Dear FOI Friends,

On the 1st of October Right2info.org launched its Right to Information Case Law Database. The database includes summaries of a selection of national and regional courts interpret and view the right of access to information. It currently contains 59 case summaries from 21 countries and four international arbiters. We continue to add summaries on a regular basis and aim to reach a hundred summaries by the end of the year.

Some of the useful features of the database are:

⇒ **Summaries** – instead of just providing full text of court decisions, we’ve summarized the most important aspects of the cases with references to the original text.

⇒ **Headnotes** – each summary starts with basic information on the case, including the Title, Country, Date of decision, Name and Type of the Court/Arbiter, Name and Type of the Relevant Law and a short summary of the decision.

⇒ **Texts of decisions** – if we have the full text of the decision in its original language, we have posted that, and we have also posted an English version, where available.

⇒ **B Briefs** – for international cases, we’ve included links to briefs submitted by amici curiae and third party interveners.

⇒ **Search function** – the database has four search options to help you navigate through the summaries. All search functions are described in detail in the User Guide that can also be found on the website.

⇒ **Keywords** – each summary is tagged with relevant keywords enabling you to pull up cases dealing with a particular issue, such as national security, environmental information, archives and many others.

Finally, this is a work in progress, and we very much appreciate your feedback and suggestions on both the content and technical aspects. Please send us your feedback as well as any corrections, missing links, as well as additional cases, case summaries and briefs to make this database as useful as possible.

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### New on Right2INFO.org

⇒ **National Security Principles**. We have updated the page on Exemptions with the most recent version of the draft Principles on National Security and the Right to Information, including new definitions.

⇒ **Publications**. We have updated and added to our extensive list of published studies, articles, websites and other resources that survey the world of RTI.

⇒ **Standards**. Our new Standards page catalogues treaties, NGO statements and regional charters that have helped to establish the international norms of Right to Information protections.

⇒ **Videos**. On a new RTI multimedia page, you will find links to videos, PowerPoint presentations, and radio interviews.

### Just Released: New Right2INFO.org Newsletter

The first issue of the new Right2INFO.org newsletter is out! The newsletter reports on additions and changes to the website. Every two months the newsletter will highlight new items posted on Right2INFO.org and a groundbreaking right to know case or a much-discussed topic in the field. The current issue focuses on the controversy around Prince Charles’ correspondence case which spurred an ongoing debate in the United Kingdom and beyond. It also presents useful features of our brand new RTI Case Law Database and gives an overview of the collaborative effort of FOI experts to draft the Principles on National Security and Right to Information.

To sign up to receive the e-newsletter, click **SUBSCRIBE** in the left-hand column. And spread the word!
Featured Case: Rob Evans v Information Commissioner

After seven years of persistent attempts to see the correspondence between Prince Charles and government ministers, Rob Evans from the Guardian was finally given a green light by the Information Tribunal. However, the Attorney General then exercised the so-called 'ministerial veto' and blocked 27 letters from disclosure.

When several emails between government ministers and the organizations set up by Prince Charles were released under the Freedom of Information Act (FOIA) in 2011, the Prince was accused of using his charities to lobby ministers over politically-sensitive issues such as VAT and regional development spending. The Prince’s advocacy was, however, suspected before that, when in April 2005 Rob Evans, long-time journalist with the Guardian, requested disclosure of correspondence between the Prince and seven government ministers. The departments addressed, and the Information Commissioner on review, denied his request arguing that disclosure would undermine the constitutional convention that allowed the heir to the throne to be educated in the business of government to prepare him to become king. The Information Commissioner further relied on numerous exceptions under the FOIA and Environmental Information Regulations. After three years of consideration, the Information Tribunal, in a 65-pages ruling supplemented by three open annexes, ordered the correspondence to be released. Constitutional convention did not cover ‘advocacy correspondence’ of the heir to the throne as he was seeking to advance the work of charities and to promote his views, the Tribunal found. Such correspondence concerned the matters affecting both public policy and ‘the public purse’, and thus the public interest balance ‘is likely to be not only clear, but also strongly, and sometimes very strongly, in favor of disclosure’.

In vetoing the Tribunal’s decision, Attorney General Dominic Grieve reasoned that (a) the Prince expected that his correspondence would be confidential, and (b) disclosure of the correspondence could damage the Prince's ability to perform his duties 'when he becomes king.' Katy Clark, a Labour MP said she found the Attorney General’s veto to be ‘quite shocking.’

The Guardian announced that it would take the government to the High Court to challenge the veto.

The Attorney General’s veto raises several grounds of concern. First, it is apparent that the government used section 53 of the FOIA providing for executive override as a rule, rather than an exception, to the detriment of information freedom. As the Campaign for Freedom of Information pointed out, ‘[i]f the Upper Tribunal is wrong, the government would be able to challenge and overturn its decision in the Court of Appeal. It is choosing not to go down this route but to veto the decision instead, which suggests it is not confident of its ability to win the argument in law.’ Second, courts are thought highly unlikely to overturn a ministerial veto. For instance, in 2009 the UK Information Commissioner did not take any legal action to challenge the Justice Secretary’s veto on release of Cabinet minutes concerning military action against Iraq as the ‘reasonable prospects of success’ were estimated as non-existent. And last, with effect from 19 January 2011 section 37 of FOIA was amended: under the new version, no public authority is required to provide information relating to Prince Charles’s communications at a time when he was the heir to the throne. This means that Evans’ case might be the last hope of bringing the Prince’s ‘lobbying’ to public scrutiny and, for the courts, of proving that the right to freedom of information in the United Kingdom is, in the words of the European Court of Human Rights, ‘not merely theoretical or illusory, but practical and effective’.

You can read a summary of the Upper Tribunal’s decision and access the full judgment as well as the Attorney General’s certificate and statement of reasons in the our RTI Case Law Database.

National Security Principles on Right2INFO.org

We are coordinating an international effort that aims to produce a set of Global Principles on National Security and the Right to Information by Spring 2013. Human rights organizations, academic centers, government representatives, and independent experts have collaborated in this effort. The Principles, based on international and national law and standards, evolving state practice, the general principles of law recognized by the community of nations, and the writings of experts., are intended to provide guidance to those engaged in drafting, revising or implementing laws or provisions relating to the government’s authority to withhold information on national security grounds or to penalize the publication of such information.

The latest draft of the Principles is published on Right2info.org. Along with it, we have uploaded links to papers that were referenced and a list of contributing organizations. You can download the Principles in Word format, and we encourage you to submit comments and suggestions before the end of February when our last regional consultation will take place in South Africa. Keep an eye on this webpage for new developments!

FOI CASE LAW DATABASE

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OPEN SOCIETY
JUSTICE INITIATIVE

Right2INFO.org provides relevant materials concerning the current state of the public’s right to information (RTI) held by public bodies (including in all branches and at all levels of government, and bodies that are independent of the executive) and entities that perform public functions or operate with public funds. With a focus on good law and practice, the website brings together international and domestic law, case examples and related resources from international and regional bodies as well as more than one hundred countries. This is a collaborative effort and we value the contributions of our readers. Please contact us to provide your thoughts or additional information that would be useful to include.

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