

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

Mr. Brian Buckley;

Our Ref: FOI/Req/20/023

26 February 2020

Dear Mr. Buckley

I refer to the request that you have made, dated 22 January 2020, under the Freedom of Information Act 2014 for access to records held by this Department, as follows:

Under FOI Act 2014 I request all records including e-mail pertaining to the May 25th 2016 landing of aircraft Registration 02-4452 at Shannon airport

I refer also to the acknowledgement of your request sent to you on 28 January 2020.

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

Schedule of records

The schedule of records attached details the documents deemed relevant to your request. The schedule also indicates which material has been granted. Certain aspects of the records have been redacted for the following reasons:

Section 18 (1)

Section 18 (1) concerns material not relevant to the request. “[W]here an FOI request would fall to be granted but for the fact that it relates to a record that is an exempt record, by reason of the inclusion in it, with other matter, of particular matter, the head of the FOI body concerned, shall, if it is practicable to do so, prepare a copy, in such form as he or she considers appropriate, of so much of the record as does not consist of the particular matter aforesaid and the request shall be granted by offering the requester access to the copy.”

The information I have redacted has no bearing on the detail of the record as it falls outside of the scope of the request made.

Section 33 – Security, defence and international relations

I have decided to refuse access to part of the record concerned on the basis of exemptions provided for under Section 33 (1) (d) and Section 33 (2)(b)(i) where “[A] head may refuse to grant a FOI request in relation to a record ... if, in the opinion of the head, access to it could reasonably be expected to affect adversely the international relations of the State and such records include “...communication between a Minister of the Government or his or her Department or Office and a diplomatic mission or consular post in the State”

A mutuality of confidence exists in the communication between this Department and our interlocutors. The Department, therefore, needs to maintain this level of confidentiality in respect of diplomatic communications to enable it effectively discharge its functions.

Section 37 – Personal Information

While Section 37(1) Personal Information is a mandatory exemption I am still obliged to consider whether the public interest would be best served by releasing the records in full. I have taken into account the benefit to the public to be given access to correspondence in a manner which demonstrates transparency and accountability of the Department. I have particularly considered whether releasing the personal information, which includes names, addresses, telephone numbers and email addresses, would provide any additional benefit in this regard. I have weighed this against the right of individuals to have their personal information remain private. The personal information which I have redacted does not have any bearing on the substance or detail of the records, and does not diminish or alter the views expressed, and as such, I am satisfied that on balance the decision to partially redact the records and remove identifiable information is correct.

Section 32 (1)(a) and (b)

In addition, I have determined that with respect to certain elements of the records granted, particular information should be redacted having paid due regard to Sections 32 (1) (a) and (b) where release of such information may impair “lawful methods, systems, plans or procedures for ensuring the safety of the public and the safety or security of persons and property,” and in addition may imperil the safety of individuals. I am satisfied that this does not impact the substantive elements of the records released.

Legislative provisions

You may find useful, background information on the legislative provisions and policy under which this Department operates with regard to the requests of overflights or landings of foreign military aircraft in Ireland.

The Air Navigation (Foreign Military Aircraft) Order 1952 gives the Minister for Foreign Affairs primary responsibility for the regulation of activity by foreign military aircraft in Ireland and in Irish airspace. The Order provides that no foreign military aircraft shall fly over or land in the State without the express invitation or permission of the Minister. It further provides that the aircraft shall comply with such stipulations that the Minister may make.

Policy

Applications for permission for foreign military aircraft to overfly Ireland are routinely required to include confirmation that the aircraft meets specific criteria; namely that the aircraft is unarmed, carry no arms, ammunition or explosives and must not engage in intelligence gathering. Furthermore, applications must also specify the flights in question do not form part of a military exercise or operation. These conditions are applied to ensure compatibility with Ireland's longstanding policy of military neutrality which is characterised by non-participation in military alliances. This policy provides a context within which requests for overflights and landings are considered by the Department of Foreign Affairs and Trade.

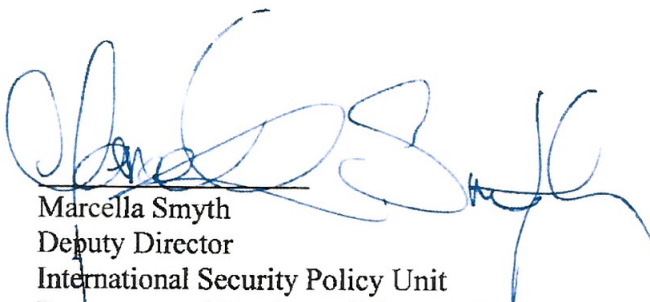
It is also a policy of the Department that permissions specify that flights comply with all normal flight planning procedures. Routing through Irish airspace and duration of time spent in Irish airspace consequent on the routing are thus matters for Air Traffic Control.

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@dfat.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@dfat.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



Marcella Smyth
Deputy Director
International Security Policy Unit
Department of Foreign Affairs and Trade