ORDER OF THE PRESIDENT OF THE COURT
11 March 1997 *

In Case C-46/95,

Commission of the European Communities, represented by Thomas F. Cusack, Legal Adviser, and Jean-Francis Pasquier, a national official on secondment to its Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, also of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Grand Duchy of Luxembourg, represented by Nicolas Schmit, Director of International Economic Relations and Cooperation at the Ministry of Foreign Affairs, acting as Agent, with an address for service in Luxembourg at the offices of that Ministry, 5 Rue Notre-Dame,

defendant,

APPLICATION for a declaration that, by failing to adopt all the laws, regulations and administrative provisions necessary in order to implement Council Directive 89/618/Euratom of 27 November 1989 on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency (OJ 1989 L 357, p. 31), or by failing to inform the

* Language of the case: French.

Commission of the measures taken by it to comply with that directive, the Grand Duchy of Luxembourg has failed to fulfil its obligations under the Treaty establishing the European Atomic Energy Community,

THE PRESIDENT OF THE COURT,

after hearing the Opinion of Advocate General Elmer,

makes the following

Order

1 By letters lodged at the Court Registry on 2 December 1996 and 1 February 1997, the Commission of the European Communities informed the Court, pursuant to Article 78 of the Rules of Procedure, that it wished to withdraw its application and requested the Court, pursuant to the first subparagraph of Article 69(5) of the Rules of Procedure, to order the Grand Duchy of Luxembourg to pay the costs.

2 The defendant lodged no observations within the prescribed period.

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 pleadings. However, upon application by the party who discontinues or withdraws from proceedings, 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 application and subsequent withdrawal resulted from the attitude of the Luxembourg Government, which informed the Commission of the measures taken to comply with its obligations only after the Commission had brought its action.

5 The Grand Duchy of Luxembourg must accordingly be ordered to pay the costs.

On those grounds,

THE PRESIDENT OF THE COURT

hereby orders:

1. Case C-46/95 is removed from the register.

2. The Grand Duchy of Luxembourg is ordered to pay the costs.

Luxembourg, 11 March 1997.

R. Grass — Registrar

G. C. Rodríguez Iglesias — President