

## George Brandis vows not to read documents ASIO seized

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Attorney-General George Brandis has given an extraordinary undertaking not to read highly sensitive documents seized by ASIO agents in a raid on East Timor's lawyer last year as Australia tries to thwart the fledgling nation's bid in the International Court of Justice to have the material returned.

East Timor's objections to the raid are to be put to the International Court of Justice in The Hague on Monday evening amid burning anger in the impoverished nation over the raids.

As well as getting the documents returned to them – and any copies destroyed – East Timor wants the ICJ to require Australia to cease any continuing spying on its lawyers.

The raid on lawyer Bernard Collaery, and a second one on a former senior officer of the Australian Secret Intelligence Service, in Canberra on December 3 were part of an escalating dispute between Australia and East Timor over \$40 billion of oil and gas reserves in the Timor Sea amid allegations of dirty dealings and espionage.

The ASIO raids stunned many observers because they occurred in the middle of legal proceedings between Australia and East Timor and included correspondence between East Timor's legal advisers, which were seized.

Moreover, Senator Brandis, who authorised the raids, is in charge of ASIO and the legal case being run by Australia against East Timor in The Hague.

Court documents obtained by Fairfax Media show the unusual lengths Senator Brandis will go to to justify the raids and keep the documents, which Australia denies are covered by legal professional privilege.

The documents reveal he told the arbitral tribunal in The Hague that he would undertake not to "make myself aware or otherwise seek to inform myself of the content of the [seized] material".

If there was any change, he would inform the tribunal and offer further undertakings.

One of the documents reveals that ASIO agents only "briefly inspected" the documents they took during the raids, aware that their conduct was likely to lead to objections by East Timor.

Along with the documents, a smartphone, USB stick and laptop were removed from Mr Collaery's office by ASIO, according to a property seizure record obtained by Fairfax Media.

"With one exception, all materials were then placed in sealed envelopes and have remained sealed to the present day," according to the written observations Australia presented to the ICJ last week.

Senator Brandis argues that legal professional privilege did not apply to the documents because they disclosed national security information and "therefore involve the commission of a serious criminal offence under Australian law".

Any objections by East Timor to the raids should be heard in an Australian court or another arbitration tribunal in The Hague, rather than the ICJ, he adds.

Reflecting the seriousness of the case, and the oil and gas revenues ultimately at stake, Australia has a 16-person team of lawyers and assistants representing it at the ICJ, including some of the world's leading international law experts.

Even so, some observers say the perceptions are bad for Australia, not least because East Timor is an impoverished nation and Australia a wealthy one.

"This is going to be pretty hard on Australia's image. It's not exactly glorious for them," international law expert Olivier Rentelink from The Hague's Asser Institute told Agence France-Presse.

East Timor wants a 2006 treaty that carves up the reserves declared invalid, saying it is unfair and not completed in good faith as Australia bugged its government's offices during negotiations.

The former ASIS agent, who was interrogated and had his passport suspended, is East Timor's key witness.

The former spy allegedly led a bugging operation of East Timor cabinet rooms during oil and gas treaty talks in 2004.

Australia's lawyers will be heard on Tuesday night, while both sides will sum up on Wednesday.

Senator Brandis' office declined to comment.

*This story was found at: <http://www.smh.com.au/federal-politics/political-news/george-brandis-vows-not-to-read-documents-asio-seized-20140120-314pq.html>*