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**Case Summary posted by the Task Force on Access to Justice**

***R (Corner House Research) v Secretary of State for Trade and Industry [2005] EWCA Civ 192***

1. Key issue	Costs – The leading Court of Appeal case concerning the granting of Protective Costs Orders (PCOs), in which a claimant seeks to limit his or her exposure to the defendant's legal costs. The Court held that a PCO should be granted only in exceptional cases and under certain conditions, which are discussed fully in paragraph 74 of the judgment.
2. Country/Region	UK
3. Court/body	Court of Appeal
4. Date of judgment /decision	1 <sup>st</sup> March 2005
5. Internal reference	[2005] EWCA Civ 192
6. Articles of the Aarhus Convention	Article 9(4)
7. Key words	Protective Costs Orders (PCOs)
8. Case summary	<p>Although this case was not an environmental case and did not mention the Aarhus Convention, it was to become the cornerstone upon which the courts of England and Wales developed jurisprudence on Protective Costs Orders (PCOs) as a mechanism for addressing concerns about costs in environmental litigation and (specifically) the UK's compliance with Article 9(4) of the Aarhus Convention.</p> <p>In <i>Corner House</i>, the Court of Appeal indicated that a PCO should be granted only in "exceptional circumstances" (see para 72) but that a PCO may be made at any stage in the proceedings, on such conditions as the courts thinks fit if the court is satisfied that (see para 74):</p> <ol style="list-style-type: none"><li>i. the issues raised are of general public importance;</li><li>ii. the public interest requires that those issues should be resolved;</li><li>iii. the applicant has no private interest in the outcome of the case;</li><li>iv. having regard to the financial resources of the applicant and the respondent(s) and to the amount of costs that are likely to be involved, it is fair and just to make the order; and</li><li>v. if the order is not made the applicant will probably discontinue the proceedings and will be acting reasonably in doing so.</li></ol>

The Court of Appeal also indicated that:

- i. if those acting for the applicant are doing so pro bono this will be likely to enhance the merits of the application for a PCO (para 74); and
- ii. that there was a *quid pro quo* to obtaining a PCO and that was that it was likely that a cost capping order for the applicants' costs will be required (para 76).

9.  
address

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