

Ottawa academic Hassan Diab still in legal limbo in Paris prison



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Published on: October 16, 2017 | Last Updated: October 16, 2017 7:28 PM EDT



Hassan Diab, a Lebanese-born Canadian citizen, was arrested eight years ago in Ottawa on murder charges from a 1980 bombing outside a Paris synagogue. *TONY CALDWELL / POSTMEDIA*

As he approaches the beginning of his fourth year in a maximum-security Paris prison, former Ottawa professor Hassan Diab remains in legal

limbo more than two months after a judge closed his investigation into the case.

Diab, a 63-year-old Canadian citizen, is the only suspect in the October 1980 bombing of a Paris synagogue in which four people died and more than 40 others were injured. He denies being in Paris at the time of the bombing and says he is a victim of mistaken identity.

Diab, who taught at the University of Ottawa and Carleton University, was extradited from Canada at the request of the French government in November 2014 after a long legal battle that began six years before when he was arrested at his apartment by RCMP tactical squad officers.

Judge Jean-Marc Herbaut ended his investigation on July 28 and, as is normal practice, gave prosecutors and defence lawyers 30 days to respond with final “observations.”

After receiving those responses, he is then supposed to rule, within 10 days, whether Diab should be released and sent home to Canada, or go to trial for the alleged terrorist offences. He also has the option of continuing his investigation if either side is to persuade him it is necessary.

Defence lawyers have responded to the judge, urging Diab be released. Prosecutors have not responded and while there is no legal requirement for defence or prosecutors to respond within the 30-day time frame, it is rare for them not to do so.

Judge Herbaut has said there is “consistent evidence” Diab is telling the truth and that he was not in Paris at the time of the blast.

Judge Herbaut had ordered the Lebanon-born academic released on bail five times pending the end of his investigation. He has also been ordered released by a “Freedom and Detention” judge who reviews cases of prisoners incarcerated without charge.

If he is ordered released when his case is reviewed again next month, it will be the seventh time.

Prosecutors have successfully challenged all those orders alleging Diab is a flight risk and a threat to French public order.

After the first release order, he spent 10 days of freedom, without incident, at the home of a French academic and with strict curfew and monitoring restrictions, was allowed to move around Paris.

That first release order apparently took prosecutors by surprise and had them scrambling to put together an appeal that led to Diab being re-arrested.

Diab's French lawyer William Bourdon has described the situation as "unprecedented," and the current lack of response to the investigating judge by prosecutors as "disappointing."

Bourdon said Diab is trapped by authorities fearful of being accused of being soft on terrorism.

"Such a situation would be inconceivable in an ordinary law situation," the lawyer told the Citizen. "Consistent evidence of Hassan Diab's innocence was collected during the investigations, but he remains in prison where he has now spent almost three years."

Diab, who is imprisoned with "vulnerable" inmates, including ex-police officers, prison guards and bankers, is said by his wife, Rania Tfaily, to be taking the latest delay "very badly." He is locked in his cell for 20 hours a day.

Tfaily, Diab and their two young children, aged four and two, were together briefly during the summer in a small prison visiting room. Diab played with his children while guards waited outside the room glancing occasionally at the family through small glass windows.

French prosecutors appear to be still relying on evidence that Diab's Canadian extradition judge — Ontario Superior Court Justice Robert Maranger — had described as "weak, convoluted and confusing."

Part of the evidence apparently still in play is based on intelligence for which there is no known source and which was withdrawn during the extradition hearing in Ottawa because of its unreliability.

Repeated fingerprint tests comparing Diab's prints with those found on a hotel register and in a car French police say was used in the attack have all been negative.

Maranger said that despite his doubts, the low threshold of Canadian extradition law gave him no choice but to recommend extradition, a decision made formerly by Rob Nicholson, justice minister in the Stephen Harper government.

Appeals by Diab's lawyers eventually made their way to the Supreme Court of Canada, which refused to hear the case.

Amnesty International, among others, has accused the French authorities of contravening European and international human rights norms in their treatment of Diab.

The academic's supporters have been urging Prime Minister Justin Trudeau to intervene with French authorities. His office has referred the case to Foreign Affairs Minister Chrystia Freeland.

Tfaily told the Citizen she has been in contact with foreign affairs and wrote to Freeland earlier this month, urging the minister to help her husband.

The Canadian embassy in Paris has provided periodic consular visits to Diab, and Freeland's department has said it is closely monitoring the situation.

Unlike Canada, France does not extradite its own citizens.

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