



2 December 2024

Yagiz Adal

BY EMAIL: foi+request-12226-88b97bfa@righttoknow.org.au

In reply please quote:

FOI Request: FA 24/10/01686

File Number: FA24/10/01686

Dear Yagiz Adal,

Freedom of Information (FOI) request – Decision

On 26 October 2024, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

1 Scope of request

You have requested access to the following documents:

*Are you able to please advise what type of Visa was granted to Turkish Cypriot Leader Mr.Ersin Tatar during his visit to Australia in 2024?
Was it a Tourist Visa;Consular Visa recognising him as president of North Cyprus and which countries passport did he utilise to enter Australia?*

On 7 November 2024 you agreed to revise the scope of your request to the following documents:

*On the 22nd of May 2024 the leader of the Turkish Cypriots of Cyprus Mr.Ersin Tatar arrived in Melbourne.
I would like the documents that show what type of visa sub class Mr.Tatar was granted to enter Australia. This includes the countries passport he utilised when he arrived in Australia.*

2 Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate records.

3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the documents relevant to the request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from Departmental officers with responsibility for matters relating to the documents to which you sought access

4 Documents in scope of request

The Department has identified three documents as falling within the scope of your request. These documents were in the possession of the Department on 26 October 2024 when your request was received.

5 Decision

The decision in relation to the documents in the possession of the Department which fall within the scope of your request is as follows:

- Exempt three documents in full from disclosure

6 Reasons for Decision

My findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

6.1 Section 47F of the FOI Act – Personal Privacy

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information of any person. 'Personal information' means information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not, and whether the information or opinion is recorded in a material form or not (see section 4 of the FOI Act and section 6 of the *Privacy Act 1988*).

I consider that disclosure of the information marked 's47F' in the documents would disclose personal information relating to a third party. The information within the documents would reasonably identify a person, either through names, positions or descriptions of their role or employment circumstance.

The FOI Act states that, when deciding whether the disclosure of the personal information would be 'unreasonable', I must have regard to the following four factors set out in s.47F(2) of the FOI Act:

- *the extent to which the information is well known;*
- *whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;*
- *the availability of the information from publicly available resources;*
- *any other matters that I consider relevant.*

I have considered each of these factors below.

The information relating to the third party is not well known and would only be known to a limited group of people with a business need to know. As this information is only known to a limited group of people, the individual concerned is not generally known to be associated with the matters discussed in the document. This information is not available from publicly accessible sources.

I do consider that some of the information relating specifically to the third party would be relevant to the broader scope of your request, as you are seeking access to documents about Mr Ersin Tatar. However, expressed consent from this third party to release their information has not been provided.

I am satisfied that the disclosure of the information within the documents would involve an unreasonable disclosure of personal information about an individual.

I have decided that the information referred to above is conditionally exempt under section 47F of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard below.

6.2 The public interest – section 11A of the FOI Act

As I have decided that the documents are conditionally exempt, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

A document which is conditionally exempt must also meet the public interest test in section 11A(5) before an exemption may be claimed in respect of that part.

In summary, the test is whether access to the conditionally exempt documents would be, on balance, contrary to the public interest.

In applying this test, I have noted the objects of the FOI Act and the importance of the other factors listed in section 11B(3) of the FOI Act, being whether access to the document would do any of the following:

- (a) *promote the objects of this Act (including all the matters set out in sections 3 and 3A)*
- (b) *inform debate on a matter of public importance*
- (c) *promote effective oversight of public expenditure*
- (d) *allow a person to access his or her own personal information.*

Having regard to the above I am satisfied that:

- Access to the documents would promote the objects of the FOI Act.
- The subject matter of the documents may have the character of public importance.
- No insights into public expenditure will be provided through examination of the documents.
- You do not require access to the documents in order to access your own personal information.

I have also considered the following factors that weigh against the release of the conditionally exempt information in the documents:

- Disclosure of personal information which is conditionally exempt under section 47F of the FOI Act could reasonably be expected to prejudice the protection of third parties' right to privacy. It is firmly in the public interest that the Department uphold the rights of individuals to their own privacy, and this factor weighs strongly against disclosure.
- While you may be aware of the personal information relating to these third parties, their information is not well known to the public generally. These documents are not available from publicly accessible sources. I have had regard to the fact that disclosure of information under the FOI Act must be considered to be a disclosure to the world at large and not just to you as the applicant.
- I am satisfied that if the Department were to release personal information without that person's express consent to do so, it would seriously undermine public confidence in the Department's ability to receive, retain and manage personal information. I consider such a loss of confidence to be against the public interest, and this factor weighs strongly against disclosure.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government*
- b) access to the document could result in any person misinterpreting or misunderstanding the document*
- c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made*
- d) access to the document could result in confusion or unnecessary debate.*

I have not taken into account any of those factors in this decision.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the documents would be contrary to the public interest and it is therefore exempt from disclosure under the FOI Act.

7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Series/C2004A02562>. If you are unable to access the legislation through this website, please contact our office for a copy.

8 Your review rights

If you disagree with this decision, you have the right to apply for either an internal review or an Information Commissioner review of the decision.

Internal Review

If you want the Department to review this decision, you must make your internal review request within 30 days of being notified of this decision.

When making your internal review request, please provide the Department with the reasons why you consider this decision should be changed.

You can send your internal review request to:

Email: foi.reviews@homeaffairs.gov.au

Or

Postal mail:

Freedom of Information
Department of Home Affairs
GPO Box 241 MELBOURNE VIC 3001

The internal review will be carried out by an officer who is more senior than the original decision maker. The Department must make its decision on the review within 30 days of receiving your request for internal review.

Information Commissioner Review

If you want the Australian Information Commissioner to review this decision, you must make your request to the Office of the Australian Information Commissioner (OAIC) within 60 days of being notified of this decision.

You can apply for an Information Commissioner review using the [Information Commissioner review application form on the OAIC website](#).

You can find more information about Information Commissioner reviews [on the OAIC website](#).

9 Making a complaint

You may make a complaint to the Australian Information Commissioner if you have concerns about how the Department has handled your request under the FOI Act. This is a separate process to the process of requesting a review of the decision as indicated above.

You can make an FOI complaint to the Office of the Australian Information Commissioner (OAIC) at: [FOI Complaint Form on the OAIC website](#).

10 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at foi@homeaffairs.gov.au.

Yours sincerely,

[Electronically signed]

Matthew
Position No. 60007430
Authorised Decision Maker
Department of Home Affairs