

Timor-Leste bugging whistleblower faces criminal charges, MP says

Andrew Wilkie says former spy, known as Witness K, and lawyer Bernard Collaery are being targeted in ‘insane development’



The independent MP Andrew Wilkie says the spy-turned-whistleblower over Timor-Leste bugging has been charged. Photograph: Lukas Coch/AAP

Paul Karp *and agencies*

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Criminal charges have been filed against the spy-turned-whistleblower who revealed Australia had bugged Timor-Leste’s cabinet rooms, federal parliament has been told.

The independent MP Andrew Wilkie has used parliamentary privilege to claim the man, a former employee of the Australian Secret Intelligence Service known only as Witness K, and his lawyer, Bernard Collaery, were being targeted.

“The commonwealth director of public prosecutions has filed criminal charges against Collaery and his client,” he told the House of Representatives on Thursday.

“This is obviously an insane development in its own right.”

At a press conference after the speech Collaery said he and Witness K were both charged with conspiracy to breach section 39 of the Intelligence Services Act for allegedly communicating information they

obtained in the course of employment or an agreement with Asis.

“There is no allegation by the commonwealth director of public prosecutions of any national security breach,” he said.

In a statement the attorney general, Christian Porter, confirmed Witness K had been charged with “an offence” under that section and Collaery with “further offences” under the same.

Collaery said Witness K was not a whistleblower because he “went with his complaint to the inspector general of intelligence and security” and received approval to disclose the alleged bugging. Similarly, Collaery said he had received approval to act for Timor Leste in international proceedings.

Collaery said the case was “unprecedented” and meant that Australia was “not a safe country to represent another sovereign power any more”. He said the Australian government risks a judgment that Asis’s actions in bugging the cabinet rooms were unlawful.

He was constrained in what he could say about the case because his summons to the ACT magistrates court was accompanied by an anti-terrorism legislation gag order.

He said the charge was a summary offence with a maximum two years in prison. He did not fear prison, but rather believed the charge amounted to “a vindictive prosecution to ruin my reputation and career”.

The case will begin with a directions hearing on 25 July in which the court will consider whether to hear it in private.

Collaery blasted the commonwealth for seeking a closed hearing, describing publicity as the “soul of justice” and encouraging media companies to join him in opposing the application.

Witness K has been denied a passport since 2012 and been unable to leave Australia.

The former Asis agent was a key witness for Timor-Leste in a case against Australia over allegations Dili’s cabinet rooms were bugged during negotiations over a gas and oil treaty in 2004.

Witness K was supposed to give evidence at the permanent court of arbitration in the Hague but was unable to leave Australia because his passport was seized in 2012.

Timor-Leste dropped the spy case against Australia last year as an act of goodwill ahead of signing a new resources treaty.

“With the diplomacy out of the way it’s time to bury the bodies,” Wilkie said. “This government wants to turn the former Asis officer and his lawyer into criminals.”

Wilkie said the intelligence operation to bug Timor-Leste cabinet room was “illegal” and “unscrupulous” because Australia had used spy tactics to deprive Timor-Leste of its oil and gas revenue.

The Greens senator Nick McKim questioned why the attorney general had given sign-off for the prosecution, arguing it was “hard to escape the conclusion [the case] is politically motivated”. Wilkie and McKim both pledged to use parliamentary privilege to shed light on the case.

Porter said the commonwealth director of public prosecutions made an “independent decision that a prosecution was the appropriate course of action” and he then provided consent.

“Having formally confirmed the process regarding these matters, I can also confirm that I will not be providing detailed comment on their substance and that is because the matters are now before the court,” he said.

Last year Collaery called for a Senate inquiry. The two countries signed the treaty in March, carving up \$56bn in potential revenue from oil and gas reserves in the Timor sea.

Timor-Leste, one of the world’s most impoverished nations, will reap between 70% and 80% of the revenue from the Greater Sunrise fields under the agreement.