



An Roinn Gnóthaí Eachtracha agus Trádála  
Baile Átha Cliath 2

Department of Foreign Affairs and Trade

Dublin 2

Mr Noel Baker

Irish Examiner

Linn Dubh

Assumption Road

Blackpool

Cork

19 September 2014

Our Ref: FOI/REQ/14/067

Dear Mr Baker

I refer to your recent request to this Department for access to records as follows:

*"[D]etails 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, for the years 2010 to 2013 inclusive. Please provide details as to the nature of the request, the reason why it was requested, whether or not it was requested, who made the request (e.g. 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 or communiqués from said authority or agency in each case regarding the 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. Please also include any correspondence or observations passed by the Irish authorities, including the Department of Foreign Affairs, to the requester, or related or other relevant agency, regarding the request (e.g. Department of Justice, or other Department, or Road Safety Authority, or Garda Síochána etc.)"*

I am the Deciding Officer in this case.

You will wish to be aware that under the Vienna Convention on Diplomatic Immunities, immunities do not need to be "requested" in any given case. The default position is that immunities apply, and 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.

From 2010 to 2013, immunities were asserted or waived by diplomatic missions in the State as follows:

**2012**

Embassy: **Israel**

Immunity Asserted/Waived: **Waived**

Purpose: **To give testimony at District Court**

Embassy: **Israel**

Immunity Asserted/Waived: **Waived**

Purpose: **Garda request for access to property to investigate incident near Embassy**

Embassy: **Nigeria**

Immunity Asserted/Waived: **Asserted**

Purpose: **Garda request for interview**

**2013**

Embassy: **Kenya**

Immunity Asserted/Waived: **Asserted**

Purpose: **Proceedings at Employment Appeals Tribunal**

Embassy: **UAE**

Immunity Asserted/Waived: **Asserted**

Purpose: **Proceedings at the Labour Relations Commission**

From 2010 to 2013, immunities were asserted or waived by diplomatic missions of the State as follows:

**2010**

Embassy of Ireland to: **Turkey**

Immunity Asserted/Waived: **Asserted**

Purpose: **Court Proceedings**

**2010**

Embassy of Ireland to: **Turkey**

Immunity Asserted/Waived: **Asserted**

Purpose: **Court Proceedings**

Records relating to these incidences are listed in the attached schedule (Records 1 – 17 for incidences in the State; records A – P for incidences abroad). Where access to records has been refused or part-granted, this has been done under the following sections of the FOI Act: Section 28 (*personal information*), Section 22(1)(a) (*legal professional privilege*), Section 23(1)(a)(iv) (*civil proceedings in a court*), (Section 24(1)(c) (*international relations*), Section 24(2)(b) (*communication with a diplomatic mission in the State*), Section 24(2)(c) (*communication with a diplomatic mission of the State*), Section 46(1)(b) (*a record held by the Office of the Attorney General*).

Having decided that Sections 23(1) and 28(1) are applicable, I am required to consider if the public interest is better served by the release of these records. I have decided that, in this case, the public interest is better served by ensuring that personal information is held in confidence by the

Department and that the Department's consideration of, and ability to contest, matters before the courts is not prejudiced by the premature release of records.

**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. A fee applies for an appeal, with the exception of an appeal against the imposition of a fee; the level of this fee has been set at €75. Payment should be made by way of bank draft, money order, postal order or personal cheque made payable to the Secretary General, Department of Foreign Affairs and Trade.

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 "Julie O'Brien".

Julie O'Brien

FOI Officer