



An Roinn Gnóthaí Eachtracha
Department of Foreign Affairs

Our Ref: FOI/Req/21/123

Date: 30 June 2021

Dear Ms Tutty,

I refer to the request that you have made under the Freedom of Information Act 2014 (the Act) for access to the following records held by this Department:

Communication between the Minister of Foreign Affairs' office and the Attorney General's office regarding the Control of Economic Activity (Occupied Territories) Bill 2018.

I note that under Section 42(f), the Act does not apply to records held or created by the Attorney General or the Office of the Attorney General, other than records relating to general administration. Two records are held by this Department which were created by the Attorney General and, as the records do not relate to administration or management, it is my view that they fall outside of the scope of the Act and your request.

I have identified one record that falls within the scope of your request. I have made a decision to refuse this record. Please find attached a schedule. The record is exempt from release under Sections 29 and 31 of the Act.

Exemption under Section 29

Under Section 29(1)(a) and (b), I have exempted from release one record. This record contains matter relating to the deliberative processes of an FOI body of which the granting would be contrary to the public interest, in particular given that the Control of Economic Activity (Occupied Territories) Bill is currently before Dáil Éireann. The Bill is a Private Members' Bill, proposed by independent members of the Seanad and was restored to the Order Paper of the Dáil on 9 December 2020.

Exemption under Section 31

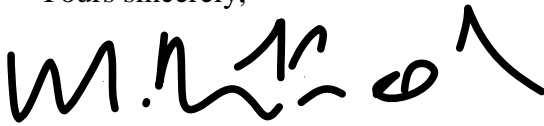
The record in question also falls for refusal under Section 31(1)(a) as it relates to records that would be exempt from production in proceedings in a court on the ground of legal professional privilege. The exemption is claimed on the basis of legal advice privilege. The Attorney General is described in Article 30 of the Constitution as "the adviser of the Government in matters of law and legal opinion". Legal advice privilege applies to confidential communications made between the client and his/her professional legal adviser (in this case, the Minister and the Attorney General) for the purpose of either obtaining and/or giving legal advice.

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, 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. For methods of payment, please contact FOI Unit at foi@dfa.ie, or +353 (0) 1 408 2857.

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 staff from this Department.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Ní Drisceoil', with a stylized flourish at the end.

Méabh Ní Drisceoil
Middle East North Africa Unit
Department of Foreign Affairs
+353 (0) 1 408 2051, meabh.nidrisceoil@dfa.ie