

## East Timor to take Australia to International Court of Justice

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Attorney-General George Brandis is refusing to return "highly sensitive" legal advice to the East Timor government from an eminent international law expert seized during ASIO raids this month, prompting the fledgling nation to launch action in the International Court of Justice.

East Timor and Australia are in the midst of a dispute, currently before arbitration in The Hague, over a treaty governing oil and gas deposits in the Timor Sea worth about \$40 billion and the advice from British QC Vaughan Lowe outlines the strengths and weaknesses of East Timor's case.

Stephen Webb, head of energy at global law firm DLA Piper and its lead partner advising the East Timor government, said the advice from Mr Lowe on the "prospects" of the case was vital.

"Such internal advice documents would never be shown to the other side, in this case the Australian government, during legal proceedings," he said.

As it launched the proceedings for the return of the documents, East Timor also asked the ICJ to secure an undertaking from Australia not to intercept communications between the tiny country and its advisers, and apologise.

East Timor's case relies on allegations that Australian spies bugged its cabinet offices during negotiations over the treaty on the instruction of former foreign minister Alexander Downer.

The star witness for East Timor is a former Australian Secret Intelligence Service (ASIS) officer who allegedly led the eavesdropping operation. Knowing East Timor would request assurances that the former spy and other witnesses not be arrested or prevented from testifying, Senator Brandis approved ASIO agents raiding the man's property and the seizure of his passport on December 3, just days before the arbitral tribunal was due to hear argument.

Also raided was the office of lawyer Bernard Collaery, who is representing East Timor and from whose office Mr Lowe's legal advice was taken.

Senator Brandis told Parliament the raids were due to national security concerns around the alleged leak of classified intelligence information, and not related to the arbitration in The Hague.

He said any material obtained would not be passed on to the Solicitor-General and other lawyers running Australia's case in the The Hague. But the Australian government had known about the allegations of espionage against East Timor for at least a year before the raids, suggesting it was linked to the arbitration.

East Timor will argue the seizure by Australia of the documents and data is a violation of its sovereignty, property and other rights under international law.

Its lawyers wrote to Senator Brandis on December 10 requesting a list of the documents seized in the raids, the return of the documents, and the destruction of any copies, including any passed on to third parties and other nations. They also want a copy of the search warrant ASIO used for the raids.

Mr Webb pointed out that what the Timorese hope for is a "sensible discussion" on finding a permanent solution over the dispute over the Timor Sea oil and gas reserves. Senator Brandis declined to comment.

*This story was found at: <http://www.smh.com.au/federal-politics/political-news/east-timor-to-take-australia-to-international-court-of-justice-20131219-2zo19.html>*