The foreign affairs department continues to deny a passport to a former-spy-turned-whistleblower despite a spying legal case being dropped.

The former Australian Secret Intelligence Service agent was a key witness for East Timor in a case against Australia over allegations Dili's cabinet rooms were bugged during negotiations over a gas and oil treaty in 2004.

Witness K was supposed to give evidence at the Permanent Court of Arbitration in the Hague but had been unable to leave Australia because his passport was seized in 2012.

East Timor in January dropped the spy case against Australia as an act of goodwill ahead of negotiations on a maritime boundary.

Crossbencher Nick Xenophon grilled Attorney General George Brandis about the passport issue during a Senate estimates hearing in Canberra on Wednesday.

Senator Xenophon pointed out the domestic spy agency ASIO had no security concerns about Witness K receiving a new passport.

Senator Brandis said he couldn't comment on the matter because it was before the Administrative Appeals Tribunal.