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Extract from the address by M. Levi Sandri, Vice-President of the EEC Commission, to the European Parliament (Strasbourg, 16 June 1965)

Discussing problems connected with the interpretation of Article 118, the speaker said:

"This is a good opportunity, I think, to explain the Commission's views on Article 118: the interpretation of this Article has often given rise to controversy, and the Commission has at times been criticized in some quarters because its interpretation was too wide and in others because it was too narrow.

"Article 118 vests in the EEC Commission a specific right of initiative to 'promote close co-operation between the Member States'. For this purpose it must act 'in close contact with Member States by means of studies, the issuing of opinions, and the organizing of consultations'.

"The entire Article is, then, based on the notion of "co-operation", which in its turn implies concordance of will between the Commission and the Member States. Wherever this concordance is lacking, the specific right of initiative vested in the Commission by Article 118 is stultified, and the Commission has no legal means of overcoming this difficulty within the terms of the Article. It should be noted in passing that the Member States, for their part, are not entirely free to grant or refuse their co-operation, since Article 5 requires them to facilitate the achievement of the Community's aims and to abstain from any measure liable to jeopardize the Treaty objectives. However, notwithstanding this interplay of mutual obligations, in which the Commission is required to take the initiative and the Member States to co-operate, Article 118 remains essentially based on the principle of co-operation and inter-governmental assent.

"This said, the problem arises - and here is the vital issue in the controversy - whether, given the specific nature of Article 118, the limited power it vests in the Commission does not preclude the latter from exercising, in the fields concerned, the more general power of initiative conferred on it by the Treaty. The problem, in other words, is whether, when the inter-governmental procedure of Article 118 can make no headway, the Commission can of its own right, i.e. by virtue of other provisions of the Treaty, pursue the objectives specified in this Article.

"The Treaty's answer to this question is unmistakably in the affirmative: Article 118 opens with the words 'Without prejudice to the other provisions of this Treaty', which can only mean that inter-governmental co-operation must not be considered - pace certain governments - as the sole instrument for the implementation of this Article.

"The Commission believes, therefore, that there is no obstacle in the way of its invoking its general right of initiative even in the fields covered by Article 118. It furthermore takes the view that only in this way can it fully discharge the obligations incumbent on it under the Treaty and for which it is responsible to this Parliament.

"Accordingly, the Commission believes itself free to put in hand studies of its own accord and to make recommendations - as provided for in Article 115 - concerning topics dealt with in Article 118 as well as in other fields. The Commission has, in fact, already exercised this right, whose scope, under the Treaty, it has power to assess entirely at its own discretion. It has, for example, elaborated and laid before the Parliament and the Economic and Social Committee a number of draft recommendations despite the dissent of certain Member States. Nor is the Commission willing to forego its right to issue directives for the alignment of legislation under Articles 100 and 101, whenever the conditions specified in these Articles are fulfilled. The Commission has already exercised this right, too, when it prepared a draft directive relating to the harmonization of safety regulations for the use of cartridge-operated stud-drivers.

"However, an examination of Article 118 raises a more general problem going well beyond the bounds of a conflict of interpretation: Article 118 is only the most conspicuous example of the present disequilibrium in the Treaty between general objectives which can be properly described as being essentially social in nature and the means and instruments provided for giving effect to a social policy. This disequilibrium is obviously bound to have an impact on the entire process of integration, engendering a corresponding imbalance between achievements in the social field and achievements in the economic field. The gravity of such a situation must not be underestimated: it is liable to alienate those who should be the prime artificers of the European integration process, the working classes.

"What is therefore urgently needed is a bold reappraisal of Community standards with regard to social policy, so that the opportunity provided by the merging of the Treaties can be used to establish not only a more comprehensive definition of social policy but also, and above all, a better balance between aims and powers, between principles and means of action."