

'We expected this decision, but not this way'

Hassan Diab, accused in 1980 Paris bombing, disappointed but determined to appeal

BY CHRIS COBB, OTTAWA CITIZEN APRIL 6, 2012



Lebanese-born sociology professor Hassan Diab claims he is the victim of mistaken identity and played no role in the 1980 bombing of a Paris synagogue in which four passersby were killed. **Photograph by:** Wayne Cuddington, The Ottawa Citizen, Ottawa Citizen

Federal Justice Minister Rob Nicholson's decision to order Ottawa academic Hassan Diab extradited to France is a denial of basic legal and human rights, his lawyer said Thursday.

"This is a disappointing decision that politically I'm sure the minister found difficult to make in favour of Dr. Diab," Donald Bayne told the Citizen. "It would have taken a great deal of political courage for him to do the right thing."

Diab, who has claimed since his arrest four years ago that he is the victim of mistaken identity, will now take his case to the Federal Court of Appeal and if necessary, he says, to the Supreme Court.

"We expected this decision but not this way," Diab told the Citizen late Thursday. "We expected the minister to address our points, which he did not. He just ignored them and rendered his decision based on his political beliefs more than anything else."

"He is saying, 'I have no doubt about the other side's story.'"

The Lebanese-born sociology professor is a suspect in the 1980 terrorist bombing of a synagogue in central Paris in which four passersby were killed and many others - inside and outside the synagogue - were injured.

It was the first terrorist attack in France since the Second World War.

Nicholson released his decision Thursday ahead of the long weekend and two weeks earlier than Justice officials indicated it would be released.

While the timing was a surprise, the decision wasn't.

The minister endorses an Ontario Superior Court ruling last summer by Justice Robert Maranger who committed Diab for extradition after a complex twoyear hearing.

But surprisingly, Maranger said in his decision that while he felt obliged to commit Diab to France, he doubted their evidence was strong enough to convict Diab in a Canadian criminal court.

Maranger's decision hinged on controversial handwriting evidence that three defence handwriting experts agreed was incompetent analysis.

Canadian Justice Department lawyers withdrew unsourced intelligence evidence submitted by France to support their case against Diab because they couldn't prove it wasn't obtained through torture.

But a key piece in Diab's appeal, says Bayne, will be the written admission from Paris that authorities have not yet finished investigating the synagogue bombing.

A Canadian citizen can only be extradited in these circumstances, claimed Bayne, if he or she is wanted for trial.

"They want him for the purpose of continuing an investigation to determine whether or not there will ever be a trial," he said.

"This will be a great surprise to Justice Maranger who conducted more than two years of legal proceedings at the Ontario Superior Court on the premise that France had made a decision to put this man on trial."

In his decision, Nicholson said he is satisfied "that Mr. Diab is more than a mere suspect" and Canada should respect the differences in the two country's legal systems.

"I must not subject the judicial process in France to overly technical evaluations against the rules that govern the legal process in Canada," he says, adding that France has, in fact, launched the Canadian equivalent of a prosecution against Diab.

If the French do eventually get Diab and put him on trial they will reintroduce the intelligence evidence rejected in Canada, said Bayne.

"They will use that," he said, "and the minister did not even think it worthwhile, on behalf of this Canadian citizen, to obtain an assurance from France that this material would not be used against him."

Among other points of law, Bayne says he will use a decision last month by the Irish Supreme Court that refused to extradite Irish citizen Ian Bailey suspected of murdering a French woman in Ireland.

"It is exactly the same as the Diab case," he said. "France in a document provided made plain they had made no decision to try Mr. Bailey just as France has made no decision to try, or not to try, Hassan Diab."

The Diab case has shone a rare light on Canada's little-understood extradition law, which critics say is unconstitutional and in desperate need of reform.

The France-Canada extradition is especially irksome to some because it is not reciprocal - France does not extradite its citizens.

Diab, who was arrested in an RCMP swoop at his Hull apartment in 2008, was initially jailed for several months before being released on strict and expensive bail conditions that continue.

"This decision is a disappointment," said Diab, "because the minister didn't do his job right. I hope Canadians understand the implications of this decision."

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