

Timor spy lawyers fail to reach agreement

3:15pm Nov 7, 2018

Opposing barristers in a commonwealth spying case are at loggerheads over what national security information can be made public.

The case of a former spy, known as Witness K, and Canberra lawyer Bernard Collaery was back for its second appearance in ACT Magistrates Court on Wednesday.

The pair are charged with revealing information about Australia bugging East Timor's cabinet rooms in 2004 during negotiations over a gas and oil treaty.

Despite the charges being laid in June, the defence is yet to receive a full brief of evidence.

Witness K and Mr Collaery did not attend court, but were represented by their respective lawyers Haydn Carmichael and Christopher Ward SC.

The prosecution and defence have been trying to negotiate what orders and information can be put forward, but they have failed to come to an agreement.

The trial, or parts of it, could be held in a closed court as the prosecution believes national security could be compromised if certain information is made public.

The defence has argued for as much of the trial as possible to be open.

Chief Magistrate Lorraine Walker says the parties are a long way apart.

One of the provisions in the National Security Information Act relates to the attorney-general, which leaves the option open for him to attend the trial and be heard.

Attorney-General Christian Porter gave consent to the Commonwealth Director of Public Prosecutions to lay charges this year after receiving "very thorough advice".

Mr Porter has come under fire from some MPs and senators for giving that permission, with Centre Alliance's Rex Patrick one to criticise his conduct.

Senator Patrick addressed a number of protesters outside the court and sat in on the hearing.

"I have no faith in the attorney-general making any reasonable decision in relation to this matter," he said.

"He simply doesn't have the experience or the fortitude to stand up to those advising him who are pushing their own dark agendas."

A proposed three-day hearing to consider national security applications was put forward for February, but the prosecution said that would not leave enough time for them to prepare, frustrating Mr Ward.

The case has been adjourned until Friday morning as Ms Walker considers information from both parties, as well as a request from the ABC to access court documents.