



East Timor bugging scandal: Julie Bishop rejects former spy's bid to have passport returned

Lateline By Steve Cannane

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Foreign Minister Julie Bishop has intervened in an application by a former senior intelligence agent to have his passport returned, rejecting his application on the grounds he is a threat to national security.

The former ASIS agent, known as Witness K, is due to give evidence at the Permanent Court of Arbitration in the Hague about an operation to bug East Timor's cabinet rooms during negotiations with Australia over an oil and gas treaty in 2004.

East Timor is hoping to get the treaty — worth an estimated \$40 billion — torn up on the basis that the bugging was illegal.

Key to their case is Witness K, the former foreign intelligence service agent who ran the spying operation.

He has been unable to leave Australia since his passport was seized in a raid by the Australian Security Intelligence Organisation (ASIO) on his home in 2012.

According to Witness K's lawyer Bernard Collaery, the new head of ASIO, Duncan Lewis, indicated last year that ASIO was not taking action on national security grounds regarding Witness K's passport.

But Lateline can reveal that Ms Bishop has rejected Witness K's application for a new passport despite what the head of ASIO said.

A letter to Witness K's lawyers from the Department of Foreign Affairs and Trade explained Ms Bishop's decision:

"The Minister for Foreign Affairs has refused to issue you a passport.
"The decision to refuse to issue you a passport was made on the grounds that, pursuant to subsection 14(1)(a)(i) of the Act, a competent authority suspects on reasonable grounds that if an Australian passport were issued to you, you would be likely to engage in conduct that might prejudice the security of Australia."

Mr Collaery described the justification as laughable.

"How could it be a prejudice to Australia's national security for K to repeat what he has said? And that is that an unlawful operation took place abroad," he said.

Independent MP Andrew Wilkie, who is a former intelligence analyst with the Office of National Assessments, is shocked by the decision

"We need to understand here that the person who makes a decision about someone being a security threat or not is the head of the Australian Security Intelligence Organisation. In this case the head of ASIO has apparently judged that Witness K is not a security threat to this country," he said.

"That makes the apparent intervention of the Foreign Minister all the more remarkable.

"She is in no position to make any judgement about Witness K from a security point of view, which I think goes to show this is a political decision for political and diplomatic reasons and nothing to do with national security."

Mr Collaery said it was unclear who the "competent authority" referred to in DFAT's letter was.

ASIO would not confirm if they were that authority and in a statement a spokesperson for ASIO said they did not comment on individuals or operational matters.

'It looks grubby', Andrew Wilkie says

Mr Wilkie said the decision raised questions about how seriously the Government took international law.

"For the Foreign Minister apparently to deny Witness K a passport to give evidence at the Hague is really us just saying we don't care about the Hague, we don't care about international law," he said.

"Every way you look at this it's grubby."

Mr Collaery said the issue raised broader questions about whether Australia abides by the treaties it signs.

"Australia is bound, having received a proper arbitration request, to arbitrate," he said.

"So there are other issues that must be of concern to all Australians.

"They are: do we stick to our treaties? What will the Timorese think if we continue to fail to provide a key witness to the court, to the tribunal? What will ordinary Timorese think? What are we doing to our foreign relationship with Timor Leste?"



PHOTO: Australian spies installed listening devices in East Timor's Palace of Government in 2004, under the guise of an aid operation to renovate the offices. (AFP)

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Key points:

- Former Australian intelligence agent denied access to passport
- Julie Bishop deems him a security risk
- Man was due to give evidence overseas about alleged bugging in East Timor cabinet rooms
- Independent senator Andrew Wilkie says situation is 'grubby'

In the meantime, Witness K is stuck indefinitely without a passport in his retirement, unable to even travel overseas to visit family.

"Sitting in this country at the moment is a man who came forward with a most serious allegation that has not been refuted and what are we doing? He's in limbo. It's morale-damaging, it's wrong, it's cruel and it has no basis," Mr Collaery said.

"He has revealed apparent criminal activity and the perpetrators of that criminal activity have been promoted or assisted with government appointments and K remains in exile, without a passport and unable to travel. That's wrong."

Mr Collaery considers Witness K a hero for his work as a senior intelligence agent.

"Witness K is a veteran, a patriotic Australian, a very decent individual," he said.

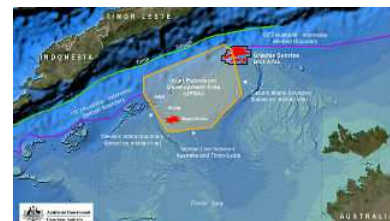
Ms Bishop's office provided Lateline with the following statement:

"Consistent with the Privacy Act 1988 we do not comment on individual cases."

Topics: foreign-affairs, government-and-politics, security-intelligence, international-law, australia, east-timor

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A history of treaties in the Timor Sea



- In 1989 Australia and Indonesia signed the Timor Gap Treaty when East Timor was still under Indonesian occupation.
- East Timor was left with no permanent maritime border and Indonesia and Australia got to share the wealth in what was known as the Timor Gap.
- In 2002 East Timor gained independence and the Timor Sea Treaty was signed, but no permanent maritime border was negotiated.
- East Timor has long argued the border should sit halfway between it and Australia, placing most of the Greater Sunrise oil and gas field in their territory.
- In 2004 East Timor started negotiating with Australia again about the border.
- In 2006 the CMATS treaty was signed, but no permanent border was set, and instead it ruled that revenue from the Greater Sunrise oil and gas field would be split evenly between the two countries.