

**Internal memorandum
Memorandum interne**

To À	Judge Rosario Salvatore Aitala, First Vice-President Judge Reine Alapini-Gansou, Second Vice-President	From De	 Judge Tomoko Akane, President
Date	13 October 2026	Through Via	
Ref.	2026/PRES/00129	Copies	
Subject Objet	Request for excusal pursuant to article 41(1) of the Rome Statute and rule 33 of the Rules of Procedure and Evidence		

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- Following my election as President on 11 March 2024, I became a member of the Appeals Division in accordance with article 39(1) of the Rome Statute. There is currently a procedural filing pending before the Appeals Chamber in the case *The Prosecutor v. Mahamat Said Abdel Kani* ('Said') pertaining to the suspension of deadlines for the filing of appeals.¹
- Pursuant to article 41(1) of the Statute and rule 33 of the Rules of Procedure and Evidence (the 'Rules'), I hereby request to be excused from sitting on this procedural matter. I also request to be excused from all future appeals in this case. In addition, I request to be excused from any functions of the Presidency in respect of this request for excusal to avoid any question of conflict of interest.
- The reason for these requests is that prior to 11 March 2024, I was, *inter alia*, a member of Pre-Trial Chamber II which partially confirmed the charges against Mr Said.² I note that regulation 12 of the Regulations provides that '[u]nder no circumstances shall a judge who has participated in the pre-trial or trial phase of a case be eligible to sit on the Appeals Chamber hearing that case'. I consider that my involvement at the pre-trial stage was so substantial that it would be improper to hear any appeals in this case and that it is appropriate to see my excusal at the present stage so that all procedural decisions in connection with any future appeals are made by an appropriately constituted Appeals Chamber.

¹ Defence for Mahamat Said Abdel Kani, *The Prosecutor v. Mahamat Said Abdel Kani*, Requête en suspension du délai conformément à la Règle 150(2) du Règlement de procédure et de preuve et à la Norme 35(2) du Règlement de la Cour, 8 October 2026, ICC-01/14-01/21-1060.

² Pre-Trial Chamber II, *The Prosecutor v. Mahamat Said Abdel Kani*, [Decision on the confirmation of charges against Mahamat Said Abdel Kani](#), 9 December 2021, ICC-01/14-01/21-218-Red.

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4. 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.