Recusal of the Prosecutor”](#), 29 November 2024, ICC-02/18-99-Red (the ‘Prosecutor’s Submissions before the Appeals Chamber’), paras 2, 12, 44, 52.

²⁰ Prosecutor’s Submissions before the Appeals Chamber, ICC-02/18-99-Red, para. 10.

²¹ Prosecutor’s Submissions before the Appeals Chamber, ICC-02/18-99-Red, para. 11.

²² Prosecutor’s Submissions before the Appeals Chamber, ICC-02/18-99-Red, para. 13.

²³ Prosecutor’s Submissions before the Appeals Chamber, ICC-02/18-99-Red, para. 14.

²⁴ Excusal Request, ICC-02/18-121, para. 17.

²⁵ Second Appeals Chamber Decision, ICC-02/18-118, para. 42.

IV. RELEVANT SUBMISSIONS OF THE PROSECUTOR

13. The Prosecutor submits that the existence of a ‘previous professional and hierarchical relationship’ as a ground for disqualification is novel and inconsistent with prior practice of the Court.²⁶ He further submits that the nature of his international practice prior to becoming Prosecutor of the Court is such that he has had relationships on various cases over decades with a significant number of counsel on the Court’s List of Counsel and that it cannot be the case that such previous professional and allegedly hierarchical relationships automatically – or together with other factors – gives rise to a reasonable apprehension of bias which would require the Prosecutor to seek excusal whenever counsel with whom he has previously worked is appointed to a case.²⁷
14. The Prosecutor also provides further information as to the work of Ms Alagendra in the *Ruto and Sang* case, as well as refuting allegations of the applicant in the context of the Second Appeals Chamber Decision that there had been a connection between the Prosecutor and Ms Alagendra in two other cases. Accordingly, the Prosecutor concludes that ‘the factual foundation for the finding that there was a previous professional and hierarchical relationship sufficient to support the disqualification of the Prosecutor appears to rest on a single case which concluded nine years earlier’.²⁸
15. The Prosecutor also makes submissions concerning his actions after the First Appeals Chamber Decision,²⁹ as well as on the alleged lack of *bona fides* of the individual who instigated the related First and Second Appeals Chamber Decision.³⁰ Since these submissions are not considered relevant by the *ad hoc* Presidency to its determination of the Excusal Request, there is no need to set these submissions out in detail.

V. DECISION

16. The *ad hoc* Presidency must first consider whether the Excusal Request is properly before it. While the Excusal Request has been presented by the Prosecutor under rule 35 of the

²⁶ Excusal Request, ICC-02/18-121, para. 15.

²⁷ Excusal Request, ICC-02/18-121, para. 16.

²⁸ Excusal Request, ICC-02/18-121, para. 17.

²⁹ Excusal Request, ICC-02/18-121, paras 13-14.

³⁰ Excusal Request, ICC-02/18-121, paras 18-19.

Rules, as directed by the Appeals Chamber, the *ad hoc* Presidency will consider it with reference to its statutory powers as well as those contained in the Rules.

17. Article 42(6) of the Statute provides that the Presidency may excuse the Prosecutor or a Deputy Prosecutor, at his or her request, from acting in a particular case. The first sentence of article 42(7) of the Statute states that neither the Prosecutor nor a Deputy Prosecutor shall participate in any matter in which their impartiality might reasonably be doubted on any ground. Rule 33(1) of the Rules sets out the applicable procedure, providing that the Prosecutor seeking to be excused from his or her functions shall make a request in writing to the Presidency, setting out the grounds upon which he or she should be excused. Further, rule 35 of the Rules provides that where the Prosecutor has reason to believe that a ground for disqualification exists in relation to him or her, he or she shall make a request to be excused and shall not wait for a request for disqualification to be made in accordance with article 42(7) of the Statute and rule 34 of the Rules. It further provides that the request shall be made and the Presidency shall deal with it in accordance with rule 33 of the Rules.
18. The *ad hoc* Presidency notes that the Second Appeals Chamber Decision finds that the Prosecutor is under a duty pursuant to rule 35 of the Rules to request to be excused from the Venezuela I situation, instructing the Prosecutor to comply with such duty within three weeks.³¹ The First Appeals Chamber Decision also clearly stated that ‘the Prosecutor is bound to exercise his or her functions impartially in accordance with article 45 of the Statute at any stage of the proceedings, and that he or she has a duty to request to be excused, under rule 35 of the Rules, if he or she has reason to believe that a ground for disqualification exists’.³² The Appeals Chamber expresses a clear view that rule 35 of the Rules allows the Prosecutor to seek excusal at any stage of the proceedings, including a situation.³³
19. In relation to the powers of the Presidency, article 42(6) of the Statute provides that ‘[t]he Presidency may excuse the Prosecutor or a Deputy Prosecutor, at his or her request, *from acting in a particular case*’ (emphasis added). This wording is different from article 41(1) of the Statute which provides for the power of the Presidency to excuse judges from ‘the exercise of a function under this Statute’. While article 42(6) of the Statute could be

³¹ Second Appeals Chamber Decision, ICC-02/18-118, para. 45.

³² First Appeals Chamber Decision, ICC-02/18-109, para. 69.

³³ First Appeals Chamber Decision, ICC-02/18-109, para. 69.

narrowly construed as limiting the Presidency's powers to granting a request for excusal only from a case, the *ad hoc* Presidency considers that the rationale underlying article 42(7) of the Statute and rule 35 of the Rules applies to both cases and situations at any stage. The provision needs to be read in its overall context and in light of its object and purpose³⁴. Disqualification and excusal are two procedures both aimed at upholding the impartiality, appearance of impartiality and independence of the Court's judges and Prosecutor in any matter before them, with the distinction being that excusal is sought by the individual bearing the duty of impartiality, whereas disqualification is sought by another subject with standing to do so. Article 42(7) of the Statute broadly provides that the Prosecutor shall not participate in any 'matter' in which his or her impartiality may reasonably be doubted, and shall be disqualified accordingly.

20. Rule 35 of the Rules accordingly does not limit the obligation on the part of the Prosecutor to make a request for excusal before the Presidency to cases only and provides that where the Prosecutor has reason to believe that a ground for disqualification exists in relation to him or her, he or she shall make a request to be excused and that the Presidency shall deal with said request in accordance with rule 33. Rule 33(1) of the Rules refers to the Prosecutor's 'functions'.
21. While the issue of impartiality and independence will generally arise in connection with a specific case, and a request for disqualification in principle requires standing, pursuant to article 42(7) of the Statute and rules 33 and 35 of the Rules, the Prosecutor has a clear obligation to raise grounds potentially warranting his excusal from functions under the Statute at any stage, noting the general obligation of impartiality in any matter. It would be an unreasonable reading of the text if the Prosecutor were under an obligation to seek excusal from the Presidency where he believes that his impartiality may be reasonably doubted but the Presidency did not have the power to grant such excusal. It would be similarly illogical if the Prosecutor could be disqualified at the present stage of proceedings, as held in the Second Appeals Chamber Decision, but could not seek his own excusal at that same stage.
22. Accordingly, the *ad hoc* Presidency determines that its capacity under article 42(6) of the Statute and rule 35 of the Rules to excuse a Prosecutor must refer to any particular

³⁴ See article 31(1) of the United Nations, Vienna Convention on the Law of Treaties, 23 May 1969 ('A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.').

instance where there is a potential ground of disqualification which the Prosecutor brings to its attention. This is consistent with the broader language in the first sentence of article 42(7) of the Statute which makes clear that the Prosecutor cannot participate *in any matter* in which his impartiality might reasonably be doubted on any ground, without limiting that impartiality to any particular stage of the proceedings. The *ad hoc* Presidency therefore respectfully disagrees with the Appeals Chamber's strict reading of article 42(7) of the Statute in the First Appeals Chamber Decision and its finding that the provision is *per se* inapplicable at the situation stage.³⁵ The scope of the Presidency's power to excuse the Prosecutor must necessarily correlate with the scope of his obligation to act impartially.

23. This interpretation is also appropriate in view of the nature of the work of the Office of the Prosecutor particularly during the investigatory stage of a situation, when it is not clear if and at which point prospective cases may emerge and means of judicial control are extremely limited. The need to ensure the impartiality of the Prosecutor in any matter is of equal relevance to the situation stage. In this regard, the *ad hoc* Presidency also observes that it would be an untenable reading of the Statute if a Prosecutor who was aware of a potential conflict of interest arising at the situation stage, had no mechanism available to seek excusal. In all these circumstances, the *ad hoc* Presidency decides that, in accordance with its powers under the Statute and the Rules, the Excusal Request is properly before it.
24. Turning to the factual basis of the Excusal Request, the content of the duty of impartiality incumbent on the Prosecutor is elucidated in article 42(7) of the Statute, which provides generally that '[n]either the Prosecutor nor a Deputy Prosecutor shall participate in any matter in which their impartiality might reasonably be doubted on any ground'. Further, rule 35 of the Rules mandates that a request for excusal should be made if there is reason to believe that a ground for disqualification exists which includes under rule 34(1)(a) of the Rules, '[p]ersonal interest in the case, including a spousal, parental or other close family, personal or professional relationship, or a subordinate relationship, with any of the parties'. The *ad hoc* Presidency finds that parties must be read broadly to encompass counsel representing a party especially when considering the potential impact on impartiality. In addition, the *ad hoc* Presidency emphasises that the grounds of excusal

³⁵ First Appeals Chamber Decision, ICC-02/18-109, paras 67-68.

elucidated in rule 34 of the Rules are non-exhaustive, with the key overall consideration being whether the Prosecutor's impartiality might reasonably be doubted on any ground. It further recalls that questions of excusal or disqualification are equally concerned with the appearance of impartiality, and that the relevant standard of assessment is whether the circumstances would lead a reasonable observer, properly informed, to reasonably apprehend bias.³⁶

25. In the circumstances before the *ad hoc* Presidency, the Prosecutor's sister-in-law appeared before the Appeals Chamber as a representative for Venezuela, which was appealing a decision of Pre-Trial Chamber I authorising the Prosecutor to resume investigations in Venezuela. The Prosecutor does not deny that he was aware that his sister-in-law was acting as part of the legal team representing Venezuela. In this regard, the *ad hoc* Presidency considers it irrelevant that the Prosecutor did not attend relevant hearings. The Appeals Chamber has also found, that the Prosecutor did not inform the Appeals Chamber of the family relationship between himself and Ms Alagendra while the relevant proceedings before the Appeals Chamber were ongoing. The *ad hoc* Presidency observes that in situations in which a potential appearance of bias arises, transparency and disclosure are key, an observation shared equally by the Appeals Chamber.³⁷ The *ad hoc* Presidency considers this lack of transparency to be relevant to the assessment of potential bias. In addition, Ms Alagendra had previously worked in the *Ruto and Sang* case in which, regardless of the precise detail and nature of her work, she was in a subordinate relationship to the Prosecutor, who was then lead counsel in the case. This demonstrates the existence of a prior professional relationship which was hierarchical in nature.

26. The *ad hoc* Presidency finds, in the totality of the factual circumstances, that a fair-minded and reasonable observer, properly informed and having considered all facts and circumstances would reasonably apprehend bias. Considering that the Prosecutor may not participate in any matter in which his impartiality might reasonably be doubted the Prosecutor's excusal, as requested, is warranted in these circumstances.

³⁶ Presidency, *Situation in the State of Palestine*, Decision replacing a judge in Pre-Trial Chamber I, 22 April 2024, ICC-01/18-164, pp. 3-4.

³⁷ Second Appeals Chamber Decision, ICC-02/18-118, para. 43.

27. In view of the above, the *ad hoc* Presidency hereby:

GRANTS the Excusal Request.

Done in both English and French, the English version being authoritative.



Judge Rosario Salvatore Aitala
Acting President



Judge Reine Alapini-Gansou
Acting First Vice-President



Judge Kimberly Prost
Acting Second Vice-President

Dated this 2 September 2025

At The Hague, The Netherlands