

# Diab lawyer slams extradition order as 'dangerous new low'

BY CHRIS COBB, THE OTTAWA CITIZEN    APRIL 13, 2012



Hassan Diab has been ordered extradited to France by Justice Minister Rob Nicholson. His lawyer calls the rule a 'dangerous new low' in Canadian law.

**Photograph by:** Wayne Cuddington, Ottawa Citizen

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OTTAWA — The federal government's decision to surrender Ottawa academic Hassan Diab to France is a "dangerous new low" in Canadian law that could see the Lebanon-born Canadian facing terrorist charges based on intelligence gleaned from torture, his lawyer said Friday.

Diab, a former University of Ottawa and Carleton University sociology professor, is a suspect in the 1980 bombing of a Paris synagogue in which four passersby were killed and many inside and outside the synagogue injured.

French authorities have laid no charges against Diab and said in a surprise admission several months ago that they are still in the throes of investigating the murders.

At a Parliament Hill news conference, defence lawyer Donald Bayne said Justice Minister Rob Nicholson's decision to surrender Diab is contrary to Canadian extradition law, which states that a Canadian citizen can only be extradited to a foreign jurisdiction to face trial.

"This is not extradition to stand trial," said Bayne. "France has admitted they have an incomplete case and in fact there may never be a trial or sufficient evidence to put him on trial. France wants this country to hand over a Canadian citizen to further an investigation. This has never been done in

Canada.”

Diab was arrested more than three years ago in a raid by an RCMP SWAT team on his Gatineau apartment as he was preparing to go for a run.

He spent several months in jail before being released on strict bail conditions that amounted to house arrest.

GPS tracking equipment he is forced to wear continues to cost his family \$1,500 a month. Diab has been unable to work since his arrest.

The Lebanese-born academic says he is the victim of mistaken identity and told reporters Friday that an offer to take an independent polygraph test was rejected by the RCMP.

“I am innocent of the accusations against me,” he said. “I did not do it. I have never engaged in terrorism. I am not an anti-Semite and have always been opposed to bigotry and violence. I am willing to answer any questions the French authorities may ask.”

Neither French police nor prosecutors have asked to question Diab in Canada.

“My life has been turned upside down,” said the 57-year-old professor. “But I remain hopeful.”

Nicholson’s decision comes after an extradition court hearing that lasted more than two years and during which extradition judge Robert Maranger appears to have been under the impression that France was ready to put Diab on trial.

In his decision, Maranger said that under extradition law he had no option but to commit Diab for extradition but doubted that the French evidence would stand the test of a fair trial in Canada.

During the extradition hearing, intelligence evidence provided by France was withdrawn because it was unsourced and because French authorities did not know its origin or prove it had not been obtained through torture.

Finger prints and palm prints from the scene do not match Diab’s and handwriting evidence Maranger used as the basis for his decision has been attacked as incompetent by three internationally-recognized handwriting experts hired by Bayne.

Since his arrest, Diab has gathered a support group represented at Friday’s news conference by social justice activist Matthew Behrens.

“The whole case is based on suspicion,” said Behrens. “Dr. Diab now faces being surrendered to France to languish without charge in jail — possibly for years. It’s unthinkable that the courts in this country have been used for the persecution of Dr. Diab when Mr. Nicholson and the French authorities themselves concede that there might not even be a trial.

“This is a nightmare beyond Kafka and we have to ask the Canadian government on what basis they are sending Dr. Diab to France.”

Referring to French President Nicolas Sarkozy’s calls for reform of the French judicial system, Behrens

questioned Nicholson's apparent trust in the French to treat Diab fairly.

"Mr. Nicholson says Canada should trust the French system of justice, which is an outmoded Napoleonic system of justice that even President Sarkozy says should be abolished because it fails to represent the presumption of innocence.

"So we have Minister Nicholson saying we should trust the French system when even the French president says it isn't trustworthy."

The Diab case as highlighted Canada's little known or understood extradition agreements with dozens of countries some of which — France included — do not extradite their own citizens.

The federal Justice Department officials refuse to discuss the case with the media.

Diab gets to remain in Canada until his court appeals are exhausted.

The original Maranger decision and now Nicholson's decision to surrender Diab to France will become part of a joint appeal to the Court of Appeal for Ontario.

If that fails, Bayne has said they will take the case to the Supreme Court of Canada.

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