



Request for Targeted Transparency Measures to Safeguard Judicial Integrity Following the Appeals Chamber's Decision of 1 August 2025 (ICC-02/18-118)

Washington, D.C., 11 August 2025

To the Honourable Judges of the Appeals Chamber
International Criminal Court
The Hague, Netherlands

I. Introduction and relief sought

The undersigned respectfully moves the Chamber—while it remains seised of the matter following its public decision of 1 August 2025¹—to issue measured, narrowly tailored directions that secure transparency where it is most needed. In that decision, the Chamber held that **there are reasons to believe a ground for disqualification of the Prosecutor exists in the Venezuela I Situation, directed him to request excusal within three weeks**², and expressly reserved the authority to adopt further measures as circumstances require³. To prevent the silent replication of the very integrity risk the Chamber has identified—and to dispel or, if necessary, confirm whether a broader pattern is emerging in any matter where Ms Venkateswari Alagendra appears as counsel while the Prosecutor exercises functions—I respectfully request that the Chamber: **(a)** direct the Registrar to conduct a targeted records certification⁴ and to file the result forthwith on the public record with only narrowly tailored redactions; **(b)** where the certification identifies such a matter, order the Prosecutor's immediate non-participation in that matter pending resolution of disqualification; and **(c)** set an expedited timetable (not exceeding 72 hours for written observations) for a swift decision on disqualification in each identified matter, consistently with Rules 34 and 35 and Article 42(7).

II. Standing and capacity

This request is submitted by **Robert Carmona-Borjas** in two capacities: in my individual capacity as a recognised victim participating in the Venezuela I proceedings, and in my institutional capacity as CEO and Co-Founder of **Arcadia Foundation**, which the Court has recorded as representative of victims in the Situation. The Chamber's decision of 1 August

¹ Appeals Chamber, 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"*, ICC-02/18-118 (1 August 2025), public version. <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180c3e9e5.pdf>

² ICC Rules of Procedure and Evidence (Rules 34 and 35). <https://www.icc-cpi.int/sites/default/files/Publications/Rules-of-Procedure-and-Evidence.pdf>

³ Rome Statute of the International Criminal Court (Articles 42(7)–(8), 64(2), 68(3)). <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

⁴ ICC Code of Professional Conduct for Counsel (Article 16(3)). <https://www.icc-cpi.int/sites/default/files/Publications/Code-of-Professional-Conduct-for-counsel.pdf>

2025 identifies both Arcadia Foundation and the undersigned as the Applicants whose filings prompted the *ex officio* review; my interest in the fair and impartial administration of justice in this Situation is therefore direct, concrete, and legally cognisable.

III. Factual predicate

The Chamber has already recognised, on the public record, the combined weight of **three interlinked ties between the Prosecutor and Ms Venkateswari Alagenda—familial, prior professional and hierarchical—and found that a fair-minded and properly informed observer would reasonably apprehend bias on that basis**⁵. That judicial finding triggered the Prosecutor’s duty to seek excusal in *Venezuela I* and justified the Chamber’s retention of seisin and its reservation of further action^{6,7}. Those same appearance-based integrity concerns warrant not only a discrete administrative clarification—whether the same constellation of relationships bears upon other proceedings in which Ms. Alagenda appears as counsel while the Prosecutor exercises functions—but, where such an intersection is certified, immediate prophylactic non-participation by the Prosecutor pending an expedited determination on disqualification in each identified matter⁸. This approach neither presumes misconduct nor disrupts ongoing work: This approach neither presumes misconduct nor disrupts ongoing work: **IT SECURES THE FACTUAL BASELINE AND PRESERVES CONFIDENCE**—while the Chamber disposes of any disqualification question promptly and on a focused record.

IV. Legal foundation

The Chamber’s competence to grant the relief sought flows from the Statute and the Court’s legal texts. **Article 42(7)** requires that the Prosecutor not participate in any matter where his impartiality might reasonably be questioned;⁹ **Article 42(8)**, read with the Rules, assigns to the Appeals Chamber questions concerning the Prosecutor’s excusal and disqualification. **Rule 35** imposes a duty on the Prosecutor to seek excusal **without delay** where there are reasons to believe that a ground for disqualification exists,¹⁰ and provides, together with **Rule 34(2)–(3)** and **Article 64(2)**, for a procedure that hears the person concerned and ensures an **expeditious** determination.¹¹ In parallel, **Article 64(2)** imposes a continuing duty on Chambers to ensure that proceedings are **fair and expeditious**,¹² and **Article 68(3)** recognises the right of victims to present their views and concerns where

⁵ Appeals Chamber, 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”, ICC-02/18-118 (1 Aug. 2025), public version. <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180c3e9e5.pdf>

⁶ ICC Rules of Procedure and Evidence, Rule 35 (duty to request to be excused where reasons for disqualification exist). <https://www.icc-cpi.int/sites/default/files/Publications/Rules-of-Procedure-and-Evidence.pdf>

⁷ Appeals Chamber, ICC-02/18-118 (1 Aug. 2025) (retention of seisin and reservation of further measures). <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180c3e9e5.pdf>

⁸ Rome Statute, Article 42(7) (non-participation where impartiality reasonably in doubt); Article 64(2) (duty to ensure fair and expeditious proceedings). <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

⁹ Rome Statute, Article 42(7). <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

¹⁰ Rome Statute, Article 42(8) (Appeals Chamber decides questions of disqualification), together with ICC Rules of Procedure and Evidence, Rule 34(3). <https://www.icc-cpi.int/sites/default/files/Publications/Rules-of-Procedure-and-Evidence.pdf>

¹¹ ICC Rules of Procedure and Evidence, Rule 35 (duty to seek excusal “without waiting” for a disqualification request). <https://www.icc-cpi.int/sites/default/files/Publications/Rules-of-Procedure-and-Evidence.pdf>

¹² Rome Statute, Article 64(2). <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

their personal interests are affected.¹³ The **ICC Code of Professional Conduct for counsel** further requires counsel to avoid conflicts of interest and, where one arises, to inform potentially affected clients immediately and either withdraw (with the Chamber’s leave) or proceed only on the basis of fully informed written consent by all potentially affected clients.¹⁴ Within this framework, a targeted Registry certification is a proportionate transparency measure squarely aligned with the Court’s integrity mandates; and, where the certification identifies the relevant intersection, an order of **immediate non-participation** coupled with a strict, short timetable for written observations and a **swift disqualification decision** is the minimally intrusive means of giving effect to **Article 42(7)** and the Rules while safeguarding the rights of all participants and the orderly conduct of proceedings.¹⁵

V. Requested directions

I respectfully request that the Chamber order as follows:

1. **Registrar’s certification (five-day deadline).** Within **five days** of the order, the Registrar shall conduct a prompt search of Registry records and **certify** whether **Ms. Venkateswari Alagenda** presently appears, or has appeared since 16 June 2021, **as counsel in any ICC situation or case**. For **each** such matter, the certification shall indicate:
 - a) the **capacity** in which she appears and the **chamber/procedural posture**;
 - b) whether **Prosecutor Karim A. A. Khan is exercising, or has exercised during the relevant period, prosecutorial functions** in that same matter (including approvals, charging decisions or other decision-making acts within the remit of the Office of the Prosecutor), and any **screening or delegation arrangements** adopted; and
 - c) whether **conflict-of-interest disclosures and fully informed written consents** required under **Article 16(3)** of the ICC Code of Professional Conduct for counsel have been **placed on the record**.

If **no such matters** exist, the Registrar shall file a **negative certification** to that effect.
2. **Public filing.** The Registrar shall **file and serve** the certification on the public record, with only **narrowly tailored redactions** necessary to protect victims, witnesses, or ongoing investigative activities.
3. **Immediate non-participation upon certification.** Should the certification identify any matter meeting the intersection described above (Ms Alagenda as counsel **and** the Prosecutor exercising functions in that same matter), the Chamber shall **order the Prosecutor’s immediate non-participation** in that matter **pending** resolution of disqualification, consistently with **Article 42(7)** of the Statute and the Chamber’s duty under **Article 64(2)** to ensure fair proceedings.
4. **Expedited timetable for disqualification.** For each identified matter, the Chamber shall set an **expedited schedule—not exceeding 72 hours** for written observations under **Rules 34 and 35**—and shall **decide swiftly** on disqualification on a focused record, safeguarding the right to be heard while preventing further appearance-based risks.

¹³ Rome Statute, Article 68(3). <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

¹⁴ ICC Code of Professional Conduct for counsel, Article 16(3) (conflict disclosures; withdrawal or fully informed written consent). <https://www.icc-cpi.int/sites/default/files/Publications/Code-of-Professional-Conduct-for-counsel.pdf>

¹⁵ Rome Statute, Article 42(7); ICC Rules of Procedure and Evidence, Rules 34–35. <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>; <https://www.icc-cpi.int/sites/default/files/Publications/Rules-of-Procedure-and-Evidence.pdf>

5. **Further submissions, if warranted.** The Chamber may invite **brief** submissions from concerned parties and participants on any additional steps necessary to safeguard impartiality and public confidence in any matter identified by the certification.

VI. Proportionality and necessity

The relief sought is deliberately **modest and prophylactic**. It neither interrupts investigative or prosecutorial activity nor presupposes any sanction. It **secures an objective factual baseline**—through a neutral certification—needed to determine whether the integrity risk the Chamber has already identified in *Venezuela I* may also arise in other dossiers where the same actors intersect. Where such an intersection exists, **immediate non-participation** is the **least intrusive** means to give effect to **Article 42(7)** while the Chamber, on an **expedited timetable** under **Rules 34–35**, disposes of disqualification promptly and with due respect for the right to be heard. This calibrated approach protects the Court’s institutional integrity, minimises speculation, and enables timely, measured responses—if any prove necessary.

VII. Confidentiality designation

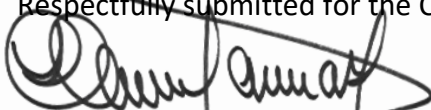
To the fullest extent permitted by the Court’s legal texts, the undersigned **waives confidentiality** over this filing **and over the Registrar’s certification and any submissions or orders flowing from it**, and requests that they be placed on the public record, subject only to **limited, necessary redactions** to protect victims, witnesses, or sensitive investigative information.

VIII. Conclusion

The Chamber has already charted the path: it **recognised** a real appearance-based integrity concern, **directed** the Prosecutor to seek excusal within three weeks, and **retained authority** to act further. A **focused Registry certification** concerning the narrow intersection of Ms Alagendra’s appearances and the Prosecutor’s exercise of functions—followed, where such an intersection exists, by **immediate non-participation** and an **expedited disqualification schedule**—is the **least intrusive and most effective** combination of measures to ensure that the Court’s commitment to impartial justice is maintained across the full breadth of its proceedings.

Where ties cast a shadow, duty requires daylight—not decor...

Respectfully submitted for the Chamber’s consideration,



Robert Carmona-Borjas

Recognised victim (Ref. r/21840/23); and on behalf of **Arcadia Foundation** recorded as representative of victims (Ref. VPRS-A-2023-092).

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