



An Roinn Gnóthaí Eachtracha agus Trádála
Baile Átha Cliath 2

Department of Foreign Affairs and Trade
Dublin 2

Our Ref: FoI/Req/2015/099
Mr. Raphael Satter

10/11/2015

Dear Mr Satter,

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

Pursuant to the Freedom of Information Act 2014, I request a copy of all correspondence exchanged between the Irish Department of Foreign Affairs and Trade ("DFA") and the United States Government ("the US") regarding the travels of former National Security Agency contractor Edward J. Snowden. I also request a copy of all other correspondence generated by the DFA regarding Edward J. Snowden's travels and any prospective asylum bid or overflight plans, including correspondence with other government bodies, such as the Office of the Taoiseach.

Specifically, I seek:

- A copy of any correspondence between the US and DFA sent in June or July 2013 discussing Snowden's whereabouts or discussing the possible extradition or return of Snowden from Irish territory.
- A copy of any internal DFA correspondence discussing Snowden's whereabouts, his prospective asylum request or the possibility that his plane might cross into Irish airspace during the same period.

I refer also to the acknowledgement of your request which was sent to you on 27 October 2015.

I have identified 12 records which fall within the scope of your request. Four of these records are of correspondence between the US and the Department of Foreign Affairs and Trade and eight of the records contain internal correspondence of the Department. The records are listed in the schedule attached. In each case, I have provided a short description of the record and the date of the correspondence on the schedule.

I have decided to refuse to release the 12 records on the following basis:

Records 1, 8, 10 and 11 contain correspondence between the US and the Department of Foreign Affairs and Trade. As communications between a diplomatic mission in the State and an officer of a Minister of the Government are subject to a class exemption under Section

33.2(b) of the Irish Freedom of Information Act 2014, I have carefully considered and decided to refuse release of these records.

I have also decided to refuse to release the same four records, as well as an additional three records (records 2, 5 and 12), under Section 33.1(d) of the Irish Freedom of Information Act 2014, as release of the records could reasonably be expected to affect adversely the international relations of the State.

Under Section 31.1 of the Irish Freedom of Information Act 2014, there is a mandatory obligation to refuse the release of records which would be exempt from production in proceedings in a court on the grounds of legal professional privilege. Accordingly, I have refused the release of records 2 and 3.

Three of the records (records 4, 7 and 9) contain information which was prepared solely for the purpose of the transaction of the business of the Government at a meeting of the Government by the Minister for Foreign Affairs and Trade and the Taoiseach. Following careful consideration, I have decided to refuse release of these records under Section 28.1(c) of the Irish Freedom of Information Act 2014.

Finally, under Section 37.1 of the Irish Freedom of Information Act, there is a mandatory requirement to refuse release of records which contain personal information. Accordingly, I have a mandatory obligation to refuse the release of records 5 and 6 as access to these records would involve the disclosure of personal information.

I have set out the relevant sections of the Irish Freedom of Information Act 2014 in Annex 1 attached.

Additionally, in relation to correspondence discussing Edward Snowden's prospective asylum request, I would refer you to Sections 19(1) and 19(2) of the Refugee Act 1996 which state that:

- (1) "The Commissioner, the Board, the Tribunal, the Minister and the Minister for Foreign Affairs and their respective officers shall take all practicable steps to ensure that the identity of applicants is kept confidential."
- (2) Subject to *sections 9 (15) and 26*, no matter likely to lead members of the public to identify a person as an applicant under this Act shall be published in a written publication available to the public or be broadcast without the consent of that person and the consent of the Minister (which shall not be unreasonably withheld).

Consequently, I have been advised that it would be a violation of the Refugee Act to release information disclosing or discussing an asylum request received from any individual. I have set out Section 19 of the Refugee Act 1996 in Annex 2 attached.

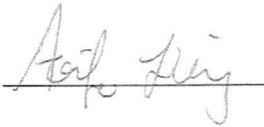
Right of Appeal

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,

A handwritten signature in cursive script, appearing to read 'Aoife Fleming', written over a horizontal line.

Aoife Fleming
Anglo-Irish Division
Department of Foreign Affairs and Trade