

## **ASIO raids: Australia concedes bid to block former spy from giving evidence in East Timor case**

Tom Allard - *Sydney Morning Herald* - 23 January 2014

<http://www.smh.com.au/federal-politics/political-news/asio-raids-australia-concedes-bid-to-block-former-spy-from-giving-evidence-in-east-timor-case-20140123-319r6.html>

The Australian government has admitted it wants to block a former spy turned whistleblower from giving evidence to an international tribunal where East Timor is challenging a treaty between the two countries splitting lucrative oil and gas revenues.

The former senior Australian Secret Intelligence Service operative had his passport cancelled last month after ASIO raids on his house and the Canberra office of East Timor's lawyer Bernard Collaery.

East Timor has taken Australia to the International Court of Justice to get legal documents and data seized in the raids returned to it, with oral submissions concluding overnight.

One of the panel of 16 judges hearing the case at the ICJ, Morocco's Mohamed Bennouna, asked Australia about the timing of the ASIO action, coming just two days before a Permanent Court of Arbitration tribunal in the Hague was to hear argument on the treaty dispute.

Solicitor-general Justin Gleeson responded by denying the raids were linked to the case, even as he revealed that Australia opposed the former spy – dubbed "X" – giving evidence at the arbitral tribunal.

"Australia would intend to object to the admissibility of that evidence," he said. Australia feared the former agent "would make further disclosures that Australia could not confine", he added.

"Mr Collaery and Officer X should not be the guards of Australian lives and information," Mr Gleeson said.

Mr Collaery has accused the Australian government of taking unprecedented action to "muzzle our prime witness" as the former spy was planning to go to the Hague to give testimony for East Timor in the treaty case.

But Mr Gleeson defended the raids as being driven by national security concerns, especially the risk the revelations could identify and "endanger" spies and expose the tradecraft and technical capabilities of Australia's intelligence services.

He cited media interviews given by Mr Collaery and East Timor's resources minister Alfredo Pires detailing that the agent was the head of the bugging operation, a decorated officer and had worked with a team of four people as evidence of the leak of classified information into the public domain, a criminal offence under Australian law.

But East Timor's lawyers retorted that the media coverage came after the raids had taken place and shouldn't be used to justify them.

Australia has known for more than 12 months about the allegations of espionage by the agent, with East Timor first raising the matter with then prime minister Julia Gillard in late 2012.

The agent says ASIS bugged East Timor's cabinet offices in Dili during talks for the oil and gas treaty, which the tiny nation now claims was unfair and negotiated fraudulently and in bad faith.

East Timor, meanwhile, told the court that it was "outrageous" for Australia to suggest during an earlier hearing that it may have encouraged the commission of a crime by enticing the spy to reveal classified material.

"Such expression of distrust falls short of the recognition and appreciation of our broader relationship," said East Timor's agent at the ICJ, Joaquim da Fonseca.

"I must firmly reject this careless and outrageous suggestion."

Mr Fonseca also objected to Australia's characterisation that the impoverished nation did well out of the oil and gas treaty at the heart of the dispute, the Treaty on Certain Maritime Arrangements of the Timor Sea or CMATS.

While the treaty split revenue from the \$40 billion Greater Sunrise reserves 50-50, he said the oil and gas field was closer to East Timor than Australia.

East Timor argues that, if a standard maritime boundary between the nations was in place, almost all the resource would be in its territory.

"Who do the reserves belong to, and who is being generous to who?," Mr Fonseca said.

On Thursday, the Timor Sea Justice Campaign called on Prime Minister Tony Abbott to show goodwill and draw a divide that gives East Timor fair ownership of resources close to its coastline. An open letter to Mr Abbott from the Timor Sea Justice Campaign asks that an equitable boundary be determined in accordance with international law.

Both sides will be able to make final written submissions to the ICJ by the end of the week, with the court to rule "as soon as possible" on whether the documents and data should be sealed and delivered to it by Australia as an interim measure.

A final ruling on whether the documents should be returned to East Timor is expected in 12- 18 months.