



Original: English

**No. ICC-01/22
Date: 19 March 2026**

PRE-TRIAL CHAMBER II

**Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Sergio Gerardo Ugalde Godínez
Judge Haykel Ben Mahfoudh**

SITUATION IN UKRAINE

Public

Finding under article 87(7) of the Rome Statute on the non-compliance by Tajikistan with the request by the Court to cooperate in the arrest and surrender of Vladimir Vladimirovich Putin and referral to the Assembly of States Parties

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

The Republic of Tajikistan

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and Reparations
Section

☒ Other

Presidency

Assembly of States Parties

PRE-TRIAL CHAMBER II of the International Criminal Court (the ‘Chamber’), acting under article 87(7) of the Rome Statute (the ‘Statute’), enters a finding on the non-compliance by the Republic of Tajikistan (‘Tajikistan’) with the request by the Court to cooperate in the arrest and surrender of Vladimir Vladimirovich Putin (‘Mr Putin’) and refers the matter to the Assembly of States Parties.

I. Procedural history and background

1. On 17 March 2023, further to a request filed by the Prosecution,¹ the Chamber issued a warrant of arrest for Mr Putin (the ‘Warrant of Arrest’).²
2. On 24 April 2023, the Chamber instructed the Registry, *inter alia*, to prepare and notify a request for provisional arrest pursuant to article 92(1) of the Rome Statute (the ‘Statute’) to all States Parties (the ‘Request for Cooperation’).³
3. On 2 May 2023, the Registry notified to the relevant authorities of Tajikistan the Request for Cooperation.⁴ On 30 May 2023, Tajikistan confirmed receipt of the Request for Cooperation.⁵
4. On 22 July 2025, following reports that were circulating in the media of a visit of Mr Putin to Dushanbe, Tajikistan in the context of the Commonwealth of Independent States summit that would take place on 10 October 2025, the Registry held a meeting with Tajikistan to, *inter alia*, provide any assistance it would require in relation to the implementation of the Request for Cooperation.⁶

¹ Prosecution’s application under article 58 for a warrant of arrest against Vladimir Vladimirovich PUTIN, ICC-01/22-14-SECRET-Exp.

² Warrant of Arrest for Vladimir Vladimirovich Putin, ICC-01/22-18-SECRET.

³ See Request to all States Parties to the Rome Statute for the provisional arrest of Vladimir Vladimirovich Putin pursuant to article 92 of the Rome Statute in implementation of Pre-Trial Chamber II’s Order of 24 April 2023, 26 April 2023, ICC-01/22-25-Conf.

⁴ Report of the Registry on the Status of the Execution of the Request for Provisional Arrest to the Republic of Tajikistan, 29 September 2025, ICC-01/22-133-Conf (with Confidential Annexes I to III), para. 2 (public redacted version of the Report was submitted on 17 November 2025, ICC-01/22-133-Red [the ‘First Registry Report’]; see Pre-Trial Chamber II, *Situation in Ukraine*, Decision inviting Tajikistan to provide any further submissions on its failure to arrest and surrender Vladimir Vladimirovich Putin, 5 November 2025, ICC-01/22-135-Conf [the ‘Decision inviting Tajikistan to provide any further submissions’]) (Annex III to the First Registry Report was reclassified as public on 9 December 2025, ICC-01/22-133-AnxIII; Email order regarding reclassification of filings from the Chamber of 8 December 2025, at 17:28).

⁵ See Annex II to the First Registry Report.

⁶ First Registry Report, paras 6-8.

5. On 19 September 2025, the Registry transmitted a follow-up note verbale with a view to securing a further meeting with Tajikistan and to inquiring about the veracity of the news report. The Registry transmitted to Tajikistan the Chamber's response to a prior consultation made by another State Party, whereby it had found that 'personal immunity of officials, including Heads of third States, is not opposable in proceedings before the Court, nor a waiver of immunity is required under article 98 of the Statute',⁷ and further recalled the possibility of Tajikistan to avail itself of consultations under article 97 of the Statute.⁸

6. On 25 September 2025, Tajikistan transmitted its response to the Request for Cooperation, indicating that it would not be able to implement it. Tajikistan argued in this regard, *inter alia*, that the Russian Federation is not a party to the Statute and has not waived the immunity of its current Head of State. Tajikistan further referred to an 'Agreement on Cooperation in the field of Justice' between Tajikistan and the Russian Federation, according to which high-ranking officials enjoy immunity from the jurisdiction of third parties and thus cannot be arrested or extradited to third parties. Tajikistan argued that it could not take actions that are contrary to its international legal obligations with respect to the Russian Federation or the diplomatic immunities of a person from the Russian Federation until receiving consent by the Russian Federation to waive the immunity. It also considered that this position would not constitute a refusal to cooperate within the meaning of article 87(7) of the Statute ('Tajikistan's Submissions').⁹

7. On 7 October 2025, the Registry transmitted Tajikistan's Submissions to the President of the Assembly of States Parties (the 'ASP').¹⁰ On the same day, the President of the ASP addressed a letter to Tajikistan.¹¹ Through a note verbale

⁷ See Response to submissions of a State Party under article 97 of the Rome Statute in relation to the Requests for provisional arrest of 26 April 2023 pursuant to the Order on the Requests for provisional arrest of 24 April 2023, 26 April 2023, ICC-01/22-42-Conf, para. 33.

⁸ First Registry Report, para. 10. See also Annex II to the First Registry Report.

⁹ Annex III to the First Registry Report.

¹⁰ Second Report of the Registry on the Status of the Execution of the Request for Provisional Arrest to the Republic of Tajikistan, 17 October 2025, ICC-01/22-134-Conf (with Public Annex I and Confidential Annex II), paras 6-7 (public redacted version of the Second Report was submitted on 17 November 2025, ICC-01/22-134-Red [the 'Second Registry Report'], see Decision inviting Tajikistan to provide any further submissions) (Annex II was reclassified as public on 9 December 2025, ICC-01/22-134-Anx2; see Email order regarding reclassification of filings from the Chamber of 8 December 2025, at 17:28).

¹¹ Second Registry Report, para. 10. See also Annex I to the Second Registry Report.

addressed to the Presidency of the ASP dated 9 October 2025, Tajikistan replicated its original submissions.¹²

8. Mr Putin eventually visited Tajikistan from 8 to 12 October 2025¹³ and, while in its territory, Tajikistan did not arrest and surrender him to the Court.

9. On 5 November 2025, the Chamber issued a decision pursuant to regulation 109(3) of the Regulations of the Court, inviting Tajikistan to provide any further submissions on its failure to arrest and surrender Mr Putin by 3 December 2025.¹⁴

10. On 23 December 2025, the Registry transmitted to the Chamber Tajikistan's further submissions on its failure to arrest and surrender Mr Putin,¹⁵ received on 22 December 2025.¹⁶ In its submissions, Tajikistan emphasises 'the country's commitment to [the Rome Statute's] goals, principles and obligations'. It indicates that, in addition to being a State Party to the Statute since its entry into force, it is also a member state of the Commonwealth of Independent States (the 'CIS') since 10 October 2008, when it signed the 'Agreement on Interaction among the States Parties to the Commonwealth of Independent States on Ensuring the Security of Persons Subject to State Protection' (the 'CIS Agreement'). Tajikistan indicates that based on this agreement, it 'assumed an international obligation to ensure the security and unhindered movement of the heads of state of the CIS member states [...] on its territory'. It finally submits that the visit of the President of the Russian Federation was 'for the purpose of participating in the Annual Council of Heads of State of the Commonwealth of Independent States [...] and the Central Asia-Russia Heads of State Summit', and his participation 'was carried out in full respect of the jurisdiction of the CIS Treaty and relevant bilateral agreements'.¹⁷

¹² Second Registry Report, para. 10. *See also* Annex II to the Second Registry Report.

¹³ Second Registry Report, paras 8-9.

¹⁴ Decision inviting Tajikistan to provide any further submissions (reclassified as public on 9 December 2025; *see* Email order regarding reclassification of filings from the Chamber of 8 December 2025, at 17:28). Tajikistan's request for an extension of the time limit to file further submissions was granted by the Chamber pursuant to regulation 35(2) of the Regulations of the Court; *see* Email from the representative of the Republic of Tajikistan to the Registry of 4 December 2025, at 17:52; *see also* Email from the Chamber of 8 December 2025, at 11:46, extending the time limit to 19 December 2025.

¹⁵ Transmission of 'Tajikistan's further submissions pursuant to Pre-trial Chamber II's Decision dated 5 November 2025, ICC-01/22-135', 23 December 2025, ICC-01/22-137 (with Public Annex) ('Tajikistan's Further Submissions')

¹⁶ *See* Email transmitted by the Registry from the representative of the Republic of Tajikistan of 22 December 2025, at 18:20.

¹⁷ Tajikistan's Further Submissions, pp. 2-3.

11. On 5 January 2026, the Prosecution submitted its response to Tajikistan's further submissions.¹⁸

II. Analysis

12. At the outset, the Chamber notes that the Prosecution's response to Tajikistan's further submissions was unsolicited and unauthorised. Indeed, the Chamber recalls that 'the only indispensable participant' to proceedings under article 87(7) of the Rome Statute and regulation 109 of the Regulations is the requested State Party.¹⁹ While the Chamber might decide to authorise observations by other subjects if it deems that 'they could make submissions relevant to the Chamber's determination',²⁰ this was not the case in the proceedings at hand. Therefore, the Chamber will not take the Prosecution's submissions into consideration.

13. The Chamber recalls that pursuant to article 87(7) of the Statute:

Where a State Party fails to comply with a request to cooperate by the Court contrary to the provisions of this Statute, thereby preventing the Court from exercising its functions and powers under this Statute, the Court may make a finding to that effect and refer the matter to the Assembly of States Parties [...].

14. In interpreting this provision, the Appeals Chamber has held that:

[t]he first clause of article 87(7) of the Statute consists of two cumulative conditions, namely, (i) that the State concerned failed to comply with a request to cooperate; and (ii) that this non-compliance is grave enough to prevent the Court from exercising its functions and powers under the Statute. It is only when the Chamber has established that both conditions are met that it may proceed to consider whether to refer the State to the Assembly of States Parties [...] following a finding of non-compliance.²¹

¹⁸ Prosecution's Response to Tajikistan's 22 December 2025 Further Submissions (ICC-01/22-137-Anx), ICC-01/22-138.

¹⁹ Pre-Trial Chamber II, *Prosecutor v. Omar Hassan Ahmad Al-Bashir*, Decision under article 87(7) of the Rome Statute on the non-compliance by South Africa with the request by the Court for the arrest and surrender of Omar Al-Bashir, 6 July 2017, ICC-02/05-01/09-302, para. 22 (the 'South Africa article 87(7) Decision'), *referring to* the Pre-Trial Chamber II, *Prosecutor v. Omar Hassan Ahmad Al-Bashir*, Decision on the 'Request to present views and concerns in 7 April 2017 public hearing for the purposes of a determination under article 87(7) of the Statute with respect to the Republic of South Africa', 9 March 2017, ICC-02/05-01/09-286, para. 6.

²⁰ South Africa article 87(7) Decision, para. 22.

²¹ Appeals Chamber, *Prosecutor v. Omar Hassan Ahmad Al-Bashir*, Judgment in the Jordan Referral re Al-Bashir Appeal, 6 May 2019, ICC-02/05-01/09-397-Corr, para. 8 (the 'Jordan Appeal Judgment').

15. The Chamber also recalls that the scope of a Chamber's discretion under article 87(7) of the Statute comprises both (i) whether to make a finding of failure to comply with a request for cooperation by a State, which prevents the Court from exercising its powers and functions under the Statute; and (ii) whether it is appropriate to refer the matter to the Assembly of States Parties in order to seek external assistance to obtain cooperation with the request at issue or to otherwise address the lack of cooperation by the requested State.²²

16. In light of the above, the Chamber will address in turn the following questions: (i) whether Tajikistan failed to comply with the request to cooperate in the arrest and surrender of Mr Putin contrary to the provisions of the Statute, thereby preventing the Court from exercising its functions and powers under the Statute; and (ii) whether a referral of the matter to the Assembly of States Parties is warranted.

A. Whether Tajikistan failed to comply with the Request for Cooperation contrary to the provisions of the Statute, thereby preventing the Court from exercising its functions and powers under the Statute

17. At the outset, the Chamber recalls that States Parties must operate in all circumstances in good faith, consistently with the object and the purpose of the Statute and with the expectation that each and all signatories will meaningfully fulfil the obligations agreed in the Statute for the benefit of humanity. In this regard, pursuant to article 86 of the Statute, Tajikistan, as a State Party, 'shall, in accordance with the provisions of this Statute, cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court'. Article 87 of the Statute provides that '[t]he Court shall have the authority to make requests to States Parties for cooperation', including notably requests for the arrest and surrender of a person pursuant to article 89 of the Statute as in the present case. In this regard, the Chamber also notes article 59 of the Statute, according to which '[a] State Party which has received a request for provisional arrest or arrest and surrender *shall* immediately take steps to arrest the person' (emphasis added). This provision describes a fundamental obligation of the requested State, not a discretion.

²² Appeals Chamber, *Prosecutor v. Uhuru Muigai Kenyatta*, Judgment on the Prosecutor's appeal against Trial Chamber V(B)'s 'Decision on Prosecution's application for a finding of non-compliance under Article 87(7) of the Statute', 19 August 2015, ICC-01/09-02/11-1032, para. 1 (the 'Kenyatta Appeal Judgment').

18. In its submissions, after recalling article 27(2) and 98(1) of the Rome Statute, Tajikistan notes that the Russian Federation is not a party to the Statute and has not waived the immunity of its current Head of State, meaning that Tajikistan remains bound by (i) customary international law rules regarding the immunity of state officials;²³ (ii) the international legal obligations arising from the ‘Agreement on Cooperation in the field of Justice’ between Tajikistan and the Russian Federation, whereby high-ranking officials enjoy immunity from the jurisdiction of third parties, including states and international courts and tribunals;²⁴ and (iii) the international legal obligation to ensure ‘the security and unhindered movement of the heads of state’ of the CIS member states, including the Russian Federation, arising from the CIS Agreement.²⁵

19. The Chamber notes that the contents and the obligations entered by a State Party in any international agreement or treaty, which defeats the object and purpose of the obligations of that State Party under the Statute is not opposable as a justification for the non-cooperation of that State with the Court. As previously held by the Chamber, a State Party that ‘enters into agreements or arrangements of any kind with other States with the view to uphold immunities of certain State officials who are sought by the Court, would act inconsistently with its duties and would remain duty bound to abide by the obligations under the Statute’.²⁶ In this regard, the Chamber observes that Tajikistan deposited its instrument of ratification of the Rome Statute on 5 May 2000 and appears to have signed the CIS Agreement on 10 October 2008. The Chamber also notes in passing that article 11 of the CIS Agreement – which is publicly available – appears to expressly acknowledge that the CIS Agreement does not affect the rights and obligations of each party arising from other international treaties to which it is a party. In light of the foregoing, clearly the CIS Agreement does not affect the obligation of cooperation that Tajikistan owes to the Court under the Statute. As to the second agreement relied upon by Tajikistan cited above, the Chamber notes that Tajikistan did not include a copy thereof in its submissions.

²³ Annex III to the First Registry Report.

²⁴ Annex III to the First Registry Report.

²⁵ Tajikistan’s Further Submissions.

²⁶ Response to submissions of a State Party under article 97 of the Rome Statute in relation to the Requests for provisional arrest of 26 April 2023 pursuant to the Order on the Requests for provisional arrest of 24 April 2023, 17 July 2023, ICC-01/22-42-Conf, para. 34.

20. Tajikistan also submits that its position ‘does not constitute a refusal to cooperate within the meaning of article 87(7) of the Rome Statute’, but should be understood as a way to ensure ‘the effectiveness of international criminal justice while strictly adhering to’ the international obligations regarding the immunity of officials of third countries arising from customary law and international agreements.²⁷

21. As previously found, the Chamber recalls that the issue under consideration is neither whether there exists immunity for Heads of State under customary international law *vis-à-vis* an international court, nor whether non-States Parties are bound by the provisions of the Statute.²⁸ Rather, the Chamber must assess whether States Parties, including Tajikistan, and States that have accepted the jurisdiction of the Court under article 12(3) of the Statute alike, have an obligation to execute an arrest warrant regarding the Head of a non-State Party in compliance with article 27 of the Statute.

22. As previously held, the Chamber notes that (i) article 27 of the Statute creates a binding obligation for States Parties to arrest and surrender any person for whom the Court has issued a warrant of arrest, irrespective of their official capacity and regardless of whether these persons are nationals of States Parties or non-States Parties;²⁹ and (ii) such obligation to arrest and surrender suspects to the Court cannot be displaced by any interstate immunity principle.³⁰ Therefore, the Chamber considers that any bilateral obligation that Tajikistan may owe to the Russian Federation to uphold the immunity of a Russian government official, including the President of the Russian Federation, does not alter, supersede or void Tajikistan’s obligation to arrest and surrender, in this case, Mr Putin, to the Court.

23. Furthermore, the Chamber recalls that (i) personal immunity of officials, including Heads of third States, is not opposable in proceedings before the Court, nor a waiver of immunity is required under article 98 of the Statute; and (ii) should a State Party grant personal immunity to the Head of a third State for whom an arrest warrant has been issued, it would be acting inconsistently with its international obligations

²⁷ Annex III to the First Registry Report.

²⁸ Finding under article 87(7) of the Rome Statute on the non-compliance by Mongolia with the request by the Court to cooperate in the arrest and surrender of Vladimir Vladimirovich Putin and referral to the Assembly of States Parties, 24 October 2024, ICC-01/22-90 (the ‘Mongolia Finding under Article 87(7)’), para. 19.

²⁹ Mongolia Finding under Article 87(7), paras 26-27.

³⁰ Mongolia Finding under Article 87(7), para. 33.

under the Statute, which may, under specific conditions, amount to a violation of international law.³¹

24. The Chamber concludes that, by failing to arrest Mr Putin while he was on its territory, Tajikistan has failed to comply with the Court's Request for Cooperation to arrest and surrender Mr Putin contrary to the provisions of the Statute, thereby preventing the Court from exercising its functions and powers under the Statute within the meaning of article 87(7) of the Statute.

B. Whether a referral of the matter to the Assembly of States Parties is warranted

25. Prior to Mr Putin's visit to Dushanbe in October 2025, Tajikistan had been notified of both the Request for Cooperation and the Chamber's response to a prior consultation made by another State Party, whereby the Chamber had already expressed in unequivocal terms that the other State had, in analogous circumstances, the obligation to arrest and surrender Mr Putin to the Court based on the reasons recalled above.³² Tajikistan acknowledged receipt of the Request for Cooperation, concluding nonetheless that, 'due to legal obligations and political considerations related to its strategic partnership with the Russian Federation, it will not be able to implement the [...] request'.³³

26. In light of the above, the Chamber considers that it was sufficiently clear to Tajikistan that it was under an international obligation to execute the Request for Cooperation. Despite the foregoing, Tajikistan failed to fulfil its international obligation towards the Court and towards the international community as a whole to cooperate in the arrest and surrender of Mr Putin.

27. As found by the Appeals Chamber, article 87(7) of the Statute 'aims at enhancing the effectiveness of the cooperation regime under Part IX of the Statute, by providing the Court with the possibility of engaging certain external actors to remedy cases of

³¹ See Mongolia Finding under Article 87(7), para. 36, referring to Appeals Chamber, *Prosecutor v. Omar Hassan Ahmad Al-Bashir*, Judgment in the Jordan Referral re Al-Bashir Appeal, 6 May 2019, ICC-02/05-01/09-397-Corr, para. 5.

³² See Response to submissions of a State Party under article 97 of the Rome Statute in relation to the Requests for provisional arrest of 26 April 2023 pursuant to the Order on the Requests for provisional arrest of 24 April 2023, 26 April 2023, ICC-01/22-42-Conf, para. 33. See also First Registry Report, para. 10.

³³ Annex III to the First Registry Report.

non-compliance’.³⁴ Since the object and purpose of article 87(7) of the Statute is therefore to ‘foster cooperation’, a referral under that provision is ‘not intended to be the standard response to each instance of non-compliance, but only one that may be sought when the Chamber concludes that it is the most effective way of obtaining cooperation in the concrete circumstances at hand’.³⁵ The Chamber highlights that cooperation in the arrest and surrender of suspects is indeed crucial for the functioning of the Court and must be lent to it in a timely manner, with due diligence and making use of all reasonable means available, with a view to fulfilling the solemn pledge of justice that States have undertaken in the Statute’s Preamble for ‘millions of children, women and men [who] have been victims of unimaginable atrocities that deeply shock the conscience of humanity’.³⁶ Therefore, the Chamber considers it appropriate to refer the matter of Tajikistan’s non-compliance to the Assembly of States Parties.

³⁴ See Mongolia Finding under Article 87(7), para. 41, citing Kenyatta Appeal Judgment, para. 51.

³⁵ See Mongolia Finding under Article 87(7), para. 41, citing Kenyatta Appeal Judgment, para. 51.

³⁶ See Mongolia Finding under Article 87(7), para. 41.

FOR THESE REASONS, THE CHAMBER HEREBY

FINDS that Tajikistan failed to comply with its international obligations under the Statute by not executing the Court's request for the arrest and surrender of Mr Putin while he was on Tajikistan's territory;

REFERS the matter of Tajikistan's non-compliance with the request for arrest and surrender of Mr Putin to the Assembly of States Parties through the President of the Court in accordance with regulation 109(4) of the Regulations; and

INSTRUCTS the Registry to transmit this finding to Tajikistan.

Done in English. A French translation will follow. The English version remains authoritative.



**Judge Rosario Salvatore Aitala,
Presiding Judge**



**Judge Sergio Gerardo Ugalde
Godínez**



Judge Haykel Ben Mahfoudh

Dated 19 March 2026

At The Hague, The Netherlands