



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

Our Ref: Fol/Req/2019/331

17 December 2019

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

I wish to apply for information on election observation missions in the last 12 months that the EU or OSCE sought observers for.

I request the information in tabular excel spreadsheet format showing: Q FOR FOI

Name and date of election mission observers requested for

Observer name sent

Whether LTO or STO

Whether they are members of the Roster or staff of the Department

Cost of airfare paid on their behalf

Cost of expenses paid to them

I refer also to the acknowledgement of your request which was sent to you on 28 November 2019.

Section 15(1)(g) FOI Act provides that "A head to whom an FOI request is made may refuse to grant the request where the request is, in the opinion of the head, frivolous or vexatious or forms part of a pattern of manifestly unreasonable requests from the same requester or from different requesters who, in the opinion of the head, appear to have made the requests acting in concert."

In making my determination on this request, I have looked to the purpose of the FOI Act. This is articulated in its Long Title as “*An Act to enable members of the public to obtain access, to the greatest extent possible consistent with the public interest and the right to privacy, to information in the possession of public bodies [...]*”.

Determination

In my view, this FOI request forms part of a pattern of conduct that amounts to abuse of the right to access.

I have reviewed all the factors and most especially the overall pattern of interaction with the Department, including but not limited to the high volume and extent of previous requests. Taking into account the history of your dealings with this Department, the level of correspondence, records, files both within the FOI Act and outside the FOI Act, which we have already released to you, I am satisfied that the instant request is vexatious and forms a pattern of manifestly unreasonable requests submitted over a sustained and prolonged period of time; forming as it does, a pattern of conduct which amounts to an abuse of process or right of access.

I am of the view that the public interest in allowing the Department to continue its efficient and effective management of the election roster outweighs any private interest which you may have in the records sought.

In coming to this decision I note that an FOI Body is “*entitled to have regard to the context in which the request [was made]*” when assessing 15(1)(g). It therefore follows, in my view, where a finding has been made that a requester has abused the FOI process, any subsequent request must be assessed in light of the established pattern of conduct that grounded that conclusion and it must similarly be refused under section 15(1)(g).

This is not a decision I have come to lightly, and it is after a rigorous review of the requirements of the FOI Act, of the instant FOI request, the other FOI requests you have made to this Department, the other FOI requests you have made to other FOI bodies and persons, and other related correspondence from you on the same topic. In taking this decision, I am following guidance from the Department’s FOI Act unit and the Central Policy Unit of the Department on Public Expenditure and Reform.

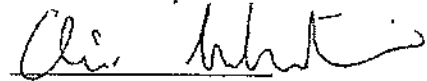
Accordingly, under section 15(1)(g) FOI Act, I refuse to grant your request.

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

A handwritten signature in black ink, appearing to read 'Claire Kerschensteiner', written in a cursive style.

Claire Kerschensteiner

Civil Society & Development Unit, Development Cooperation and Africa Division
Department of Foreign Affairs and Trade