ORDER OF THE PRESIDENT OF THE SIXTH CHAMBER OF THE COURT

11 July 1995 *

In Case C-95/94,

Commission of the European Communities, represented by António Caeiro and José Luis Iglesias Buhigues, Legal Advisers, acting as Agents, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

applicant,

v

Kingdom of Spain, represented by Alberto José Navarro González, Director-General for Community Legal and Institutional Coordination, and by Gloria Calvo Díaz, Abogado del Estado, of the State Legal Department dealing with matters before the Court of Justice, acting as Agents, with an address for service in Luxembourg at the Spanish Embassy, 4-6 Boulevard E. Servais,

defendant,

APPLICATION for a declaration that, by not bringing into force within the prescribed period the laws, regulations and administrative provisions necessary to

* Language of the case: Spanish.

comply with the Twelfth Council Company Law Directive (89/667/EEC) of 21 December 1989 on single-member private limited-liability companies (OJ 1989 L 395, p. 40), the Kingdom of Spain has failed to fulfil its obligations under that directive,

THE PRESIDENT OF THE SIXTH CHAMBER OF THE COURT

after hearing Advocate General G. Cosmas,

makes the following

Order

1 By letter lodged at the Court Registry on 29 May 1995, 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 to order the Kingdom of Spain to pay the costs pursuant to the first subparagraph of Article 69(5) of those rules.

2 By letter lodged at the Court Registry on 7 June 1995, the Kingdom of Spain stated that it had no observations to make in regard to the Commission's withdrawal.

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 the present case, the Commission's application and the subsequent withdrawal were the result of the conduct of the Kingdom of Spain, which did not adopt the measures necessary to comply with its obligations until after the Commission brought its action.

5 The Kingdom of Spain should therefore be ordered to pay the costs.

On those grounds,

THE PRESIDENT OF THE SIXTH CHAMBER OF THE COURT

hereby orders:

1. Case C-95/94 is removed from the register.

2. The Kingdom of Spain shall bear the costs.

Luxembourg, 11 July 1995.

R. Grass
Registrar

F. A. Schockweiler
President of the Sixth Chamber