ORDER OF THE PRESIDENT OF THE SIXTH CHAMBER OF THE COURT

23 October 1997 *

In Case C-354/96,

Commission of the European Communities, represented by Dimitrios Gouloussis, Legal Adviser, and Laura Pignataro, of the Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, also of the Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Italian Republic, represented by Umberto Leanza, Head of the Department for Contentious Diplomatic Affairs at the Ministry of Foreign Affairs, acting as Agent, assisted by Oscar Fiumara, Avvocato dello Stato, with an address for service in Luxembourg at the Italian Embassy, 5 Rue Marie-Adélaïde,

defendant,

APPLICATION for a declaration that, by failing to adopt and/or, in any event, notify the laws, regulations and administrative provisions necessary to comply with Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings (OJ 1991 L 374, p. 7), the Italian Republic has failed to fulfil its obligations under that directive and the EC Treaty,

* Language of the case: Italian.

THE PRESIDENT OF THE SIXTH CHAMBER OF THE COURT,

after hearing the views of Advocate General Alber,

makes the following

Order

1 By letter lodged at the Registry of the Court on 4 September 1997, the Commission of the European Communities informed the Court, in accordance with Article 78 of the Rules of Procedure, that it was discontinuing its action and requested, pursuant to the first subparagraph of Article 69(5) of the Rules of Procedure, that the Italian Republic be ordered to pay the costs of the proceedings.

2 The Italian Government did not submit any written observations on the discontinuance within the period set for that purpose.

3 Under the first subparagraph of Article 69(5) of the Rules of Procedure, a party who discontinues or withdraws from proceedings is to be ordered to pay the costs if they have been applied for in the other party's observations on the discontinuance. However, upon application by the party who discontinues, the costs are to be borne by the other party if this appears justified by the conduct of that party.

4 In this case, the Commission's action and subsequent discontinuance resulted from the attitude of the Italian Government, which gave notification of the measures necessary to comply with its obligations under Directive 91/674 only after the Commission had brought its action.

5 The Italian Republic must therefore be ordered to pay the costs.

On those grounds,

THE PRESIDENT OF THE SIXTH CHAMBER OF THE COURT

hereby orders:

1. Case C-354/96 is removed from the Register of the Court.

2. The Italian Republic shall pay the costs.

Luxembourg, 23 October 1997.

R. Grass

Registrar

H. Ragnemalm

President of the Sixth Chamber