



An Roinn Gnóthaí Eachtracha
Department of Foreign Affairs

Our Ref: Fol/Req/21/118

Date: 23 June 2021

Dear Mr Higgins

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:

Apart from the usual anodyne remarks, can we please have the clear Government position on the intentions of the UK Government to block prosecution of those responsible for unlawful killings by security forces in Northern Ireland.

This clearly is an intention to nullify the basic Common Law we have all shared for almost a thousand years.

Has there been even a single memo or discussion paper within your Department as to whether the Irish State should seek to have this matter come before the International Criminal Court ?

Kindly treat this as an FOI request and provide me with details of any documentation in any format regarding Departmental policy and discussion on the matter. (PS You are obliged to give me a Schedule of such data -while your Department decides which section of the Act to mis-apply when refusing the actual data itself).

Are all we to expect are watery statements and tut-tutting. If there is anything with more fibre in it could you please say it out loud.

Please do not have some jobsworth send me a pro-forma acknowledgement. Answer the actual question please.

I refer also to the acknowledgement of your request which was sent to you on 3 June 2021.

The Department of Foreign Affairs holds no records which fall within the scope of your request and accordingly I have made a decision to refuse your request on administrative grounds under Section 15 (1)(a) of the FOI Act.

Section 15 (1) (a) of the FOI Act states that;

“15 (1) A head to whom an FOI request is made may refuse to grant the request where —

(a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken,”

The position of the Government with respect to dealing with the legacy of the Troubles has been clear and consistent. The Stormont House Agreement framework is the way forward on these issues. It was agreed by both Governments and the political parties after intensive negotiations, and it should be implemented.

Where the British Government are proposing significant changes to that framework, we have made clear that these must be discussed and agreed by both Governments and the parties to the Northern Ireland Executive. Only through a collective approach can we hope to deal with these issues comprehensively and fairly, and in a way that responds to the needs of victims and survivors, and society as a whole.

It is the consistent position of the Government that there should be effective investigations into all Troubles-related deaths, regardless of the perpetrator. The rule of law and the protections afforded by the European Convention on Human Rights must apply equally to everyone and must be upheld, and this principle is at the core of the Stormont House framework.

As the Stormont House Agreement framework does, there is a need to take a comprehensive view of how to achieve progress and reconciliation for society as a whole, and the needs of victims and families must be central to this process.

The Government has engaged and will continue to engage regularly on legacy issues with the British Government and the parties in relation to any concerns around the implementation of the Stormont House Agreement, and to make progress on this critical issue in the period ahead.

The International Criminal Court, (ICC) was established as the first permanent international court to end impunity for the perpetrators of international crimes. The ICC may exercise jurisdiction over genocide, crimes against humanity, war crimes and the crime of aggression that have occurred after the Rome Statute of the ICC entered into force on 1 July 2002.

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, (€10 for medical card holders). A copy of the medical

card should be provided to avail of the reduced fee. For methods of payment, please contact FOI Unit at foi@dfa.ie, or 01-4082618.

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

Shane Griffin