

E-BULLETIN AUGUST 2010

August 19, 2010

Dear friends of CCLA,

In this issue, you'll read about some of the interesting cases that we are currently monitoring. I think you'll find the summary of the Crookes case, which deals with the legal liability of Internet hyperlinks, particularly interesting and relevant. In our opinion, Dr. Diab's extradition case is also a critical one to watch, as there could be far reaching implications for other fellow Canadians facing charges abroad.

I'm also very pleased to announced that registration for our "Who Belongs?" conference is now open; I hope to see many of you there.

Thank you for support,
Nathalie Des Rosiers
General Counsel

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CCLA Monitoring the Extradition Proceedings of Canadian Citizen Hassan Diab

France seeks the extradition of Ottawa professor Hassan Diab, on charges relating to the bombing of a French synagogue in 1980. The CCLA is concerned that the case against Dr. Diab may consist of 'manifestly unreliable evidence' such that Dr. Diab's section 7 Charter rights to life, liberty and security of the person are at stake.

The charges are based on two "sources" — hotel registration records allegedly in Dr. Diab's handwriting placing him near the scene of the crime, and "secret intelligence."

Dr. Diab's legal team introduced evidence of four leading handwriting experts arguing that the registration records are not Dr. Diab's handwriting. However, French officials are not disclosing the 'secret intelligence' against Dr. Diab citing French national security concerns — accordingly, the Ontario judge, Dr. Diab and his lawyers, and even the Crown Attorney, are not privy to this French 'secret intelligence'.

Dr. Diab is fighting the extradition request. The Supreme Court of Canada has set out the test for extradition: the evidence must be sufficient for a properly instructed jury to return a verdict of guilty. In other words, if the evidence is "so manifestly unreliable that it would be unsafe to rest a verdict on it", or if the "judge on an extradition hearing concludes that the evidence is manifestly unreliable, the judge should not order extradition."

The Ontario Court must distinguish between 'secret intelligence' — which obviously cannot be properly scrutinized — and 'evidence', which can be properly scrutinized. If there is not sufficient evidence to render a guilty verdict in Canada, then according to Canadian law Dr. Diab should not be extradited. His extradition hearing will be held in November 2010 in Ontario Superior Court.

CCLA is concerned that the extradition in this case will undermine the test for extradition and lead to unfair process and injustices for people suspected of crimes by foreign states.