

ANNEX

Public



**EMBASSY OF MONGOLIA
BRUSSELS**

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The Embassy of Mongolia in Brussels presents its compliments to the Registry of the International Criminal Court and has the honour to request the Registry to forward Mongolia's "Request for extension of time and page limit to file a reply", for due consideration by the Pre-Trial Chamber II of the International Criminal Court.

The Embassy of Mongolia in Brussels avails itself of the opportunity to renew to the Registry of the International Criminal Court the assurances of its highest consideration.

Enclosed: 4 pages

Brussels, 18 November 2024



THE REGISTRY OF THE INTERNATIONAL CRIMINAL COURT
The Hague

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REQUEST FOR EXTENSION OF TIME AND PAGE LIMIT TO FILE A REPLY

I. Introduction

1. Mongolia respectfully requests Pre-Trial Chamber II (“Chamber”) to grant an extension of both the time limit and the page limit for filing its reply to the Prosecution’s Response to Mongolia’s Request for Leave to Appeal (“Prosecution’s Response”), pursuant to Regulation 35(2) and Regulation 37(2) of the Regulations of the Court (“Regulations”).

II. Procedural History

2. On 24 October 2024, the Chamber issued its “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” (“Impugned Decision”).
3. On 29 October 2024, Mongolia filed its “Request for Leave to Appeal” the Impugned Decision, identifying sixteen specific issues pursuant to Article 82(1)(d) of the Rome Statute, and included additional requests for an oral hearing and for inviting *amici curiae* submissions. On the same date, Mongolia filed a “Request for temporary stay of the proceedings” pending the resolution of the Application for Disqualification of Judges.
4. On 4 November 2024, the Prosecution filed its “Prosecution response to Mongolia’s request for leave to appeal”, opposing Mongolia’s Request for Leave to Appeal and raising several new arguments.
5. On 12 November 2024, Mongolia submitted a “Request for Leave to Reply” to the Prosecution’s Response, pursuant to Regulation 24(5) of the Regulations, highlighting the necessity to address new issues and mischaracterizations in the Prosecution’s Response.
6. On 14 November 2024, the Chamber issued its “Decision on Mongolia’s request for leave to reply” (“Decision on Leave to Reply”), partly granting Mongolia’s request, and instructing Mongolia to file a reply, not exceeding five (5) pages, by Wednesday, 20 November 2024.

III. Legal Basis for the Request

7. Regulation 35(2) of the Regulations provides that a Chamber may extend a time limit if good cause is shown:

The Chamber may extend or reduce a time limit if good cause is shown and, where appropriate, after having given the participants an opportunity to be heard. After the lapse of a time limit, an extension of time may only be granted if the participant seeking the extension can demonstrate that he or she was unable to file the application within the time limit for reasons outside his or her control.

8. Regulation 37(2) of the Regulations provides that:

The Chamber may, at the request of a participant, extend the page limit in exceptional circumstances.

9. Mongolia respectfully submits that good cause and exceptional circumstances exist in the present case to warrant the requested extensions.

IV. Extention of Time

10. The issues for which Mongolia has been granted leave to reply encompass intricate and multifaceted questions of international law and international criminal law. These include the interpretation and interaction of Articles 27, 98, and 87(7) of the Rome Statute, as well as the principles and norms of general international law and customary international law related to State immunity and Head of State immunity.
11. Additionally, they involve obligations under bilateral treaties and the interplay between different treaty regimes. Effectively addressing these matters necessitates a comprehensive legal analysis and precise articulation to provide meaningful assistance to the Chamber.
12. The Prosecution's Response raises novel arguments and interpretations that Mongolia could not have reasonably anticipated, necessitating careful analysis, comprehensive legal research and detailed reply to meaningful and constructive assist the Chamber in its determination.
13. Preparing the reply requires extensive coordination among multiple governmental ministries and agencies in Mongolia, including, but not limited to, the Ministry of Foreign Affairs and the Ministry of Justice. This process is inherently time-intensive but critical to ensure that the reply reflects a well-rounded and comprehensive national position. Additional time is therefore necessary to incorporate all relevant perspectives and secure the requisite approvals, ensuring the reply is both accurate and authoritative.
14. Mongolia encounters logistical challenges stemming from significant time zone differences and the need to translate documents and communications between Mongolian and English. These processes, including translation and subsequent review to ensure accuracy and consistency, require additional time. Such challenges further underscore the necessity for an extension to complete the reply effectively.
15. The limited timeframe between the issuance of the Decision on Leave to Reply on 14 November 2024 and the current deadline of 20 November 2024—effectively reduced to just three (3) working days after accounting for one day required for Mongolia to receive notification of the decision and the weekend (Saturday and Sunday)—is insufficient to address the complexity of the issues involved. This severely compressed period does not adequately account for the practical constraints faced by the Government of Mongolia, including, but not limited to, the necessity of inter-ministerial and inter-agency coordination,

as well as other essential preparations required to produce a comprehensive and well-considered reply.

16. Accordingly, an extension would promote procedural fairness and ensure due process by allowing Mongolia sufficient time to prepare a meaningful and constructive reply, thereby assisting the Chamber in its determination and contributing to the fairness and expeditiousness of the proceedings.
17. An extension of the time limit will not prejudice any other party or participant in the proceedings and will contribute to the fair and expeditious conduct of the proceedings by enabling the Chamber to receive comprehensive submissions on the issues.
18. For the foregoing reasons, Mongolia respectfully submits that good cause exists under Regulation 35(2) to grant an extension of the time limit. Given the complexity of the issues involved, the practical, logistical, and procedural challenges encountered, as well as the necessity for thorough inter-ministerial and inter-agency coordination, approval processes, translations, and other related tasks, an extension of no less than thirty (30) days from the original deadline of 20 November 2024 is both reasonable and justified.
19. This additional time will ensure due process, allowing Mongolia to prepare a comprehensive, accurate, and well-considered reply that will meaningfully assist the Chamber in its deliberations and uphold the principles of fairness and efficiency in the proceedings.

V. Extension of Page Limit

20. The complex nature of the issues necessitates a detailed response. A five-page limit is insufficient to adequately address the substantive legal arguments, correct misinterpretations, and provide the Chamber with a comprehensive understanding of Mongolia's position.
21. The Prosecution's Response contains mischaracterizations of Mongolia's arguments that require careful clarification. Additional pages are necessary to methodically address and rectify these points.
22. The outcome of these proceedings carries substantial implications not only for Mongolia but also for the broader international legal community, including both States Parties to the Rome Statute and non-member States. Specifically, the proceedings address critical questions regarding the interpretation and application of Articles 27 and 98 of the Rome Statute. A more detailed and carefully articulated reply would not only aid in resolving the present case but also contribute meaningfully to the ongoing development and refinement of international criminal law.
23. Addressing these new issues thoroughly requires additional pages beyond the five (5) pages initially allotted, as a concise reply would not suffice to cover the breadth and depth of the legal and factual matters raised.

24. Extending the page limit to no less than thirty (30) pages will enable Mongolia to present a well-substantiated and precise reply. This extension will allow for the inclusion of detailed legal arguments, thorough responses to each new point raised by the Prosecution, and corrections of any misrepresentations. Such a comprehensive reply will ensure that the Chamber is fully informed, thereby facilitating its deliberations and promoting the interests of justice.
25. For these reasons, Mongolia respectfully submits that the combination of the complexity of the legal issues, the need to correct significant misinterpretations, and the broader implications for international law constitute exceptional circumstances under Regulation 37(2).

VI. Equity in Proceedings

26. Mongolia does not object to any potential future Prosecutors request of similar nature being granted an equivalent extension of time and page limit to file any document in support of its own position. An equivalent extension of time for both parties in this process would also be in the interests of justice, ensuring fair and efficient proceedings.
27. Mongolia notes that this request is without prejudice to any future applications for an extension of time and page limit.
28. Lastly, Mongolia respectfully requests that the practical challenges outlined in this submission, which significantly affect Mongolia's ability to respond comprehensively within constrained timeframes, be duly considered in the Chamber's future determinations regarding deadlines for filings. Proactively recognizing and incorporating these challenges into the scheduling of deadlines will enhance procedural fairness and due process, facilitate meaningful contributions to the proceedings, and uphold the principles of justice and efficiency.

VII. Relief sought

29. For the foregoing reasons, Mongolia respectfully requests the Chamber to:
 - (i) Grant an extension of the time limit for Mongolia to file its reply to the Prosecution's Response by no less than thirty (30) days from the current deadline of 20 November 2024;
 - (ii) Grant an extension of the page limit for Mongolia's reply to the Prosecution's Response from five (5) pages to no less than thirty (30) pages; and
 - (iii) Consider the practical challenges outlined in this submission in future determinations regarding deadlines for filings, recognizing these factors to promote procedural fairness, ensure due process, and uphold the principles of justice and efficiency.

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