

Australia ordered by The Hague to stop spying on Timor-Leste

International Criminal Court makes landmark ruling after Australian agents seize documents from tiny nation in oil and gas row



George Brandis (pictured) Photo: Getty

By Jonathan Pearlman, Sydney

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Australia has been ordered to stop spying on the fledgling nation of Timor-Leste amid a dispute over \$40 billion (£21.5 billion) oil and gas reserves, in a landmark decision by the International Court of Justice.

Believed to be the first time the court has ordered a Western nation to stop spying, a majority of the judges ruled that documents seized by Australian agents in December must be kept "under seal" and cannot be used during an ongoing dispute over the lucrative resources of the Timor Sea.

The court did not agree to Timor-Leste's request to have the documents returned, but ruled that Australia cannot use the documents to Timor-Leste's "disadvantage" and "shall keep under seal the seized documents and electronic data and any copies".

The dispute marks a souring of the previously close friendship between the two nations following

Australia's leading effort to help Timor-Leste finally gain independence from Indonesia in 2002.

A legal expert, Donald Rothwell, from the Australian National University, said the spying case was "unprecedented" and was the first time a country had been given orders on how to deal with documents obtained by spies.

Australia is accused of conducting widespread espionage during talks with the tiny nation - one of the world's poorest countries - in the lead-up to a 2006 treaty which led to a fifty-fifty split of the lucrative Greater Sunrise fields.

Timor-Leste wants the treaty annulled and has taken the case to the Permanent Court of Arbitration in The Hague. That case is unlikely to be finished before next year.

Last December, agents from ASIO, Australia's domestic spy organisation, raided the office in Canberra of Bernard Collaery, a lawyer representing Timor-Leste. The seized documents are believed to relate to the alleged espionage by Australia and to the admissions of a former Australian spy who has claimed that Australia bugged Timor-Leste's government offices during the treaty talks.

Timor-Leste's ambassador to Britain, Joaquim da Fonseca, said he was "very satisfied with the result of the hearing".

The court "appreciated the seriousness of the harm that could be caused by the seizure and the detention of the documents which belong to Timor-Leste," he said.

Australia has undertaken not to use the documents it seized as part of the treaty dispute but will use them for "national security" purposes, presumably to try to prosecute the whistle-blower spy.

George Brandis, Australia's attorney-general, has personally promised not to look at the seized documents without informing the court. But he welcomed the court's ruling that Australia did not have to return the seized documents.

"This is a good outcome for Australia," he said.

"The Australian Government is pleased with the decision refusing Timor Leste's application for the delivery of the documents taken into possession by ASIO."