



Press Release

For immediate release

Commissioner Dennis O'Connor to appoint a fact finder to look into Maher Arar's treatment in Jordan and Syria Justice O'Connor rules that M. Arar may testify after the release of his Interim Report

Ottawa, May 10, 2005 - Mr. Justice Dennis R. O'Connor, who heads the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, ruled today on some issues of Process and Procedure that were submitted to him at the May 3rd public hearing. Some of those issues are: M. Arar's testimony and the testimony of Messrs. El Maati, Almalki and Nurreddin.

Maher Arar's testimony

The testimony of Maher Arar before the Inquiry raises the issue of fairness to Mr. Arar in light of the unique nature of this Inquiry. Mr. Arar does not have access to documents and evidence that was received by the Commission *in camera*. This situation is unlike the government witnesses who have so far testified before the Inquiry after having had access to the documents and the evidence. In addressing this concern, Commissioner O'Connor rules: "...*the decision whether to call Mr. Arar as a witness should be deferred until there has been made available to him the maximum amount of information relating to the matters about which he could testify. That situation will likely occur following the release of the interim report.*"

Even though the discussion as to whether Mr. Arar will testify has been deferred, the Commissioner feels that it is important to receive information on Mr Arar's treatment in Jordan and Syria. Justice O'Connor noted that the government has referred to Mr. Arar as a victim. Notably, the government does not consider it necessary to cross-examine Mr. Arar on his treatment in Jordan and Syria or on the effects of that treatment on him or his family. On this question, the Commissioner writes: "*Because Mr. Arar's allegations of mistreatment triggered this Inquiry, I think it is important that, at this stage, I receive information about Mr. Arar's treatment in Jordan and Syria and also about the effects of that treatment on him and his family.*"

In order to look into the very private areas of Mr. Arar's case in a sensitive manner, Justice O'Connor will appoint a fact finder. "*The mandate of the fact finder will be to investigate and report to me on Mr Arar's treatment during his detention in Jordan and Syria and the effect of*

PO Box / CP 507, Station B / Succursale B
Ottawa, Canada K1P 5P6

613 996-4741 Fax / télécopieur 613 992-2366

www.ararcommission.ca / www.commissionarar.ca

that on him and his family. (...) The fact finder should interview Mr. Arar and others he or she considers necessary to fulfill the mandate.”

The testimony of Messrs. El Maati, Almalki and Nurredin

At the May 3rd public hearing, intervenors suggested that the Commissioner direct a fact finder to obtain information from three other individuals who were imprisoned and allegedly tortured in Syria. In his ruling the Commissioner decided to direct the fact finder to obtain information on two of the individuals about their treatment in Syria. The other individual, Ahmed El Maati, has indicated through his counsel that he will not cooperate with the Inquiry. “*I do not intend,*” writes the Commissioner, “*to compel anyone who alleges torture to give evidence or otherwise become involved with the Inquiry. Thus I will not direct the fact finder to include Mr. El Maati in his or her investigation.*”

Noting that Messrs. Almalki and Nurredin do not want to testify because of concerns about the lack of disclosure of information on matters about which they could testify, the Commissioner writes: “*I will direct the fact finder to interview Mr. Almalki and Mr. Nurredin about their treatment in Syria. I think that information is sufficiently related to the terms of my mandate to warrant gathering of information in this fashion, reserving a decision on its use until after the receipt of the fact finder report.*”

The ruling will be posted on the Commission’s Web site www.ararcommission.ca later this week.

The RCMP testimony

The Commissioner will shortly issue a separate ruling on this matter.

Established under Part I of the Inquiries Act, the Arar Inquiry was set up on the recommendation of the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness to investigate and report on the actions of Canadian officials in relation to Maher Arar. The Commissioner is also mandated to make recommendations that he considers advisable on an arm's length review mechanism for the activities of the RCMP with respect to national security.

Media contact : Francine Bastien, 613-996-4741; Cellular: 613-299-6554; Email: fbastien@bellnet.ca