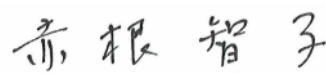


Internal memorandum
Mémorandum interne

To À	Judge Rosario Salvatore Aitala, First Vice-President Judge Reine Alapini-Gansou, Second Vice-President	From De	 Judge Tomoko Akane, President
Date	20 August 2025	Through Via	
Ref.		Copies	Appeals Chamber
Subject Objet	Request for excusal pursuant to article 41(1) of the Statute and rule 33 of the Rules of Procedure and Evidence		

1. On 18 August 2025, the Prosecutor filed before the Presidency a request to be excused from the *situation in the Bolivarian Republic of Venezuela I* (the ‘Venezuela I situation’) (the ‘Prosecutor’s Excusal Request’).¹
2. Pursuant to article 41 of the Rome Statute (the ‘Statute’) and rule 33 of the the Rules of Procedure and Evidence (the ‘Rules’), I hereby request to be excused from my functions in the Presidency in respect of the Prosecutor’s Excusal Request to avoid any question of conflict of interest.
3. The reason for this request is that I am a judge of the Appeals Chamber and the Prosecutor’s Excusal Request was filed in compliance with a decision of the Appeals Chamber instructing the Prosecutor to request his excusal from the Venezuela I situation.² This instruction was based on the Appeals Chamber’s finding that the Prosecutor was under a duty to seek excusal after ‘[h]aving established that there is “reason to believe that a ground for the disqualification of the Prosecutor exists”’.³
4. In my view, there is an objectively reasonable appearance of bias should I participate in the Presidency decision on the Prosecutor’s Excusal Request. There is an obvious overlap between the issues which I considered as a judge of the Appeals Chamber and those which form part of the Prosecutor’s Excusal Request. Noting that the Appeals Chamber has already provided its views as to whether it is appropriate for the Prosecutor to seek

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

² 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 (the ‘Appeals Chamber Decision’), para. 45.

³ Appeals Chamber Decision, ICC-02/18-118, para. 45. *See also* Appeals Chamber Decision, ICC-02/18-118, paras 33-44.

excusal and whether there may be a reasonable apprehension of bias on his behalf, a reasonable observer may consider that I have a predetermined opinion on the merits of the Prosecutor's Excusal Request. In these circumstances, I believe that the standard of judicial impartiality requires my excusal from any functions of the Presidency regarding the adjudication of the Prosecutor's Excusal Request.

5. I note that rule 33(2) of the Rules provides for the confidentiality of this request. Please be advised that I do not object to the *ad hoc* Presidency making my request or the reasons for its eventual decision public, in its fullest discretion.