

The Honourable Arif Virani
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa, ON

July 26, 2023

Dear Sir,

On June 15, 2023, I hand delivered an open letter to Prime Minister Trudeau concerning the case of Dr. Hassan Diab. I trust that you are familiar with this file, since you were the parliamentary secretary to the former justice minister, David Lametti. The letter, which had been endorsed by more than 100 individuals and 26 organizations, was also e-mailed to the Prime Minister on June 16, 2023 and a copy of it was sent to Mr. Lametti, and to Deputy Prime Minister Chrystia Freeland. Since that time, the letter has received many more endorsements. The number of individuals who have signed it has now exceeded 640. (Please see the attached.) And more persons will sign this letter in the weeks ahead.

Towards the end of June, I received a reply from the Prime Minister's Office, indicating that while the Prime Minister had given my letter serious attention, the matter belonged to Mr. Lametti's portfolio, now yours. With this information, it seems only fitting that I should write my letter anew and address my concern to you directly.

Canadians vindicating Hassan Diab's cause are growing in number. Not surprisingly, around 10,000 have signed a petition demanding that he not be extradited a second time. The Diab Affair has consistently captured the attention of the mainstream media over the past 15 years and, with each new development in Dr. Diab's tragic saga, Canadians have become ever more familiar with his ordeal and ever more supportive. This case will not be consigned to silence or oblivion. It is already historic and precedent setting.

If the stakes are high for Dr. Diab and his family, for longstanding supporters, and for lawyers and MPs demanding extradition reform, they are equally high for your government. The waiting time to which Dr. Diab has been subjected is taking its toll on him, but also on Canadians' trust in our justice system. Many are exasperated that Dr. Diab's release from his devastating nightmare has not as yet happened, indeed, that a second extradition request (which many surmise has already been sent to Canada) has not been/or was not expeditiously refused. Thousands of Canadians are growing impatient with the government's obdurate silence; indeed, public outrage over this insouciant treatment of Dr. Diab is intensifying. Many now know what transpired at the Copernic trial where he was tried *in absentia*, and they find it unthinkable that Canada would accord France's verdict an ounce of legitimacy.

Permit me to recall some pertinent facts. France's 2023 conviction of Hassan Diab was based on an incoherent and often confusing story, dredged up from a narrative that foreign intelligence agencies cobbled together between 1980 and 1999. The story was a

composite of accusatory, but contradictory claims that fed into France's 2008 extradition request (i.e., its record of the case) when Dr. Diab was first sought. So discrepant was France's initial submission in June 2008 that it did not pass muster. Despite this, and following an adjustment to its narrative, France was allowed to resubmit its request in December 2008.

From the outset, the prima facie "evidence" was weak and problematic. In fact, in 2011, extradition judge Robert Maranger deemed France's 2008 record of the case indefensible. Replete with disorderly materials, errors, and speculative assumptions, the story was not only disconnected and bewildering, it rested on unsourced and unsworn intelligence, unfit in a Canadian court.

But, in 2023, French prosecutors restored the very tale they had presented to Canada in 2008 and which Justice Robert Maranger had jettisoned in 2011. Drawing on its earlier incarnation, with all its unsourced materials, France's 2023 story remained a disconnected and highly specious narrative, awash in undocumented and illogical incriminatory claims, including a flaming red herring: a spurious theory of a "smoking gun," a faded facsimile of a likely doctored-up passport for *which there is no original*.

Since France's 2023 conviction of Dr. Diab builds on the very accusatory and baseless narrative that Canada rejected in 2011, any second extradition request that France presents to Canada today, and which, *mutatis mutandis*, replicates the 2008 request, must be refused out of hand. Canada can scarcely accept a new record of the case that is grounded in a conviction derived from unsworn, undocumented, and unsourced intelligence.

It is worth recalling that Jean-Marc Herbaut and Richard Foltzer (the two French investigative magistrates who had been charged with handling the Diab file) both challenged the very basis upon which France's case against Hassan was built. In this, they displayed complete impartiality, marshalling a compelling series of arguments that underscored Hassan Diab's innocence. In 2018, both magistrates refused to send him to trial. This came as a stunning surprise to French authorities. The latter swiftly appealed the decision and, shockingly, *against the authoritative stance of the Advocate General*, succeeded in securing the appeal. That sudden turn of events represented nothing less than a flagrant insult to the two eminent investigative magistrates. Their scrupulous work of more than three years had been brazenly hurled onto the rubbish heap.

When these two magistrates appeared in court during the Copernic trial, they were subjected to a humiliating public interrogation, intended to discount their efforts and call into question their professional competence. Despite this, they did not cower or rescind their original views. They upheld the dismissal order that they issued in 2018. Standing firm, they proceeded to explain their method of reasoning with impeccable clarity, politeness, and composure.

As for the conviction that was pronounced on April 21, 2023, it was the result of a staged trial, "pure theatre, driven by political pressure to scapegoat an innocent man. There was

no burden of proof, no official transcripts, and digital recording of the trial was strictly forbidden. Whether testifying under oath or not, witnesses could lie with impunity since perjury in France is practically never punished. Risible testimonies (e.g., that Dr. Diab swam from Cyprus to Europe!) went unchallenged. The civil parties and the prosecutors were allowed to vilify the accused, filibuster, and steal the defense's speaking time. As Bernie Farber, the chair of the Canadian Anti-Hate Network and former CEO of the Canadian Jewish Congress, tweeted, the resulting verdict by the French Court was '[a Shanda](https://mondoweiss.net/2023/05/the-sham-trial-of-hassan-diab/),' an outrage." <https://mondoweiss.net/2023/05/the-sham-trial-of-hassan-diab/>

Mr. Virani, if you were to look squarely at the illegitimate, at times farcical, nature of the Copernic trial, you could not, in all good conscience, assign any credibility to the April 21, 2023 verdict, one that rests on unsworn foreign intelligence, blatant falsehoods, and a total lack of concrete evidence. Even the so-called smoking gun – the lost passport – consists in but a series of photocopied papers, unbound, shabbily assembled, and with clear signs that the original document (which, today, is nowhere to be found) was falsified. But courtesy of an antiquated French legal system, the presiding judge was able to pronounce judgement solely on the basis of his intuition, an ineffable predisposition against Dr. Diab, and one governed by the power accorded to the prosecution and the victims' lobby.

Canadians are scandalized when they learn of what transpired at the Copernic trial. They are equally astounded to learn that Canada's extradition treaty with France is without comity and that it is marked by double standards: i.e., it allows Priest Johannes Rivoire to be left in peace despite his history of sexual crimes against Canada's indigenous peoples, while Hassan Diab is under relentless persecution, even as his powerful alibi and fingerprint evidence excludes him from the crime of Copernic.

Mr. Virani, every day that passes is agonizing for Dr. Diab. Every day his worry that he might be wrongfully extradited a second time resurfaces. His anxiety is worsened by the stressful wait to which he is being subjected. How long must he endure this calvary – this hitherto unrequited quest for freedom? Will you do the honourable thing and refuse France's second extradition request? Canadians are getting intolerant of this prolonged wait. They are losing faith in Canada's justice system. The hour has come to act now, sir. It is time to liberate Dr. Diab from this excruciating torment. The clock is ticking and all eyes are on you and Prime Minister Trudeau.

Sincerely,

Michelle Weinroth, PhD