

An Roinn Gnóthaí Eachtracha agus Trádála
Baile Átha Cliath 2

Department of Foreign Affairs and Trade
Dublin 2

9 February 2017

Mr Noel Baker
Irish Examiner
Linn Dubh
Assumption Road
Blackpool
Cork

Dear Mr Baker,

I refer to your request dated 12 January 2017 made under the Freedom of Information Act, 2014 for access to records held by the Department of Foreign Affairs and Trade, as follows:

“details as to the number of occasions in which Irish diplomatic/embassy/consulate/related staff and/or contractors have requested diplomatic immunity of or from the authorities in another state, in the years 2014, through to 2016, inclusive. Please provide details as to the nature of the request for diplomatic immunity, the reason why it was requested, whether or not it was requested, who made the request (eg, Ambassador, officer, etc), the date, and the location, plus the authority or authorities in the named country to which the request was made. Please also include any correspondence from said authority or agency in each case regarding its decision to deal with the request.

Please also, according to the same wording, provide details as to all requests made to Irish authorities in Ireland for diplomatic immunity in the years 2014 through to the end of 2013 (sic), inclusive. As above, please provide details as to the identity of the embassy etc making the request(s); the reasons why; whether or not it was granted; when the request(s) were made; and the dates involved. Please also include any correspondence or observations passed by Irish authorities, including the Department of Foreign Affairs, to the requester, or related or other relevant agency, regarding the request (eg, to the Department of Justice, or other Department, or Road Safety Authority, or Garda Síochána, etc)”

I am the Deciding Officer in this case.

Under the terms of the Vienna Convention on Diplomatic Relations, which has the force of law in the State, immunities do not need to be “requested” in any given case. The default position is that immunities apply, and that they must be waived by the sending state in order for them not to apply. Immunities are procedural in nature; those enjoying them are still expected to comply with local laws and regulations in the host state.

In deciding on the scope of your request, I have, therefore, considered incidences in which immunities were asserted or waived. I have identified 24 records that fall within the scope of your request which are listed in the attached schedule. Records relating to these incidences are listed 1-24 for incidences in the State. There are no records relating to incidences where immunities were asserted or waived by “*Irish diplomatic/embassy/consulate/related staff and/or contractors*” during the period in question.

I have considered Section 33 of the FOI Act in making my decision not to release certain documents. The Department of Foreign Affairs and Trade operates in a complex and diverse environment. Communications between this Department and our interlocutors are conducted on the mutual understanding that such communications are confidential. This is particularly the case in respect of diplomatic communications. I have considered the possibility and likelihood that the release of these records could result in negative consequences, and prejudice the ability of this Department to effectively discharge its functions. To do otherwise would risk compromising the State’s capacity to engage with international partners through diplomatic channels.

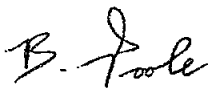
Where access to records has been refused or part granted, this has been done under the following sections of the Act: Section 33(1)(d) and Section 33(2)(b)(i) *security, defence and international relations* and Section 37(1) *personal information*.

Right of Appeal

Should you wish to appeal this decision, you may do so by 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. Your correspondence should include a fee of €30 for processing the appeal. For methods of payment, please contact the FOI Unit at 01 408 2857 or foi@dfat.ie

You should make your appeal within four weeks 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,



Ben Poole
Protocol Officer