

Nuhanovic Foundation

Centre for War Reparations

Annual Report to Stichting Democratie & Media

Annual Report 2020

Planning 2021-2023

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1. Our mission: war victims are entitled to redress and reparations

The Nuhanovic Foundation (NF) was established in the Netherlands in 2011 by prof Liesbeth Zegveld and leading litigators and specialists in the field of accountability and remedies for violations of international humanitarian law. The establishment of legal responsibility for historical harm is a building block for the rule of law in a democratic society. We assist war victims who seek access to justice to obtain a remedy in the form of reparation, restitution, compensation or other forms of redress. Our international network of victim organizations, lawyers and academics offers a platform that shares experiences and knowledge in the field of war remedies. We maintain a specialized and searchable database with legal instruments, case law and academic writings on the right to remedy and reparations. We provide funds for investigations and legal representations in negotiations and litigation.

“Reparations were among the crucial building blocks for the reconstruction of democracy in Germany, establishing legal and moral standards that cannot be reversed today.”

Christian Pross, *Paying for the Past*.

The struggle over Reparations for Surviving Victims of the Nazi Terror, 1998: xii, cited in Susan Slyomovics, *How to Accept German Reparations*, 2014:68.

“Reparations are financially useful, symbolically powerful, politically fraught, and resonate as an indisputable remedy with which to acknowledge the value of human life. Reparations become not merely a matter of law and economic protocols but a social movement and an extension of a political project.”

Susan Slyomovics, *How to Accept German Reparations*, 2014:268.

2. Our strategy

We support victims of war crimes who seek access to justice through the courts. Going to court may be a change maker. Legal proceedings on behalf of war victims may have an impact on the claimants, society and the law itself. Our support thus requires a good understanding of the law and its potential impact. Our database and research is aimed at exploring the law and understanding the different levels of impact. We have developed a strategy that should result in an integration of our litigation support and activities in the context of our Knowledge Centre (including training and capacity building). This means, among others, that our research and training activities are focused towards assisting legal proceedings – civil and criminal - on behalf of victims of war crimes seeking redress.

The Nuhanovic Foundation works along three strands of activities:

- Litigation support
- Centre of Knowledge including the war reparations database, research and the publication of impact reports.
- collaboration with networks of human rights lawyers from conflict areas.

Litigation support

The organization assists victims of conflict-related violence who seek access to justice through civil or criminal proceedings in The Netherlands. Through these proceedings, victims can obtain remedies in the form of acknowledgment, reparation, restitution or compensation. We fund investigations and legal representations in negotiations and litigation. The foundation supports cases on the basis of the criteria that are described on our website: <http://www.nuhanovicfoundation.org/en/grants-2/>.

We prioritize investigations and cases:

- where victims are not entitled financial assistance to cover costs related to legal aid,
- that face suspension because of financial shortcomings.
- are expected to establish important precedents and thus contribute to increasing access to justice for war victims and the development and strengthening of reparation laws and practices.

Database

We maintain a specialized and publicly accessible **database** with legal instruments, case law, and academic writings on the right to remedy and reparations.

The database contains numerous documents on universal jurisdiction and other forms of national and international litigation concerning international crimes. We summarize all reports, articles and case law. The database aims to be a free service for lawyers and victim organizations.

Research

We conduct **research** to better understand the legal framework to establish responsibility of states, individuals and companies in the field of war reparations. Our research is also geared towards defining (new) legal arguments for redress.

Impact reports

Our **impact reports** analyse the effects of going to court and of winning or losing a court case dealing with international crimes. The NF considers it of utmost importance to understand the impact and effects of litigation. In most cases proceedings take years to come to an end and are

costly. Hence, since litigation support is our core business, we need to know the effectiveness and workings and impact in order to make informed decisions about our support.

Support of legal networks

Our organization created and **supports networks of lawyers** and law students from conflict-affected regions who are based in the Netherlands and neighbouring countries. The networks work for accountability of war crimes and redress for victims. Since 2015 we have established the Syria Legal Network, Legal Network Turkey and Yezidi Legal Network.

3. The foundation in 2020

3.1 Litigation support in 2020

Litigation support is at the heart of our mission. Over the past years we observe a trend in which victims and CSOs are increasingly seeking legal ways and procedures to make governments, individuals and companies accountable for breaches of international humanitarian law. We also observe a trend in which victims speak up against governments and companies for their lack of transparency about military operations and seek legal recourse to establish responsibility for injustices on civilians caused by (international) military operations.

Most cases that we supported in 2020 concern civil proceedings against governments or individuals (contrary to criminal proceedings) that seek acknowledgment of, and responsibility for war crimes and compensation for war related harm. We consider civil proceedings falling in the sphere of universal jurisdiction.

In 2020 we received ten applications for support of legal investigations and proceedings on behalf of victims of breaches of international humanitarian law. This is an increase in comparison to preceding years. Eight requests for funding were granted. Unless confidentiality is required, we publish information about the cases we support on our website.

Applications for financial support of litigation were submitted to us by lawyers and NGOs both in and outside the Netherlands. In most cases we decided to contribute to part of the requested costs of the investigations and/or proceedings. Increasingly, our litigation support was part of a broader project, meaning that - apart from direct financial support -, we set up a campaign to raise more funds from other parties, contributed to the visibility of the cases by doing research, writing, commissioning and publishing reports and articles and developing a specialized database. This integrated strategy has become our method of working for the next years.

Litigation support has been made possible through the annual financial contribution of SDM, private sponsors and crowd funding. Students and volunteers have assisted in awareness raising activities and freelancers have contributed to the databases (cases) and articles about cases.

The cases we supported included three cases concerning the occupied Palestinian territories and three cases concerning international military interventions Afghanistan including a case before the International Criminal Court and a case before Australian courts. We supported a case before the Dutch courts regarding military interventions in Iraq and contributed to investigations and the preparation of litigation concerning the arms industry and so called post sales services of arms deals. A description of each case is below.

A) Palestine: the Ziada case on war crimes in Gaza

This case concerns the civil proceedings against two commanders of the Israeli Defense Forces before the District Court of The Hague for their responsibility for war crimes during the military operations against Gaza in 2014. The plaintiff is Ismael Ziada, a Palestinian with Dutch nationality whose family members were killed during the 2014 operations. He is represented by Dutch human rights lawyer Liesbeth Zegveld. The case is unprecedented and is expected to be ground breaking on issues such as access to justice and immunity for international crimes.

The first hearing about questions of jurisdiction and admissibility took place on September 17 2019. The court's decision on January 29, 2020 was negative for the plaintiffs. In 2020 the Nuhanovic Foundation supported the appeal's phase financially and assisted in an international awareness campaign. The NF secured a grant from the Oak Foundation. This was the second time the Oak Foundation sponsored the case. The NF continued the crowd funding campaign that was set up together with other organizations and individuals in 2019: <https://www.gofundme.com/f/palestine-justice-campaign>.

The campaign secured a considerable part of the funding from former Pink Floyd founder/member Roger Waters, who is also a well-known Palestine activist. After the decision of January 2020, the campaign continued to fundraise for the appeals stage of the proceedings. The appeal will be/was submitted to the Court in September 2020.

The Nuhanovic Foundation developed a special database on the case with all court documents and articles: <http://www.nuhanovicfoundation.org/en/ziada-case/> to inform the general public and experts about all (legal) aspects of the case. The database includes media reports and articles. Updates will be posted on the NF's website. After the negative court decision of January 2020, the NF requested members of the academic community to formulate critiques on and write about the decision. This is considered important as the articles may trigger academic debate and influence the judges that will sit on the case in the appeal's phase.

Our efforts were successful as two extensive articles were subsequently written.

- Professor Cedric Ryngaert (Universiteit Utrecht) published an article in the *Nederlands Juristenblad* (NJB) <https://www.njb.nl/magazines/njb-23-2020/>, and;
- Kate Clark, board member and PhD candidate at the UvA, published an article in the *Journal of International Criminal Justice*, <https://academic.oup.com/jicj/advance-article-abstract/doi/10.1093/jicj/mqaa060/6048193>.

B) The case of corporate responsibility for war crimes in the occupied Palestinian territories

This case was initiated by Israeli lawyers of the organization ECHO (<https://www.globalecho.law/>), based in Tel Aviv, in cooperation with a Dutch lawyer. The case seeks to litigate corporate responsibility for complicity in alleged war crimes related to the Israeli occupation of Gaza and the West Bank. Due to confidentiality and security of the applicants, we cannot share more information about the case. The NF provided funding for the costs during the investigative phase.

ECHO writes us:

“After two years of extensive transnational investigation, we have uncovered overwhelming evidence against a major multinational company directly taking part in the illegal expansion of settlements in the occupied Palestinian territory, and we are now ready, for the first time, to submit our evidence to a prosecutor. This case holds the promise of breaking new, uncharted legal ground and setting in motion policy changes that can hasten an end to the occupation. (mail to the NF dd 24 December 2020).”

C) Corporate responsibility in the occupied Palestinian territories: the ELSC project

The Amsterdam based NGO European Legal Support Centre (<http://www.elsc.support/>), part of the Dutch NGO the Rights Forum, submitted a request to support their preparations for their project that was described as follows:

“In September 2020, European Legal Support Centre (ELSC) and the Global Legal Action Network (GLAN) began a joint project seeking to apply Dutch money laundering provisions to hold companies criminally responsible for benefiting from and indirectly contributing to serious violations of international law. This project aims to conduct research into Title XXXA (arts. 420bis – 420quinquies) of the Dutch Penal Code with the aim of developing a legal strategy for future litigation before Dutch courts.”

The NF approved the grant and legal research was started. Project contents are confidential. This case, that seeks to establish criminal responsibility before a Dutch court, is being prepared in cooperation with the law firm Jebbink Soeteman Advocaten in Amsterdam. The Nuhanovic Foundation assisted in providing part of the costs of investigations and legal research by ELSC.

D) The Hawija case (Iraq) on Dutch participation in coalition bombing

Media reports in October 2019 about a large number of civilian casualties after the bombing of IS targets on the Iraqi town of Hawija in June 2015 by Coalition forces led to the decision by victim groups, journalists and lawyers to further investigate the case in order to decide whether legal proceedings could be started against the Dutch government for its responsibilities as part of the Coalition. Since 2019 the NF provided seed money to the law firm of Dutch human rights lawyer Liesbeth Zegveld to cover the costs of local investigations and we continued our support in 2020. The case may set a legal precedent as it is the first time that victims seek to establish the responsibility of members of international intervention forces active in conflict zones in other parts of the world for civil casualties.

Information about the case can be found on our website via <http://www.nuhanovicfoundation.org/en/litigation-projects/nuhanovic-foundation-supports-request-for-information-hawija-bombing/>.

The case received considerable attention by the Dutch parliament and in the Dutch media, in particular in NRC. The Nuhanovic Foundation submitted an oped on the importance of a legal case to this newspaper. Board member Lauren Gould published several articles in Dutch newspapers: <https://www.nrc.nl/nieuws/2020/12/27/meer-drones-meer-oorlog-a4025277>.

E) Three cases on military international intervention in Afghanistan

Three individual applications were submitted to the NF in 2020 with the request to support preparations for litigation about the responsibility of troop sending states for the killings of civilians during bombardments in the province of Uruzgan in Afghanistan in 2007.

Dutch lawyer Liesbeth Zegveld, the Australian/Dutch NGO Victim Advocates International and the international NGO Reprieve requested the NF to contribute to the costs of representing victims and the investigations into the responsibility of members of the international coalition for alleged breaches of international humanitarian law during their armed intervention in Afghanistan.

The NF supports all three Afghanistan related cases even though not all have a link with the Netherlands (which is one of our criteria for support), because the cases could potentially strengthen each other by sharing information and complementary legal strategies. The Nuhanovic Foundation has been instrumental by establishing contacts between the three parties that represent the claimants. Moreover, supporting all cases may increase the visibility of each individual case. We are considering doing supportive research on the topics of the cases.

1) Afghanistan case before Dutch court

Dutch lawyer Zegveld represents victims of alleged bombings by Dutch air forces during the intervention in Uruzgan in 2007. The Nuhanovic Foundation supports the case of four Afghan victims in their efforts to obtain compensation from the Dutch government for the harm they suffered as a result of the Dutch bombing of the Afghan town of Chora in 2007. The victims consider the attack dis-proportionate. Between 30 and 88 civilians were killed and many more were wounded.

<https://www.nrc.nl/nieuws/2019/09/12/afghaanse-burgers-eisen-schadevergoeding-om-zwaar-geweld-nederlandse-krijgsmacht-a3973156>.

See our website:

<http://www.nuhanovicfoundation.org/en/litigation-projects/nuhanovic-foundation-supports-request-for-compensation-afghan-victims/>

The Dutch case is led by Dutch lawyer Liesbeth Zegveld who represents four Afghans who lost 15 relatives during the 2007 bombings on the community of Chora.

<https://www.trouw.nl/nieuws/vier-afghanen-klagen-nederland-aan-om-disproportioneel-geweld-bij-slag-om-chora~b5fb2cda/>

According to the claimants, the attack by the Dutch military was ‘disproportional’. The Dutch government refused to pay compensation for the harm suffered during the attack.

2) Afghanistan case before Australia courts

The organization Victim Advocates International (VAI) received funding for their project Victim Representation in War Crimes Proceedings in Australia. VAI facilitates the legal participation and representation of victims in Afghanistan war crimes proceedings against Australian Special Forces. for their alleged complicity in war crimes committed in Uruzgan in 2007. For reasons of confidentiality, no information about the case has yet been uploaded on our website but in November this year an Australian report was published about killings by the army.

<https://www.defensie.nl/actueel/nieuws/2020/11/19/australie-maakt-rapport-over-oorlogsmisdaden-special-forces-in-afghanistan-openbaar>

3) Afghanistan case before the International Criminal Court

On March 5 2020, the Appeals Chamber of the ICC handed down a landmark judgment ordering the investigation of war crimes and crimes against humanity committed during the Afghan conflict by US forces/the CIA, the Taliban and Afghan forces. The UK based organization Reprieve (<https://reprieve.org.uk/>) represented two sets of victims in the appeal that led to this judgment: victims of the US rendition and torture programme, and victims of drone strikes in Pakistan, and were heard by the Appeals Chamber on why the victims believe that an investigation was absolutely necessary to secure accountability and justice. This marks the first time the US has ever been subjected to an investigation for grave human rights abuses committed during the ‘war on terror’ era.

As the investigation phase gets underway, the Nuhanovic Foundation is supporting Reprieve to make representations on behalf of victims seeking to persuade the prosecutor of the International Criminal Court to investigate their cases, to prosecute the perpetrators and to explore options for securing vital assistance and support for the victims who are resented by Reprieve.

<http://www.nuhanovicfoundation.org/en/litigation-projects/nuhanovic-foundation-supports-victims-of-afghan-war-crimes-and-pakistani-drone-strike-victims-in-icc-case/>

F) Arms trade and post sales services: the GLAN/Lighthouse project

The organizations GLAN (<https://www.glanlaw.org/>) and Lighthouse (<https://www.lighthousereports.nl/>) requested a contribution for their investigative work on the so called post sale services of arms sales. The work includes analysis and legal assessments as well as the production of a guide for investigators and lawyers. The final aim is litigation.

'The invisible link -- post sale services linked with arms transfers'

All arms sales contracts have post-sale service contracts attached to them and many make corporate and state actors complicit in serious violations of international law. Lighthouse Reports and GLAN are collaborating in an effort to secure accountability through investigation, advocacy and litigation. Led by Dr Valentina Azarova this project is assisted by The University of Amsterdam's Business and Human. (Project description by Lighthouse/GLAN: <https://www.euarms.com/landing>).

See for more information:

<http://opiniojuris.org/2020/01/23/a-hard-sell-arms-export-licensing-and-international-responsibility-for-unlawful-arms-transfers-part-i/>

<https://www.glanlaw.org/yemen>

<https://www.lighthousereports.nl/ourprojects/2018/11/15/euarms>

3.2 Knowledge centre in 2020

3.2.1. The database

In 2020 the Nuhanovic Foundation cooperated with freelancers and students of the University of Amsterdam in the maintenance and development of the reparations database. We updated the general database (<http://www.nuhanovicfoundation.org/en/reparations-legal-database/>) and most of the country databases. We developed new databases on Turkey, Iraq and Syria. We also added a new database on the Ziada case (<http://www.nuhanovicfoundation.org/en/ziada-case/>) with recent court documents and articles to make the case visible and court documents accessible to everybody interested. In October 2020 we started discussions about reorganization of the database with the aim to obtain a clearer link between litigation work and our knowledge centre. The database will be re-organized according to topics rather than countries of regions.

3.2.2. Research

In February 2020 a new group of UvA students volunteered to undertake research on topics related to the Syria conflict. Meetings were held with PAX and the NF to formulate research questions. The group focuses on the role of aid organizations in breaches of international law and the impact of new laws on property for Syrians who fled the country or are displaced. Due to the corona crisis the actual research only started in November and will continue in 2021. In the context of Yazidi Legal Network (see below) a large group of UvA, VU and international students participated in research related to the crimes against Yazidi's.

3.2.3. Impact report

The Indonesian translation of the impact report on colonial crimes litigation (<http://www.nuhanovicfoundation.org/user/file/indonesie-report-lores.pdf>) was published on our website (<http://www.nuhanovicfoundation.org/user/file/indonesie-report-ind-maart-2020.pdf>).

Preparations were made for the 2021 impact report (see below).

3.3 Legal Networks in 2020

Since the beginning of 2016 the NF has initiated the formation of networks of legal experts dedicated to contribute to obtain justice for victims of international crimes and grave human rights violations in one particular country or region. We established Syria Legal Network in 2016, Legal Network Turkey in 2017 and the Yazidi Legal Network in 2019. The activities of the networks include the sharing of information, capacity building and research in the field of redress and reparations for victims.

Syria Legal Network

Starting as an NF project, Syria Legal Network became an independent foundation but remained an important partner of the Nuhanovic Foundation in 2020. The NF assists SLN in its work, including research and fundraising. This year SLN has been focusing on disappearances in Syria in view of their advocacy work with the human rights mechanisms of the UN. In 2020 SLN's main partner in this field was the International Commission for Missing Persons (<https://www.icmp.int/>).

As in previous years, the Nuhanovic Foundation worked with PAX and UvA students on a number of research projects in order to assist NGO's in their legal work. This year's project focused on property rights (see also our 2019 reports: <https://acil.uva.nl/research/war-reparations-centre/publications/publications.html>) in Syria that are massively violated due to the governments regulations in connection to its so called reconstruction programs.

SLN worked on the collection of evidence of international crimes committed by Syrians who are based in the Netherlands and other European countries. The network collaborates with the Dutch police (international crimes unit) and the Prosecutor's Office (OM) as well as other (international) NGOs. Notably, SLN started cooperating with investigative journalists as well as the Syrian Centre for Media and Freedom of Expression, one of the most outstanding organizations active in the investigation of Syrian war crimes committed by Syrians who fled to Europe. In 2020 the organization started to focus their work in the Netherlands and are preparing the establishment of an office in The Netherlands. The organization has applied for partnership with the Nuhanovic Foundation which we gladly accepted.

Yazidi Legal Network

Starting as an NF project in 2018, Yazidi Legal Network became an independent organization in 2020 (the foundation will be established in the beginning of 2021), its website went on line in 2020 (<https://www.yazidilegalnetwork.org/>). YLN's activities focused on the organizational set up and capacity building in the field of international crimes and prosecution before national courts. The network worked with Dutch and international prosecutors and other experts and collaborated with international organizations including Global Rights Compliance and UNITAD. A large number of UvA and VU students assisted the network in preparations of its open source investigations and the development and establishment of a database on crimes committed against the Yazidi's. The Nuhanovic Foundation's director became member of YLN's advisory board. The Nuhanovic Foundation assists YLN in its capacity building activities, research and fundraising. In December YLN launched a crowd funding campaign to raise funds to cover the costs of its operations: <https://www.gofundme.com/f/yazidi-justice-campaign-yln>. A 25 page project description of the YLN, drafted by a consultant, is available.

Legal Network Turkey

Legal Network Turkey has not been active in 2020 as such. However, in cooperation with UvA students, we drafted a report on military operations and breaches of international humanitarian law in Turkey and developed a database on issues related to redress and reparations for victims. In our report, we argue that the situation at the time could be considered a non-international armed conflict which may open new venues for redress and reparations for victims of war crimes. NF argues that this should be a reason to monitor the situation in Turkey and cooperate with justice mechanisms.

3.4 Our organization in 2020

Since October 2019, the Foundation is based in the Amsterdam Law Hub of the UvA Law Faculty where we share office space with civil society and legal organizations, including PILP, Pro Bono Connect, Lawyers for Lawyers, Free Legal Aid, Clara Wichmann Institute and others. This is a stimulating and enriching environment. It allowed us to intensify our network and continue our cooperation with faculty members and students.

Under the responsibility of the board, the organization has been run by a team of (freelance) experts, volunteers, students and interns. The (freelance) director oversaw all activities of the foundation and reported to the board during regular board meetings. In 2020 the board met seven times. The board consists of Heikelien Verriijn Stuart (chair), Mieke Zagt (member), Tosca Urbanus (secretary), Kate Clark (member) and Lauren Gould (member). For their bio's see: <http://www.nuhanovicfoundation.org/en/who-we-are/>. Decisions about litigation support are made by the board while day to day running of the activities of the NF and fundraising are in the hands of the NF director, Frederiek de Vlaming.

As in previous years, Kate Clark, Marjolein Vlieks and Hope Rikkelman were responsible for the development and maintenance of the databases, the website and social media, and research. Hope Rikkelman was responsible for the development, activities and organization of the networks (Syria Legal Network and Yazidi Legal Network). More than 30 students (mainly from the UvA and VU) and volunteers, including international law experts, assisted in the work on the database, research and the organization of events. Students also assisted us in our activities on social media and the reconstruction of our new website. The Nuhanovic Foundation regularly receives requests from students for internships.

We work with Dutch and international lawyers and collaborate with academic organizations, international (human rights) organizations and national NGOs specialized in human rights and litigating victims' rights including Redress, FIDH, Amnesty International, ECCHR, TRIAL, PAX, Civil Rights Defenders and others. We have continued to cooperate with organizations focusing on Syria, including VDC, SCM, PAX and ICMP. The Yazidi Legal Network developed a huge international network with governmental and non-governmental organizations including UNITAD, AI, Abrahams project (US), Bergen-Belsen Gedänkstätte (Germany), NIOD and others.

3.5 Evaluation of our work in 2020

The year 2020 saw an increase of activities, new partners and an expanded international network, a growing number of volunteers and students working with us, and - above all – new ideas about the future of the organization. The corona crisis did not allow us to organize meetings as we have been doing on a regular basis in the past years, mostly in cooperation with the UvA. But we received more requests for litigation support and other forms of assistance by victims and NGO's on issues related to war reparations, both in and outside the Netherlands. This resulted in a growth of activities concerning litigation: financial support, research, the database, networking and cooperation. Our visibility on (social) media increased.

Litigation support

Though most requests for litigation support were related to cases led by Dutch lawyer Liesbeth Zegveld, we have seen a rise of requests for litigation support and other forms of assistance or cooperation from other parties. Half of the requests came from (international) NGO's that are engaged in preparing litigation (GLAN/Lighthouse, ECHO, ELSC, Reprieve, Uprights, IAV, YLN). In our talks with requesting parties about future litigation support we sought to involve other lawyers firms in order to expand the pool of (Dutch) lawyers who are specialized in war crimes reparations related cases.

Integration of our activities

This year we have been able to better integrate our different lines of activities (litigation support, knowledge centre, publications) into a more coherent program. Our litigation support included a new way of fund raising (crowd funding), research, the development of special database and publications. Our support of the case of **Ziada** stands out in this respect and will be used as a model for the upcoming period. Here we collaborated with international partners to raise the necessary funding through a crowd funding campaign that reached people worldwide. In the context of this campaign, we provided for an up to date database of all court documents and related articles to make information accessible to the media and other organizations and lawyers around the world. Finally, we made sure research was done and academic articles were written and published to trigger debate among the legal community. This is an important tool to reach and may possibly influence the judges who will be deciding about the case at the next level. Our support became more meaningful beyond just providing funds to cover the costs of investigations and legal proceedings.

The diversity of applicants, including different NGO's made up of human rights activists, lawyers, academics and journalists led to new partnerships and (international) networks and coalitions. This development stimulated an expansion of our knowledge centre, the growth of our database and an increase of our visibility.

Organization

The increase of activities and intensified cooperation has not been in line with the size of our professional (read: paid) staff. As before, we worked with a large number of freelancers, experts, students and interns. In the context of the Yazidi Legal Network alone, more than 30 students (UvA, VU) were involved. Though they deliver great work, this also poses a problem for the organization as supervision requires a lot of resources and time, in particular from the director and the project coordinator for the legal networks. This hampers the pro-active and professional approach in dealing with requests for (litigation) support, research, project development and participation in international networks.

Funding

In the context of the financial situation of the organization, we have not been able to match the increase of work and networks with our fundraising efforts and achievements in this field. It is the vicious circle of a small organization without the human resources to step up fundraising efforts. From the perspective of organizational development, professionalism and sustainability, this situation is highly unsatisfactory. Below we will explain how we seek to tackle these shortcomings.

4. Strategy 2021-2023

4.1 Main objectives

Our objectives for the coming period are twofold. First, we will better integrate our litigation support and our activities in the context of the knowledge centre. This will enable us to develop a coherent strategy for all our activities which will make our aims and focus more visible. Second, we seek to enlarge our organization and donor base. This will allow us to grow, expand our activities and act in a more pro-active manner vis-a-vis litigation support.

4.2 Litigation support 2021-2023: integrated and more proactive approach

Our criteria for litigation support will remain leading in our dealing with applications. As a general rule, we support cases that have a link with the Netherlands, either directly (the case is dealt with by a Dutch court) or indirectly (the case has impact on similar cases in the Netherlands). We also prioritize civil proceedings over criminal proceedings. However, criminal law may provide an opportunity to either strengthen the position of victims, or to prosecute corporations (which is not the case in most other countries) and hence achieve norm conform behaviour.

During the period 2021-2023 we will continue to support around ten cases on an annual basis. As described above, our support of the Ziada case – where we integrated litigation support, research and the formation of a database -, appeared to be an effective format in that it increases visibility, awareness and knowledge, and hence the chances of influencing the legal proceedings. We will seek to adopt the strategy in other cases. The cases that we will continue to support can be categorized under three headings: cases related to the occupied Palestinian territories, cases related to international military interventions in conflict zones and other cases.

Three cases related to the occupied Israeli territories

a) **the Ziada case** on behalf of a Palestinian relative of victims of killings by the Israeli Defence Forces both financially (among others through the ongoing crowd funding campaign) and in terms of awareness raising (publication of articles, database, see below).

2021: The hearing for the appeals case is expected to take place in May or June 2021. While the focus during the first phase was on the topic of immunity of the Israeli officers, we hope to be able to stress the importance of access to justice for Palestinians during the next phase of the case. We observe that Palestinians do not have effective access to justice for violations by the IDF and we hope that the Ziada case will clarify why that is so for people living under Israeli occupation. This allows us to bring in and commission new articles / write / publish / raise awareness on the issues.

b) **ECHO case** on responsibility of corporations for breaches of international humanitarian law in the occupied Palestinian territories.

We expect that a criminal complaint will be submitted to the Dutch prosecutor's office in 2021. As soon as this is made public by ECHO, we will contribute to an international information and awareness campaign by publication of articles, research and the development of a legal database on our website.

c) **The ELSC case** on the responsibility of corporations for criminal offences related to practices in the occupied Palestinian territories prepared by the European Legal Support Center ELSC (<https://elsc.support/>) will keep on receiving our attention. This case, that seeks to establish criminal responsibility before a Dutch court, will continue to be prepared in cooperation with Jebbink / Soeteman lawyers in Amsterdam. We expect that legal proceedings will start in the second half of 2021. Here as well, we will contribute to giving the case publicity as soon as the case is made public by ELSC.

In sum, we will raise awareness about the contents and objectives of the three cases by organizing meetings about the legal ins and outs, commission research and articles and publish in regular and social media. The Nuhanovic Foundation will develop special databases and actively take part in the international coalition of NGOs and lawyers that seek the changes that the cases aim at, that is, establishing responsibility for breaches of international law in the occupied Palestinian territories and access to justice for the victims.

Cases related to international military interventions

d) **The case on Coalition bombings of the Iraqi town of Hawija** has received a lot of attention in Dutch media thanks to extensive debates in Dutch parliament and the formation by the government of an independent commission tasked to investigate why so many civilians lost their lives during the attack. The main topic in the case concerns the (lack of) transparency of the Dutch government about its role before, during and after the bombings. The case is of international importance and we will closely follow the proceedings and share information among our international network during the upcoming period. Depending on the follow up in 2021 we will decide what our strategy will be for our involvement in the context of the coalition of NGO's and lawyers. We will however, make sure that attention is paid to the plight of the victims in the public debate that will be triggered by the report of the commission that is expected in the second half of 2021.

e) We will follow up to the proceedings in the **three cases that seek to establish accountability for international military interventions in Afghanistan** in 2007 that resulted in considerable civilian casualties. We expect that the cases before the Dutch court (on the Dutch interventions in 2007), the International Criminal Court (on the US interventions), and the Australian courts (on the Australian interventions) will see important developments in the coming year. These cases are all innovative and expected to be precedent setting. We will contribute to the work of international coalitions of NGO's lawyers and academics by sharing information about the proceedings, developing awareness raising activities, conducting and commissioning research and the development of specialized databases.

f) We will closely follow the investigations by lawyers of **Global Legal Action Network (GLAN)** and investigative journalists of **Lighthouse** into the responsibility of the arms industry regarding so called 'post sale services'. Our support includes cooperation in the field of research and legal analysis, and awareness raising. Here, we will cooperate with researchers of the UvA Law Faculty as well as students who are involved in a special Amsterdam Law Clinic research project on related topics that started in 2020.

g) In 2021 we will actively follow up on initiatives to start new cases, possibly related to international crimes in Iraq, Syria, Turkey, Yemen.

4.3 Knowledge centre in 2021-2023: research, database, research, publications

Our knowledge centre aims to support litigation to obtain redress and war reparations by sharing and collecting legal materials (reports, case studies, articles, instruments) and maintaining an accessible specialized database, conducting research and the publication of reports and studies. The database and our research service lawyers and victim organizations who are or wish to engage in litigation. Our knowledge centre helps us to make informed decisions about litigation support and to make our activities more visible, both to actors that are involved in cases and to a general and specialized audience.

For the period 2021-2023 our knowledge centre will focus on:

- a) finalization of our **new website**. This process started in October 2020 and will be finalized during the first part of 2021;
- b) reorganization of **the database**. In the context of our new website, we started the process of reorganizing our database, archiving old parts, updating remaining databases and introducing new entries in order to make the databases more accessible to lawyers and victim organizations. The most important change concerns a shift from a country/region approach towards a thematic approach. This means that we will have entries on topics (rather than countries or regions) such as corporate responsibility for war related harm, reparations under occupation, international military interventions and accountability for war crimes, and universal jurisdiction. This provides for:
 - a better representation of our work and
 - a clearer link between the knowledge centre and our litigation support.
- c) In our series of **impact reports** on the effects of litigating international crimes, we aim to publish a report on the impact of some of the cases we supported (or still support) related to international military missions in conflict areas, notably the case against the Dutch state concerning its responsibility for the killings of Muslims in the Bosnian town of Srebrenica. The case ended in 2013 with a ground breaking decision of the Dutch Supreme Court establishing the responsibility of the Dutch states for the killings. The study will be done in the context of the fellowship of the NF director with the Netherlands Institute of Advances Studies (NIAS), see: <https://nias.knaw.nl/themegroup/legal-mobilization-analyzing-law-based-advocacy/>
The study is conducted in the context of a research project analysing legal mobilization and litigation as an agent of change.
- d) Media
In 2020 we have stepped up our activities and visibility on **social media** (Facebook, Instagram, LinkedIn, Twitter) and will continue to do so. This year we have also published, or commissioned articles, in academic or specialized (legal) **journals** in support of litigation. For the upcoming period we will increase our visibility in **regular media** (incl. newspapers) to contribute to the public debate on issues that are close to our projects, such as arms trade, military interventions and war reparations.

The work in the context of our Knowledge Centre, will continue to be done in cooperation with experts and students of the University of Amsterdam and other law schools.

4.4 Legal Networks 2021-2023

Since the establishment of Syria Legal Network in the beginning of 2016, the format of such platforms of lawyers and activists has proven to be an effective way to collect and share information, organize training and capacity building, networking, research and our support of efforts to obtain redress and reparations for war victims.

For the 2021-2023 period we will continue to collaborate with Syria Legal Network and Yazidi Legal Network and hopefully re-start the activities of Legal Network Turkey.

Syria Legal Network

For the period 2021-2023 the Nuhanovic Foundation will collaborate with and assist SLN in:

- a) doing research on topics related to the Syrian conflict. Plans developed at the end of 2020 to do research in the field of property rights in the context of the armed conflict. A group of master students was formed and topics were discussed with PAX.
- b) international cooperation on universal jurisdiction cases in the Netherlands. The increased interest in the Netherlands in the issue of investigation and prosecution of international crimes committed in Syria by perpetrators who are residing (as refugees or asylum seekers) in the Netherlands will be taken up jointly by the NF and SLN.
- c) developing its work on disappearances, including investigations and lobby with human rights mechanisms. Early 2021 SLN, with the support of the NF, will apply with the International Commission on Missing Persons for a project grant to cover the costs of its project on disappearances. See: <https://www.icmp.int/where-we-work/middle-east-and-north-africa/syria/>.

Yazidi Legal Network

For the period 2021-2023, we will continue to assist YLN in its capacity building activities and activities in the field of redress and reparations for Yazidi victims of international crimes. In particular, we will assist the YLN in fundraising and establishing an independent organization in the beginning of 2021. A full description of the planned activities of YLN 2021-2023 is attached in a project proposal that was formulated in close cooperation with the Nuhanovic Foundation.

Legal Network Turkey

We will engage in cooperation with new European partners in the 2021-2023 period to ask attention for the issue of accountability for international crimes committed in Turkey and redress for victims. For the 2021-2023 period we plan to revive the Legal Network on Turkey by organizing, among others, international seminars analysing the situation in Turkey where an armed conflict occurred and investigating options for redress and reparations for victims.

4.5 Organization 2021-2023

For the period 2021-2023, it is our priority to achieve organizational growth and professional development in order to better and proactively respond to requests for litigation support and other forms of assistance and fulfil the requirements of our knowledge centre including the development of the database, research and impact studies.

In concreto, this means that we seek to expand the organization with a general and/or a legal director, who are employed by the foundation on a part time / full time basis.

The general / legal director will:

- decide about litigation support
- develop a more pro-active litigation support policy
- supervise free lancers, volunteers and students in the development of our knowledge centre, including research and the maintenance of our database
- explore and develop our strategy in a number of new or innovative areas such as corporate responsibility for international crimes – in particular arms industries and suppliers for war crimes - and the responsibility of member-states in international military intervention forces
- initiate and supervise research and our impact studies
- fundraise
- improve communications and
- engage in (international) cooperation.

In order to better supervise these steps we will expand our board with members with fundraising and organizational expertise and establish a board of advisors.

For the year 2021 we will appoint an assistant (volunteer/student/paralegal) to the director who will develop (one or part of) our programs. This will allow us to step up a more proactive strategy in our (integrated) litigation support. The board will engage more actively in further developing our plans.

5. Finances

5.1 Financial situation in 2020 and 2021 budget

In 2020 we received funds from SDM, the Oak Foundation, private donors and through a crowd funding campaign. The financial report is attached in a separate annex. Global figures are indicated below. Our annual report will be published on our website in May 2021.

Total income for 2020: 94.197,- Euro

Total expenses for 2020: 81.376,- Euro

* saldo is reserved for 2021 for the Ziada case, SLN and YLN.

5.2 Current financing in place for 2021 – 2023

For the period 2021-2023 we expect to continue to receive funding from SDM, the Oak Foundation, private sponsors and through the crowd funding campaigns for the Ziada case and YLN.

5.3 Necessary additional financing to achieve new objectives

We are seeking additional funding to achieve our new objectives. The organizational growth that we seek, requires an additional annual amount of 60.000 Euro to cover the costs of professional director(s). In order to achieve this we need to intensify fundraising efforts. In October 2020 we started to work with a professional fundraiser on the basis of a ‘no cure no pay’ agreement.

For the year 2021 we aim at the following budget:

100.000	litigation support
19.000	database & research & publications
19.000	website and social media
12.000	office, admin, fundraising etc.

150.000 Euro	per annum

In 2021 we will be seeking new funding opportunities, in particular from private sponsors and sponsor organizations in the Netherlands, the UK, Germany and other European countries.

Amsterdam, 19 January 2021