

In: KSC-BC-2013-12

Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu and Hajredin Kuçi

Before: Pre-Trial Judge

Judge Marjorie Masselot

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Hashim Thaçi

Date: 24 April 2025

Language: English

Classification: Public

Thaçi Defence Notice of Mr Hashim Thaçi's Plea
With Public Annex 1

Specialist Prosecutor's Office
Kimberly P. West

Specialist Counsel for Hashim Thaçi
Sophie Menegon
Luka Mišetić
Specialist Counsel for Bashkim Smakaj
Jonathan Elystan Rees KC
Huw Bowden
Specialist Counsel for Isni Kilaj
Iain Edwards
Joe Holmes
Specialist Counsel for Fadil Fazliu
David A. Young
Specialist Counsel for Hajredin Kuçi
Alexander Admiraal

1. On 29 November 2024, the Pre-Trial Judge partly confirmed an Indictment against Messrs Hashim Thaçi, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu and Hajredin Kuçi ("Confirmation Decision").¹ On the same day, the Pre-Trial Judge issued arrest warrants for Messrs Thaçi, Smakaj, Kilaj and Fazliu and a summons for Mr Kuçi.² On 2 December 2024, the SPO filed a confirmed indictment ("Indictment").³ On 5 December 2024, Mr Thaçi was served with the arrest warrant⁴ and Indictment⁵ at the SC Detention Facilities.

2. On 10 December 2024, Mr Thaçi appeared before the Pre-Trial Judge for his initial appearance. He did not enter a plea.

3. During the status conference of 17 December 2024, the Pre-Trial Judge indicated that Mr Thaçi could enter a plea in writing by 7 January 2025 at 12.00.⁶

4. Accordingly, on 6 January 2025, Mr Thaçi notified his plea of not guilty on each count and charge in the Indictment.⁷

5. On 12 February 2025, the SPO appealed the Confirmation Decision.⁸ On 3 April 2025, the Court of Appeals Panel issued its "Decision on the Specialist Prosecutor's Office's Appeal Against the Decision on the Confirmation of the Indictment", granting one ground of appeal, by majority; it found that the mode of liability under Article 32(3) of the Kosovo Criminal Code ("KCC") (third form of incitement) is applicable to

¹ KSC-BC-2023-12/F00036, Decision on the Confirmation of the Indictment, 29 November 2024, Confidential (public redacted version notified on 12 February 2025).

² KSC-BC-2023-12/F00037, Decision on Request for Arrest Warrants and Related Matters, 29 November 2024, Confidential (public redacted version notified on 19 December 2024).

³ KSC-BC-2023-12/F00040, Submission of Confirmed Indictment, with Annex 1, 2 December 2024, Confidential.

⁴ KSC-BC-2023-12/F00048, Notification of Service of Arrest Warrant on Hashim Thaçi Pursuant to Rule 55(4), 5 December 2024 (reclassified as public on 14 January 2025).

⁵ KSC-BC-2023-12/F00059, Decision Setting the Date for Initial Appearances and Related Matters, 6 December 2024, para. 4.

⁶ KSC-BC-2023-12, Transcript of 17 December 2024, p. 130.

⁷ KSC-BC-2023-12/F00103, Thaçi Defence Notice of Mr Hashim Thaçi's Plea With Public Annex 1, 6 January 2025, Public.

⁸ KSC-BC-2023-12/IA002/F00002, Prosecution appeal against the "Decision on the Confirmation of the Indictment" (F00036), 12 February 2025, Confidential, with Annexes 1-2 public (public redacted version notified on 14 February 2025).

the aggravated forms of obstruction of official persons under Article 401(3) and (5) of the KCC and remanded this matter to the Pre-Trial Judge for further consideration.⁹

6. On 14 April 2025, taking into account the Court of Appeals Panel's findings, the Pre-Trial Judge confirmed "the charge against Mr Thaçi of attempting to obstruct, by common action, official persons, including SPO prosecutors and investigators, in performing official duties, between at least 26 June 2023 and 2 November 2023, punishable under Articles 21, 32(3) and 401(3) and (5) of the KCC (in conjunction with Article 401(2) of the KCC), by virtue of Articles 15(2) and 16(3) of the Law (Counts 1, 2 and 3 of the Confirmed Indictment)", considering that "there is a well-grounded suspicion that Mr Thaçi incited the attempted obstruction of official persons [...], even if the offence was not attempted" ("Decision Amending the Confirmation Decision").¹⁰ The Pre-Trial Judge ordered the SPO to submit an amended confirmed indictment,¹¹ which the SPO filed on 16 April 2025 ("Amended Confirmed Indictment").¹² The Pre-Trial Judge also indicated that Mr Thaçi could enter a plea on the additional form of incitement envisaged by Article 32(3) of the Kosovo Criminal Code.¹³

7. Accordingly, pursuant to Rule 92 of the Rules of Procedure and Evidence, Mr Thaçi's written plea of not guilty on each count and charge in the Amended Confirmed Indictment, including the additional form of incitement for Counts 1 to 3, is annexed to the present submissions.

[Word count: 699 words]

⁹ KSC-BC-2023-12/IA002/F00012, Decision on the Specialist Prosecutor's Office's Appeal Against the Decision on the Confirmation of the Indictment, 3 April 2025, Confidential (public redacted version notified on the same day), paras 88-90.

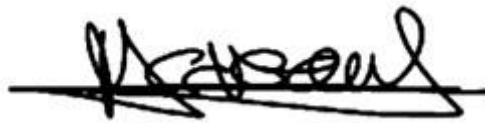
¹⁰ KSC-BC-2023-12/F00260, Decision Amending the "Decision on the Confirmation of the Indictment" and Setting a Date for the Submission of Preliminary Motions, 14 April 2025, Public, paras, 23, 31.

¹¹ *Ibid.*, para. 31.

¹² KSC-BC-2023-12/F00264, Submission of Amended Confirmed Indictment with confidential Annex 1 and public Annex 2, 16 April 2025, Public.

¹³ Decision Amending the Confirmation Decision, para. 28.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sophie Menegon', written over a horizontal line.

Sophie Menegon

Counsel for Hashim Thaçi

Thursday, 24 April 2025

At The Hague, The Netherlands