

September 2024

# FAQs

## THE HASNA A. CASE

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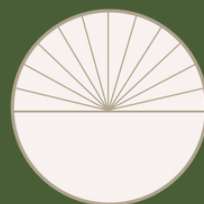
Answers to frequently asked questions about the **first Dutch case** concerning crimes committed against the **Yazidi community**.

Co-developed by

THE  
NUHANOVIC  
FOUNDATION  

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CENTRE FOR WAR REPARATIONS



YAZIDI LEGAL NETWORK

# Frequently Asked Questions

## THE HASNA A. CASE

### **Q Who is the Accused in this case?**

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**A** The Accused is a 33 year-old Dutch national from Hengelo named Hasna A. Out of respect for the survivors we will refrain from using her name again and hereafter will refer to ‘the Accused’. She is one of twelve Dutch women who were repatriated from detention camps in Northern Syria late 2022, where they had been held following the conclusion of ISIS’s occupation and the fall of its so-called ‘caliphate’. Upon arrival in the Netherlands the women were taken into custody pending prosecution.

### **Q What specific charges have been brought against the Accused?**

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**A** The Accused is facing charges related to her alleged membership of the terrorist organization ISIS, and for allegedly endangering her underaged son whom she brought with her when she left the Netherlands for the ISIS’s so-called ‘caliphate’ in 2015. These are crimes under the Dutch Criminal Code. Additionally she is also charged with slavery as a crime against humanity. The slavery charge pertains to the allegation that the Accused used an enslaved Yazidi-woman referred to in the trial as ‘Z’ as a slave, forcing her to conduct all manner of daily domestic work for hours on end and take care of the Accused’s son. Slavery as the crime against humanity is criminalized under the Dutch International Crimes Act (2003) (in Dutch: Wet Internationale Misdrijven). On 4 June 2024,



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the Public Prosecutor's Office announced that it would bring additional slavery charges against the Accused. These new charges pertain to the allegation that she also made use of another Yazidi woman as a slave. This woman is referred to in the trial as 'S.' and she has also provided testimony as a witness in the case.

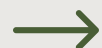


### What is ISIS?

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ISIS, or the Islamic State of Iraq and Syria, is a jihadist militant group that emerged from the remnants of al-Qaeda in Iraq. It declared a self-proclaimed 'caliphate' in 2014, capturing large areas in Iraq and Syria. Known for its extreme interpretation of Sunni Islam, ISIS conducted widespread atrocities including mass executions, enslavement, and sexual violence against ethnic and religious minorities such as the Yazidis. It has been officially recognized by international bodies, including the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD), various national governments such as the Netherlands and the German criminal courts, that crimes committed against Yazidis by ISIS amount to genocide and crimes against humanity.



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### **Q** What is the legal justification for conducting a trial in the Netherlands for crimes committed in Syria and/or Iraq?

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**A** Cases concerning international crimes committed outside of the Netherlands can be prosecuted before the Dutch criminal courts on the basis of secondary universal jurisdiction.

Universal jurisdiction allows national courts to prosecute individuals for grave offenses such as genocide, war crimes, and crimes against humanity regardless of where the crimes were committed or the nationality of the perpetrators or victims. In cases of core international crimes, the Dutch International Crimes Act provides for secondary universal jurisdiction. This means that in cases of core international crimes, the Dutch authorities can prosecute international crimes committed outside of the Netherlands, provided that there is a link with the Netherlands. Namely:

- (a)** that the perpetrator is in the Netherlands,
- (b)** that the crime is committed against a Dutch national and/or
- (c)** that the crime is committed by a Dutch national.

In this case, the Accused is a Dutch national who is in the Netherlands. As such, the Dutch authorities have jurisdiction to prosecute her for her alleged involvement in atrocities committed by ISIS against the Yazidi community in Syria. This aligns with the Netherlands' commitment to upholding international human rights standards and ensuring accountability for grave violations of international (criminal) law.



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### **Q** What is the (broader) significance of this case?

**A** This trial is significant because it represents the first case in which an individual is prosecuted in the Netherlands for crimes committed against the Yazidi community, who were subjected to severe persecution, genocide and crimes against humanity by ISIS. It underscores the international commitment to seek justice for victims of mass atrocities and reinforces the role of national courts in addressing international crimes. It can also be seen as part of a broader effort to hold (European) ISIS-members accountable and provide a measure of justice to affected communities.

### **Q** What details can you share about the investigation process leading up to this trial?

**A** The case is being tried before a panel of three judges from the international crimes division of the **District Court of The Hague** (hereafter: the **Trial Panel**). The case was brought by the Team International Crimes of the National Public Prosecutor's Office in the Netherlands (hereafter: TIM). The investigation into the Accused's alleged crimes has involved gathering evidence including testimonies from Yazidi survivors/witnesses. The TIM has coordinated with international bodies and conducted thorough investigations to build the case.



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The Trial Panel referred the case to the Investigating Judge of the international crimes division of the District Court of The Hague (in Dutch: rechter-commissaris). During this phase of the proceedings, the information on the case file is reviewed, additional documents and evidence can be added to the case file and the Defense has the opportunity to challenge the available evidence and request additional investigative action. In the present case and amongst other things, several witnesses have provided testimony before the Investigative Judge in this respect.

Since her repatriation to the Netherlands and pending the substantive trial hearings in her case, the Accused has been in pre-trial detention. Dutch Criminal Procedural Law requires that pre-trial detention is reviewed every three months during so-called pro forma hearings before the Trial Panel. There have been several such pro forma hearings in this case, during which the status of the case is discussed and the Accused's pre-trial detention is reviewed. The most recent pro forma hearings took place on **4 June 2024** and **30 August 2024**.



### When is the trial scheduled to commence?

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The substantive hearings for the trial are scheduled to take place on **14, 16 and 17 October 2024**, subject to adjustments based on ongoing investigations or other unforeseen developments. That being said, the present expectation is that the case can indeed move to trial mid-October.



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### **What are the anticipated procedures and structure of the trial?**

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This is a Dutch criminal case and the trial will therefore take place according to Dutch Criminal (Procedural) Law. Contrary to common law jurisdictions in which criminal trials can take weeks (or sometimes even longer) and generally include in-court testimony from witnesses and experts, Dutch criminal trials are much more compact. The gathering of (additional) evidence for the case file, including witness testimony, generally takes place in the pre-trial phase under direction of the Investigating Judge.

During the substantive hearings, the Trial Panel reviews and discusses the case file and questions the Accused, the Prosecution and the Defense are also given the opportunity to present their case and ask questions. The Accused has the option to represent themselves, but in the present case the Accused is represented by Defense Counsel (her lawyers). In the Netherlands, victims (survivors) of the crimes with which an Accused is charged can be designated as participating victims in the criminal proceedings. The same can apply to certain surviving relatives if a victim dies as a result of the crime. Participating victims have the right to claim damages for the crimes committed against them according to the indictment, They can also address the court about the impact of the crime on their lives, and depending on the crimes at issue also on other aspects of the case. 'Z.' and 'S.' have been designated as participating victims in this case, and are represented by Victims' Counsel (their lawyers).



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### **Criminal court-proceedings in the Netherlands generally go as follows**

#### **1. Opening of the case**

The case is called, the Trial Panel verifies the identity of the Accused and provides a brief explanation to the Accused of their rights during trial (including the right to remain silent). The Prosecutor then presents the charges in the indictment.

#### **2. Examination of the case by the Trial Panel**

The Trial Panel conducts the examination of the case by reviewing and discussing documents and evidence on the case file and by asking questions to the Accused. The Prosecutor and Defense Counsel may also ask questions to the Accused, and draw the attention of the Trial Panel to certain documents and/or evidence they would additionally like it to consider. Witnesses and experts present in the courtroom can testify in court as the case may be. Unlike witnesses and experts, the Accused has the right to remain silent and is also not required to swear/promise to tell the truth.

#### **3. Victims' participatory rights**

Participating victims who have filed a claim for damages can provide oral submissions about their claim before the Trial Panel and answer questions about the claim from the Trial Panel, Prosecution and Defense. Usually participating victims who wish to make a victim impact statement or who wish to address the court about other matters they consider relevant, are given the opportunity to do so at this juncture.



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### **4. Discussion of Personal Circumstances**

The Trial Panel will discuss the personal circumstances of the Accused, also with a view to a possible sentence in the event of a conviction.

### **5. Closing statements**

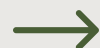
The Prosecution will then make its oral submissions (pleadings) for the case and the penalty they seek, and can state its position on the claim for damages. The Defense then makes its oral submissions in which it can respond to the Prosecutor's arguments and the claim for damages. Following this, Victim's Counsel can respond to arguments made by the Prosecution and/or Defense in relation to the claim for damages. After this the Prosecution and then the Defense can present their final oral submissions about the case and claim for damages.

### **6. Final word**

The Accused is given the opportunity to have the last word, if she so wishes.

### **7. Conclusion of the Trial**

The Trial Panel closes the trial. The verdict is usually rendered two weeks later, although in cases such as the Hasna A. case, the verdict may be delivered several weeks after the trial closes.



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### **Q Why is this case not being prosecuted at the International Criminal Court in The Hague?**

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**A** The International Criminal Court (hereafter: ICC) operates based on the principle of complementarity, which means it (only) intervenes when national jurisdictions are unwilling and/or unable to prosecute serious international crimes themselves.

In this case, there is no need for the ICC to intervene, as the Netherlands has jurisdiction over the crimes committed, and is prosecuting the Accused for the international crimes at issue before its own national courts.

### **Q What role does the Yazidi Legal Network and The Nuhanovic Foundation play in this case?**

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**A** The Yazidi Legal Network (YLN) assists by raising awareness and sharing information about the case, also in an effort to ensure that the broader public and relevant stakeholders are duly informed. Additionally, they offer support to individuals involved in the case. YLN's efforts contribute to both the visibility and accessibility of the case.

The Nuhanovic Foundation (NF) is providing logistical aid to the lawyer of the victim and facilitating participation of witnesses in the proceedings. Additionally, NF continues to conduct advocacy and outreach surrounding the case and support the court in facilitating online and physical access.



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### **Q** How can I attend the trial hearings?

**A** So far, the court hearings have taken place in the secure courtroom in Rotterdam, with the **substantive hearings** on **14, 16 & 17 October 2024** scheduled to take place at the **Schiphol Judicial Complex (JCS)** ([click here](#) for directions). The substantive hearings will be public, and interested parties are free to attend the hearings as audience. Please bear in mind that the courtroom has limited capacity.

The Court is offering a Livestream for the substantive hearings in October, which would include **simultaneous interpretation from Dutch to Kurmanji**. This allows parties who cannot attend the trial in person to be able to follow the substantive hearings remotely.

If you are interested in attending the trial in-person or following via livestream, you can send an email to **info@yazidilegalnetwork.org** and we will keep you posted on any developments.

### **Q** What can I do if I have information about international crimes?

**A** If you have any information regarding potential international crimes, whether committed inside or outside of the Netherlands, you are encouraged to contact the **Team International Crimes** (hereafter: **TIM**).



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**On its website**, the TIM provides information in multiple languages about how you could share information you may have.

You can also reach out to the **Nuhanovic Foundation** at [mail@nuhanovicfoundation.org](mailto:mail@nuhanovicfoundation.org), and/or the **Yazidi Legal Network** at [info@yazidilegalnetwork.org](mailto:info@yazidilegalnetwork.org).

For additional support or questions, they can also put you into contact with third parties who might assist you as the case may be.

**Please be assured that any and all information that you provide will be handled with the utmost confidentiality.**



## The Nuhanovic Foundation

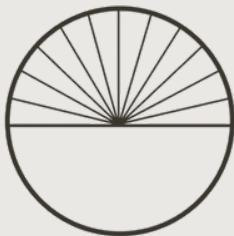
Supporting victims and survivors of international crimes through litigation, advocacy and knowledge.

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YAZIDI LEGAL NETWORK

## Yazidi Legal Network

Empowering and supporting the Yazidi community in their struggle to access justice and accountability.

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