



NEW ZEALAND
FOREIGN AFFAIRS & TRADE



New Zealand Ministry of
Foreign Affairs and Trade
Manatū Aotearoa

22 March 2018

Khairu Sobanchi
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Dear Khairu Sobanchi,

I refer to your email of 3 March 2018 in which you request the following under the Official Information Act 1982 (OIA):

" (1) outline the expected rules of conduct for foreign diplomats operating in New Zealand, whether on a posting or formal or informal visit, and confirm whether MFAT and partner agencies such as the New Zealand Defence Force abide by Article 41(1) of the 1961 Vienna Convention on Diplomatic Relations, which codifies a rule of international law that states that all diplomats "have a duty not to interfere in the internal affairs of" the receiving state, and;

(2) Provide me with details of what disciplinary action MFAT or indeed the NZDF might take in the hypothetical case, for sake of example, that senior officers from MFAT or NZDF were found to be -

(a) aware of foreign diplomats interfering in the internal affairs of New Zealand,

And/or

(b) actively abetting foreign diplomats to interfere in the internal affairs of New Zealand, for sake of example, after that foreign diplomat had complained that a protest action or the like was directly interfering in the private, for-profit business interests of -

(i) their citizens, residing in New Zealand;

(ii) their citizens, residing in their home country;

(iii) their immediate family;

(iv) their business partners, including New Zealand citizens with jobs at government departments directly related to their field of business;

(v) (or the interests of all of the above)."

For ease of reference we have used the same numbering system as your request.

Question 1 – There are a number of parts to your question. We have separated out the various issues and addressed them below.

- The Ministry of Foreign Affairs and Trade does not set rules of conduct for foreign diplomats operating in New Zealand as such. The Ministry does make it clear to all foreign representatives accredited to New Zealand that they must act consistently with Article 41(1) of the Vienna Convention on Diplomatic Relations, which as you note specifies that they must respect the law of New Zealand and have an obligation not to interfere in the internal affairs of New Zealand.
- Visiting officials who are not part of an accredited mission to New Zealand (either in New Zealand or offshore) do not have diplomatic status and therefore are not subject to the Vienna Convention on Diplomatic Relations. Visiting officials must comply with New Zealand law.
- When posted offshore, all New Zealand diplomats, whether they are from the Ministry of Foreign Affairs and Trade or other agencies such as the New Zealand Defence Force, are expected to act in accordance with the law of the country where they are posted.
- In New Zealand, all officials of the Ministry of Foreign Affairs and Trade and members of the New Zealand Defence Force must comply with New Zealand law.

Question 2 – We will not speculate on hypothetical situations. If you have information on a specific instance which concerns you, then please provide full details which we can consider.

You have the right under section 28(3) of the OIA to seek a review of this response by the Ombudsman.

Yours sincerely



Wendy Adams
for Secretary of Foreign Affairs and Trade