

1. Who is Hassan Diab?

Dr. Hassan Diab is a sociology professor and a law-abiding Canadian citizen of Lebanese descent who lives in Ottawa, Canada. Until late 2007, Hassan enjoyed an engaged and productive public life, including teaching and publishing research. In October 2007, a French journalist informed Hassan that he is under investigation by French authorities in relation to a bombing outside a synagogue in Paris in 1980. On November 13, 2008, Hassan was arrested by the RCMP at the request of France.

Friends, colleagues and mentors have been providing unrelenting support for Hassan. Many filed character letters with the court describing Hassan as “*humanist*”, “*non-violent*”, “*conscientious and dependable*”, and “*a peace loving man*”. They all affirm that Hassan has never held any militant or anti-Semitic views, and that he has always opposed bigotry, racism, and discrimination. You can read testimonials in support of Hassan at <http://www.justiceforhassandiab.org/testimonials>.

2. What are the charges against Hassan Diab?

Hassan is not charged with any crime. In 2012, after a very lengthy extradition hearing, French authorities revealed that they are seeking Hassan’s extradition for questioning. The French authorities stated that they are still investigating the case, and there are no charges against Hassan.

Hassan has repeatedly asserted his innocence and condemned the heinous crime. He offered to take a polygraph test and to answer in Canada any questions that the French investigators have. There has been no response to his offers.

3. What is the evidence in Hassan Diab’s case?

The case against Hassan stems from an intelligence note that the French intelligence service (DST) received more than a decade ago (1999). The French investigative judge makes it clear that neither he nor others know the origins of this information or anything about its reliability. Following the testimony of University of Toronto Law Professor Kent Roach on the inherent unreliability of unsourced and uncircumstanced intelligence, and the dangers of relying on intelligence as evidence, the Crown prosecutors withdrew the intelligence. However, French investigators have indicated they fully intend to rely on this information in any trial in France.

The only evidence used by the Canadian judge to commit Hassan for extradition is a handwriting analysis report based on five words printed in simplistic block letters on a Paris hotel registration card by the presumptive bomber in 1980. Three leading experts testified that the French handwriting analysis report against Hassan is “*wholly unreliable*”, “*utterly biased*” and “*absurd*”. They pointed out that the evidence actually excludes Hassan as the suspect.

A similar conclusion has been reached by two prominent European handwriting experts. Their report has been filed as fresh evidence with the Court of Appeal.

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In addition, the extradition judge found that the French handwriting analysis report is “*very problematic*”, “*convoluted, very confusing, with conclusions that are suspect*” and “*highly susceptible to criticism and impeachment*”.

This was the French authorities’ second attempt to produce handwriting analysis evidence against Hassan. Two previous reports were withdrawn after the defence showed that many of the comparison samples that the French authorities thought were written by Hassan were in fact written by someone else.

4. Why did the judge order extradition?

The sole basis for ordering Hassan Diab’s committal for extradition is a French handwriting analysis report. The Crown prosecutors stated that the entire case against Hassan stands or falls on the handwriting evidence.

The judge found that other elements in the French case against Hassan – including a 1980 passport and composite sketches – are of very little identification value.

The judge committed Hassan for extradition on the basis of the discredited handwriting analysis report. He noted that the report is “*very problematic*”, “*convoluted, very confusing, with conclusions that are suspect*” and “*highly susceptible to criticism and impeachment*”. However, he held that he cannot apply Canadian standards of evidence to exclude this report.

The judge found that the case against Hassan is “*weak, and the prospects of conviction in the context of a fair trial, seem unlikely*”; however, he ruled that he is mandated by Canada’s extradition law to order Hassan’s extradition.

5. What are the grounds of appeal?

Hassan is appealing the judge’s extradition order and the Justice Minister’s surrender order. The grounds of appeal are:

- a. The judge erred in ordering Hassan’s extradition based on a single handwriting analysis report that has been condemned in court as “*fatally flawed*” and “*utterly unreliable*”. Hassan’s lawyers offer the evidence of five distinguished handwriting experts that totally discredited the French handwriting analysis report.
- b. The Minister of Justice erred in ordering Hassan’s surrender to France for questioning purposes rather than to stand trial.
- c. The Minister of Justice erred in ordering Hassan’s surrender given that if a trial is held in France, Hassan will be tried on the basis of unsourced and uncircumstanced intelligence.
- d. The Minister of Justice erred in ordering Hassan’s surrender given that if a trial is held in France, Hassan will be tried on the basis of the “*manifestly unreliable*” Marganne and Barbe-Prot reports. These two handwriting reports relied on comparison samples that were not even written by Hassan. They were withdrawn in Canada but remain in the French dossier.

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- e. The Minister of Justice erred in ordering Hassan's surrender given that if a trial is held in France, Hassan would be tried on the basis of evidence that is plausibly connected with torture, and the Minister declined to conduct an inquiry into this connection

For more information, see "Excerpts from the Legal Arguments of Dr. Hassan Diab's Lawyers".

6. Why is Hassan fighting extradition? Why does he not go to France, face trial there, and clear his name?

The Supreme Court of Canada held that a person sought for extradition has the right to challenge the case against them in Canada. If extradited, Hassan will be torn away from his family and friends. He will face lengthy detention as the French authorities revealed that they are still investigating the case and there are no charges against Hassan.

If a trial is held, Hassan will be tried on the basis of unsourced and uncircumstanced intelligence that can never be challenged in a court of law. Human Rights Watch has documented the use of secret intelligence in terrorism cases in France – including intelligence obtained from countries that routinely use torture.

Hassan's ability to challenge the handwriting analysis will be severely restricted. In accordance with the rules in an "inquisitorial" legal system, and as confirmed by French legal experts consulted by Hassan's lawyer, the French court will be extremely deferential to the handwriting analysis reports that were commissioned by the French investigative judge and will view defence evidence with suspicion.

France has been criticized by human rights organizations for running anti-terrorism trials that violate internationally recognized due process standards. In July 2008, Human Rights Watch issued a report entitled "Preempting Justice: Counterterrorism Laws and Procedures in France," that details human rights violations in the French legal system. French anti-terrorism laws grant sweeping powers to the examining magistrate (juge d'instruction) and very loose evidentiary standards apply in counterterrorism courts. Charges can be brought based on evidence that would not withstand scrutiny under an adversarial legal process.

7. Who are Hassan Diab's supporters, and what do they want?

In addition to family, friends, colleagues, mentors, and former students who have known Hassan for years and decades, Hassan's supporters include many individuals and organizations throughout Canada and internationally.

The following is a partial list of the organizations that have publicly stated their support for Hassan Diab and their opposition to the unjust extradition proceedings in his case.

Amnesty International
BC Civil Liberties Association
Canadian Arab Federation
Canadian Civil Liberties Association
Canadian Union of Postal Workers

Canadian Unitarians for Social Justice
Civil Liberties Association, National Capital Region
Council on American-Islamic Relations Canada
Independent Jewish Voices
International Civil Liberties Monitoring Group
Ligue des droits et libertés
National Union of Public and General Employees
People's Commission Network
Toronto Action for Social Change

8. What is extradition, and how does the process work in Canada?

Extradition is the forced removal of a person from one country to another to face criminal charges.

The **first step** in the extradition process is the receipt of a note from the requesting state. Following this, the person sought is arrested. The person may be released on bail or may be held in custody pending the extradition hearing.

The **second step** is the extradition hearing, which takes place in front of a judge who decides whether to commit the person sought to extradition. The hearing is based entirely on a document submitted by the requesting state summarizing the evidence against the person sought. At the extradition hearing, admission of defence evidence challenging the case against the person sought must pass a very high threshold.

At the end of the extradition hearing, the judge must either release the person or order his/her committal to extradition.

The **third step** of the extradition process involves the Minister of Justice who has the final authority to surrender the person sought to the requesting state.

Canada extradites its citizens to a large number of countries, including France. France, however, does not extradite its own citizens.

9. How do *Charter* rights apply to an extradition hearing?

Canadian lawyer and extradition expert, Gary Botting, describes extradition as “the least fair process in Canadian law”. Due process rights accorded to a defendant in a domestic trial are greatly curtailed at an extradition hearing. The extradition treaty requires Canada to treat any evidence provided by a foreign country as presumptively reliable, and normally this evidence cannot be challenged. In 2006, the Supreme Court of Canada opened a slight window of opportunity for Canadians to challenge foreign evidence at an extradition hearing. The person sought may petition the court to admit additional evidence in an attempt to show that the evidence submitted by the requesting state is “manifestly unreliable”. However, in practice the courts have set the test for “manifest unreliability” so high as to make it virtually impossible for anyone to meet it.

For more information, visit: <http://www.justiceforhassandiab.org>