Summary of Trial Judgment in

***The Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu and Hajredin Kuçi* (KSC-BC-2023-12)**

Introduction and Charges

1. I will now deliver a summary of the Judgment in this case, which will be made available to the Parties at the end of this hearing. What I say now is a summary only of that authoritative written Judgment, which is rendered today pursuant to Rules 158 and 159 of the Rules of Procedure and Evidence.
2. **Hashim Thaçi, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu** and **Hajredin Kuçi,** are charged in this case with offences against the administration of justice and public order in relation to a different trial before this court, known as *Case 6*, in which Mr Thaçi was a defendant.
3. Each of the Accused, with the exception of Mr Kuçi, are charged, pursuant to Article 401(2) of the Kosovo Criminal Code, with attempted obstruction, by the common action of a group, of public officials in the performance of official duties. This obstruction is alleged to have been attempted by circumventing court orders in Case 6 prohibiting contact by the accused in that case and their defence teams, except in accordance with specified procedures, with Prosecution witnesses.
4. More specifically, Mr Thaçi is alleged to have organised three separate groups with Mr Fazliu, Mr Smakaj, and Mr Kilaj during their separate visits to him at the court's Detention Centre here in The Hague in July, September and October 2023. Each group was to communicate instructions to a Prosecution witness, which would, in turn, obstruct the capacity of the Prosecution to prepare and present these witnesses, and of the judges of Trial Panel II to evaluate their testimony.
5. As those targeted for obstruction included judges and prosecutors, the aggravated form of the offence pursuant to Article 401(5) of the Kosovo

Criminal Code is charged, and Mr Thaçi is also charged as the leader or organiser of each of the groups pursuant to Article 401(3).

6. Mr Thaçi is also alleged to have disclosed confidential information to his visitors about witnesses, thus violating the secrecy of proceedings pursuant to Article 392(1) of the Kosovo Criminal Code. Some of that disclosure concerned a protected witness, Witness 4, for which Mr Thaçi is charged pursuant to Article 392(2).
7. For these disclosures, and for seeking to communicate with Prosecution witnesses indirectly through his visitors, Mr Thaçi is also charged with contempt of court, pursuant to Article 393.
8. Mr Fazliu, Mr Smakaj and Mr Kilaj are charged with having participated in the common action of a group to obstruct official persons in performing official duties by conveying Mr Thaçi's instructions to the witnesses. They are also alleged to have assisted or agreed to this common action.
9. They are also charged with assisting Mr Thaçi's contempt of court.
10. Mr Kuçi, who was at the relevant time a member of the Defence team of one of the other accused in Case 6, is charged with contempt of court for having: (i) sent a message to a Prosecution witness on 12 April 2023 in violation of the applicable court order; and (ii) agreeing during a non-privileged visit to Mr Thaçi in September 2023 to convey instructions intended to three Prosecution witnesses.

Procedural Background and Evidence

11. The case file was transmitted to me from the Pre-Trial Judge on 12 November 2025. The trial commenced with opening statements on 27 February 2026.
12. Evidentiary hearings were closed on 5 August 2026, with closing statements on the 10, 11 and 14 September 2026. The evidence of nine witnesses was heard or received during trial - three for the Prosecution and six for the Defence. Other

categories of evidence admitted included audio-recordings, telecommunications data and messages, Detention Centre computer and printer records, and other documentary evidence. A total of 241 Prosecution exhibits and 163 Defence exhibits were admitted into evidence.

13. The main evidence against the Accused in this case are audio-recordings of five visits between Mr Thaçi and his co-accused at the Detention Centre. Those audio-recordings were judicially authorised. They are almost entirely in Albanian, and an initial transcription and translation of those audio-recordings was produced by the Prosecution, as required by the Decision on Working Language issued by the Pre-Trial Judge in December 2024.
14. The Defence vigorously challenges the reliability of the transcription and translation of these audio-recordings. Expert evidence from a forensic linguist was presented by the Defence to the effect that the quality of the audio-recordings is so low that the Defence could not identify material errors in their transcription. The Defence's position, and of the expert, was that the audio-recordings needed to be re-transcribed in their entirety *de novo* by neutral transcribers whose knowledge of the case would be limited to what was specifically provided to them.
15. I am not persuaded, for the reasons set out in the Judgment, that the *inter partes* dispute resolution procedure did not provide the Defence an adequate opportunity to challenge the reliability of the Prosecution's transcriptions and translations. In particular, I do not accept the opinion of the Defence expert, who speaks no Albanian and was not assisted by any Albanian-speaker in preparing her report, that the audio-recordings are of such low quality that the Defence could not have identified material errors and raised them with the court's impartial Language Services Unit (LSU). Nor do I accept that, once raised, the LSU would have been unable to competently evaluate any such alleged material errors. This is the standard procedure before this and other courts dealing with substantial volumes of audio-recordings and other

evidential material that require translation and was not challenged by the Defence throughout the pre-trial phase of proceedings. Accordingly, the transcripts of those audio-recordings, and their translation, have been relied upon as an accurate record of what was said during those visits.

16. Challenges were also raised by the Defence to the accuracy of the Prosecution's attribution of words to different speakers during those visits. The Prosecution's speaker-attributions have not been accorded any evidential weight as such. Sufficient portions of the audio-recordings could be reliably attributed by the Single Trial Judge, based on content alone, to differentiate the voices of the speakers throughout the remainder of each audio-recording. The visits of Mr Fazliu and Mr Kuçi involved, for the most part, only two speakers; the visit of Mr Kilaj only three speakers; and one of the two visits of Mr Smakaj, also only three speakers. The exercise did not, therefore, require voice identification against a large number of speakers, let alone the population at large.

Findings

17. I will now discuss the factual findings in relation to each of the visits that are the basis of the charges, in chronological order, starting with that of Mr Fazliu on 2 July 2023.

Fazliu Group

18. Mr Thaçi and Mr Fazliu are charged in Counts 1 and 16, respectively, with attempted obstruction of official duties pursuant to Article 401(2). Mr Thaçi is also charged in Counts 4 and 8, for disclosure of confidential information and contempt of court. Mr Fazliu is charged in Count 17 with assisting Mr Thaçi's contempt.

19. It is not disputed that Mr Fazliu visited Mr Thaçi at the Detention Centre on 2 July 2023. Mr Thaçi and Mr Fazliu discuss at some length the imminent testimony of Prosecution witness Rrustem Mustafa. Mr Thaçi describes Mr Mustafa as being "very decisive" and gives Mr Fazliu a series of messages

concerning both the style and content of his testimony. These messages include, for example: "Tell him, 'Be brief, be brief. Be Brief. Be brief'"; "Tell him, 'Do not philosophise'"; "Tell him, 'They have a lot of trust in you and they can't wait for you to come because you are decisive and can settle this.'"

20. Mr Thaçi then provides guidance on the testimony that he expects from Mr Mustafa, including that "'You were in charge of that area" … 'from the main road'"; that "the boss was Demaçi"; that he was unhappy because the General Staff "did not help me, they did not help me neither with money or logistics, nor with weapons, and I was unhappy'"; that "[h]e appointed the Military Police. 'There was no SHIK /National Intelligence Service/ during the war at all.'"

21. Mr Thaçi tells Mr Fazliu repeatedly that he must write down these messages, expressing concern that Mr Fazliu would forget them, indicating that these were not mere reminiscences about the war amongst old friends, but instructions for onward transmission.

22. Mr Thaçi warns Mr Fazliu that "they will ask him […] 'Has anyone called you?'" This reference to "they" is just one of many examples of Mr Thaçi referring to Prosecution officials and their duties, demonstrating his awareness of how his instructions would impact on, and obstruct, the official duties of official persons responsible for presenting, and assessing, witnesses against him in *Case 6*.

23. When Mr Thaçi warns Mr Fazliu not to put himself at risk, Mr Fazliu proposes that his son, Fahri, make contact with Mr Mustafa on the pretext of discussing a reconciliation process related to a recent shooting incident involving friends of the Fazliu and Mustafa families. This reconciliation process may well have been one of the purposes of a meeting between Mr Fazliu, Fahri, and Mr Mustafa on 29 June 2023, prior to Mr Fazliu's visit. However, Mr Fazliu's description of that meeting to Mr Thaçi indicates that they also discussed Mr Mustafa's upcoming testimony before the court and, in that context, that Mr

Mustafa was willing to receive messages from Mr Thaçi. The pretextual nature of the reconciliation process is underscored by the fact that the messages conveyed by Mr Thaçi to Mr Fazliu during the 2 July Visit do not concern a reconciliation process, but only Mr Mustafa's anticipated testimony.

24. The next day, after Mr Fazliu had returned to Pristina, and just as contemplated by Mr Thaçi and Mr Fazliu the day before, Fahri Fazliu reached out to Mr Mustafa by text message. The text messages show Fahri Fazliu arranging a meeting for himself and his father with Mr Mustafa and then arriving at the location of their meeting. Careful consideration has been given, as set out in the Judgment, to whether Fahri Fazliu set up that meeting knowing his father's purpose, and intending to participate in the common obstructive action. Considering all the circumstances, as more fully set out in the Judgment, the inference can safely be drawn that Fahri Fazliu was aware of that purpose.
25. The form of obstruction alleged in this case is not actual obstruction, but attempted obstruction. An attempt takes place, pursuant to Article 28 of the Kosovo Criminal Code, when a person takes action toward the commission of an offence. That threshold was reached as soon as Fahri Fazliu reached out to Mr Mustafa on 3 July 2023, and was substantially surpassed once, as the circumstantial evidence establishes, Mr Thaçi's instructions were conveyed to Mr Mustafa during that meeting.
26. I am satisfied that the attempted obstruction targeted prosecutors and judges involved in the *Case 6* proceedings, pursuant to Article 401(5), and that Mr Thaçi was the leader and organiser of the group pursuant to Article 401(3).
27. Accordingly, Mr Thaçi and Mr Fazliu are found beyond reasonable doubt to have attempted by common action to obstruct official duties of official persons, as charged in Counts 1 and 16, respectively. Mr Thaçi also committed contempt for this conduct as charged in Count 8 and Mr Fazliu is found to have assisted this contempt under Count 17.

28. During the 2 July Visit, Mr Thaçi also revealed confidential information about several *Case 6* Prosecution witnesses. On the basis of these disclosures, I find beyond reasonable doubt that Mr Thaçi violated the secrecy of proceedings and committed contempt of court as charged in Counts 4 and 8.
29. However, I am not satisfied that Mr Fazliu assisted these disclosures, which were accomplished as soon as the disclosure occurred.

Smakaj Group

30. I address now the visits of Mr Smakaj to Mr Thaçi on 9 September and 7 October 2023.
31. Mr Thaçi and Mr Smakaj are charged in Counts 2 and 12, respectively, with attempted obstruction of official duties by common action pursuant to Article 401(2). Mr Thaçi is also charged in Counts 5 and 10, for violating the secrecy of official proceedings and contempt of court through revealing confidential information and breaching the prohibition to contact Prosecution witnesses. Mr Smakaj is charged in Count 13 with assisting Mr Thaçi's contempt.
32. Mr Thaçi refers to Case 6 Prosecution witness Bislim Zyrapi by name repeatedly during the first of these visits, going beyond expressions of hope as to how he will testify to expressing imperative instructions that should be conveyed to him. For example, Mr Thaçi says:

> "And do not mix up things, man" […] "do not mix it up", what, what Provisional Government?! Ambition! […] What Intelligence Service, man?! He has to remove it […] There was ambition, but they had zones under their command… "Commanders, commanders, commanders, commanders" […] "Remove November, there was not staff, 'they went overseas'". This is what the documents say too! […] and tell him, "Simplify it, don't get mixed up. Don't get mixed up, man. […] don't talk about how it should have been, don't talk about how the Bosnian and Yugoslavian armies were set up on paper". Because he theorises a lot […] Tell him, "You could not, all the villagers were volunteers […]".

33. Passages from the 9 September Visit indicate that Mr Thaçi expects these instructions to be communicated by Mr Smakaj. However, the audio-recordings alone, given the extent to which the relevant exchanges are marked "indiscernible", are insufficient to conclude that Mr Smakaj agreed to do so during that visit.
34. When Mr Smakaj returned on 7 October, this time with only one other visitor, he indicates that he had been in touch with Mr Zyrapi. He reports that Mr Zyrapi requests further explanations regarding certain aspects of his testimony. This then triggers a detailed discussion of instructions to be communicated to Mr Zyrapi which appears to involve Mr Thaçi and Mr Smakaj referring to a written document. Based on what can be heard, it is apparent that either Mr Smakaj or Mr Behrami intend to take that document out of the Detention Centre with them.
35. On 30 October 2023, Mr Smakaj's residence was searched and a document was retrieved which, by its content, appears to be a set of instructions for Mr Zyrapi. For reasons more fully addressed in the Judgment, the Prosecution has adequately established that the document was seized from Mr Smakaj's residence.
36. Digital evidence from the computer available to Mr Thaçi in his cell at the Detention Centre establishes that he saved in digital form a document identical to that found in Mr Smakaj's residence two days before Mr Smakaj's second visit. On the basis of the digital and circumstantial evidence more fully set out in the Judgment, the only reasonable inference is that the document seized from Mr Smakaj's residence was printed by Mr Thaçi at the Detention Centre on 7 October 2023.
37. Telephone records show that Mr Smakaj and Mr Zyrapi were in contact between the two visits, and shortly after the 7 October Visit. Based on circumstantial and telecommunications evidence, I am satisfied that Mr Smakaj met Mr Zyrapi on 24 October 2023 and conveyed instructions to him about his

upcoming testimony, as had been discussed at length with Mr Thaçi during the 7 October Visit.

38. As to whether any third person was involved in the common obstructive action, which is a requirement of Article 401(2), Mr Behrami, who visited Mr Thaçi with Mr Smakaj on both occasions, deliberately speaks over a whispered conversation between Mr Thaçi and Mr Smakaj during the 9 September Visit in a manner that indicates a conscious effort of concealment. He also encouraged the removal of the document from the Detention Centre during the 7 October Visit. This conduct is sufficient to qualify him as a participant in the obstructive action.
39. I am also satisfied that the attempted obstruction targeted prosecutors and judges involved in the *Case 6* proceedings, pursuant to the aggravated form of the offence under Article 401(5), and that Mr Thaçi was the leader and organiser of the group pursuant to Article 401(3).
40. Accordingly, Mr Thaçi and Mr Smakaj are found beyond reasonable doubt to have attempted by common action to obstruct official persons in performing official duties, as charged in Counts 2 and 12. Through these acts, Mr Thaçi committed contempt for this conduct as charged in Count 10 and Mr Smakaj assisted this contempt under Count 13.
41. Mr Thaçi also revealed confidential information relating to five other Prosecution witnesses in addition to Mr Zyrapi, during the 9 September and 7 October visits, thus violating the secrecy of proceedings under Article 392, as charged in Count 5, and committing contempt of court as charged in Count 10.
42. However, I am not satisfied that Mr Smakaj assisted these disclosures, which were accomplished as soon as they occurred.

Kilaj Group

43. Mr Kilaj visited Mr Thaçi at the Detention Centre on 6 October 2023, together with Mr Kryeziu. Mr Thaçi gave detailed instructions to Mr Kilaj about how

Witness 4, a protected Prosecution witness, should testify. Mr Kilaj appeared to agree during that visit that he would convey these instructions to Witness 4.

44. Mr Thaçi refers to two prior statements of Witness 4 during the 6 October Visit in such a way that suggests that those two statements were in front of him and Mr Kilaj as they discussed the instructions. Those two prior statements of Witness 4 were seized during a search of Mr Kilaj's in Pristina on 2 November 2023. Digital evidence indicates that Mr Thaçi reviewed these documents on his computer just before Mr Kilaj's visit and staged them for printing. There is no reasonable doubt, given all the digital and circumstantial evidence, as well as the direct evidence from the audio-recording, that Mr Thaçi gave these prior statements of Witness 4 to Mr Kilaj during the 6 October Visit and that Mr Kilaj removed them from the Detention Centre.
45. However, the evidence does not establish that the third visitor during the 6 October Visit, Mr Kryeziu, participated in the common obstructive action. Mr Kryeziu does not appear to speak over conversations between Mr Thaçi and Mr Kilaj for the purpose of concealment, nor encourage the obstructive action, nor otherwise appear to play any role in it whatsoever. No evidence suggests that MrThaçi or Mr Kilaj expected Mr Kryeziu to play any such role either during or after the 6 October Visit.
46. Furthermore, the evidence does not show that Mr Kilaj took any steps subsequent to the 6 October Visit to make contact with Witness 4.
47. In these circumstances, I am not satisfied that the requirements for the attempted form of the offence are met, nor that the requirements of agreement or assistance are met. Accordingly, I do not find that Mr Thaçi and Mr Kilaj attempted by common action to obstruct official persons in performing official duties, as charged in Counts 3 and 14.
48. Mr Thaçi did, however, reveal confidential information about six Prosecution witnesses to Mr Kilaj and Mr Kryeziu during the 6 October Visit, including the

identity of Witness 4 as a protected Prosecution witness and his confidential prior statements.

49. For this conduct, I find, beyond reasonable doubt, that Mr Thaçi violated the secrecy of proceedings and committed contempt of court as charged in Counts 6, 7 and 11.

50. However, I am not satisfied that Mr Kilaj assisted these disclosures, which were accomplished as soon as they occurred.

Mr Kuçi

51. Mr Kuçi is charged with two counts of contempt of court, the first of which relates to sending a message to Mr Mustafa, after his appearance on a television program commenting on the merits of the case against Mr Thaçi in *Case 6*. The message reads, "Friend, I congratulate you for your professionalism, for your clear ideas about the country and the war, and for your courage. Bravo." As innocuous as this message might seem, Mr Kuçi was at the time a member of one of the other *Case 6* Defence teams and, as such, was prohibited by judicial order from contacting any Prosecution witness. This message could not have been sent – especially given the content of the television program – without Mr Kuçi being aware that he was reaching out to a Prosecution witness. Nor is this accepted to be an act of minor significance within the meaning of Article 11 of the Kosovo Criminal Code which, in any event, is found to be inapplicable.

52. For this conduct, I find, beyond reasonable doubt that Mr Kuçi committed contempt of court as charged in Count 19.

53. Mr Kuçi and Mr Thaçi are also charged for contempt under Counts 9 and 18, respectively for having agreed that Mr Kuçi would contact three Case 6 Prosecution witnesses on Mr Thaçi's behalf, regarding how each should testify.

54. The evidence does not establish, however, that any substantial act was taken towards the commission of the offence. Accordingly, I am not satisfied beyond

reasonable doubt that Mr Kuçi committed this offence as charged under Count 18, or that Mr Thaçi committed this offence as charged undern Count 9.

Sentencing

55. I turn now to sentencing.

56. The sentencing range for attempted obstruction by common action is one to five years, pursuant to Article 401(3) and 401(5) of the Kosovo Criminal Code; up to three years for revealing information about a protected witness pursuant to Article 392(2); up to one year for revealing other confidential information, pursuant to Article 392(1); and up to six months for contempt pursuant to Article 393(1).

57. These ranges, especially in the aggravated forms under Article 401(3) and 401(5), already speak to the inherent gravity of the offences that have been committed in this case. Obstruction of official duties relating to ongoing trial proceedings are an attack on the integrity of the judicial system, which is an essential foundation for the rule of law.

58. The factors enumerated in Articles 69, 70 and 71 of the Kosovo Criminal Code have been applied and balanced in arriving at an appropriate sentence. Ultimately, the over-arching objective is to arrive at a single sentence proportional to the gravity of the offences as committed by the convicted person. While the sentencing practice in Kosovo courts for offences under Article 401 has been carefully considered, many of those cases involve circumstances very different from the present case.

59. The factors that are taken into consideration in arriving at appropriate sentences in the present case, as more fully differentiated in light of the roles of each accused as set out in the Judgment, are: the fact that the obstruction of official persons was to be achieved through interference with Prosecution witnesses; the comprehensive nature of some of the instructions communicated, and the degree of planning and pre-meditation in respect of

those instructions; the particular risks that arose from the disclosure of Witness 4's information, including by doing so in written form; the absence of any threats, coercion, inducements or intimidation; and the relatively limited scope of the offending. The sentences imposed shall, for reasons more fully set out in the Judgment, not run concurrent with any sentence imposed by any other Kosovo court in relation to unrelated charges, including those in *Case 6*, nor shall credit be given for time spent in detention pursuant to an arrest warrant on different charges.

Disposition

60. I shall now read out the dispositions and, as applicable, sentences, each of which is issued in the name of the people of Kosovo pursuant to Rule 159(2) of the Rules.

61. Mr Hashim Thaçi, please stand. I find you:

    a. **guilty** of attempted obstruction of official persons in performing official duties by common action, pursuant to Article 401(2), (3) and (5), as charged in **Counts 1** and **2**;
    b. **guilty** of violating the secrecy of proceedings pursuant to Article 392(1) and (2), as charged in **Counts 4, 5, 6** and **7**; and
    c. **guilty** of contempt of court, pursuant to Article 393(1) and as charged in **Counts 8, 10** and **11**.

62. I find you **not guilty** of attempted obstruction of official persons as charged in **Count 3**; and not guilty of contempt of court as charged in **Count 9**.

63. For the offences of which you are convicted, you are hereby sentenced to a single sentence of **17 months** of imprisonment.

64. Mr Thaçi, you may be seated.

65. Mr Bashkim Smakaj, please stand. I find you:

    a. **guilty** of attempted obstruction of official persons in performing official duties by common action, pursuant to Article 401(2) and (5) and as charged in **Count 12**; and
    b. **guilty** of contempt of court, pursuant to Article 393 and as charged in **Count 13**.

66. For these offences, you are hereby sentenced to a single sentence of **12 months** of imprisonment. As you have already spent more than this period in detention on the basis of the arrest warrant against you in this case, your sentence is served and you will be discharged at the conclusion of this hearing. Any conditions of release previously issued in this case are hereby terminated, and the Registry shall arrange for an expeditious return of your financial security.

67. Mr Smakaj, you may be seated.

68. Mr Kilaj, please stand. I find you:

    a. not guilty of attempted obstruction of official persons in performing official duties by common action, pursuant to Article 401(2) and (5), as charged in Count 14; and
    b. not guilty of contempt of court as charged in Count 15.

69. You will be discharged at the conclusion of this hearing, and any conditions of release are hereby terminated. The Registry shall arrange for an expeditious return of your financial security.

70. Mr Fadil Fazliu, please stand. I find you:

    a. guilty of attempted obstruction of official persons in performing official duties by common action, pursuant to Article 401(2) and (5), as charged in Count 16; and
    b. guilty of contempt of court, pursuant to Article 393 and as charged in Count 17.

71. For these offences, you are hereby sentenced to a single sentence of **12 months** of imprisonment. As you have already spent more than this period in detention on the basis of the arrest warrant in this case, your sentence is served and you will be discharged at the conclusion of this hearing. Any conditions of release previously issued in this case are hereby terminated, and the Registry shall arrange for an expeditious return of your financial security.

72. Mr Fazliu, you may be seated.

73. Mr Kuçi please stand. I find you:

    a. not guilty of contempt of court, pursuant to Article 393 and as charged in Count 18; and
    b. guilty of contempt of court, pursuant to Article 393 and as charged in Count 19.

74. For that offence you are given a suspended sentence of imprisonment for one month, to be discharged after one year if you do not commit during that period any other offence under the Kosovo Criminal Code. Any conditions previously issued in this case are hereby terminated.
75. The Trial Judgment will now be distributed by the Registry to the Parties in electronic form and certified copies of the English version shall be served on

the Accused. As the Judgment is confidential, the copies served on Mr Smakaj, Mr Kilaj, Mr Fazliu and Mr Kuçi shall stay with their respective counsel. Arrangements will be made for them to be able to consult the Judgment on the KSC premises after this hearing. The Albanian version shall be served once it is ready. A public redacted version of this Judgment shall be issued in due course.

76. Court is adjourned.