

# Q&A on the Dabbagh Case: French judges issue 3 international arrest warrants against top Syrian officials

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## What are the facts behind the case?

At midnight on 3 November 2013, 20-year old Patrick Abdelkader Dabbagh, an arts and humanities student in his second year at the University of Damascus, was arrested at his home in the Mezzeh neighbourhood of Damascus.

A group of two officers, two soldiers and a computer scientist, who claimed to belong to Syrian Air Force Intelligence, took Patrick Abdelkader for interrogation, without indicating any grounds for his arrest.

At the same time the next day, the same individuals returned to the Dabbagh family home, this time accompanied by nearly a dozen armed soldiers. They accused Patrick Abdelkader's father, Mazen Dabbagh, of failing to raise his son correctly and proceeded to arrest him, claiming that this would teach him how to properly bring up his son. At the time, Mazen worked as a senior education adviser at the French School of Damascus.

Witness testimony confirms that Mazen and Patrick Abdelkader were both taken to a detention centre at Mezzeh Military Airport, run by Syrian Air Force Intelligence and notorious for the use of brutal torture. The UN Independent International Commission of Inquiry on Syria believes that Mezzeh has one of the highest mortality rates among detention centres in Syria.

Both father and son have not been seen since.

Mazen Dabbagh and his son Patrick Abdelkader were never involved in any protest movements against the Assad regime, before or after March 2011. Their fate is one shared by tens of thousands of Syrians, who have been arrested and detained by the Syrian regime and remain forcibly disappeared.

Earlier this year, Syrian registry offices began issuing thousands of death certificates for disappeared persons. In July 2018, the Dabbagh family received formal notification that their family members had died. According to the documents received by the Dabbagh family, Patrick Abdelkader died on 21 January 2014, soon after his arrest. His father, Mazen, died almost four years later, on 25 November 2017.

## Why was the case filed in France and not in Syria or before the ICC?

Despite the gravity and scale of crimes perpetrated in Syria since the brutal repression of the March 2011 uprising that led to more than seven years of conflict, there are limited avenues for victims and their families to obtain justice and redress. Syria has not ratified the Rome Statute and, despite attempts to obtain a resolution from the UN Security Council to refer the situation to the ICC, Russia and China's repeated vetoes have prevented the ICC from opening an investigation on Syria.

With the path to the ICC blocked, and no real prospect of independent justice and accountability inside Syria, victims have turned towards other countries - such as Germany, Sweden, France and Spain - to investigate cases based on what is known as « extraterritorial » jurisdiction. Since 2012, Syrian lawyers,

individuals and organisations as well as international human rights organisations have launched cases in these countries to obtain investigations on torture, crimes against humanity and/or war crimes charges.

### **What criteria apply in France for initiating investigations into crimes perpetrated in Syria?**

Since the United Nations Convention against Torture was transposed into French law in 1986, any suspect found on French territory can be prosecuted and tried in France on torture charges.

The same condition has applied since August 2013 for suspects of enforced disappearance, following the integration of the United Nations Convention on the Protection of All Persons from Enforced Disappearance into French law.

Irrespective of their nationality and country of residence, victims of torture and enforced disappearance can file a criminal complaint with the French prosecutor and participate in the proceedings as civil parties. This status gives victims extensive rights throughout the investigation, such as the ability to request that specific acts of investigation be undertaken, or that certain witnesses be called to testify.

On 9 August 2010, a law incorporating the Rome Statute into French law was adopted by the French Parliament. This law gives the French courts jurisdiction over the crimes of genocide, crimes against humanity and war crimes committed in another country, if the following conditions are met:

- the suspect resides in France,
- there is incriminating legislation of such acts in the State in which they were committed, or either the State in which the crimes were committed or the State of which the suspect is a national is party to the Rome Statute, and
- prosecutions can only be initiated at the request of the French prosecutor.

Alongside these criteria, French courts have jurisdiction over crimes committed against French nationals or dual nationals, as well as on crimes perpetrated by French nationals or dual nationals. Thus, it is on the basis of Mazen and Patrick Abdelkader's dual Syrian-French nationality that a criminal investigation was initiated in France in November 2016.

On 1 January 2012, a specialised unit for the prosecution of crimes against humanity and war crimes was created in Paris, known as the French "war crimes unit". This unit is composed of a team of three prosecutors, three independent investigative judges and a team of specialised investigators, working exclusively on international crimes cases. Today, the French war crimes unit is working on close to 100 judicial investigations and preliminary examinations involving international crimes committed outside of France, at least 15 of which relate to crimes committed in Syria.

In September 2015, the French Ministry of Foreign Affairs transferred the Caesar files to the specialised unit in Paris, which led to the opening of a preliminary investigation into the regime's practice of systematic torture of detainees, amongst other violations.

### **How was the Dabbagh case initiated and how did it reach the point of international arrest warrants?**

On 24 October 2016, FIDH and its member organisation in France, the Ligue des Droits de l'Homme, with Mr. Obeïda Dabbagh (Mazen Dabbagh's brother) and the active support of the Syrian Center for Media and Freedom of Expression (SCM), referred the case of Mazen and Patrick Abdelkader Dabbagh to the French war crimes unit.

In the complaint filed with the prosecutor, the plaintiffs requested immediate judicial investigation, through the appointment of an investigative judge, into the crimes of enforced disappearance and torture amounting to crimes against humanity that they claim have been committed against Mazen and Patrick Abdelkader Dabbagh by members of the Syrian regime.

On 7 November 2016, the Prosecutor opened a judicial investigation and three investigative judges were

appointed to investigate the case.

Between December 2016 and September 2018, Mr. Obeida Dabbagh, represented by FIDH lawyers, testified three times before the investigative judges.

Throughout the procedure, in collaboration with SCM, FIDH and LDH filed legal briefs and specific requests with the investigative judges, and also identified key witnesses who testified on crimes perpetrated by Syrian Air Force Intelligence agents in the Mezzeh detention centre and elsewhere.

In October 2018, the investigative judges in charge of the case issued three international arrest warrants; against Ali Mamlouk and Jamil Hassan for complicity to crimes against humanity, and against Abdel Salah Mahmoud on charges of complicity to crimes against humanity and war crimes.

### **Who are the 3 high level Syrian officials targeted by the international arrest warrants and what are they charged with?**

Major General Ali Mamlouk - Special Advisor to the President on Security Affairs and Director of the National Security Bureau since 2012

Prior to that, Mamlouk served as Director of Syria's General Intelligence service since 2005.

He joined Syrian Air Force Intelligence branch early on in his career, where he went on first to manage the investigative branch and then to serve as Director of Air Force Intelligence between 2003-2005.

Human rights organisations hold him accountable for overseeing the chemical arsenal in Syria and using it against political prisoners detained in Palmyra prison between 1985-1995.

Mamlouk is responsible for rebuilding the Syrian government's external intelligence relations. He has made several visits abroad, most recently to Rome in late February 2018, where he is reported to have met the former Italian Interior Minister and a senior Intelligence official.

Mamlouk was one of the first top Syrian security officials to be placed under EU sanctions. In May 2011, the EU imposed a travel ban and froze his assets due to his role in violence against demonstrators.

Major General Jamil Hassan - Director of Air Force Intelligence

Hassan became Air Force Intelligence Director in 2009. Prior to that, he briefly managed the Air Force Intelligence branch in eastern Syria also during 2009, after serving as Air Force Intelligence officer at the Mezzeh military airport since 2007.

He is one of the pillars of the security system established by Hafez al-Assad, father of current president Bashar al-Assad, who took control of Syria in the 1970s.

As one of the most important supporters and supervisors of the violent military repression of demonstrations that began in 2011, he is accused of involvement in murder, torture and multiple violations against civilians.

In a rare press statement in 2016, Major General Hassan mentioned that tougher tactics, such as those used in Hama in the 1980s, would have ended the revolution early on.

A warrant for Hassan's arrest was issued by the German Federal Prosecutor in June 2018.

He has been under EU sanctions since 2011, subject to a travel ban and asset freeze due to his role in violence against demonstrators.

Major General Abdel Salam Faraj Mahmoud - Director of Investigation at the Air Force Intelligence Branch in Damascus

Mahmoud became Director of the Air Force Intelligence Investigation Branch in 2010. He is one of the most prominent intelligence officers in Syria, conducting his affairs from his headquarters at the Mezzeh military airport in the outskirts of Damascus.

Mahmoud is nicknamed the "Legal Brigadier General", as he holds a law degree. As part of his role as head of investigations, he directly supervises interrogations and torture taking place in the notorious Air Force Intelligence prisons.

Under his leadership and on his orders, large numbers of Syrians were arrested, tortured, and killed, including victims of the Massacre of Saida (April 2011), during which hundreds of people were killed. Among them is Hamza al-Khatib, a 13 year old boy whose body was returned to his family after he was killed under torture.

Abdel Salam Mahmoud has been under EU sanctions since 2012, for his role in torture of detainees (at the time) as head of the Air Force Intelligence (Damascus) branch in Bab Touma.

At an autumn 2016 meeting of the UN Security Council, the US delegation cited the names of eight senior Syrian regime officers, stating that they are "war criminals who will have the same fate as their disgraced predecessors". One the names listed was Major General Abdel Salam Mahmoud.

All three suspects are charged with complicity to crimes against humanity and Abdel Salam Mahmoud is also wanted on war crimes charges.

### **Why is this development important?**

These international arrest warrants, which follow the international arrest warrant issued by the German federal prosecutor against Jamil Hassan in June 2018, constitute a key milestone towards breaking the impunity for crimes committed by the Syrian regime.

By targeting senior regime figures, and, for the first time ever, the very top of the regime hierarchy, it is clear that perpetrators - whatever their level of seniority - cannot escape justice.

The French justice system has drawn attention to the responsibility of these three individuals and their role in crimes against humanity and war crimes perpetrated against the Syrian people. Without access to the ICC, transitional justice or a hybrid court, as things stand, this move sends a strong signal that extraterritorial justice has an essential role to play in pursuing those responsible for the gravest crimes perpetrated against civilians in Syria since March 2011.

It also demonstrates that these investigations are possible and can lead to concrete results, thanks to the extensive documentation work undertaken by Syrian activists since 2011 and the immense courage of victims and witnesses who share their testimonies.

### **What are the implications of the international arrest warrants and what happens next?**

All three suspects should no longer enjoy impunity for the crimes they have committed and their place in Syria's future should be called into question.

The international arrest warrants will prevent the three suspects from traveling abroad freely.

Despite being on an EU Sanctions list, Ali Mamlouk travelled to Italy earlier this year to meet with former Interior Minister Marco Minniti and Head of Intelligence, Alberto Manenti. This would no longer be possible; Italy will now be obliged to arrest and extradite him to France if he returns.

In terms of the criminal case in France, even if the international arrest warrants are not executed, the investigative judges could nevertheless consider closing the investigation and send the case to trial. The suspects would have the right to be represented by a lawyer for the duration of the trial, even if they themselves are not physically present in court.