



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

Our Ref: FOI/Req/20/204

13 November 2020

Dear Mr \_\_\_\_\_,

I refer to the request which you made by email on 9 October 2020, (which, owing to an administrative error, was not received in the FOI Section until 3 November 2020), under the Freedom of Information Act 2014 (the **FOI Act**), as follows:

**In order to inform public debate and scrutiny of the workings of the Irish taxpayer funded election observation programme can you provide me with the following, preferably in excel spreadsheet format, details of members of the current election roster that were members of the prior roster; from that group the number that undertook no missions during the 6 year live time of the prior roster, the number that did just one mission, the number that did two missions, the number that did three missions, the number that did four or more missions.**

I also refer to the acknowledgement of this request sent on 6 November 2020.

In making my determination on this request I have looked to the purpose of the Act which is articulated in the Long Title as being to enable members of the public to obtain access to information consistent with the public interest and the right to privacy.

### Determination

After careful consideration, I have decided to refuse your request under section 15(1)(g) on the grounds that it is vexatious. It is my opinion that this request forms part of a pattern of manifestly unreasonable requests submitted by you over a sustained and prolonged period of time which amounts to an abuse of process or of the right to access.

Section 15(1)(g) of the 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.”*

I have taken into consideration the subject of this request – the election observation roster – and the overall pattern of your interaction with the Department, including but not limited to the high volume and extent of previous requests on this topic since 2013. 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.

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 and the other FOI requests you have made to this Department.

I have also taken into consideration the following reviews carried out by the Office of the Information Commissioner, in relation to decisions by this Department to refuse access to records on the grounds that in the opinion of the head, the requests were vexatious (Section 15(1)(g) of the FOI Act 2014);

OIC-54933-J4L7M2 dated 8 January 2020  
OIC-58981-R6S5X8 dated 18 February 2020  
OIC-60932-R4B6F1 dated 18 February 2020  
OIC-61130-G3M3M6 dated 19 February 2020.

In each of these reviews, the Office of the Information Commissioner affirmed the decision of this Department, and the Senior Investigator wrote to you outlining the reasoning behind the decision.

Accordingly, under section 15(1)(g) of the 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](mailto: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](mailto: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,

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David Ormond  
FOI Section  
Department of Foreign Affairs  
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