



Cour
Pénale
Internationale

International
Criminal
Court

La Présidence
The Presidency

Internal memorandum
Memorandum interne

赤根智子

To À	Judge Beti Hohler	From De	The <i>ad hoc</i> Presidency
Date	15 May 2025	Through Via	
Ref.	2025/PRES/00084-02	Copies	
Subject Objet	Decision on your request of 13 May 2025 for excusal pursuant to article 41(1) of the Statute and rule 33 of the Rules of Procedure and Evidence		

The *ad hoc* Presidency, composed of Judge Tomoko Akane, Judge Rosario Salvatore Aitala and Judge Luz del Carmen Ibáñez Carranza, has before it your memorandum of 13 May 2025, in which you ask to be excused from your functions as a judge of the plenary of judges in respect of a request for disqualification, pursuant to article 41(1) of the Statute and rule 33 of the Rules of Procedure and Evidence (the ‘Request’ and the ‘Rules’, respectively).¹

The Request is granted.

Factual Background

On 9 May 2025, the Defence for Mr Rodrigo Roa Duterte (‘Mr Duterte’) filed a ‘Request for the Disqualification of Judge Reine Adélaïde Sophie Alapini-Gansou and Judge María del Socorro Flores Liera from Adjudicating on the Issue of Jurisdiction’ seeking disqualification of Judge Alapini-Gansou and Judge Flores in their capacity as members of Pre-Trial Chamber I (the ‘Request for Disqualification’).² The Request

¹ Memorandum with Presidency internal reference 2025/PRES/00084-01.

² Defence for Mr Duterte, *The Prosecutor v. Rodrigo Roa Duterte*, Request for the Disqualification of Judge Reine Adélaïde Sophie Alapini-Gansou and Judge María del Socorro Flores Liera from Adjudicating on the Issue of Jurisdiction, 9 May 2025, ICC-01/21-01/25-130. See also Defence for Mr Duterte, *The Prosecutor v. Rodrigo Roa Duterte*, [Corrigendum to Request for the Disqualification of Judge Reine Adélaïde Sophie Alapini-Gansou and Judge María del Socorro Flores Liera from Adjudicating on the Issue of Jurisdiction](#), 12 May 2025, ICC-01/21-01/25-130-Corr.

for Disqualification seeks disqualification of Judge Alapini-Gansou and Judge Flores from adjudicating the 'Defence Challenge with Respect to Jurisdiction' filed by Mr Duterte on 1 May 2025 before Pre-Trial Chamber I in the case of *The Prosecutor v. Rodrigo Roa Duterte* (the 'Duterte case').³

By memorandum dated 13 May 2025, Judge Hohler sought excusal from her functions in the plenary of judges in connection with the Request for Disqualification, on the basis that she served as a Prosecution Trial Lawyer on the *Situation in the Republic of the Philippines* from 2019-2022. In light of this previous function, Judge Hohler considers that a ground for disqualification pursuant to article 41(2)(a) of the Statute exists.

Noting that the Request for Disqualification concerns Second Vice-President Alapini-Gansou, an *ad hoc* Presidency was formed by virtue of the operation of regulation 11(2) of the Regulations of the Court.

Decision

The Request is properly before the *ad hoc* Presidency in accordance with article 41(1) of the Statute and rule 33(1) of the Rules.

Article 41(1) of the Statute provides, in relevant part, that '[t]he Presidency may, at the request of a judge, excuse that judge from the exercise of a function under this Statute'. Article 41(2)(a) further provides that '[a] judge shall not participate in any case in which his or her impartiality might reasonably be doubted on any ground. A judge shall be disqualified from a case in accordance with this paragraph if, *inter alia*, that judge has previously been involved in any capacity in that case before the Court [...]'.

The *ad hoc* Presidency, having examined the matter before it, considers that Judge Hohler's prior involvement as a Prosecution Trial Lawyer in the *Situation in the Republic of the Philippines* presents a risk of an appearance of bias, noting that the Duterte case arose from the Prosecution's investigations in the *Situation in the Republic of the Philippines*. Consequently, the *ad hoc* Presidency hereby grants your request for excusal from your functions in the plenary of judges in connection with the Request for Disqualification.

³ Defence for Mr Duterte, *The Prosecutor v. Rodrigo Roa Duterte*, [Defence Challenge with Respect to Jurisdiction](#), 1 May 2025, ICC-01/21-01/25-121.

The *ad hoc* Presidency shall make both this decision and the Request public, noting that Judge Hohler has expressed her consent in accordance with rule 33(2) of the Rules.