



An Roinn Gnóthaí Eachtracha agus Trádála Department of Foreign Affairs and Trade

Our Ref: Fol/Req/19/123

30 July 2019

Dear Mr Mooney,

I refer to the request which you have made under the Freedom of Information Act 2014 for access to records held by this Department, as follows:

“...all notes, records, briefing documents provided to the Minister about the expansion of the Russian Embassy in Orwell Road, Rathgar in Dublin, and the expulsion of staff from the Embassy of the Russian Federation in Dublin as part of an EU wide series of actions. ...copies of all correspondence sent to and from the department in connection with the above.

...all notes, records and correspondence relating to the introduction of legislation that allows for the revocation or amendment of a development permission in circumstances where adverse implications for the security, defence or international relations of the State are at issue and where such a course of action would be in the public interest.”

I refer also to the acknowledgement of your request which was sent to you on 22 March 2019.

Further to your request under the Freedom of Information Act, this Department can neither confirm nor deny that it holds information relevant to parts of your request, as the duty to offer access to any record held by the Department under the legislation does not apply by virtue of Section 33(1)(d) and 33(4) of the Act (Security, defence and international relations). I have determined that the disclosure of the existence or non-existence of such records would prejudice international relations between this country and another State.

I have identified 78 records that fall within the scope of your request. The records are listed in the schedule attached. I have made a decision to part-grant 45 records, grant 13 records, and to refuse 20 records.

Where access has been refused or part-granted, the records are exempt from release under the following sections of the Act: Section 15(1)(d); Section 28(1)(c); Section 28(2)(a); Section 31(1)(a); Section 31(1)(c)(ii)(I); Section 32(1)(b); Section 33(1)(d); Section 33(2)(b)(i); Section 33(2)(b)(ii); S37(1); and Section 42(j).

Section 15(1)(d) relates to records refused on administrative grounds, as the information they contain is publically available. Links have, however, been included in the schedule to the relevant documents for ease of reference.

Section 28(1)(c) applies to records which relate to meetings of the Government; a number of the records prepared for the Tánaiste for use solely at a Government meeting. **Section 28(2)(a)** also applies to the same records. This is a mandatory refusal and I am obliged to refuse access if the record contains “the whole or part of a statement made at a meeting of the Government or information that reveals, or from which may be inferred, the substance of the whole or part of such a statement”.

Section 31(1)(a) applies to records, which would be exempt from production in proceedings in a court on the ground of legal professional privilege. Records have been exempted under this Section as they contain legal advice from the Office of the Attorney General.

Section 31(1)(c)(ii)(I) applies to records relating to parliamentary, court, and other matters. This is a mandatory refusal and I am obliged to refuse access if the record contains “opinions, advice, recommendations, or the results of consultations, considered by either House of the Oireachtas or the Chairman or Deputy Chairman or any other member of either such House or a member of the staff of the Houses of the Oireachtas Service for the purposes of the proceedings at a sitting of either such House”.

Section 32(1)(b) applies to records relating to law enforcement and public safety. Records have been partly exempted under this Section to protect the identities of individuals who work in security-sensitive positions.

Section 33(1)(d) applies to records relating to the security, defence and international relations of the State.

In making the decision to exempt these records, I have considered the public interest. This Department is responsible for managing relations between Ireland and 178 countries, in a complex and diverse environment. Based on the Department’s direct knowledge and expertise in international relations, its strongly held position is that the granting of access to these scheduled records will adversely affect the State’s relations by introducing major doubts with regard to the security and confidentiality of our diplomatic communications and the effective conduct of its functions by this Department. I am therefore satisfied that the balance favours refusal rather than release.

A number of records have also been refused under **Section 33(2)(b)(i)** and **Section 33(2)(b)(ii)** of the Act. These are mandatory exemptions and I am obliged to refuse access to the relevant records.

The records which are part-granted have been edited only insofar as to remove names and identifying details of individuals under **Section 37 (1)** of the Act, Personal Information.

Finally, **Section 42** of the Act sets out the exclusion of certain records from the scope of Freedom of Information legislation. Any record given by this Department to the Tánaiste for

use by him in any proceedings in either Houses of the Oireachtas are exempt under Section 42(j).

Right of Appeal

Should you wish to appeal this decision, you may do so in writing to the Freedom of Information Unit, Department of Foreign Affairs and Trade, 76-78 Harcourt Street, Dublin 2 or by email to foi@dfa.ie.

You should make your appeal within 4 weeks (20 working days) from the date of this notification. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Yours sincerely



Caitríona de Búrca