



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

Our Ref: Fol/Req/2019/051

Mr Luke Ming Flanagan MEP
European Parliament

Date 21 February 2019

Dear Mr Flanagan,

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 documents held by this department relating to the invocation of Article 42.7 of the Treaty on European Union by France in November 2015. This should include correspondence with French government departments, the French permanent representative, briefing materials, minutes and agendas of meetings, memos, correspondence with other government departments and the Defence Forces.

I refer also to the acknowledgement of your request which was sent to you on 4 February 2019.

I have identified 62 records that fall within the scope of your request. The records are listed in the schedule attached.

I have made a decision to grant access to Records Numbers 1-3. In cases where material has been redacted, this has been done where the record contains material falling outside the scope of the request.

I have made a decision to refuse access to Records Number 4-62 on the basis of exemptions provided under the 2014 Act.

Records Number 4-32

I have made a decision to refuse access to Record Numbers 4-32 on the basis of exemptions provided under the 2014 Act, namely Sections 33(1)(d), 33(2)(b)(i) and 33(2)(b)(ii).

Under Section 33(1)(d), I may refuse a request if I feel that access to said records “could reasonably be expected to affect adversely...the international relations of the State”.

Under Sections 33(2)(b)(i) and 33(2)(b)(ii), I am obliged to refuse the request where records contain a communication between a Minister of the Government or his or her Department or Office and a diplomatic mission or consular post in the State or of the State or a communication between the Government or an officer of a Minister of the Government or another person acting on behalf of such a Minister and another government or a person acting on behalf of another government:

Where such information was communicated in confidence or relates to negotiations between the State and the other state in question or in relation to such a state, or

Where a record contains analysis, opinions, advice, recommendations and the results of consultations or information the release of which, in my opinion, could reasonably be expected to affect adversely the international relations of the State.

In the cases of Record Numbers 5, 8 and 11, under Section 33(3)(c)(ii), I am obliged to refuse access where records contain information communicated in confidence:

From, to, or within an institution or body of the European Union, or relates to negotiations between the State and such an organisation.

Records Number 33-35

I have made a decision to refuse access to Record Numbers 33-35 on the basis of exemptions provided under the 2014 Act, namely Sections 33(1)(d) and 33(2)(b)(ii).

Under Section 33(1)(d), I may refuse a request if I feel that access to said records “could reasonably be expected to affect adversely...the international relations of the State”.

Under Section 33(2)(b)(ii), I am obliged to refuse access where records contain a communication between a Minister of the Government or his or her Department or Office and a diplomatic mission or consular post in the State or of the State or a communication between the Government or an officer of a Minister of the Government or another person acting on behalf of such a Minister and another government or a person acting on behalf of another government:

Where a record contains analysis, opinions, advice, recommendations and the results of consultations or information the release of which, in my opinion, could reasonably be expected to affect adversely the international relations of the State.

Records Number 36-38

I have made a decision to refuse access to Record Numbers 36-38 on the basis of exemptions provided under the Act, namely Sections 28(1)(a) (Record Number 36 only) and (c), 28(2)(a), 33(1)(d), 33(2)(a)(ii) and 33(2)(b)(ii).

Under Sections 28(1)(a) and (c) I may refuse the request on the basis that the record:

Has been, or is proposed to be, submitted to the Government for its consideration by a Minister of the Government or the Attorney General and was created for that purpose, and

Contains information (including advice) for a member of the Government, the Attorney General, a Minister of State, the Secretary General to the Government for use by him or her solely for the purpose of the transaction of any business of the Government at a meeting of the Government.

I am obliged to refuse access under Section 28(2)(a) as the records contain:

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.

Under Section 33(1)(d), I may refuse a request if I feel that access to said records “could reasonably be expected to affect adversely...the international relations of the State”.

Under Sections 33(2)(a)(ii) and 33(2)(b)(ii), I am obliged to refuse access to records that contain:

Information that relates to the tactics, strategy or operations of the Defence Forces in or outside the State;

A communication between a Minister of the Government or his or her Department or Office and a diplomatic mission or consular post in the State or of the State; and

Analysis, opinions, advice, recommendations and the results of consultations or information the release of which, in my opinion, could reasonably be expected to affect adversely the international relations of the State.

Record 39

I have made a decision to refuse access to Record Number 39 on the basis of exemptions provided under the Act, namely Sections 33(1)(d), 33(2)(a) and 33(2)(b)(ii).

Under Section 33(1)(d), I may refuse a request if I feel that access to said records “could reasonably be expected to affect adversely...the international relations of the State”.

Under Section 33(2)(a), I may refuse to records that contain “information that relates to the tactics, strategy or operations of the Defence Forces in or outside the State”.

Under Section 33(2)(b)(ii) I am obliged to refuse access to records which contain:

Analysis, opinions, advice, recommendations and the results of consultations or information the release of which, in my opinion, could reasonably be expected to affect adversely the international relations of the State.

Records 40-50

I have made a decision to refuse access to Record Numbers 40-50 on the basis of exemptions provided under the 2014 Act, namely Sections 28(1)(a) and (c), 28 (2)(a), 33(1)(d) and 33(2)(a)(ii).

Under Sections 28(1)(a) and (c) I may refuse the request on the basis that the record:

Has been, or is proposed to be, submitted to the Government for its consideration by a Minister of the Government or the Attorney General and was created for that purpose, and

Contains information (including advice) for a member of the Government, the Attorney General, a Minister of State, the Secretary General to the Government for use by him or her solely for the purpose of the transaction of any business of the Government at a meeting of the Government.

I am obliged to refuse access under Section 28(2)(a) as the records contain “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”.

Under Section 33(1)(d), I may refuse a request if I feel that access to said records “could reasonably be expected to affect adversely...the international relations of the State”.

Under Section 33(2)(a)(ii), I am obliged to refuse access to records that contain:

Information that relates to the tactics, strategy or operations of the Defence Forces in or outside the State;

Analysis, opinions, advice, recommendations and the results of consultations or information the release of which, in my opinion, could reasonably be expected to affect adversely the international relations of the State.

Records 51-62

I have made a decision to refuse access to Record Numbers 52-63 on the basis of exemptions provided under the 2014 Act, namely Sections 28(1)(c), 28 (2)(a), 33(1)(d) and 33(2)(a)(ii).

Under Section 28(1)(c) I may refuse the request on the basis to record that contain:

Information (including advice) for a member of the Government, the Attorney General, a Minister of State, the Secretary General to the Government for use by him or her solely for the purpose of the transaction of any business of the Government at a meeting of the Government.

I am obliged to refuse access under Section 28(2)(a) to record that contain:

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.

Under Section 33(1)(d), I may refuse a request if I feel that access to said records “could reasonably be expected to affect adversely...the international relations of the State”.

Under Section 33(2)(a)(ii), I am obliged to refuse access to records that contain:

Information that relates to the tactics, strategy or operations of the Defence Forces in or outside the State;

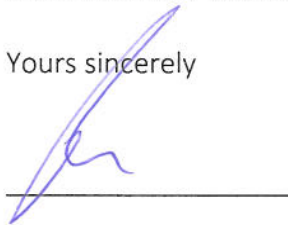
Analysis, opinions, advice, recommendations and the results of consultations or information the release of which, in my opinion, could reasonably be expected to affect adversely the international relations of the State.

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. A fee applies for an appeal for access to non-personal information; the level of this fee has been set at €30. For methods of payment, please contact FOI Unit at foi@dfa.ie, or 01-4082857.

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



Bob Patterson
International Security Policy Unit
Department of Foreign Affairs and Trade