War crimes charges against Benny Gantz at Dutch court rejected

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A Dutch court on Wednesday rejected war crimes allegations against Blue and White leader and former IDF chief Benny Gantz.

Deputy Attorney-General Roy Schondorf said this marked a major victory, noting that former IDF air force chief Amir Eshel also got war crimes charges against him dismissed.

The case was a local Dutch court proceeding unrelated to cases brought before the International Criminal Court, and was related to Gantz’s command decisions during the 2014 Gaza War.

The court accepted the position of senior officials and applied the basic principle of international law of sovereign immunity, whereby the courts of one state do not discuss the affairs and actions of another sovereign state.

A statement about the case from the Palestine Justice Campaign said that the case related to Ismail Ziada and was against Gantz and Eshel for allegedly killing six members of Ziada’s family.

Ziada claimed that the IDF prosecution uses discriminatory practices against Palestinians that prevent him from receiving justice in Israel.

According to the principle of universal jurisdiction, some countries, especially in Europe, allow prosecution of foreign officials for war crimes if the local state refuses to prosecute.

All prior attempts at using universal jurisdiction against Israeli officials – sometimes described as “lawfare” – have failed, with European courts finding that they did not have jurisdiction for a variety of reasons, though some Israeli victories came only at the appeals level or only from executive branch intervention.

According to reports, the IDF declined to prosecute anyone in the Ziada case because the civilians who were killed were legal collateral damage, in a strike on a Hamas war room in which multiple Hamas members were also killed.

The IDF’s general position is that it made a serious effort to limit civilian casualties by warning them to leave conflict areas, but that if Hamas embeds itself within civilian locations, then this makes those locations liable to attack – assuming the rules of proportionality are also met.

Gantz responded to the case, stating that, “The IDF is the most moral army in the world, and I am proud to have served in it for almost 40 years and to have commanded it. As prime minister, I will continue to give my full support to the IDF in all arenas.”