

July 2025

# FAQs

## ISMAIL ZIADA V IDF COMMANDERS

---

Answers to frequently asked questions about the case against two Israeli military officials for **deliberately bombing the home of Ismail Ziada's family in the Gaza Strip** in July 2014, **killing six of his family members**.

Developed by



In collaboration with



---

European Legal Support Center

# Frequently Asked Questions

## ISMAIL ZIADA V IDF COMMANDERS



### Who is the Claimant in this case?



Ismail Ziada is a Palestinian and a Dutch national living in the Netherlands. He lost six close family members —his mother, three brothers, a sister-in-law, and a nephew—when an Israeli airstrike hit his family home in Gaza on 20 July 2014, during a military operation known as 'Operation Protective Edge.'



### What is the case about?



Mr. Ziada brought a [civil suit](#) before the District Court of The Hague (The Netherlands) against two Israeli former military officers, Benjamin Gantz and Amir Eshel, for the deliberate bombing of his family's home in the Gaza Strip in July 2014. He accused the officials of war crimes for the bombing of his family's home. Mr. Ziada claims they are responsible for the attack and is seeking compensation for both the emotional and material damage he has suffered.

In January 2020, [the District Court of The Hague ruled](#) that the defendant officers had immunity under international law from foreign civil jurisdiction, meaning no Dutch court could hear the case.

On 7 December 2021, [the Court of Appeal upheld](#) this decision, stating that this immunity applied even in cases of alleged war crimes. Mr. Ziada appealed to the Supreme Court of the Netherlands, but on 25 August 2023, his claim was dismissed.



# Frequently Asked Questions

## ISMAIL ZIADA V IDF COMMANDERS

**A** [The Supreme Court confirmed](#) that the two officials, as representatives of the Israeli state carrying out actions authorised by the Israeli government, were immune from civil prosecution in Dutch courts. Mr. Ziada is represented by international human rights lawyers Helen Duffy and Wout Albers. Their work has been instrumental in advancing the case before Dutch courts and now before the European Court of Human Rights.

In December 2023, Mr Ziada brought a [case against the Netherlands to the European Court of Human Rights \(ECtHR\)](#) in Strasbourg. He alleges that, by refusing to hear his case, the Netherlands has violated his right to access to justice.

The key question in the case is whether the former Israeli officials have immunity from legal action before Dutch courts (as foreign courts), even in cases involving alleged war crimes, and even if this would leave Mr. Ziada without any access to justice.

**Q Why was the case brought in the Netherlands if it concerns an international crime by Israeli military officials on Palestinian soil?**

**A** Mr. Ziada has no access to courts, either in Palestine or in Israel, to place his claim. As Mr. Ziada is a Dutch national, he decided to bring his claim in the Netherlands. Under some circumstances, Dutch national courts can hear civil claims about events that happened outside of the Netherlands. Mr. Ziada argues that, because he has no other legal options, his case qualifies as an exceptional situation under Article 9 of the Dutch Code of Civil Procedure, allowing the Dutch court to hear it.



# Frequently Asked Questions

## ISMAIL ZIADA V IDF COMMANDERS



**What did the Dutch courts decide on this case?**



The Dutch courts [decided](#) not to hear Mr. Ziada's case because they said the two former military officials have immunity from civil suits under Dutch law. They used a wide interpretation of "absolute immunity for officials," which typically applies to states. The courts argued that the rule of state immunity also applies to (former) military officials, no matter what crimes they are accused of or how it affects the person making the claim. While the court recognized the existence of state and functional immunities, they treated functional immunities as an 'extension' of state immunity and subject to the same 'general rule'.

In their [submission to the ECtHR](#), Mr. Ziada's lawyers argued that the Dutch' court's approach is fundamentally flawed, as it conflates state immunity with functional immunity and fails to take into account the serious nature of war crimes in the case, as well as the absence of any other courts that can hear Mr. Ziada's case. Hence, by not looking at the essence of the case and rejecting it based on a blanked application of immunities, the Dutch courts' acted inconsistent with developing international standards and violated article 6 of the European Convention on Human Rights.



**What is immunity under international law?**



In principle, a court can rule on any issue, unless rules of (international) law says it cannot. Immunity is one of those exceptions. Immunity means that certain states, government



# Frequently Asked Questions

## ISMAIL ZIADA V IDF COMMANDERS

**A** officials, or international organisations cannot be taken to court in another country. This rule exists to respect the independence of other countries, protect diplomatic relations, and let officials do their jobs without fear of being sued abroad.

There are three main types of immunity: state immunity, personal immunity, and functional immunity. In the Ziada case, the key issue revolves around functional immunity, which protects government officials from being taken to court for actions they took while performing their official duties. The Dutch court's decision was based on this principle, stating that the former Israeli officials could not be tried because they were acting in their official capacity.

However, more and more courts around the world are starting to reject immunity claims when (former) officials are accused of serious crimes like war crimes, crimes against humanity, or genocide:

- [Samantar v. Yousuf \(2010\)](#) - the U.S. Supreme Court held that foreign officials are not entitled to immunity for violations of 'jus cogens' norms, even if the actions were carried out in their official capacity.
- [H./OM \(2008\)](#) and [Bouterse \(2000\)](#) - Dutch courts have convicted former Afghan and Surinamese officials of torture and war crimes, affirming that foreign officials are not immune from prosecution for violations of jus cogens norms. Jus cogens norms are universal principles, like the prohibitions on torture and genocide, that all countries must uphold and cannot be overridden by treaties.
- [BGH 3 StR 564/19 \(2021\)](#) - German courts have ruled that functional immunity does not protect individuals from prosecution for war crimes, and that this principle extends to civil proceedings. In [BGH AK4/24 \(2024\)](#), this was further clarified and expanded to apply to all foreign officials, irrespective of rank, in cases involving international crimes—confirming that the inapplicability of functional immunity in such contexts is a norm of customary international law.



# Frequently Asked Questions

## ISMAIL ZIADA V IDF COMMANDERS



### How could the ECtHR's decision be different from Dutch courts?



In December 2023, Mr. Ziada brought a case against the Netherlands to the European Court of Human Rights (ECtHR) after his claim was rejected by Dutch courts. The issue in Mr. Ziada's case before the ECtHR is similar to the one raised in the Dutch courts, namely where access to justice can be denied on the basis that former officials are granted immunity for alleged war crimes.

However, the ECtHR's role differs from that of the Dutch courts. While the Dutch courts focused on the immunity of the Israeli officials, the ECtHR will examine whether the Dutch courts' refusal to hear his case violated his right to access justice (under Article 6 of the European Convention on Human Rights), and whether it discriminated against him as a Palestinian (protected by Article 14 of the Convention).

Unlike the Dutch courts, the ECtHR will not address the core question of whether the Israeli officials are responsible for the damage Mr. Ziada suffered. Instead, the Court will focus on whether the Dutch refusal to hear the case violated his fundamental rights. If the ECtHR finds a violation, it may order the Netherlands to compensate Mr. Ziada for the costs and legal fees incurred during the proceedings.

While a judgment of the ECtHR (finding a violation) will not overturn or change the decision of the Dutch courts, the Netherlands is expected to follow this judgment under its obligations as a European member state. The judgment will also put pressure on the Dutch (and other European) courts to reconsider and potentially revise their legal approach and practices going forward.



# Frequently Asked Questions

## ISMAIL ZIADA V IDF COMMANDERS



**At what stage at the ECtHR is the case now?**



On 20 June 2024, the ECtHR admitted the case and began examining its content. The Court also classified it as an ‘impact’ case, thus highlighting the significance of the case.

After the Dutch government responded to the claim in November 2024, Mr. Ziada filed his [reply](#) on February 10, 2025. In addition to the legal arguments, the court has invited the claimant to submit a claim for just satisfaction, which includes compensation and costs incurred both domestically and internationally. The Court will now review both sides’ arguments and may schedule a public hearing if it deems it necessary.



**What is the significance of this case, in particular concerning Israeli accountability for international crimes?**



This case is significant for several reasons, not just for Mr. Ziada, but also for broader questions about justice, accountability, human rights, and the role of national courts in upholding international law.

First and foremost, this case determines whether Mr. Ziada can seek justice. If the ECtHR finds that the Dutch courts were right to refuse to hear his case, he has nowhere to go —meaning he is denied the chance to hold those responsible accountable and seek reparations.



# Frequently Asked Questions

## ISMAIL ZIADA V IDF COMMANDERS

A

Beyond Mr. Ziada's case, this case sets an important precedent: **if national courts apply immunity so broadly that former officials cannot be held accountable, what does that mean for other victims—Palestinian or otherwise—who are trying to hold former state officials accountable for serious crimes?** If immunity is applied too broadly, it could make it impossible to hold those responsible for international crimes to account.

Moreover, despite Israel's systemic wrongdoings against the Palestinian population, [Palestinians face significant struggles in accessing courts](#) to hold Israeli officials accountable for international crimes. **This case could, therefore, become a crucial piece in the broader puzzle of accountability for Palestinians.**

This case also asks fundamental questions about the role of domestic courts in upholding international law. How does that law need to be interpreted? How does it take into account the interests of victims in this regard? Can a court refuse to hear a case against (former) state officials by invoking 'immunity'? **National courts play a crucial role in enforcing international law, especially because international courts, like the International Criminal Court, have limited power and usually only step in when national courts fail to act.** If national courts do not take responsibility, justice may never be served.

At its core, this case is about more than just legal technicalities or one person's access to justice – It is a test of how seriously we take accountability for international crimes, and whether victims like Mr. Ziada have any real path to justice. If national courts refuse to act, what alternatives do victims have?





# Frequently Asked Questions

## ISMAIL ZIADA V IDF COMMANDERS

**Q What role does the Nuhanovic Foundation play in this case?**

**A** [The Nuhanovic Foundation](#) has been a key supporter of the Ziada case since it began in 2014. The Foundation has provided crucial financial assistance by covering the costs of legal representation, ensuring that the legal team could continue their work without financial barriers. In addition, the Foundation played a vital role in coordinating a fundraising campaign to secure the necessary funds to cover the substantial expenses of the legal proceedings. Beyond financial support, the Nuhanovic Foundation has also organised various [events](#) aimed at raising awareness and garnering visibility for the case, making sure that the issue remains in the public eye and generating broader support for the cause.

**Q What role does the European Legal Center play in this case?**

**A** The [ELSC](#) has assisted Mr. Ziada in finding the right lawyers for his recourse to the ECtHR and advised Ziada's legal team. The ELSC also participated in the crowdfunding campaign and supported awareness-raising and public outreach efforts to increase the visibility of his case.



## The Nuhanovic Foundation

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

Amsterdam Law Hub  
Nieuwe Achtergracht 164  
1018 WV Amsterdam

[www.nuhanovicfoundation.org](http://www.nuhanovicfoundation.org)  
[mail@nuhanovicfoundation.org](mailto:mail@nuhanovicfoundation.org)

**IBAN:** NL13 INGB 0008365357

**KvK:** 52769240

**SWIFT:** INGBNL2A



European Legal Support Center

## European Legal Support Center

[www.elsc.support](http://www.elsc.support)  
[press@elsc.support](mailto:press@elsc.support)