

ASIS witness to appear in East Timor legal battle

David Wroe and Tom Allard

Published: April 24, 2014 - 10:34AM

An international panel of jurists has ordered Australia to make available East Timor's star witness – a former Australian spy – in a high-stakes legal battle between the two countries over \$40 billion of disputed oil and gas reserves.

In a major blow to Australia, the panel of jurists has cleared the way for the former Australian Secret Intelligence Service officer to testify that he helped bug East Timor's cabinet room during negotiations over the Greater Sunrise oil and gas fields.

East Timor is trying to have the agreement, which was struck in 2006 with Australia over the reserves in the Timor Sea, overturned on the grounds Canberra did not negotiate in good faith.

Australia tried to block the officer from testifying, on the grounds he would be breaching Australian national security laws. His passport has been cancelled and his house was raided in December by security agency ASIO.

ASIO also raided the home of East Timor's Australian lawyer Bernard Collaery and seized more than a dozen documents including a statement the ASIS officer had given alleging the spying activities.

The latest ruling was made by an arbitral panel of three eminent jurists, which has jurisdiction over the dispute, based on the umbrella Timor Sea Treaty, which the two countries signed in 2002 shortly after East Timor gained its independence.

The panel has previously met in The Hague, regarded by convention as the city for international legal disputes. If it were to meet there again to hear the ASIS witness' testimony, the Australian government would need to issue him a new passport or temporary travel documents.

However, it is understood that he could also give evidence via video link.

The 2006 agreement splits ownership of the reserves 50-50, even though they lie considerably closer to East Timor than Australia. The East Timor government is pushing to claim a considerably larger portion of the reserves than half.

The dispute has soured relations between Dili and Canberra.

Separate to the arbitration on the agreement itself, East Timor took Australia to the International Court of Justice in The Hague over the raids and seizure of documents in December.

East Timor demanded Australia seal the documents and return them either to Dili or to the court, and also that Australia stop spying. It raised concerns that Canberra was trying to gain advantage in the legal dispute.

However, Attorney-General George Brandis argued the raids and seizures were driven by Australia's national security interests. He gave an extraordinary undertaking not to view the documents, a fear raised by East Timor given Senator Brandis is in charge of both ASIO and Australia's case in the legal dispute.

The court ruled the documents be sealed and kept from Australian officials, although it did not order they be returned to Dili.

A spokesman for Senator Brandis said: "Until the tribunal determines otherwise, all decisions and orders of the tribunal are confidential to the parties. As such, it would be inappropriate to comment on the content of those orders."

This story was found at: <http://www.smh.com.au/federal-politics/asis-witness-to-appear-in-east-timor-legal-battle-20140423-zqxc7.html>