

## Lawyer cites torture in seeking dismissal of extradition case against accused Paris bomber

BY CHRIS COBB, THE OTTAWA CITIZEN NOVEMBER 15, 2010



Hassan Diab, right, and his lawyer, Donald Bayne, stand outside the Elgin Street courthouse Oct. 22, 2009. Diab, who was arrested by the RCMP in 2008, is fighting extradition to France on terrorism charges dating back almost 30 years.

**Photograph by:** Mike Carrocetto, The Ottawa Citizen

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OTTAWA — The lawyer for accused terrorist Hassan Diab told an Ottawa court Monday that extraditing the former University of Ottawa professor would contravene international conventions on the use of torture.

At the end of a week-long application to have the extradition case thrown out because of “serious, multiple and flagrant breaches of fundamental justice” Donald Bayne said there are no guarantees that French evidence against Diab was not gleaned from torture.

The 56-year-old Lebanese-born Canadian is wanted by France to stand trial for the murder of four passers-by killed by a bomb outside the Copernic synagogue in Paris on Oct. 2 1980.

He denies the charge and says he was not in Paris at the time of the bombing.

Bayne called the Diab case “an attack on the entire Canadian extradition process” and an abuse of judicial process to put unsourced evidence in front of a Canadian court.

“They are saying, ‘It is from foreign sources, but don’t you be worried about it.’

Bayne urged Ontario Superior Court Justice Robert Maranger to drop the case against Diab.

“Otherwise,” he told the judge, “you are going to be haunted for the rest of your days saying ‘I have no idea where this material came from’.”

The crux of Bayne’s argument is that much of the intelligence the French have used to build their case against Diab has come not directly from French security services but from other countries, including Israel.

“And the French don’t know its source.”

The onus is not on Diab to prove there was torture involved in gathering the French evidence but for the state — Canada’s Justice department prosecutors — to prove that there wasn’t.

“It’s one thing for France not to know where this information came from,” added Bayne, “but quite another for a Canadian court not to know.”

Crown lawyers will counter defence arguments beginning Tuesday.

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